

Senate Bill 163

By: Senators Jones of the 10th, Harbison of the 15th, Seay of the 34th and Davenport of the 44th

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 2 of Article 16 of Chapter 2 of Title 20 of the Official Code of Georgia
2 Annotated, relating to student discipline in elementary and secondary education, so as to
3 provide for disciplinary panels and tribunals; to repeal provisions relative to disciplinary
4 hearing officers; to provide for related matters; to repeal conflicting laws; and for other
5 purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Part 2 of Article 16 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated,
9 relating to student discipline in elementary and secondary education, is amended in Code
10 Section 20-2-751, relating to definitions, by adding a new paragraph to read as follows:

11 "(1.1) 'Disciplinary panel or tribunal' means a panel or tribunal of school officials
12 consisting of not fewer than three nor more than five persons selected by the
13 superintendent or his or her designee from among certificated school system staff,
14 including, but not limited to, local school administrators, social workers, psychologists,
15 teachers, and system level support staff. The superintendent or his or her designee shall
16 also designate a chairperson of the panel or tribunal to conduct the hearing."

17 **SECTION 2.**

18 Said part is further amended in Code Section 20-2-751.1, relating to expulsion and
19 disciplinary policy for students bringing weapons to school, by revising subsections (a) and
20 (b) as follows:

21 "(a) Each local board of education shall establish a policy, pursuant to this subpart,
22 regarding a student's possession of a firearm, dangerous weapon, or hazardous object at
23 school. With respect to a student who is determined to have possessed a firearm or
24 dangerous weapon at school, such policy shall require expulsion from school for a period
25 of not less than one calendar year; provided, however, that a ~~hearing officer, tribunal, panel~~

26 disciplinary panel or tribunal, administrator, superintendent, or local board of education
 27 shall have the authority to modify such expulsion requirement on a case-by-case basis.

28 (b) A ~~hearing officer, tribunal, panel~~ disciplinary panel or tribunal, superintendent, or local
 29 board of education shall be authorized to place a student determined to have brought a
 30 firearm, dangerous weapon, or hazardous object to school in an alternative educational
 31 setting."

32 SECTION 3.

33 Said part is further amended in Code Section 20-2-751.4, relating to policies prohibiting
 34 bullying, assignment to alternative school, and notice, by revising paragraph (2) of
 35 subsection (b) as follows:

36 "(2) Each local board policy shall require that, upon a finding by the disciplinary ~~hearing~~
 37 ~~officer, panel; or tribunal of school officials~~ provided for in this subpart that a student in
 38 grades six through 12 has committed the offense of bullying for the third time in a school
 39 year, such student shall be assigned to an alternative school;"

40 SECTION 4.

41 Said part is further amended by revising Code Section 20-2-751.6, relating to disciplinary
 42 policy for students committing acts of physical violence against teacher, school bus driver,
 43 or other school official or employee, as follows:

44 "20-2-751.6.

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

46 (1) Intentionally making physical contact of an insulting or provoking nature with the
 47 person of another; or

48 (2) Intentionally making physical contact which causes physical harm to another unless
 49 such physical contacts or physical harms were in defense of himself or herself, as
 50 provided in Code Section 16-3-21.

51 (b) Local board of education policies and student codes of conduct shall provide for the
 52 penalties to be assessed against a student found by a disciplinary ~~hearing officer, panel; or~~
 53 ~~tribunal~~ pursuant to Code Section 20-2-752 to have committed any act of physical violence
 54 against a teacher, school bus driver, or other school official or employee. Such disciplinary
 55 ~~hearing officer, panel; or tribunal~~ shall hold any disciplinary hearing in accordance with
 56 the provisions of Code Section 20-2-754. Any student alleged to have committed an act
 57 of physical violence shall be suspended pending the hearing by the disciplinary ~~hearing~~
 58 ~~officer, panel; or tribunal~~. The decision of the disciplinary ~~hearing officer, panel; or~~
 59 ~~tribunal~~ may be appealed to the local school board pursuant to Code Section 20-2-754. If
 60 appropriate under paragraph (1) of subsection (c) of this Code section, the decision of the

61 disciplinary ~~hearing officer~~, panel; or tribunal shall include a recommendation as to
62 whether a student may return to public school and, if return is recommended, a
63 recommended time for the student's return to public school. The local school board may
64 impose penalties not recommended by the disciplinary ~~hearing officer~~, panel; or tribunal.

