



STATE OF ARIZONA

JANICE K. BREWER
GOVERNOR

EXECUTIVE OFFICE

April 3, 2013

The Honorable Ken Bennett
Secretary of State
1700 West Washington
Phoenix, Arizona 85007

RE: House Bill 2476 (schools; isolation rooms; restrictions)

Dear Secretary Bennett,

Today, I signed into law House Bill 2476 (schools; isolation rooms; restrictions). This legislation establishes guidelines for schools to notify parents and seek consent prior to consigning a student to a so-called isolation room. I view this measure as a starting point as the State reviews the practice of these isolation rooms and any necessary steps we can take to ensure they are not misused.

I am grateful to the bill sponsor – Representative Kelly Townsend, R-District 16 – for shining a light on this issue. It is chilling to imagine an Arizona schoolchild being shut away in a padded room, no larger than a closet, for hours on end. There has to be a better way.

During legislative hearings, we learned that Arizona is one of only six states with no regulation governing the use of isolation rooms in schools. It is critical that we learn more about this issue, as well as the best management techniques used in other states to properly manage an out-of-control student who may be a threat to him or herself, classmates or teachers. Over the interim, I ask that Representative Townsend work with stakeholders – including parents and behavioral-health experts – to address some of these issues so that legislators can revisit this issue next year with additional steps the State of Arizona can take.

Our goal must be to ensure Arizona children – especially those with special needs – are treated in a way that provides for both their safety and dignity. Working together, I know we can achieve this.

Sincerely,

A handwritten signature in black ink that reads "Janice K. Brewer". The signature is written in a cursive style with a large, looping initial "J".

Janice K. Brewer
Governor

Cc: The Honorable Andy Tobin
The Honorable Andy Biggs
The Honorable Kelly Townsend

Senate Engrossed House Bill

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

CHAPTER 29

HOUSE BILL 2476

AN ACT

AMENDING SECTION 15-843, ARIZONA REVISED STATUTES; RELATING TO PUPIL DISCIPLINE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 15-843, Arizona Revised Statutes, is amended to
3 read:

4 15-843. Pupil disciplinary proceedings

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

10 B. The governing board of any school district, in consultation with
11 the teachers and parents of the school district, shall prescribe rules for
12 the discipline, suspension and expulsion of pupils. The rules shall be
13 consistent with the constitutional rights of pupils and shall include at
14 least the following:

15 1. Penalties for excessive pupil absenteeism pursuant to section
16 15-803, including failure in a subject, failure to pass a grade, suspension
17 or expulsion.

18 2. Procedures for the use of corporal punishment if allowed by the
19 governing board.

20 3. Procedures for the reasonable use of physical force by certificated
21 or classified personnel in self-defense, defense of others and defense of
22 property.

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

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

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

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

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

35 9. BEGINNING IN SCHOOL YEAR 2013-2014, DISCIPLINARY POLICIES FOR THE
36 CONFINEMENT OF PUPILS LEFT ALONE IN AN ENCLOSED SPACE. THESE POLICIES SHALL
37 INCLUDE THE FOLLOWING:

38 (a) A PROCESS FOR PRIOR WRITTEN PARENTAL NOTIFICATION THAT CONFINEMENT
39 MAY BE USED FOR DISCIPLINARY PURPOSES THAT IS INCLUDED IN THE PUPIL'S
40 ENROLLMENT PACKET OR ADMISSION FORM.

41 (b) A PROCESS FOR PRIOR WRITTEN PARENTAL CONSENT BEFORE CONFINEMENT IS
42 ALLOWED FOR ANY PUPIL IN THE SCHOOL DISTRICT. THE POLICIES SHALL PROVIDE FOR
43 AN EXEMPTION TO PRIOR WRITTEN PARENTAL CONSENT IF A SCHOOL PRINCIPAL OR
44 TEACHER DETERMINES THAT THE PUPIL POSES IMMINENT PHYSICAL HARM TO SELF OR
45 OTHERS. THE SCHOOL PRINCIPAL OR TEACHER SHALL MAKE REASONABLE ATTEMPTS TO

1 NOTIFY THE PUPIL'S PARENT OR GUARDIAN IN WRITING BY THE END OF THE SAME DAY
2 THAT CONFINEMENT WAS USED.

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

8 D. The governing board shall:

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

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

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

15 4. Delegate to the principal the authority to remove a disruptive
16 pupil from the classroom.

