

Rough Draft
July ____, 2016
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REFERENCE TITLE: Education

State of Arizona
House of Representatives
Fifty-second Legislature

H.B. _____

Introduced by _____

AN ACT

AMENDING SECTIONS 15-516, 15-537, 15-840, and 15-841, ARIZONA REVISED
STATUTES RELATING TO EDUCATION

Section 15-516, Arizona Revised Statutes, is amended to read:

15-516. Teacher Immunity.

A full-time teacher who is employed by a school district or a charter school is immune from personal liability for all acts done and actions in good faith in evaluating or grading any student, **OR, FOR REMOVING A PUPIL FROM THE CLASSROOM PURSUANT TO CHAPTER 8, ARTICLE 3 OF THIS TITLE.**

Section 15-537, Arizona Revised Statutes, is amended to read:

15-537. Performance of certificated teachers; evaluation system; confidentiality

A. The governing board of a school district shall establish a system for the evaluation of the performance of certificated teachers in the school district that meets the requirements prescribed in section 15-203, subsection A, paragraph 38 and that results in at least one evaluation of each certificated teacher by a qualified evaluator each school year. The objectives of the teacher performance evaluation system are to improve instruction and maintain instructional strengths. The governing board shall involve its certificated teachers in the development and periodic evaluation of the teacher performance evaluation system.

B. The school district governing board shall adopt teacher evaluation policies in a public meeting. Before the adoption of teacher evaluation policies, the school district governing board shall provide opportunities for public discussion on the proposed policies. The policies shall describe:

1. Incentives for teachers in the highest performance classification, which may include multiyear contracts not to exceed three years. The policies shall specify that the offer and acceptance of a multiyear contract does not exclude that teacher from the application of section 15-538.01, 15-540, 15-541 or 15-549 and that teacher may accept a multiyear contract offer or decline and accept a one year contract.

2. Incentives for teachers in the two highest performance classifications to work at schools that are assigned a letter grade of D or F pursuant to section 15-241.

3. Protections for teachers who are transferred to schools that are assigned a letter grade D or F pursuant to section 15-241.

4. Protections for teachers if the principal of the school is designated in the lowest performance classification.

5. PROTECTIONS FOR TEACHERS WHO REMOVE A PUPIL FROM THE CLASSROOM PURSUANT TO CHAPTER 8, ARTICLE 3 OF THIS TITLE. THE POLICIES SHALL STIPULATE THAT THE PERFORMANCE EVALUATION OF A CERTIFICATED TEACHER, CONDUCTED PURSUANT TO THIS ARTICLE, SHALL NOT BE REDUCED IN RATING CLASSIFICATION OR OTHERWISE ADVERSLY AFFECTED, INCLUDING RATING A TEACHER'S CLASSROOM PERFORMANCE INADEQUATE, BASED ON REMOVAL OF A PUPIL FROM THE CLASSROOM IN ACCORDANCE WITH CHAPTER 8, ARTICLE 3 OF THIS TITLE.

Alternatively:

5. PROTECTIONS FOR TEACHERS WHO REMOVE A PUPIL FROM THE CLASSROOM PURSUANT TO CHAPTER 8, ARTICLE 3 OF THIS TITLE. THE POLICIES SHALL PROHIBIT PUPIL REMOVAL FROM THE CLASSROOM PURSUANT TO CHAPTER 8, ARTICLE 3 OF THIS TITLE FROM ANY CONSIDERATION, USE, OR FACTOR IN ASSESMENT OF A TEACHER'S CLASSROOM PERFORMANCE OR THE DETERMINATION OF A RATING CLASSIFICATION TO BE ATTRIBUTED TO THE TEACHER IN A YEARLY PERFORMANCE EVALUATION CONDUCTED PURSUANT TO THIS ARTICLE.

C. By school year 2015-2016, the policies prescribed in subsection B of this section shall describe:

1. Performance improvement plans for teachers designated in the lowest performance classification.

2. Dismissal or nonrenewal procedures pursuant to section 15-536 or 15-539 for teachers who continue to be designated in the lowest performance classification. The procedures shall require that the school district issue the preliminary notice of inadequacy of classroom performance no later than the second consecutive year that the teacher is designated in one of the two lowest performance classifications unless the teacher is in the first or second year of employment with the school district or has been reassigned to teach a new subject or grade level for the preceding or current school year.

