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12 A BILL
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15 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
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19 To establish parameters for local education agencies' discipline policies to ensure student safety
20 and access to education, including limits on the use of suspensions and expulsions,
21 reporting, and supports provided by the Office of the State Superintendent of Education
22 to promote trauma-informed educational settings.

23 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
24 act may be cited as the "Student Fair Access to School Act of 2017".

25 Sec. 2. Definitions.

26 For the purposes of this act, the term:

27 (1) "Emergency removal" means an immediate removal from the school based on
28 the local education agency's belief that the student's presence poses an immediate and continuing
29 danger to other students or school staff.

30 (2) "Emotional distress" means significant mental suffering or distress that may,
31 but does not necessarily, require medical or other professional treatment or counseling.

32 (3) "Exclusion" means the removal of a student from the student's daily class
33 schedule for disciplinary reasons, including a suspension, expulsion, or involuntary withdrawal.

34 (4) "Expulsion" means a long-term removal from school attendance and school
35 privileges as a disciplinary action. An involuntary withdrawal shall be considered an expulsion.

36 (5) "Involuntary withdrawal" means a school administrator-initiated intervention
37 in which the student is removed from his or her school of attendance, for disciplinary purposes,
38 and denied the ability to return, or an involuntary transfer from one campus to another within the
39 same local education agency.

40 (6) "Local education agency" means the District of Columbia Public Schools
41 system or any individual or group of public charter schools operating under a single charter.

42 (7) "Out-of-school suspension" means the removal of a student from school
43 attendance during which the student is not under direct supervision of the school personnel and is
44 not allowed on school grounds.

45 (8) "Serious bodily injury" means bodily injury that involves a substantial risk of
46 death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or
47 protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

48 (9) "Significant bodily injury" means an injury that requires hospitalization or
49 immediate medical attention.

50 (10) "Suspension" means an in-school suspension or out-of-school suspension.

51 (11) "Weapon" means a weapon, device, instrument, material, or substance,
52 animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily
53 injury.

54 Sec. 3. Establishment of school discipline policies.

55 (a) Local education agencies and schools shall adopt, in consultation with students and
56 parents or guardians, school discipline policies to promote the safety and well-being of students

57 and staff. Such policies shall be augmented by school policies promoting students' healthy social
58 and emotional development and a positive school climate. Schools shall provide training and
59 support to teachers and other school staff to implement discipline and related policies.

60 (b) School discipline policies shall emphasize the following:

61 (1) Positive approaches to discipline, prioritizing instruction and correction;

62 (2) Limiting the use of exclusion;

63 (3) Avoiding automatic suspension or expulsion unless required by law;

64 (4) Preventive and restorative responses to misbehavior and rules violations;

65 (5) Evidence-based and promising practices; and

66 (6) Communication to students and parents or guardians the explanations of these

67 policies, and the expectations, rights, and responsibilities of students and parents or guardians

68 regarding discipline and school rules violations.

69 (c) School discipline policies shall articulate clear expectations and graduated levels of

70 consequences for misbehavior that are individualized, consistent, reasonable, fair, age

71 appropriate, and which match the severity of the student's behavior, specifying the list of

72 responses available to teachers and administrators for each level of consequences, provided that

73 such a list need not be exhaustive.

74 (d) School discipline policies shall clearly articulate the due process rights and

75 procedures available to students and parents or guardians.

76 (e) No student subject to a suspension may be denied the right to continue to access and

77 complete appropriate academic work or earn credit toward promotion or graduation during the

78 suspension.

79 (f) The school shall have a generalized plan for continuity of education for any student
80 subject to a suspension, including modifications on a case by case basis to facilitate the student's
81 return to the classroom and appropriate measures to ensure the student:

82 (1) Continues the student's studies during the suspension and receives all
83 assignments for the duration of the suspension;

84 (2) Can communicate with school personnel regarding academic work; and

85 (3) Receives any necessary support services to address the cause of the
86 suspension.

87 (g) School discipline policies shall outline the procedures for communicating to students
88 and parents or guardians regarding disciplinary actions. School staff shall seek and facilitate the
89 involvement of parents or guardians in the response to an incident resulting in a disciplinary
90 action, particularly with regard to the plan for continuity of education, to the degree that the
91 parent or guardian is able. The return of a student to school upon conclusion of an out-of-school
92 suspension shall not be made contingent on a parent or guardian accompanying the student,
93 attending a conference, or otherwise being present at the school.

94 Sec. 4. Limitations on exclusion as a disciplinary response.

95 (a) No student in kindergarten through grade 8 may be subject to an out-of-school
96 suspensions or expulsion, unless a school administrator determines that the student has willfully
97 caused, attempted to cause, or threatened to cause significant bodily injury or emotional distress,
98 to another person; provided, that such an out-of-school suspension shall be for no longer than 5
99 school days for any individual incident, or 20 cumulative school days during an academic year.

