

REFERENCE TITLE: **schools; prohibited courses; discipline**

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

HB 2281

Introduced by
Representatives Montenegro, Gowan, Seel, Stevens: Antenori, Goodale,
Weiers JP

AN ACT

AMENDING TITLE 15, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 15-111 AND 15-112; AMENDING SECTION 15-843, ARIZONA REVISED STATUTES; RELATING TO SCHOOL CURRICULUM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 15, chapter 1, article 1, Arizona Revised Statutes,
3 is amended by adding sections 15-111 and 15-112, to read:

4 15-111. Declaration of policy

5 THE LEGISLATURE FINDS AND DECLARES THAT PUBLIC SCHOOL PUPILS SHOULD BE
6 TAUGHT TO TREAT AND VALUE EACH OTHER AS INDIVIDUALS AND NOT BASED ON ETHNIC
7 BACKGROUND.

8 15-112. Prohibited courses and classes; enforcement

9 A. A SCHOOL DISTRICT OR CHARTER SCHOOL IN THIS STATE SHALL NOT INCLUDE
10 IN ITS PROGRAM OF INSTRUCTION ANY COURSES OR CLASSES THAT EITHER:

11 1. ARE DESIGNED PRIMARILY FOR PUPILS OF A PARTICULAR ETHNIC GROUP.

12 2. ADVOCATE ETHNIC SOLIDARITY INSTEAD OF THE TREATMENT OF PUPILS AS
13 INDIVIDUALS.

14 B. IF THE SUPERINTENDENT OF PUBLIC INSTRUCTION DETERMINES THAT A
15 SCHOOL DISTRICT OR CHARTER SCHOOL IS IN VIOLATION OF SUBSECTION A, THE
16 SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL NOTIFY THE SCHOOL DISTRICT OR
17 CHARTER SCHOOL THAT IT IS IN VIOLATION OF SUBSECTION A. IF THE
18 SUPERINTENDENT OF PUBLIC INSTRUCTION DETERMINES THAT THE SCHOOL DISTRICT OR
19 CHARTER SCHOOL HAS FAILED TO COMPLY WITH SUBSECTION A WITHIN SIXTY DAYS AFTER
20 A NOTICE HAS BEEN ISSUED PURSUANT TO THIS SUBSECTION, THE SUPERINTENDENT OF
21 PUBLIC INSTRUCTION MAY DIRECT THE DEPARTMENT OF EDUCATION TO WITHHOLD UP TO
22 TEN PER CENT OF THE MONTHLY APPORTIONMENT OF STATE AID THAT WOULD OTHERWISE
23 BE DUE THE SCHOOL DISTRICT OR CHARTER SCHOOL. THE DEPARTMENT OF EDUCATION
24 SHALL ADJUST THE SCHOOL DISTRICT OR CHARTER SCHOOL'S APPORTIONMENT
25 ACCORDINGLY. WHEN THE SUPERINTENDENT OF PUBLIC INSTRUCTION DETERMINES THAT
26 THE SCHOOL DISTRICT OR CHARTER SCHOOL IS IN COMPLIANCE WITH SUBSECTION A, THE
27 DEPARTMENT OF EDUCATION SHALL RESTORE THE FULL AMOUNT OF STATE AID PAYMENTS
28 TO THE SCHOOL DISTRICT OR CHARTER SCHOOL.

29 C. ACTIONS TAKEN UNDER THIS SECTION ARE SUBJECT TO APPEAL PURSUANT TO
30 TITLE 41, CHAPTER 6, ARTICLE 10.

31 D. THIS SECTION SHALL NOT BE CONSTRUED TO RESTRICT OR PROHIBIT:

32 1. COURSES OR CLASSES FOR NATIVE AMERICAN PUPILS THAT ARE REQUIRED TO
33 COMPLY WITH FEDERAL LAW.

34 2. THE GROUPING OF PUPILS ACCORDING TO ACADEMIC PERFORMANCE, INCLUDING
35 CAPABILITY IN THE ENGLISH LANGUAGE, THAT MAY RESULT IN A DISPARATE IMPACT BY
36 ETHNICITY.

37 Sec. 2. Section 15-843, Arizona Revised Statutes, is amended to read:

38 15-843. Pupil disciplinary proceedings

39 A. An action concerning discipline, suspension or expulsion of a pupil
40 is not subject to title 38, chapter 3, article 3.1, except that the governing
41 board of a school district shall post regular notice and shall take minutes
42 of any hearing held by the governing board concerning the discipline,
43 suspension or expulsion of a pupil.

1 B. The governing board of any school district, in consultation with
2 the teachers and parents of the school district, shall prescribe rules for
3 the discipline, suspension and expulsion of pupils. The rules shall be
4 consistent with the constitutional rights of pupils and shall include at
5 least the following:

6 1. Penalties for excessive pupil absenteeism pursuant to section
7 15-803, including failure in a subject, failure to pass a grade, suspension
8 or expulsion.

9 2. Procedures for the use of corporal punishment if allowed by the
10 governing board.

11 3. Procedures for the reasonable use of physical force by certificated
12 or classified personnel in self-defense, defense of others and defense of
13 property.

14 4. Procedures for dealing with pupils who have committed or who are
15 believed to have committed a crime.

16 5. A notice and hearing procedure for cases concerning the suspension
17 of a pupil for more than ten days.

18 6. Procedures and conditions for readmission of a pupil who has been
19 expelled or suspended for more than ten days.

20 7. Procedures for appeal to the governing board of the suspension of a
21 pupil for more than ten days, if the decision to suspend the pupil was not
22 made by the governing board.