D. A teacher who has been employed by the school district for the major portion of three or more consecutive school years and who is currently designated in the lowest performance classification for two consecutive school years shall not be transferred as a teacher to another school in the school district unless the school district has issued a preliminary notice of inadequacy of classroom performance and approved a performance improvement plan for the teacher pursuant to section 15-539 and the governing board has approved the new placement as in the best interest of the pupils in the school. A teacher who continues to be designated in one of the two lowest performance classifications shall not be permitted to transfer to another school. A teacher shall not be transferred more than once pursuant to this subsection.

E. The governing board shall prescribe specific procedures for the teacher performance evaluation system, which shall include at least the following elements:

1. At least two actual classroom observations of the certified teacher demonstrating teaching skills in a complete and uninterrupted lesson by the qualified evaluator. There shall be at least sixty calendar days between the first and last observations. The last observation may follow the issuance of a preliminary notice of inadequacy of classroom performance and be used to determine whether the teacher has corrected inadequacies and has demonstrated adequate classroom performance. An observation shall not be conducted within two instructional days of any scheduled period in which school is not in session for one week or more. Within ten business days after each observation, the qualified evaluator shall provide written feedback to the teacher.

2. Specific and reasonable plans for the improvement of teacher performance as provided in subsection H of this section.

3. Appeal procedures for teachers who disagree with the evaluation of their performance, if the evaluation is for use as criteria for establishing compensation.

4. Training requirements for qualified evaluators.

5. A plan for the appropriate use of quantitative data of student academic progress in evaluations of all certified teachers. The plan may make distinctions between certified teachers who provide direct instruction to students any certificated teachers who do not provide direct instruction of students. The plan may include data for multiple school years and may limit the use of data for certificated teachers who have taught for less than two complete school years.

F. The governing board may waive the requirement of a second classroom observation for a continuing teacher whose teaching performance based on the first classroom observation places the teacher in one of the two highest performance classifications for the current school year, unless the teacher requests a second observation.

G. The results of an annual evaluation conducted as provided in this section shall be in writing or provided in electronic format to the certificated teacher and a copy shall be transmitted or provided in an electronic format to the certificated teacher within five days after completion of the evaluation. The certificated teacher may initiate a written reaction or response to the evaluation.

H. Each evaluation shall include recommendations as to areas of improvement in the performance of the certificated teacher if the performance of the teacher warrants improvement. After transmittal of an evaluation, the qualified evaluator or other board designee shall provide professional development opportunities for the certificated teacher to improve performance and follow up with the teacher after a reasonable period of time for the purpose of ascertaining that the teacher is demonstrating adequate performance.

I. Copies of the evaluation report and performance classification of a certificated teacher retained by the governing board and the department of education are confidential, do not constitute public record and shall not be released or shown to any person except:

1. To the certificated teacher who may make any use of it.

2. To authorized district officers and employees for all personnel matters regarding employment and contracts and for any hearing that relates to personnel matters.

3. To school districts and charter schools that inquire about the performance of the teacher for prospective employment purposes. A school district or charter school that receives information about a certificated teacher from the evaluation report and performance classification shall use this information solely for employment purposes and shall not release to or allow access to this information by any other person, entity, school district or charter school.

4. For introduction in evidence or discovery in any court action between the governing board and the certificated teacher in which either:

(a) The competency of the teacher is at issue.

(b) The evaluation and performance classification were an exhibit at a hearing, the result of which is challenged.

J. Any school district policy pertaining to the transfer of teachers from one school to another school in a school district shall take into consideration the current distribution of teachers across all of the performance classifications and the needs of the pupils in the school district.

Section 15-840, Arizona Revised Statutes, is amended to read:

15-840. Definitions

In this article, unless the context otherwise requires:

1. “ALTERNATIVE EDUCATION PROGRAM” MEANS A PROGRAM IN WHICH A PUPIL IS ALTERNATIVELY PLACED FOR THE PURPOSES OF TEACHING THE PUPIL APPROPRIATE SOCIAL SKILLS AND BEHAVIORS.

2. “ALTERNATIVE TO SUSPENSION PROGRAM” MEANS A PROGRAM ESTABLISHED PURSUANT TO, AND SET FORTH IN, A.R.S. §15-841.J.

