

GENERAL ASSEMBLY OF NORTH CAROLINA

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SENATE BILL 880*

Education/Higher Education Committee Substitute Adopted 4/28/93

Third Edition Engrossed 4/29/93

House Committee Substitute Favorable 7/15/93

Short Title: School Expulsion Modified.

(Public)

Sponsors:

Referred to:

April 15, 1993

A BILL TO BE ENTITLED

AN ACT TO ENABLE LOCAL BOARDS OF EDUCATION TO EXPEL FROM SCHOOL THOSE STUDENTS WHOSE INTENTIONAL ACTS CREATE A CLEAR THREAT TO THE SAFETY OF OTHER STUDENTS, EMPLOYEES, OR PERSONS AT THE SCHOOL AND TO SET OUT CERTAIN DUE PROCESS REQUIREMENTS FOR EXPULSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-391(d) reads as rewritten:

"(d) A local board of education may, upon recommendation of the principal and superintendent, expel any student 14 years of age or older who has been convicted of a felony and whose intentional acts create continued presence in school constitutes a clear threat to the safety and health of other students, or employees, employees, or persons at the school. Notwithstanding the provisions of G.S. 115C-112, Except as otherwise required by federal law, a local board of education has no duty to continue to provide a child with special needs, expelled pursuant to this subsection, with any special education or related services during the period of expulsion."

Sec. 2. G.S. 115C-391 is amended by adding the following new subsections to read:

"(d1) At least 14 days prior to a hearing on a recommended expulsion, the local board of education shall provide written notice by certified or registered mail of the pending expulsion to the student and the student's parent. For purposes of this

1 subsection, 'parent' means one or both parents, a guardian, or a person standing **in loco**
2 **parentis**. Written notice shall include a statement:

- 3 (1) Of the specific charges against the student;
- 4 (2) Of the time and date of the expulsion hearing;
- 5 (3) Concerning expulsion procedures adopted by the local board in
6 accordance with subsection (a) of this section;
- 7 (3a) Of student rights, including, but not limited to, the right to: Examine
8 exhibits and other evidence, confront and examine adverse witnesses,
9 present evidence, make a record of the proceedings, and have the
10 expulsion decision based upon substantial evidence;
- 11 (4) Encouraging the student's parent to accompany the student to the
12 hearing;
- 13 (5) That the student may be assisted at the hearing by an adult advocate
14 who may be an attorney or a layperson. The school board shall
15 include with the notice a list of the names and addresses of organized
16 programs, if any, which may be able to provide free or reduced fee
17 legal assistance to the student and the student's parent;
- 18 (6) That the student or the student's parent may request that the board
19 recommend a volunteer adult advocate. The notice shall state that the
20 request shall be made by telephone or in person to a school board
21 official identified in the notice and within three days of receipt of the
22 notice;
- 23 (7) That when a volunteer adult advocate is requested, the school board
24 shall notify the student or the student's parent in writing within five
25 days of the request whether or not a volunteer adult advocate will be
26 available to assist the student, but that the availability of a volunteer
27 adult advocate shall not be a basis for delay of the hearing; and
- 28 (8) That the local board shall not be liable for the acts or omissions of a
29 volunteer adult advocate.

30 (d2) At least six months after the board's decision to expel a student under
31 subsection (d) of this section, a student may request that the local board of education
32 reconsider an expulsion decision. If the student demonstrates to the satisfaction of the
33 local board of education that the student no longer constitutes a clear threat to the safety
34 of other students, employees, or other persons at the school, the board shall readmit the
35 student to a school in that local school administrative unit on a date the board considers
36 appropriate. If the student is denied readmission, the student may request
37 reconsideration of the denial for readmission every six months following a denial for
38 readmission. The board's decision concerning an expelled student's request to
39 reconsider the expulsion is final and is subject to judicial review only upon a claim that
40 the board's decision to deny readmission was arbitrary and capricious.

41 (d3) Sessions of meetings of local school boards, including hearing panels, held to
42 consider appeals of individual suspension decisions, the recommendations to expel an
43 individual student, or a student's request for reinstatement after expulsion, are
44 considered to be confidential and shall be held in executive or closed session."

1 Sec. 3. The State Board of Education shall report to the 1995 General
2 Assembly and the Joint Legislative Education Oversight Committee no later than
3 January 15, 1995, on the implementation of this act, including the numbers of students
4 expelled categorized by race, age, gender, school administrative unit, the reasons for the
5 expulsion, and whether the student was assisted by a volunteer adult advocate at the
6 hearing on expulsion.

7 Sec. 4. The State Board of Education shall adopt rules to implement this act.
8 A copy of the proposed rules shall be transmitted to the Joint Legislative Education
9 Oversight Committee no later than December 1, 1993.

10 Sec. 5. The State Board of Education in consultation with the North Carolina
11 School Boards Association shall develop a model publication on procedures and
12 policies for suspension and expulsion proceedings which are consistent with the laws of
13 the United States and North Carolina. In formulating procedures concerning volunteer
14 adult advocates, the Board shall consider the diversity of resources within the local
15 school administrative units. The model publication shall be distributed by the Board to
16 all local school administrative units no later than January 1, 1994. Local school
17 administrative units shall distribute the model publication to each school building in the
18 school administrative unit by March 1, 1994. The State Board of Education shall report
19 on the model publication to the Joint Legislative Education Oversight Committee no
20 later than December 1, 1993.

21 Sec. 6. This act is effective upon ratification except that G.S. 115C-391(d) as
22 rewritten by Section 1 of this act and G.S. 115C-391(d1) and (d2) as enacted by this act
23 are effective December 1, 1993, and apply to acts committed on or after that date.