

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1403 Session of
1999

INTRODUCED BY ROONEY, BELFANTI, JAMES, STABACK, SURRA, M. COHEN,
MELIO, RAMOS, ROBINSON, SCRIMENTI, STEELMAN, TRELLO, WALKO
AND WILLIAMS, APRIL 28, 1999

REFERRED TO COMMITTEE ON EDUCATION, APRIL 28, 1999

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," further providing for suspension and
6 expulsion of students.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Section 1318 of the act of March 10, 1949
10 (P.L.30, No.14), known as the Public School Code of 1949,
11 amended February 8, 1980 (P.L.3, No.2), is amended to read:

12 Section 1318. Suspension and Expulsion of [Pupils.--]
13 Students.--(a) Every principal or teacher in charge of a public
14 school may temporarily suspend any [pupil] student on account of
15 disobedience or misconduct, [and any] if such disobedience or
16 misconduct is in violation of a school policy. Any principal or
17 teacher suspending any [pupil] student shall promptly notify the
18 district superintendent or secretary of the board of school
19 directors. The board may, after a proper hearing, suspend such

1 [child] student for such time as it may determine, or may
2 permanently expel him. Such hearings, suspension, or expulsion
3 may be delegated to a duly authorized committee of the board, or
4 to a duly qualified hearing examiner, who need not be a member
5 of the board, but whose adjudication must be approved by the
6 board.

7 (b) (1) A formal hearing is required in all expulsion
8 actions. This hearing may be held before the board of school
9 directors or an authorized committee of the board, or a
10 qualified hearing examiner appointed by the board. Where the
11 hearing is conducted by a committee of the board of a hearing
12 examiner, a majority vote of the entire school board shall be
13 required to expel a student. The following due process
14 requirements shall be observed with regard to the formal
15 hearing:

16 (i) Notification of the charges shall be sent to the
17 student's parent or guardian by certified mail.

18 (ii) Sufficient notice of the time and place of the hearing
19 shall be given.

20 (iii) The hearing shall be held in private unless the
21 student or the student's parent or guardian requests a public
22 hearing.

23 (iv) The student has the right to be represented by counsel.

24 (v) The student has the right to be presented with the names
25 of witnesses against the student and copies of the statements
26 and affidavits of those witnesses.

27 (vi) The student has the right to request that any witnesses
28 appear in person and answer questions or be cross-examined.

29 (vii) The student has the right to testify and present
30 witnesses on his own behalf.

1 (viii) A record shall be kept of the hearing, either by a
2 stenographer or by tape recorder. The student shall be entitled,
3 at the student's expense, to a copy of the transcript.

4 (ix) The proceeding shall be held with all reasonable speed.

5 (2) Where the student disagrees with the results of the
6 hearing, recourse shall be available in the appropriate court of
7 the Commonwealth. If it is alleged that a constitutional issue
8 is involved, the student may file a claim for relief in the
9 appropriate Federal district court.

10 (3) When a suspension exceeds three school days, the student
11 and the student's parent or guardian shall be given the
12 opportunity for an informal hearing. The purpose of the informal
13 hearing shall be to enable the student and parent or guardian to
14 meet with the appropriate school official to explain the
15 circumstances surrounding the event for which the student is
16 being suspended or to show why the student should not be
17 suspended. The informal hearing shall encourage the student's
18 parent or guardian to meet with the principal to discuss ways by
19 which future offenses can be avoided. The following due process
20 requirements shall be observed in regard to the informal
21 hearing:

22 (i) Notification of the reasons for the suspension shall be
23 given in writing to the parent or guardian and to the student.

24 (ii) Sufficient notice of the time and place of the informal
25 hearing shall be given.

26 (iii) A student has the right to question any witnesses
27 present at the hearing.

28 (iv) A student has the right to speak and produce witnesses
29 on his own behalf.

30 (v) The district shall offer to hold the informal hearing

1 within the first five days of the suspension.

2 (4) A student and the student's parent or guardian shall be
3 advised in writing of the due process requirements of this
4 subsection.

5 (c) (1) Each board of school directors shall establish and
6 maintain an alternative education program for students expelled
7 from school. Students participating in the alternative education
8 program shall be provided the opportunity:

9 (i) To graduate from high school with a diploma, as opposed
10 to a certificate of high school equivalency.

11 (ii) To earn the number of credit hours required at the
12 student's present grade level.

13 (2) Any counseling required in connection with an expulsion
14 shall be paid for by the school district and shall be provided
15 by a professional qualified in the area in which the student
16 manifests problems.

17 (3) A school official responsible for making an expulsion
18 determination shall communicate directly with and solicit the
19 advice and opinions of any professional providing counseling or
20 instruction to the expelled student regarding the student's
21 condition.

22 (4) The parent or guardian of an expelled student shall be
23 advised in writing of available options for the student's
24 continued participation in an education program.

25 Section 2. This act shall take effect in 60 days.