

House Bill 426

By: Representatives Jordan of the 77th, Scott of the 76th, Mitchell of the 88th, Williams of the 87th, and Waites of the 60th

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 enact a bill of rights for Georgia teachers; to
3 require annual evaluations of principals and assistant principals by teachers; to revise
4 provisions relating to a teacher's authority to remove a student from the classroom; to revise
5 a provision relating to personnel matters not subject to complaint; to prohibit requiring or
6 coercing a teacher to change a student grade or test score; to provide for related matters; to
7 repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and
11 secondary education, is amended by adding a new Code section to read as follows:

12 "20-2-222.

13 Notwithstanding any other provision of law to the contrary, each certificated teacher
14 serving in the public schools of Georgia shall have the following rights as a condition of
15 employment:

16 (1) Constructive criticism offered in a professional manner is an appropriate way to seek
17 improvement of the educational system. School board members and administrators shall
18 respect the right of a teacher to exercise independent thought and to express constructive
19 criticism in an appropriate and professional manner;

20 (2) Each teacher in Georgia shall have the right to associate or not to associate with an
21 educational professional organization or association. Such right shall not be abridged,
22 and a teacher shall not suffer reprisal for exercising such right;

23 (3) A teacher shall not be coerced, threatened, or intimidated to change a student's grade
24 or test score if, in the opinion of the teacher, the student earned such grade or test score,
25 in accordance with Code Section 20-2-989.20;

26 (4) If, in the professional judgment of a teacher, a student needs to be removed from the
 27 regular classroom environment because the student's misconduct is materially and
 28 substantially disrupting the learning processes of the other students, the administrator
 29 shall respect the teacher's professional judgment. At a minimum, the student shall not be
 30 returned to the classroom on that particular day. The administrator shall not undermine
 31 the teacher's authority in the classroom by questioning the teacher's account of what
 32 happened in front of one or more students;

33 (5) A teacher has the right to file a grievance about an evaluation if, in the opinion of the
 34 teacher, the evaluation was unfair, false, or retaliation for the exercise of a right granted
 35 by this Code section;

36 (6) Each teacher shall be afforded the opportunity to participate in an annual evaluation
 37 of each principal and assistant principal at his or her school in accordance with subsection
 38 (e) of Code Section 20-2-210. These evaluations shall be conducted in a way so as to
 39 ensure each teacher's confidentiality and anonymity. These evaluations shall be
 40 forwarded to the superintendent who in turn shall send copies of all the evaluations to
 41 each member of the local board of education;

42 (7) No teacher shall be discriminated against on the basis of the teacher's race, gender,
 43 age, religion, nationality, disability, or exercise of the freedom of association;

44 (8) No teacher shall be the object of capricious or arbitrary treatment;

45 (9) Upon transfer to a different school system, a teacher's service in any public school of
 46 this state shall receive full credit for purposes of calculating the teacher's eligibility for
 47 any local supplement to salary; and

48 (10) The teacher of the year at each school shall be nominated and selected solely by the
 49 anonymous votes of the teachers at the school."

50 **SECTION 2.**

51 Said chapter is further amended by revising subsection (e) of Code Section 20-2-210, relating
 52 to annual performance evaluations, as follows:

53 "(e) In addition to the evaluation by a trained evaluator provided for in subsection (a) of
 54 this Code section, the local school system ~~may~~ shall require each principal and assistant
 55 principal of a school to have his or her performance evaluated annually by the teachers in
 56 the school. Such evaluations by teachers shall be confidential, solicited and recorded on an
 57 anonymous basis, and made available only to the local school superintendent and the local
 58 board of education. Such evaluations shall not be subject to Article 4 of Chapter 18 of
 59 Title 50."

SECTION 3.

60

61 Said chapter is further amended by revising subsections (b) and (c) of Code Section
62 20-2-738, relating to authority of a teacher over classroom, as follows:

