
HOUSE BILL 2767

State of Washington

65th Legislature

2018 Regular Session

By Representative Ortiz-Self

1 AN ACT Relating to suspension and expulsion of students including
2 kindergarten and early elementary school students; amending RCW
3 28A.600.015, 28A.600.020, 28A.600.410, and 28A.600.460; and creating
4 a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that significant
7 numbers of Washington kindergarten and elementary school students are
8 suspended or expelled from school. Research indicates that school
9 expulsion and suspension practices are associated with negative
10 educational and life outcomes. Suspension and expulsion remove
11 children from learning environments where they can develop social-
12 emotional, behavioral, and academic skills, and they set children on
13 a negative path early in their school education. Nationwide, students
14 of color and students with disabilities are more likely to be
15 suspended or expelled, exacerbating opportunity gaps. The legislature
16 intends to eliminate the developmentally inappropriate use of
17 suspension and expulsion as a response to behavior for children in
18 grades kindergarten through two, and to encourage schools and
19 districts to adopt evidence-based practices to support students in
20 meeting behavioral expectations.

1 **Sec. 2.** RCW 28A.600.015 and 2016 c 72 s 105 are each amended to
2 read as follows:

3 (1) The superintendent of public instruction shall adopt and
4 distribute to all school districts lawful and reasonable rules
5 prescribing the substantive and procedural due process guarantees of
6 pupils in the common schools. Such rules shall authorize a school
7 district to use informal due process procedures in connection with
8 the short-term suspension of students to the extent constitutionally
9 permissible: PROVIDED, That the superintendent of public instruction
10 deems the interest of students to be adequately protected.

11 (2) When a student suspension or expulsion is appealed, the rules
12 shall authorize a school district to impose the suspension or
13 expulsion temporarily after an initial hearing for no more than ten
14 consecutive school days or until the appeal is decided, whichever is
15 earlier. Any days that the student is temporarily suspended or
16 expelled before the appeal is decided shall be applied to the term of
17 the student suspension or expulsion and shall not limit or extend the
18 term of the student suspension or expulsion.

19 (3) An expulsion or suspension of a student may not be for an
20 indefinite period of time.

21 ~~((+2))~~ (4) Short-term suspension procedures may be used for
22 suspensions of students up to and including, ten consecutive school
23 days.

24 ~~((+3))~~ (5) Emergency expulsions must end or be converted to
25 another form of corrective action within ten school days from the
26 date of the emergency removal from school. Notice and due process
27 rights must be provided when an emergency expulsion is converted to
28 another form of corrective action.

29 ~~((+4))~~ (6) School districts may not suspend or expel any student
30 who is enrolled in grades kindergarten through two, except for a
31 violation of RCW 28A.600.420, and except that:

32 (a) School districts may remove any student who is enrolled in
33 grades kindergarten through two from school for the remainder of a
34 school day if, after consulting with the student's parent or guardian
35 and the student's teacher or teachers, the local superintendent or
36 the local superintendent's designee determines that removal would
37 facilitate the child's successful return to the classroom;

38 (b) School districts may remove any student who is enrolled in
39 grades kindergarten through two from school for the remainder of a
40 school day and up to the end of the school day the following day if,

1 after consulting with the student's parent or guardian and the
2 student's teacher or teachers, the local superintendent or the local
3 superintendent's designee determines that removal is necessary to
4 develop a plan to support the student's successful return to the
5 classroom and:

6 (i) The school takes significant steps to develop and implement a
7 plan to support the student upon the student's return to school by
8 the beginning of the first full day of the student's removal; and

9 (ii) The school discusses the plan with the student's parent or
10 guardian;

11 (c) Removal of any student who is enrolled in grades kindergarten
12 through two may not be punitive and may be used only for the purposes
13 of developing and implementing a plan to support the student; and

14 (d) No student may be removed under (a) or (b) of this subsection
15 for more than a total of three school days during any single semester
16 or trimester.

17 (7) School districts shall record data on removal under
18 subsection (6)(a) and (b) of this section in the statewide student
19 data system, based on the data collection standards established by
20 the office of the superintendent of public instruction and the K-12
21 data governance group.

22 (8) School districts may not impose long-term suspension or
23 expulsion as a form of discretionary discipline.

24 ~~((+5))~~ (9) Any imposition of discretionary and nondiscretionary
25 discipline is subject to the bar on suspending the provision of
26 educational services pursuant to subsection ~~((+8))~~ (12) of this
27 section.