3. ~~1.~~ “Expulsion” means the permanent withdrawal of the privilege of attending a school unless the governing board reinstates the privilege of attending the school.

4. ~~2.~~ “Suspension” means the temporary withdrawal of the privilege of attending school for a specified period of time.

Section 15-841, Arizona Revised Statutes, is amended to read:

15-841. Responsibilities of pupils; expulsion; alternative education programs; community service; placement review committee

A. Pupils shall comply with the rules, pursue the required course of study and submit to the authority of the teachers, the administrators and the governing board. A teacher may send a pupil to the principal’s officer in order to maintain effective discipline in the

classroom. If a pupil is sent to the principal's office pursuant to this subsection, the principal shall employ appropriate discipline management techniques that are consistent with the rules adopted by the school district governing board. A teacher may remove a pupil from the classroom if either of the following conditions exists:

1. The teacher has documented that the pupil has repeatedly interfered with the teacher's ability to communicate effectively with the other pupils in the classroom or with the ability of the other pupils to learn.
2. The teacher has determined that the pupil's behavior is so unruly, disruptive or abusive, **INCLUDING ACTS OF BULLYING**, that it seriously interferes with the teacher's ability to communicate effectively with the other pupils in the classroom or with the ability of the other pupils to learn.

B. NO ADVERSE EMPLOYMENT ACTION SHALL BE TAKEN BY A SCHOOL DISTRICT, GOVERNING BOARD, OR ADMINISTRATOR, AGAINST A TEACHER WHO REMOVES A PUPIL FROM THE CLASSROOM PURSUANT TO PARAGRAPH A. 1 OR 2 OF THIS ARTICLE, AND NO ADVERSE ACTION SHALL BE TAKEN AGAINST AN ADMINISTRATOR THAT SUPPORTS A TEACHER'S REMOVAL OF A PUPIL FROM THE CLASSROOM OR REPORTS TEACHER REFERRALS. ADVERSE EMPLOYMENT ACTION MEANS ANY ACTION THAT NEGATIVELY AFFECTS AN ADMINISTRATOR OR TEACHER AND SHALL INCLUDE REDUCTION OF RATING CLASSIFICATION IN A PERFORMANCE EVALUATION CONDUCTED PURSUANT TO CHAPTER 5, ARTICLE 3 OF THIS TITLE, AND, DENIAL OF, OR, REMOVAL FROM, PARTICIPATION IN AFTER-SCHOOL OR EXTRA CURRICULAR PROGRAMS AND ACTIVITIES REGULARLY AVAILABLE TO TEACHERS IN THE DISTRICT.

Alternatively:

B. A SCHOOL DISTRICT, GOVERNING BOARD OR ADMINISTRATOR SHALL NOT TAKE ADVERSE EMPLOYMENT ACTION AGAINST A TEACHER WHO REMOVES A PUPIL FROM THE CLASSROOM PURSUANT TO SECTION A.1 OR 2 OF THIS ARTICLE OR AN ADMINISTRATOR THAT SUPPORTS A TEACHER'S REMOVAL OF A PUPIL FROM THE CLASSROOM OR REPORTS TEACHER REFERRALS. ADVERSE EMPLOYMENT ACTION MEANS ANY ACTION THAT NEGATIVELY AFFECTS AN ADMINISTRATOR OR TEACHER AND INCLUDES REDUCTION OF RATING CLASSIFICATION IN A PERFORMANCE EVALUATION CONDUCTED PURSUANT TO CHAPTER 5, ARTICLE 3 OF THIS TITLE, AND, DENIAL, OF, OR REMOVAL FROM, PARTICIPATION IN AFTER-SCHOOL EXTRA CURRICULAR

PROGRAMS AND ACTIVITIES REGULARLY AVAILABLE TO TEACHERS IN THE DISTRICT.

B. C. A pupil may be expelled for continued open defiance of authority, continued disruptive or disorderly behavior, **INCLUDING ACTS OF BULLYING**, violent behavior that included use or display of a dangerous instrument or a deadly weapon as defined in section 13-105, use or possession of a gun, or excessive absenteeism. A pupil may be expelled for excessive absenteeism only if the pupil has reached the age or completed the grade after which school attendance is not required as prescribed in section 15-802. A school district may expel pupils for actions other than those listed in this subsection as the school district deems appropriate.

