

Senate Bill 291

By: Senators Meyer von Bremen of the 12th, Jackson of the 50th, Smith of the 25th and Hecht of the 34th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to
2 elementary and secondary education, so as to change procedures and penalties in disciplinary
3 hearings when a student has allegedly committed an act of physical violence against a teacher
4 or other school official or employee; to provide a definition; to change the penalty; to provide
5 for written complaints and disciplinary hearings by the local board of education; to provide
6 for notice and other rights of the parties; to provide for record of the hearing; to provide for
7 a decision of the local board; to provide for appeal; to provide for decision of the state board;
8 to change other provisions to conform to this Act; to provide for related matters; to repeal
9 conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 style="text-align:center">**SECTION 1.**

12 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and
13 secondary education, is amended by striking Code Section 20-2-751.6, relating to
14 disciplinary policy for students committing acts of physical violence against teachers, and
15 inserting in lieu thereof the following:

16 "20-2-751.6.

17 (a) As used in this Code section, the term 'physical violence' means:

18 (1) Making physical contact of an insulting or provoking nature with the person of
19 another, whether intentionally or otherwise; or

20 (2) Causing physical harm to another, whether intentionally or otherwise,

21 unless such physical contact or physical harm was in defense of himself or herself, as
22 provided in Code Section 16-3-21.

23 (b) Local board of education policies and student codes of conduct shall provide for the
24 ~~suspension~~ expulsion of a student who commits any act of physical violence ~~resulting in~~
25 ~~substantial physical injury to~~ against a teacher or other school official or employee from
26 all public school programs, including alternative education programs, for the remainder of

1 the current school ~~quarter or semester~~ year. The local board shall ~~appoint a disciplinary~~
 2 ~~hearing officer, panel, or tribunal of school officials to hold a disciplinary hearing pursuant~~
 3 ~~to Code Section 20-2-754~~ regarding the ~~suspension~~ expulsion. Notwithstanding any
 4 provision of Code Section 20-2-751.2 to the contrary, a local school system shall not enroll
 5 any student who has been ~~suspended~~ expelled by another local board of education pursuant
 6 to this subsection during the term of the ~~suspension~~ expulsion.

7 ~~(b) Notwithstanding any provision of Code Section 20-2-150 to the contrary, a student~~
 8 ~~who has been suspended pursuant to subsection (a) of this Code section shall not be eligible~~
 9 ~~for enrollment in any educational program authorized under Part 3 of Article 6 of this~~
 10 ~~chapter; provided, however, that a local board of education may enroll such a student in an~~
 11 ~~alternative education program established pursuant to Code Section 20-2-769.~~

12 (c) The provisions of subsection ~~(a)~~ (b) of this Code section shall apply with respect to any
 13 local school system which receives state funding pursuant to Code Sections 20-2-161 and
 14 20-2-260.

15 (d) Nothing in this Code section shall be construed to infringe on any right provided to
 16 students with Individualized Education Programs pursuant to the federal Individuals with
 17 Disabilities Education Act, Section 504 of the federal Rehabilitation Act of 1973, or the
 18 federal Americans with Disabilities Act of 1990."

19 SECTION 2.

20 Said chapter is further amended by inserting a new Code section to be designated Code
 21 Section 20-2-751.7 to read as follows:

22 "20-2-751.7.

23 (a) Local boards of education shall by appropriate rule, regulation, resolution, or policy
 24 require that, in any instance of alleged physical violence by a student against a teacher or
 25 other school official or employee, such teacher or other school official or employee shall
 26 file a written complaint with the school administration and with the local board of
 27 education.

28 (b) Local boards of education shall provide by policy, rule, or regulation for a disciplinary
 29 hearing by the local board in instances of alleged physical violence by a student against a
 30 teacher or other school official or employee.