23 8. Procedures for appeal of the recommendation of the hearing officer
24 or officers designated by the board as provided in subsection F of this
25 section at the time the board considers the recommendation.

26 C. Penalties adopted pursuant to subsection B, paragraph 1 of this
27 section for excessive absenteeism shall not be applied to pupils who have
28 completed the course requirements and whose absence from school is due solely
29 to illness, disease or accident as certified by a person who is licensed
30 pursuant to title 32, chapter 7, 13, 15 or 17.

31 D. The governing board shall:

32 1. Support and assist teachers in the implementation and enforcement
33 of the rules prescribed pursuant to subsection B of this section.

34 2. Develop procedures allowing teachers and principals to recommend
35 the suspension or expulsion of pupils.

36 3. Develop procedures allowing teachers and principals to temporarily
37 remove disruptive pupils from a class.

38 4. Delegate to the principal the authority to remove a disruptive
39 pupil from the classroom.

40 E. If a pupil withdraws from school after receiving notice of possible
41 action concerning discipline, expulsion or suspension, the governing board
42 may continue with the action after the withdrawal and may record the results
43 of such action in the pupil's permanent file.

44 F. In all action concerning the expulsion of a pupil, the governing
45 board of a school district shall:

- 1 1. Be notified of the intended action.
- 2 2. Either:
- 3 (a) Decide, in executive session, whether to hold a hearing or to
- 4 designate one or more hearing officers to hold a hearing to hear the
- 5 evidence, prepare a record and bring a recommendation to the board for action
- 6 and whether the hearing shall be held in executive session.
- 7 (b) Provide by policy or vote at its annual organizational meeting
- 8 that all hearings concerning the expulsion of a pupil conducted pursuant to
- 9 this section will be conducted before a hearing officer selected from a list
- 10 of hearing officers approved by the governing board.
- 11 3. Give written notice, at least five working days before the hearing
- 12 by the governing board or the hearing officer or officers designated by the
- 13 governing board, to all pupils subject to expulsion and their parents or
- 14 guardians of the date, time and place of the hearing. If the governing board
- 15 decides that the hearing is to be held in executive session, the written
- 16 notice shall include a statement of the right of the parents or guardians or
- 17 an emancipated pupil who is subject to expulsion to object to the governing
- 18 board's decision to have the hearing held in executive session. Objections
- 19 shall be made in writing to the governing board.
- 20 G. If a parent or guardian or an emancipated pupil who is subject to
- 21 expulsion disagrees that the hearing should be held in executive session, it
- 22 shall be held in an open meeting unless:
- 23 1. If only one pupil is subject to expulsion and disagreement exists
- 24 between that pupil's parents or guardians, the governing board, after
- 25 consultations with the pupil's parents or guardians or the emancipated pupil,
- 26 shall decide in executive session whether the hearing will be in executive
- 27 session.
- 28 2. If more than one pupil is subject to expulsion and disagreement
- 29 exists between the parents or guardians of different pupils, separate
- 30 hearings shall be held subject to this section.
- 31 H. This section does not prevent the pupil who is subject to expulsion
- 32 or suspension, and the pupil's parents or guardians and legal counsel, from
- 33 attending any executive session pertaining to the proposed disciplinary
- 34 action, from having access to the minutes and testimony of the executive
- 35 session or from recording the session at the parent's or guardian's expense.
- 36 I. In schools employing a superintendent or a principal, the authority
- 37 to suspend a pupil from school is vested in the superintendent, principal or
- 38 other school officials granted this power by the governing board of the
- 39 school district.
- 40 J. In schools that do not have a superintendent or principal, a
- 41 teacher may suspend a pupil from school.
- 42 K. In all cases of suspension, it shall be for good cause and shall be
- 43 reported within five days to the governing board by the superintendent or the
- 44 person imposing the suspension.

1 L. RULES PERTAINING TO THE DISCIPLINE, SUSPENSION AND EXPULSION OF
2 PUPILS SHALL NOT BE BASED ON RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN OR
3 ANCESTRY. IF THE DEPARTMENT OF EDUCATION, THE AUDITOR GENERAL OR THE
4 ATTORNEY GENERAL DETERMINES THAT A SCHOOL DISTRICT IS SUBSTANTIALLY AND
5 DELIBERATELY NOT IN COMPLIANCE WITH THIS SUBSECTION AND IF THE SCHOOL
6 DISTRICT HAS FAILED TO CORRECT THE DEFICIENCY WITHIN NINETY DAYS AFTER
7 RECEIVING NOTICE FROM THE DEPARTMENT OF EDUCATION, THE SUPERINTENDENT OF
8 PUBLIC INSTRUCTION MAY WITHHOLD THE MONIES THE SCHOOL DISTRICT WOULD
9 OTHERWISE BE ENTITLED TO RECEIVE FROM THE DATE OF THE DETERMINATION OF
10 NONCOMPLIANCE UNTIL THE DEPARTMENT OF EDUCATION DETERMINES THAT THE SCHOOL
11 DISTRICT IS IN COMPLIANCE WITH THIS SUBSECTION.

12 ~~L.~~ M. The principal of each school shall ensure that a copy of all
13 rules pertaining to discipline, suspension and expulsion of pupils is
14 distributed to the parents of each pupil at the time the pupil is enrolled in
15 school.

16 ~~M.~~ N. The principal of each school shall ensure that all rules
17 pertaining to the discipline, suspension and expulsion of pupils are
18 communicated to students at the beginning of each school year, and to
19 transfer students at the time of their enrollment in the school.