C. D. A school district may refuse to admit any pupil who has been expelled from another educational institution or who is in the process of being expelled from another educational institution.

D. E. A school district may annually or upon the request of any pupil or the parent or guardian review the reasons for expulsion and consider readmission.

E. F. As an alternative to suspension or expulsion, the school district may reassign any pupil to an alternative education program if the pupil does not meet the requirements for participation in the alternative to suspension program prescribed in subsection **H I** of this section and if good cause exists for expulsion or for a long-term suspension. **EACH SCHOOL DISTRICT SHALL ESTABLISH AN ALTERNATIVE EDUCATION PROGRAM AND THE SCHOOL DISTRICT GOVERNING BOARD SHALL ADOPT POLICIES TO DETERMINE THE REQUIREMENTS FOR PARTICIPATION IN THE ALTERNATIVE EDUCATION PROGRAM. THE DISTRICT SHALL ESTABLISH A SPECIFIC LOCATION AT ONE SCHOOL THAT IS ISOLATED FROM OTHER PUPILS. PUPILS WHO MEET THE SCHOOL DISTRICT'S REQUIREMENTS FOR PARTICIPATION IN THE ALTERNATIVE EDUCATION PROGRAM SHALL BE TRANSFERRED TO THE SPECIFIC LOCATION ESTABLISHED BY THE SCHOOL DISTRICT. THE FOCUS OF THE ALTERNATIVE EDUCATION PROGRAM SHALL BE ON TEACHING A PUPIL, THROUGH INTEGRATION OF SOCIAL SKILLS WITH FIDELITY, APPROPRIATE SOCIAL SKILLS AND BEHAVIOR, AND SHALL ALSO REQUIRE ACADEMIC WORK, BE DISCIPLINE INTENSIVE, AND MAY REQUIRE COMMUNITY SERVICE, GROUNDSKEEPING AND LITTER CONTROL.**

F. G. A school district may also reassign a pupil to an alternative education program if the pupil refuses to comply with rules, **ENGAGES IN ACTS OF BULLYING**, refuses

to pursue the required course of study or refuses to submit to the authority of teachers, administrators or the governing board.

~~G~~. H. A school district or charter school shall expel from school for a period of not less than one year a pupil who is determined to have brought a firearm to a school within the jurisdiction of the school district or the charter school, except that the school district or charter school may modify this expulsion requirement for a pupil on a case by case basis. This subsection shall be construed consistently with the requirements of the individuals with disabilities education act (20 United States Code sections 1400 through 1420). For the purposes of this subsection:

1. "Expel" may include removing a pupil from a regular school setting and providing educational services in an alternative setting.

2. "Firearm" means a firearm as defined in 18 United States Code section 921.

~~H~~. I. A school district or charter school shall expel from school for at least one year a pupil who is determined to have threatened an educational institution as defined in section 13-2911, except that the school district or charter school may modify this expulsion requirement for a pupil on a case by case basis if the pupil participates in mediation, community service, restitution or other programs in which the pupil takes responsibility for the results of the threat. This subsection shall be construed consistently with the requirements of the individuals with disabilities education act (20 United States Code sections 1400 through 1420). A school district may reassign a pupil who is subject to expulsion pursuant this subsection to an alternative education program pursuant to subsection ~~F~~ ~~G~~ of this section if the pupil participates in mediation, community service, restitution or other programs in which the pupil takes responsibility for the threat. A school district or charter school may require the pupil's parent or guardian to participate in mediation, community service, restitution or other programs in which the parent or guardian takes responsibility with the pupil for the threat. For purposes of this subsection, "threatened an educational institution" means to interfere with or disrupt an educational institution by doing any of the following:

1. For the purposes of causing, or in reckless disregard of causing, interference with or disruption of an education institution, threatening to cause physical injury to any employee of an educational institution or any person attending an educational institution.

2. For the purpose of causing, or in reckless disregard of causing, interference with or disruption of an educational institution, threatening to cause damage to any educational institution, the property of any educational institution, the property of any employee of an educational institution or the property of any person attending an educational institution.

3. Going on or remaining on the property of any educational institution for the purpose of interfering with or disrupting the lawful use of the property or in any manner as to deny or interfere with the lawful use of the property by others.