31 (c) The policy, rule, or regulation of a local board regarding a disciplinary hearing by the
 32 local board in accordance with this Code section shall ensure that:

- 33 (1) All parties are afforded an opportunity for a hearing after reasonable notice served
 34 personally or by mail. This notice shall be given to all parties and to the parent or
 35 guardian of the student or students involved and shall include a statement of the time,
 36 place, and nature of the hearing; a short and plain statement of the matters asserted; and

1 a statement as to the right of all parties to present evidence and to be represented by legal
2 counsel;

3 (2) All parties are afforded an opportunity to present and respond to evidence and to
4 examine and cross-examine witnesses on all issues unresolved; and

5 (3) A verbatim electronic or written record of the hearing shall be made and shall be
6 available to all parties.

7 (d) The local board of education shall conduct the hearing and, after receiving all evidence,
8 render its decision, which decision shall be based solely on the evidence received at the
9 hearing. The decision shall be in writing and shall be given to all parties within ten days
10 of the close of the record. Any decision by the local board may be appealed to the state
11 board of education by filing a written notice of appeal within 20 days from the date the
12 decision is rendered. Any disciplinary action imposed by the local board of education may
13 be suspended by the school superintendent pending the outcome of the appeal.

14 (e) The state board of education shall review the record and shall render a decision in
15 writing. The decision shall be based solely on the record and shall be given to all parties
16 within ten days, excluding weekends and public and legal holidays provided for in Code
17 Section 1-4-1, from the date the state board of education receives the notice of appeal. The
18 state board may take any action it determines appropriate, and any decision of the state
19 board shall be final. All parties shall have the right to be represented by legal counsel at
20 any such appeal and during all subsequent proceedings.

21 (f) Either or both parents or guardians or legal counsel of the student involved may obtain
22 a copy of any documents relating to a disciplinary proceeding conducted pursuant to this
23 Code section."

24 **SECTION 3.**

25 Said chapter is further amended by striking Code Section 20-2-752, relating to disciplinary
26 hearing officers, panels, or tribunals, and inserting in lieu thereof the following:

27 "20-2-752.

28 Local boards of education may establish by policy, rule, or regulation disciplinary hearing
29 officers, panels, or tribunals of school officials to impose suspension or expulsion except
30 with regard to alleged instances of physical violence by a student against a teacher or other
31 school official or employee. If such hearing officers, panels, or tribunals are established,
32 such rules and regulations must include the following:

33 (1) Provisions governing the manner of selecting the hearing officers or members of the
34 panels or tribunals and the number of members thereof;

35 (2) Provisions governing procedures to be followed by such hearing officers, panels, or
36 tribunals in fact-finding, hearings, and reporting recommendations to the local board;

1 (3) Provisions granting a right to appeal to the local board when the punishment imposed
2 by hearing officers, panels, or tribunals is long-term suspension or expulsion; and

3 (4) Provisions whereby the local school superintendent may suspend enforcement of the
4 suspension or expulsion ordered by the hearing officers, panels, or tribunals pending the
5 outcome of any appeal to the local board."

6 **SECTION 4.**

7 Said chapter is further amended by striking subsection (a) of Code Section 20-2-753, relating
8 to the requirement for a disciplinary hearing officer, panel, or tribunal to hold a disciplinary
9 hearing in specified instances, and inserting in lieu thereof the following:

10 "(a) In addition to any proceedings which are authorized in Code Section 20-2-752, local
11 boards of education shall appoint a disciplinary hearing officer, panel, or tribunal of school
12 officials to hold a disciplinary hearing following any instance of:

13 (1) ~~An alleged assault or battery by a student upon any teacher, other school official, or~~
14 ~~employee;~~

15 ~~(2)~~ An alleged assault or battery by a student upon another student, if, in the discretion
16 of the school principal, the alleged assault or battery could justify the expulsion or
17 long-term suspension of the student; or

18 ~~(3)~~(2) Substantial damage alleged to be intentionally caused by a student on school
19 premises to personal property belonging to a teacher, other school official, employee, or
20 student, if, in the discretion of the school principal, the alleged damage could justify the
21 expulsion or long-term suspension of the student."

22 **SECTION 5.**

23 All laws and parts of laws in conflict with this Act are repealed.