63 "(b) A teacher shall have the authority to remove from his or her class a student whose
64 misconduct is materially and substantially disrupting the learning processes of other
65 students who repeatedly or substantially interferes with the teacher's ability to communicate
66 effectively with the students in the class or with the ability of the student's classmates to
67 learn, where the student's behavior is in violation of the student code of conduct, provided
68 that the teacher has previously filed a report pursuant to Code Section 20-2-737 or if the
69 teacher determines that such the behavior of the student poses an immediate threat to the
70 safety of the student's classmates or the teacher. Each school principal shall fully support
71 the authority of every teacher in his or her school to remove a student from the classroom
72 under this Code section. Each school principal shall implement the policies and procedures
73 of the superintendent and local board of education relating to the authority of every teacher
74 to remove a student from the classroom and shall disseminate such policies and procedures
75 to faculty, staff, and parents or guardians of students. The teacher shall file with the
76 principal or the principal's designee a report describing the student's behavior, in one page
77 or less, by the end of the school day on which such removal occurs or at the beginning of
78 the next school day. The principal or the principal's designee shall, within one school day
79 after the student's removal from class, send to the student's parents or guardians written
80 notification that the student was removed from class, a copy of the report filed by the
81 teacher, and information regarding how the student's parents or guardians may contact the
82 principal or the principal's designee.

83 (c) If a teacher removes a student from class pursuant to subsection (b) of this Code
84 section, the principal or the principal's designee shall discuss the matter with the teacher
85 and the student by the end of the school day on which such removal occurs or at the
86 beginning of the next school day. The principal or the principal's designee shall give the
87 student oral or written notice of the grounds for his or her removal from class and, if the
88 student denies engaging in such conduct, the principal or the principal's designee shall
89 explain the evidence which supports his or her removal from class and give the student an
90 opportunity to present his or her explanation of the situation. If, after such discussions, the
91 principal or the principal's designee seeks to return the student to the teacher's class and the
92 teacher gives his or her consent, the student shall be returned to the class, but in no event
93 on the day in which the removal occurred, and the principal or the principal's designee may
94 take action to discipline the student, as may be warranted, pursuant to paragraph (1) of
95 subsection (e) of this Code section. If, after such discussions, the principal or the principal's
96 designee seeks to return the student to the teacher's class and the teacher withholds his or

97 her consent to the student's return to his or her class, the principal or the principal's
 98 designee shall determine an appropriate temporary placement for the student by the end of
 99 the first school day following such removal and shall also take steps to convene a meeting
 100 of a placement review committee. The placement review committee shall convene by the
 101 end of the second school day following such removal by the teacher and shall issue a
 102 decision by the end of the third school day following such removal by the teacher. An
 103 appropriate temporary placement for the student shall be a placement that, in the judgment
 104 of the principal or the principal's designee, provides the least interruption to the student's
 105 education and reflects other relevant factors, including, but not limited to, the severity of
 106 the behavior that was the basis for the removal, the student's behavioral history, the
 107 student's need for support services, and the available education settings; provided, however,
 108 that the student shall not be returned to the class of the teacher who removed him or her,
 109 as an appropriate temporary placement, unless the teacher gives his or her consent. The
 110 temporary placement shall be in effect from the time of removal until the decision of the
 111 placement review committee is issued or, if applicable, a placement determination is made
 112 pursuant to paragraph (2) of subsection (e) of this Code section."

113 **SECTION 4.**

114 Said chapter is further amended by revising subsection (a) of Code Section 20-2-989.7,
 115 relating to personnel matters not subject to complaint, as follows:

116 "~~(a) The performance ratings contained in personnel evaluations and professional~~
 117 ~~development plans pursuant to Code Section 20-2-210 and job performance shall not be~~
 118 ~~subject to complaint under the provisions of this part.~~ The termination, nonrenewal,
 119 demotion, suspension, or reprimand of any employee, as set forth in Code Section
 120 20-2-940, and the revocation, suspension, or denial of certificates of any employee, as set
 121 forth in Code Section 20-2-984.5, shall not be subject to complaint under the provisions of
 122 this part."

123 **SECTION 5.**

124 Said chapter is further amended by revising subsection (a) of Code Section 20-2-989.20,
 125 relating to prohibition against requiring or coercing a teacher to change student grades, as
 126 follows:

127 "(a) No classroom teacher shall be required, coerced, intimidated, or disciplined in any
 128 manner by the local board of education, superintendent, or any local school administrator
 129 to change the grade or a test score of a student if, in the opinion of the teacher, the student
 130 earned such grade or test score. This subsection shall not apply when a teacher has failed
 131 to comply with grading or scoring policies or rules adopted by the local board of education

132 or written procedures established by an individual school that are applicable to the grading
133 or scoring process, unless such policy, rule, or procedure would require a student be given
134 a grade or test score different ~~than~~ from the actual grade or test score achieved. A violation
135 of this Code section shall constitute an ethics violation reportable to the Professional
136 Standards Commission pursuant to Part 10 of this article."

137 **SECTION 6.**

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