4. Refusing to obey a lawful order to leave the property of an educational institution.

I. J. By January 1, 2001, each school district shall establish an alternative to suspension program in consultation with local law enforcement officials or school resource officers. The school district governing board shall adopt policies to determine the requirements for participation in the alternative to suspension program. Pupils who would otherwise be subject to suspension pursuant to this article and who meet the school district's requirements for participation in the alternative to suspension program shall be transferred to a location on school premises that is isolated from other pupils or transferred to a location that is not on school premises. The alternative to suspension program shall be discipline intensive and **SHALL REQUIRE THE INTEGRATION OF SOCIAL SKILLS WITH FIDELITY, AND SHALL** require academic work. **THE ALTERNATIVE TO SUSPENSION PROGRAM** may require community service, groundskeeping, and litter control, parent supervision, and evaluation or other appropriate activities. The community service, groundskeeping and litter control, and other appropriate activities may be performed on school grounds or at any other designated area.

J. K. Each school shall establish a placement review committee to determine the placement of **EVERY PUPIL REMOVED BY A TEACHER FROM THE CLASSROOM AS PROVIDED IN SUBSECTION A. ABOVE.** ~~a pupil if a teacher refused to readmit the pupil to the teacher's class and to~~ **THE PLACEMENT REVIEW COMMITTEE SHALL** make recommendations to the governing board regarding the readmission of expelled pupils. The process for determining the placement of a pupil **REMOVED BY A TEACHER FROM THE CLASSROOM AS PROVIDED IN SUBSECTION A. ABOVE** ~~in a new class, replacement in the existing class~~ shall not exceed three business days from the date the pupil was first removed the existing class. The ~~principal~~ **COMMITTEE** shall not return a pupil to the classroom from which the pupil was removed without the teacher's consent unless the committee determines that the return of the pupil to that classroom is the best or only practicable alternative. The committee shall be composed of two teachers who are employed at the school and who are selected by the faculty members of the school and one administrator who is employed by the school and who is selected by the principal. The faculty members of the school shall select a third teacher to serve as an alternate member of the committee. If a teacher refuses to readmit the pupil to the teacher's class If the teacher who refuses to readmit the pupil is a member of the committee, that teacher shall be excused from participating in the determination of the pupil's readmission and the alternate teacher member shall replace that teacher on the committee until the

conclusion of all matters relating to that pupil's readmission. **THE COMMITTEE MAY PLACE THE PUPIL IN A NEW CLASS, MAY PLACE THE PUPIL BACK IN THE EXISTING CLASS UNLESS THE TEACHER REFUSES TO READMIT THE PUPIL, MAY PLACE THE PUPIL IN AN ALTERNATIVE TO SUSPENSION PROGRAM, OR, MAY PLACE THE PUPIL IN AN ALTERNATIVE EDUCATION PROGRAM. THE COMMITTEE SHALL BE NOTIFIED WHEN A PUPIL, PLACED IN AN ALTERNATIVE TO SUSPENSION PROGRAM OR AN ALTERNATIVE EDUCATION PROGRAM BY THE COMMITTEE, HAS SUCCESSFULLY COMPLETED THE PROGRAM. THE COMMITTEE WILL THEN DETERMINE WHETHER TO PLACE THE PUPIL BACK IN THE EXISTING CLASS OR PLACE THE PUPIL IN A NEW CLASS. IF THAT PUPIL IS ONCE AGAIN REMOVED FROM THE CLASSROOM UNDER ONE OF THE CONDITIONS SET OUT IN SECTION A. ABOVE, THE REMOVAL SHALL COME BEFORE THE COMMITTEE TO DETERMINE THE PLACEMENT OF THE PUPIL. THE COMMITTEE MAY PLACE THE PUPIL BACK IN THE SAME ALTERNATIVE TO SUSPENSION PROGRAM OR ALTERNATIVE EDUCATION PROGRAM THAT THE PUPIL ALREADY COMPLETED OR MAY PLACE THE PUPIL IN A NEW CLASS. THE COMMITTEE MAY RECOMMEND SUSPENSION OR EXPULSION OF A PUPIL UPON MAKING CLEAR FINDINGS THAT ANY ADDITIONAL REFERRALS TO ONE OF THE ALTERNATIVE PROGRAMS OR PLACEMENT IN ANOTHER CLASSROOM WILL BE UNSUCCESSFUL.**