

CHAPTER 222 OF THE ACTS OF 2012

AN ACT RELATIVE TO STUDENTS' ACCESS TO EDUCATIONAL SERVICES AND EXCLUSION FROM SCHOOL

~Fact Sheet~

Student Access to Educational Services

- Provides that schools are responsible for ensuring that students who are excluded from school are able to continue to make academic progress during the period of exclusion.
- Requires schools to create a “school-wide education service plan” to ensure that students who are excluded for more than 10 consecutive days have access to some form of alternative educational services. Such services *may* include tutoring, alternative placement, Saturday school, and online or distance learning. Any school that excludes a student for more than 10 days must provide the student and his parent or guardian with a list of available alternative educational services.
- Allows for instructional costs associated with providing alternative educational services to excluded students to be eligible for reimbursement through the circuit breaker, provided that such costs exceed the same threshold provided under the current circuit breaker formula. The department is required to submit an annual report to the legislature on the cost of reimbursing school districts for alternative education services through the circuit breaker.

State Oversight & Responsibility for School Exclusions

- Requires districts to annually report data on all student suspensions and expulsions, regardless of duration or type, to the department of elementary and secondary education. The department is required to publish an annual report containing de-identified, district level data on student suspensions and expulsions.
- Requires the commissioner of elementary and secondary education to investigate any school district that excludes a significant number of students for more than ten cumulative school days and, as appropriate, make recommendations to the district for systemic change.

Exclusion Procedures for Non-serious Offenses

- Establishes a new section under chapter 71 – Section 37H³/₄ – which outlines a system of due process procedures that school administrators must follow when suspending or expelling a student for *a non-serious offense* (i.e. an offense that does not involve drugs, weapons, violence or criminal activities, which are currently covered under sections 37H and 37H¹/₂ of chapter 71).

- The system of due process under this new section provides that:
 - Students who are excluded for a non-serious offense shall receive notification and have the opportunity to meet with the principal prior to the exclusion taking effect.
 - Principals must make every effort to ensure that parents are included in such student exclusion meetings. The department will promulgate regulations regarding the principal's duties and the procedures for including parents in such meetings.
 - Students excluded for more than 10 school days (for a non-serious offense) shall have the right to appeal the decision to the superintendent.
 - No student shall be excluded (for a non-serious offense) for a time period that exceeds 90 school days.
 - Principals must notify the district superintendent before imposing an out-of-school suspension on any student in grades k-3.
 - Principals must exercise discretion when making disciplinary decisions, consider ways to re-engage the student in the learning process, and avoid using expulsion as a consequence until other remedies and consequences have been employed.

Student Attendance & Dropouts

- Removes certain employment exemptions under section 1 of chapter 76 which currently allow a 14-16 year old student to drop out of school.
- Requires each school district to establish a “pupil absence notification program” to ensure that schools notify parents if their child is absent from school and the school has not received notification of such absence from the parent within 3 days. Each school district is also required to have a policy of notifying parents if their child has 5 or more unexcused absences in a year. Such policy shall provide that the principal must make a reasonable effort to meet with the parents of a child who has 5 or more unexcused absences for the purposes of developing action steps to improve the student's attendance.
- Reduces both the number of consecutive absences that triggers a dropout notice to parents from 15 to 10, as well as the number of days in which said notice must be sent to parents from 10 days to 5 days.
- Provides that if a student wishes to permanently leave school before graduating, then he or she must first participate in an “exit interview” with the school superintendent, relevant school staff, and their parents in order to discuss the student's reasons for leaving school. During such exit interview, the student shall be given information about the detrimental effects of early withdrawal, the benefits of earning a diploma, and available alternative education programs. The department of elementary and secondary education shall be required to develop a model protocol for conducting exit interviews with students, and must compile and maintain a list of research and information relative to the consequences of dropping out of school.

Implementation & Effective Date

- Requires the department of elementary and secondary education to report on the overall costs of implementing the legislation by November 30, 2013.
- Provides that sections 1 through 10 of the bill shall take effect on July 1, 2014 – allowing school districts 2 years to plan for implementation.

3 Common Misconceptions

#1. The legislation limits the duration of all student exclusions from school, regardless of the nature or severity of the student's misconduct.

The legislation imposes a 90-day limit on student exclusions for non-serious offenses only – that is, for incidents that are not related to drugs, weapons, violence, or criminal activity. This limit does not apply to students who are suspended or expelled for a violation of sections 37H or 37H½ of chapter 71, which include incidents involving drugs, weapons, violence, and criminal activity. In other words, school administrators will still have the authority under the new law to suspend or expel a student indefinitely for violence, weapons, or drug-related activities that threaten school safety and inhibit the learning environment.

#2. The legislation limits a principal's ability to remove students from school

Under the new law, principals will continue to have broad discretion to suspend or expel a student from school – the legislation does not change or undermine this authority in any way. Rather, it outlines a system of due process procedures that school administrators must follow if and when they decide to suspend or expel a student from school for a non-serious offense. These procedures reflect the same due process protections that are currently provided to students who commit more serious offenses under sections 37H & 37H½, such as offenses involving drugs, weapons, violence, or criminal activity. This legislation simply extends similar due process protections to students who are suspended or expelled for a non-serious offense.

#3. The legislation requires every school to develop a separate alternative education program for suspended or expelled students

Under the new law, principals are responsible for ensuring that students who are excluded from school have the opportunity to make academic progress during the period of their exclusion. The law specifically states that principals must develop a school-wide education service plan that addresses the school's strategy for ensuring that students who are excluded for more than 10 days are able to access some form of alternative education services. The legislation states that a school-wide education service plan *may* include tutoring, alternative placements, Saturday school, and online or distance learning; however, it does not require schools to provide these services. Schools will have the flexibility to determine the types of alternative options it will provide to excluded students and

the method of delivering such services. Therefore, while a school may choose to establish a separate alternative education program as a means of providing educational services to excluded students, it is not required to do so under the new law.