28 ~~((+6))~~ (10) As used in this chapter, "discretionary discipline"
29 means a disciplinary action taken by a school district for student
30 behavior that violates rules of student conduct adopted by a school
31 district board of directors under RCW 28A.600.010 and this section,
32 but does not constitute action taken in response to any of the
33 following:

34 (a) A violation of RCW 28A.600.420;

35 (b) An offense in RCW 13.04.155;

36 (c) Two or more violations of RCW 9A.46.120, 9.41.280,
37 28A.600.455, 28A.635.020, or 28A.635.060 within a three-year period;
38 or

39 (d) Behavior that adversely impacts the health or safety of other
40 students or educational staff.

1 (~~(7)~~) (11) Except as provided in RCW 28A.600.420, school
2 districts are not required to impose long-term suspension or
3 expulsion for behavior that constitutes a violation or offense listed
4 under subsection (~~(6)~~) (10)(a) through (d) of this section and
5 should first consider alternative actions.

6 (~~(8)~~) (12) School districts may not suspend the provision of
7 educational services to a student as a disciplinary action. A student
8 may be excluded from a particular classroom or instructional or
9 activity area for the period of suspension or expulsion, but the
10 school district must provide an opportunity for a student to receive
11 educational services during a period of suspension or expulsion.

12 (~~(9)~~) (13) Nothing in this section creates any civil liability
13 for school districts, or creates a new cause of action or new theory
14 of negligence against a school district board of directors, a school
15 district, or the state.

16 **Sec. 3.** RCW 28A.600.020 and 2016 c 72 s 106 are each amended to
17 read as follows:

18 (1) The rules adopted pursuant to RCW 28A.600.010 shall be
19 interpreted to ensure that the optimum learning atmosphere of the
20 classroom is maintained, and that the highest consideration is given
21 to the judgment of qualified certificated educators regarding
22 conditions necessary to maintain the optimum learning atmosphere.

23 (2) Any student who creates a disruption of the educational
24 process in violation of the building disciplinary standards while
25 under a teacher's immediate supervision may be excluded by the
26 teacher from his or her individual classroom and instructional or
27 activity area for all or any portion of the balance of the school
28 day(~~(, or up to the following two days,)~~) or until the principal or
29 designee and teacher have conferred, whichever occurs first. Except
30 in emergency circumstances, the teacher first must attempt one or
31 more alternative forms of corrective action. In no event without the
32 consent of the teacher may an excluded student return to the class
33 during the balance of that class or activity period (~~(or up to the~~
34 ~~following two days,)~~) or until the principal or his or her designee
35 and the teacher have conferred.

36 (3) In order to preserve a beneficial learning environment for
37 all students and to maintain good order and discipline in each
38 classroom, every school district board of directors shall provide
39 that written procedures are developed for supporting students in

1 meeting behavioral expectations and administering discipline at each
2 school within the district. Such procedures shall be developed with
3 the participation of parents and the community, and shall provide
4 that the teacher, principal or designee, and other authorities
5 designated by the board of directors, make every reasonable attempt
6 to involve the parent or guardian and the student in the resolution
7 of student discipline problems. Such procedures shall provide that
8 students in grades three through twelve may be excluded from their
9 individual classes or activities for periods of time in excess of
10 that provided in subsection (2) of this section if such students have
11 repeatedly disrupted the learning of other students. The procedures
12 must be consistent with the rules of the superintendent of public
13 instruction and must provide for early involvement of parents in
14 attempts to improve the student's behavior.

15 (4) The procedures shall assure, pursuant to RCW 28A.400.110,
16 that all staff work cooperatively toward consistent enforcement of
17 proper student behavior throughout each school as well as within each
18 classroom.

19 (5)(a) A principal shall consider imposing long-term suspension
20 or expulsion as a sanction when deciding the appropriate disciplinary
21 action for a student in grades three through twelve who, after July
22 27, 1997:

23 (i) Engages in two or more violations within a three-year period
24 of RCW 9A.46.120, 28A.600.455, 28A.600.460, 28A.635.020, 28A.600.020,
25 28A.635.060, or 9.41.280; or

26 (ii) Engages in one or more of the offenses listed in RCW
27 13.04.155.

28 (b) The principal shall communicate the disciplinary action taken
29 by the principal to the school personnel who referred the student to
30 the principal for disciplinary action.