100 (b) Schools administrators may utilize out-of-school suspension or expulsion as a
101 consequence only for the most serious offenses as laid out in school policy; provided, that no

102 student in grades 9 through 12, except a student over the age of 18 at a school where more than
103 half of the students are over the age of 18, may be subject to an out-of-school suspension for:

104 (1) Being late to school or class or being absent;

105 (2) Violating local education agency or school dress code or uniform rules;

106 (3) Purely behavioral infractions, including insubordinate behavior, defiance,
107 disobedience, disrespect, or disruptive or rowdy behavior;

108 (4) Behavior that happens off of school grounds and not as part of a school-
109 sponsored activity, unless such behavior results in a significant disruption to the school
110 environment; or

111 (5) More than 10 consecutive school days, or 20 cumulative school days during an
112 academic year.

113 (c) A suspension of 5 school days or less shall be considered a short term suspension and
114 a suspension of 6 school days or more shall be considered a long term suspension.

115 (d) No student may be subject to expulsion except for instances of serious bodily injury
116 or emotional distress, or as otherwise required by District of Columbia or federal law.

117 (e) School administrators shall take special consideration regarding the exclusion of a
118 child with a disability, as defined in section 602(3) of the Individuals with Disabilities Education
119 Act, approved April 13, 1970 (84 Stat. 175; 20 U.S.C. § 1401(3)). Any child with a disability
120 who violates the school discipline policy and is excluded from the child's current placement for
121 more than 5 cumulative school days shall have an individualized education program team
122 determination of whether the conduct in question is a manifestation of any of the student's
123 disabilities or diagnosed conditions, consistent with sections 615(k)(1)(E)-(F) of the Individuals
124 with Disabilities Education Act (20 U.S.C. § 1415(k)(1)(E)-(F)).

125 (1) If the team determines that the conduct was a manifestation of any of the
126 student's disabilities or disabling conditions:

127 (A) The student shall be immediately returned to the placement from
128 which the student was excluded; and

129 (B) The individualized education program team shall conduct a functional
130 behavior assessment and implement a positive behavior intervention plan, as well as review and
131 revise the student's individualized education program, within 10 school days unless a functional
132 behavior assessment was conducted before the behavior that resulted in the exclusion, and the
133 full individualized education program team, agree otherwise.

134 (2) The parent of a child with a disability who disagrees with any decision
135 regarding placement, or the manifestation determination under this subsection, or a local
136 education agency that believes maintaining the current placement of the child is substantially
137 likely to result in injury to the child or to others, may appeal consistent with section 615(k)(3) of
138 the Individuals with Disabilities Education Act (20 U.S.C. § 1415(k)(3)).

139 (3) A child with a disability who is excluded from the child's current placement
140 for more than 5 cumulative school days shall:

141 (A) Continue to receive educational services, as provided in 20 U.S.C. §
142 1412(a)(1), so as to enable the child to continue to participate in the general education
143 curriculum, although in another setting, and to progress toward meeting the goals set out in the
144 child's individualized education program; and

145 (B) Receive, as appropriate, a functional behavioral assessment,
146 behavioral intervention services and modifications that are designed to address the behavior
147 violation so that it does not recur.

148 Sec. 5. Promotion of trauma-informed educational settings.

149 (a) The Office of the State Superintendent of Education shall support local education
150 agencies and schools to implement strategies to prevent and reduce the use of exclusionary
151 discipline. The Office of the State Superintendent of Education shall maintain an array of
152 supports to develop and sustain trauma-informed educational settings including:

153 (1) Distributing resources that inform local education agencies and school
154 communities about developments in the field; and

155 (2) Providing regular, high quality professional development opportunities, and
156 recommendations for further instruction outside of these opportunities, for employees of local
157 education agencies on:

158 (A) Trauma and chronic stress, their effects on students and learning, and
159 effective responses;

160 (B) Classroom management, positive behavioral interventions, and
161 fostering positive school climate;

162 (C) Disciplinary approaches that utilize instruction and correction;

163 (D) Restorative practices and other evidence-based or promising
164 interventions; and

165 (D) Implicit bias and culturally responsive techniques.

166 (b) The Office of the State Superintendent of Education shall collaborate with other
167 government agencies, LEAs, and postsecondary educational institutions to facilitate the
168 provision of postsecondary degree or certificate programs covering the topics described in
169 paragraph (a)(2), including the identification or creation of a trauma-informed educator
170 certificate program.

171 (c) The Office of the State Superintendent of Education shall provide opportunities for
172 LEAs and schools to share promising practices, and shall establish a program for the
173 identification and dissemination of best practices in trauma-informed education.

