

2020 Second Extraordinary Session

HOUSE BILL NO. 91

BY REPRESENTATIVE AMEDEE

STUDENT/DISCIPLINE: Provides relative to student discipline (Item #42)

1 AN ACT

2 To amend and reenact R.S. 17:416(C)(4) and (5) and to enact R.S. 17:416(K) and (L),
3 relative to student discipline; to provide for judicial review of certain discipline
4 actions; to provide for discipline policies applicable during online instruction; to
5 provide for awarding of damages and attorney fees; to provide for applicability; and
6 to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 17:416(C)(4) and (5) are hereby amended and reenacted and R.S.
9 17:416(K) and (L) are hereby enacted to read as follows:

10 §416. Discipline of students; suspension; expulsion

11 * * *

12 C.(1)

13 * * *

14 (4) The parent or tutor of the pupil who has been recommended for expulsion
15 pursuant to this Section may, within five days after the decision is rendered, request
16 the city or parish school board to review the findings of the superintendent or his
17 designee at a time set by the school board; otherwise the decision of the
18 superintendent shall be final. If requested, as herein provided, and after reviewing
19 the findings of the superintendent or his designee, the school board may affirm,
20 modify, or reverse the action previously taken. The parent or tutor of the pupil shall

1 have such right of review even if the recommendation for expulsion is reduced to a
2 suspension.

3 (5) The parent or tutor of the pupil who has been recommended for expulsion
4 pursuant to this Section may, within ten days, appeal to the district court for the
5 parish in which the student's school is located, an adverse ruling of the school board
6 in upholding the action of the superintendent or his designee. The court may reverse
7 or revise the ruling of the school board upon a finding that the ruling of the board
8 was based on an absence of any relevant evidence in support thereof. The parent or
9 tutor of the pupil shall have such right to appeal to the district court even if the
10 recommendation for expulsion is reduced to a suspension.

11 * * *

12 K.(1) For the purposes of this Subsection, "virtual instruction" shall mean
13 instruction provided to a student through an electronic delivery medium including
14 but not limited to electronic learning platforms that remotely connect a student to
15 classroom instruction from school property. A city or parish school board discipline
16 policy shall clearly define the rules of conduct and expectations of students engaged
17 in virtual instruction, shall provide for notice of such rule and expectations to the
18 parents and guardians of students, shall include clearly defined consequences of
19 conduct, shall be narrowly tailored to address compelling government interests, and
20 shall take into consideration the students' and their families' rights to privacy and
21 other constitutional rights while at home or in a location that is not school property.

22 (2) Any student who has been subjected to suspension or recommended for
23 expulsion for behavior displayed while participating in virtual instruction shall be
24 entitled to the following:

25 (a) A hearing within thirty days conducted by the school board to determine
26 whether charges should be dismissed and to provide the student with any other relief
27 including but not limited to reinstating a student's enrollment status.

1 (b) De novo judicial review of the decision of the school board to have his
2 record cleared of the charge, to remove any other conditions placed on the student,
3 and to obtain any other relevant relief.

4 (c) Judicial review of any decision by the school board in the district court
5 where the student's school is located.

6 (d) Attorney fees awarded to the student, his parent, guardian, or tutor to
7 clear a student's record.

8 L. If a judgment is rendered in favor of a student who sought judicial review
9 of a decision of a school board pursuant to this Section, the judgment may include
10 an award for attorney fees if the court finds any school official: acted in a grossly
11 negligent manner; acted with deliberate disregard for the consequences of his actions
12 to the student; acted with willful or malicious indifference; acted with intent to
13 deprive the student, his parent, guardian, or tutor of due process; or initiated a charge
14 that is knowingly false. The court may award any damages appropriate under the
15 circumstances and render any other appropriate relief including but not limited to
16 requiring the school board to issue an official apology letter, which shall be provided
17 to the student, his parent, guardian, or tutor, and retained in the student's educational
18 records.

19 Section 2. This Act shall be applied retroactively to March 13, 2020, when all public
20 schools were ordered to close facilities to students pursuant to Section 2 of State of
21 Louisiana Executive Department Proclamation Number JBE 2020-27, "Additional Measures
22 for COVID-19 Public Health Emergency". This Act shall also be given prospective
23 application.

24 Section 3. No later than December 31, 2020, every public school board shall comply
25 with the provisions of R.S. 17:416.8 and convene a meeting of its disciplinary policy review
26 committee to update all policies and procedures relative to conduct that occurs at home or
27 other locations that are not school property where a student is participating in virtual
28 instruction.

1 Section 4. This Act shall become effective upon signature by the governor or, if not
2 signed by the governor, upon expiration of the time for bills to become law without signature
3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
4 vetoed by the governor and subsequently approved by the legislature, this Act shall become
5 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 91 Original

2020 Second Extraordinary Session

Amedee

Abstract: Provides for judicial review of certain student discipline cases; requires public school governing authorities to develop protocol for discipline of students participating in online instruction.

Present law provides for the discipline of students for disorderly conduct in school, on school playgrounds, while going to and from school, or during intermission or recess. Proposed law retains present law.

Present law, upon the recommendation of a principal for the expulsion of a student, provides for a hearing by the school board to determine the facts of the case and if the student's conduct warrants expulsion. Proposed law retains present law. Proposed law makes present law applicable even when a student's penalty is reduced to a suspension.

Present law authorizes a parent or tutor to appeal an expulsion to the district court for the parish in which the student's school is located. Proposed law makes present law applicable even when a student's penalty is reduced to a suspension.

Proposed law provides for discipline policies regarding students engaged in online instruction while at home or a location that is not school property and provides for judicial review of expulsions pursuant to such policies.

Proposed law provides that a judgment may include awarding of damages and attorney fees if a court finds a school official's actions meet specified criteria.

Proposed law provides for retroactive applicability to March 13, 2020.

Present law requires each public school board to review its discipline policies at least annually. Requires each public school board to have established a discipline policy review committee. Proposed law retains present law and requires such committees to meet, no later than Dec. 31, 2020, and update all policies and procedures relative to conduct that occurs at home or any location that is not school property while a student is engaged in virtual instruction.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 17:416(C)(4) and (5); Adds R.S. 17:416(K) and (L))