31 (6) Any corrective action involving a suspension or expulsion
32 from school for more than ten days must have an end date of not more
33 than the length of an academic term, as defined by the school board,
34 from the time of corrective action. Districts shall make reasonable
35 efforts to assist students and parents in returning to an educational
36 setting prior to and no later than the end date of the corrective
37 action. Where warranted based on public health or safety, a school
38 may petition the superintendent of the school district, pursuant to
39 policies and procedures adopted by the office of the superintendent
40 of public instruction, for authorization to exceed the academic term

1 limitation provided in this subsection. The superintendent of public
2 instruction shall adopt rules outlining the limited circumstances in
3 which a school may petition to exceed the academic term limitation,
4 including safeguards to ensure that the school district has made
5 every effort to plan for the student's return to school. School
6 districts shall report to the office of the superintendent of public
7 instruction the number of petitions made to the school board and the
8 number of petitions granted on an annual basis.

9 (7) Nothing in this section prevents a public school district,
10 educational service district, the Washington state center for
11 childhood deafness and hearing loss, or the state school for the
12 blind if it has suspended or expelled a student from the student's
13 regular school setting from providing educational services to the
14 student in an alternative setting or modifying the suspension or
15 expulsion on a case-by-case basis. An alternative setting should be
16 comparable, equitable, and appropriate to the regular education
17 services a student would have received without the exclusionary
18 discipline. Example alternative settings include alternative high
19 schools, one-on-one tutoring, and online learning.

20 **Sec. 4.** RCW 28A.600.410 and 1992 c 155 s 1 are each amended to
21 read as follows:

22 (1) School districts are encouraged to find alternatives to
23 suspension including reducing the length of a student's suspension
24 conditioned by the commencement of counseling or other treatment
25 services. Consistent with current law, the conditioning of a
26 student's suspension does not obligate the school district to pay for
27 the counseling or other treatment services except for those
28 stipulated and agreed to by the district at the inception of the
29 suspension.

30 (2) School districts are encouraged to implement evidence-based
31 preventative, restorative, or other practices that support students
32 in meeting behavioral expectations, and to train teachers,
33 administrators, and student support staff as necessary to implement
34 those practices. Evidence-based practices may include but are not
35 limited to positive behavioral interventions and supports, trauma-
36 informed approaches, social and emotional learning, referral
37 services, and restorative practices.

1 **Sec. 5.** RCW 28A.600.460 and 2013 2nd sp.s. c 18 s 305 are each
2 amended to read as follows:

3 (1) School district boards of directors shall adopt policies that
4 restore discipline to the classroom. Such policies must provide for
5 at least the following: Allowing each teacher to take disciplinary
6 action to correct a student who disrupts normal classroom activities,
7 abuses or insults a teacher as prohibited by RCW 28A.635.010,
8 willfully disobeys a teacher, uses abusive or foul language directed
9 at a school district employee, school volunteer, or another student,
10 violates school rules, or who interferes with an orderly education
11 process. Disciplinary action may include but is not limited to: Oral
12 or written reprimands; written notification to parents of disruptive
13 behavior, a copy of which must be provided to the principal.

14 (2) A student committing an offense under chapter 9A.36, 9A.40,
15 9A.46, or 9A.48 RCW when the activity is directed toward the teacher,
16 shall not be assigned to that teacher's classroom for the duration of
17 the student's attendance at that school or any other school where the
18 teacher is assigned.

19 (3) A student who commits an offense under chapter 9A.36, 9A.40,
20 9A.46, or 9A.48 RCW, when directed toward another student, may be
21 removed from the classroom of the victim for the duration of the
22 student's attendance at that school or any other school where the
23 victim is enrolled. A student in grades three through twelve who
24 commits an offense under one of the chapters enumerated in this
25 section against a student or another school employee, may be expelled
26 or suspended.

27 (4) Nothing in this section is intended to limit the authority of
28 a school under existing law and rules to expel or suspend a student
29 in grades three through twelve for misconduct or criminal behavior.

30 (5) All school districts must collect data on disciplinary
31 actions taken in each school, including classroom or school removal,
32 and must record these actions using the statewide student data
33 system, based on the data collection standards established by the
34 office of the superintendent of public instruction and the K-12 data
35 governance group. The information shall be made available to the
36 public, but public release of the data shall not include personally
37 identifiable information including, but not limited to, a student's
38 social security number, name, or address.

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