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

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

23 1. Be notified of the intended action.

24 2. Either:

25 (a) Decide, in executive session, whether to hold a hearing or to
26 designate one or more hearing officers to hold a hearing to hear the
27 evidence, prepare a record and bring a recommendation to the board for action
28 and whether the hearing shall be held in executive session.

29 (b) Provide by policy or vote at its annual organizational meeting
30 that all hearings concerning the expulsion of a pupil conducted pursuant to
31 this section will be conducted before a hearing officer selected from a list
32 of hearing officers approved by the governing board.

33 3. Give written notice, at least five working days before the hearing
34 by the governing board or the hearing officer or officers designated by the
35 governing board, to all pupils subject to expulsion and their parents or
36 guardians of the date, time and place of the hearing. If the governing board
37 decides that the hearing is to be held in executive session, the written
38 notice shall include a statement of the right of the parents or guardians or
39 an emancipated pupil who is subject to expulsion to object to the governing
40 board's decision to have the hearing held in executive session. Objections
41 shall be made in writing to the governing board.

42 G. If a parent or guardian or an emancipated pupil who is subject to
43 expulsion disagrees that the hearing should be held in executive session, it
44 shall be held in an open meeting unless:

1 1. If only one pupil is subject to expulsion and disagreement exists
2 between that pupil's parents or guardians, the governing board, after
3 consultations with the pupil's parents or guardians or the emancipated pupil,
4 shall decide in executive session whether the hearing will be in executive
5 session.

6 2. If more than one pupil is subject to expulsion and disagreement
7 exists between the parents or guardians of different pupils, separate
8 hearings shall be held subject to this section.

9 H. This section does not prevent the pupil who is subject to expulsion
10 or suspension, and the pupil's parents or guardians and legal counsel, from
11 attending any executive session pertaining to the proposed disciplinary
12 action, from having access to the minutes and testimony of the executive
13 session or from recording the session at the parent's or guardian's expense.

14 I. In schools employing a superintendent or a principal, the authority
15 to suspend a pupil from school is vested in the superintendent, principal or
16 other school officials granted this power by the governing board of the
17 school district.

18 J. In schools that do not have a superintendent or principal, a
19 teacher may suspend a pupil from school.

20 K. In all cases of suspension, it shall be for good cause and shall be
21 reported within five days to the governing board by the superintendent or the
22 person imposing the suspension.

23 L. Rules pertaining to the discipline, suspension and expulsion of
24 pupils shall not be based on race, color, religion, sex, national origin or
25 ancestry. If the department of education, the auditor general or the
26 attorney general determines that a school district is substantially and
27 deliberately not in compliance with this subsection and if the school
28 district has failed to correct the deficiency within ninety days after
29 receiving notice from the department of education, the superintendent of
30 public instruction may withhold the monies the school district would
31 otherwise be entitled to receive from the date of the determination of
32 noncompliance until the department of education determines that the school
33 district is in compliance with this subsection.

34 M. The principal of each school shall ensure that a copy of all rules
35 pertaining to discipline, suspension and expulsion of pupils is distributed
36 to the parents of each pupil at the time the pupil is enrolled in school.

37 N. The principal of each school shall ensure that all rules pertaining
38 to the discipline, suspension and expulsion of pupils are communicated to
39 students at the beginning of each school year, and to transfer students at
40 the time of their enrollment in the school.

41 Sec. 2. Emergency

42 This act is an emergency measure that is necessary to preserve the
43 public peace, health or safety and is operative immediately as provided by
44 law.

~~APPROVED BY THE GOVERNOR APRIL 3, 2013.~~

~~FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 4, 2013.~~

Passed the House February 26, 2013

Passed the Senate March 21, 2013

by the following vote: 57 Ayes,

by the following vote: 29 Ayes,

2 Nays, 1 Not Voting

0 Nays, 1 Not Voting

[Signature]
Speaker of the House

[Signature] with Emergency
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20_____

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____ M.

Secretary of State

H.B. 2476

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

March 28, 2013,

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

28 day of March, 2013,

at 2:45 o'clock P M.

[Signature]
Secretary to the Governor

Approved this 3rd day of

April, 2013,

at 4:45 o'clock P M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 4th day of April, 2013,

at 8:49 o'clock a M.

[Signature]
Secretary of State

H.B. 2476