174 Sec. 6. Annual reporting requirements.

175 (a) Each local education agency and entity operating a publicly funded community-based
176 organization shall maintain data for each student that includes:

177 (1) Demographic data including:

178 (A) The campus attended by the student;

179 (B) The student's grade level;

180 (C) The student's gender identification;

181 (D) The student's race;

182 (E) The student's ethnicity;

183 (F) Whether the student receives special education services;

184 (G) Whether the student is classified as an English language learner; and

185 (H) Whether the student is considered at-risk as defined in section

186 102(2A) of the Uniform Per Student Funding Formula for Public Schools and Public Charter

187 Schools Act of 1998, effective March 26, 1999 (D.C. Law 12-207; D.C. Official Code § 38-

188 2901(2A)); and

189 (2) Discipline data including:

190 (A) Total number of out-of-school suspensions, in-school suspensions, and
191 involuntary dismissals experienced by the student during each school year;

192 (B) Total number of days excluded from school;

- 193 (C) Whether the student was referred to an alternative education setting
194 for the course of a suspension, and whether the student attended;
- 195 (D) Whether the student was subject to expulsion during the school year;
- 196 (E) Whether the student voluntarily or involuntarily withdrew from the
197 school during the school year;
- 198 (G) Whether the student was subject to referral to law enforcement;
- 199 (H) Whether the student was subject to school-related arrest; and
- 200 (I) For each suspension, involuntary dismissal, expulsion, or law
201 enforcement referral a description of the action that led to the suspension, involuntary dismissal,
202 or expulsion.
- 203 (b) By August 15 of each year, each local education agency or entity operating a publicly
204 funded community-based organization shall submit a report to the Office of the State
205 Superintendent of Education disaggregated by each of the demographic categories identified in
206 subsection (a)(1) of this section. The report shall include:
- 207 (1) The students suspended for at least one and no more than 5 days;
- 208 (2) The students suspended for at least 6 and no more than 10 days;
- 209 (3) The students suspended for more than 10 days total;
- 210 (4) The students who received more than one suspension in a school year;
- 211 (5) The students who were referred to an alternative educational setting for the
212 course of a suspension;
- 213 (6) The students involuntarily dismissed for at least one and no more than 5 days;
- 214 (7) The students involuntarily dismissed for at least 6 and no more than 10 days;
- 215 (8) The students involuntarily dismissed for more than 10 days total;

216 (9) The students subject to expulsion;
217 (10) The students subject to referral to law enforcement;
218 (11) The students subject to school-related arrest;
219 (12) A description of the types of actions that led to the suspension, involuntary
220 dismissal, expulsion, or referral to law enforcement; and

221 (13) The students who voluntarily or involuntarily withdrew from the school
222 during the school year.

223 (c) Each local education agency or entity operating a publicly funded community-based
224 organization shall provide the requested data in subsection (b) of this section in a form and
225 manner prescribed by the Office of the State Superintendent of Education. The OSSE shall
226 collaborate with the LEAs and entities operating a publicly funded community-based
227 organization to develop consistent reporting definitions for the types of actions described in
228 subparagraph (a)(2)(F) and paragraph (b)(10) of this section.

229 (d) By December 15 of each year, the Office of the State Superintendent of Education
230 shall publicly report on the suspensions and expulsions that occurred in District of Columbia
231 public schools during the preceding school year, including a relevant trend analysis.

232 (e) For the purposes of this section, the term:

233 (1) "Community-based organization" shall have the same meaning as provided in
234 § 38-271.01(1A).

235 (2) "In-school suspension" means temporary removal from the student's regular
236 class schedule for disciplinary reasons during which the student remains under the direct
237 supervision of school personnel, but does not include time spent by the student receiving in-
238 person instruction consistent with the curriculum of the student's daily class schedule,

239 participating in counseling or other behavioral health supports, or engaging in restorative
240 practices.

241 (3) “Involuntary dismissal” means the removal of the student from the school for
242 less than half a school day, during which the student is not under direct supervision of the school
243 personnel and is not allowed on school grounds.

244 (4) “Referral to law enforcement” means an action by which a student is reported
245 to any law enforcement agency or official, including a school police unit, for an incident that
246 occurs on school grounds, during school-related events, or while taking school transportation,
247 regardless of whether official action is taken. Citations, tickets, court referrals, and school-related
248 arrests are considered referrals to law enforcement.

249 (5) “School-related arrest” means an arrest of a student for any activity conducted
250 on school grounds, during off-campus school activities (including while taking school
251 transportation), or due to a referral by any school official.

252 Sec. 7. Evaluation report.

253 Within 1 year of enactment of this act, the Office of the State Superintendent of
254 Education shall submit to the Mayor and the Secretary to the Council an evaluative report,
255 developed with rigorous research techniques, of LEA and school implementation of practices to
256 reduce the use of exclusionary discipline and promote safety.

257 Sec. 8. Conforming amendments.

258 (a) Title II of the Attendance Accountability Amendment Act of 2013, effective
259 September 19, 2013 (D.C. Law 20-17; D.C. Official Code § 38-235), is repealed.

260 Sec. 9. Fiscal impact statement.

261 The Council adopts the fiscal impact statement in the committee report as the fiscal
262 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
263 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

264 Sec. 10. Effective date.

265 This act shall take effect following approval by the Mayor (or in the event of veto by the
266 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
267 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
268 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
269 Columbia Register.