65 (c)(1) A student found by a disciplinary ~~hearing officer~~, panel; or tribunal to have
66 committed an act of physical violence as defined in paragraph (2) of subsection (a) of this
67 Code section against a teacher, school bus driver, school official, or school employee
68 shall be expelled from the public school system. The expulsion shall be for the remainder
69 of the student's eligibility to attend public school pursuant to Code Section 20-2-150. The
70 local school board at its discretion may permit the student to attend an alternative
71 education program for the period of the student's expulsion. If the student who commits
72 an act of physical violence is in kindergarten through grade eight, then the local school
73 board at its discretion and on the recommendation of the disciplinary ~~hearing officer~~,
74 panel; or tribunal may permit such a student to reenroll in the regular public school
75 program for grades nine through 12. If the local school board does not operate an
76 alternative education program for students in kindergarten through grade six, the local
77 school board at its discretion may permit a student in kindergarten through grade six who
78 has committed an act of physical violence as defined in paragraph (2) of subsection (a)
79 of this Code section to reenroll in the public school system;

80 (2) Any student who is found by a disciplinary ~~hearing officer~~, panel; or tribunal to have
81 committed an act of physical violence against a teacher, school bus driver, school official,
82 or school employee as defined in paragraph (2) of subsection (a) of this Code section
83 shall be referred to juvenile court with a request for a petition alleging delinquent
84 behavior; and

85 (3) Any student who is found by a disciplinary ~~hearing officer~~, panel; or tribunal to have
86 committed an act of physical violence as defined in paragraph (1) of subsection (a) of this
87 Code section against a teacher, school bus driver, school official, or school employee may
88 be disciplined by expulsion, long-term suspension, or short-term suspension.

89 (d) The provisions of this Code section shall apply ~~with respect~~ to any local school system
90 which receives state funding pursuant to Code Sections 20-2-161 and 20-2-260.

91 (e) Nothing in this Code section shall be construed to infringe on any right provided to
92 students with Individualized Education Programs pursuant to the federal Individuals with
93 Disabilities Education Act, Section 504 of the federal Rehabilitation Act of 1973, or the
94 federal Americans with Disabilities Act of 1990."

95 **SECTION 5.**

96 Said part is further amended by revising Code Section 20-2-752, relating to the establishment
97 of disciplinary hearing officers, panels, or tribunals for imposition of suspension or
98 expulsion, as follows:

99 "20-2-752.

100 Local boards of education may establish by policy, rule, or regulation disciplinary ~~hearing~~
101 ~~officers~~, panels; or tribunals ~~of school officials~~ to impose suspension or expulsion. If such
102 disciplinary hearing officers, panels; or tribunals are established, such rules and regulations
103 must include the following:

104 (1) Provisions governing the manner of selecting the ~~hearing officers~~ or members of the
105 disciplinary panels or tribunals and the number of members thereof;

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

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

112 (4) Provisions whereby the local school superintendent may suspend enforcement of the
113 suspension or expulsion ordered by the ~~hearing officers~~, disciplinary panels; or tribunals
114 pending the outcome of any appeal to the local board."

115 **SECTION 6.**

116 Said part is further amended in Code Section 20-2-753, relating to disciplinary hearing
117 officer, panel, or tribunal to hold disciplinary hearing following allegation of assault and
118 battery or recommended suspension or explosion exceeding ten days, by revising subsection
119 (a) as follows:

120 "(a) In addition to any proceedings which are authorized in Code Section 20-2-752, local
121 boards of education shall appoint a disciplinary ~~hearing officer~~, panel; or tribunal ~~of school~~
122 ~~officials~~ to hold a disciplinary hearing following any instance of an alleged violation of the
123 student code of conduct where the principal recommends a suspension or expulsion of
124 longer than ten school days or an alleged assault or battery by a student upon any teacher
125 or other school official or employee, if such teacher or other school official or employee
126 so requests."

127 **SECTION 7.**

128 Said part is further amended in Code Section 20-2-756, relating to reports to law enforcement
129 officials, by revising subsection (a) as follows:

130 "(a) The school administration, disciplinary ~~hearing officer~~, panel; or tribunal of school
 131 ~~officials~~, or the local board of education may, when any alleged criminal action by a
 132 student occurs, report the incident to the appropriate law enforcement agency or officer for
 133 investigation to determine if criminal charges or delinquent proceedings should be
 134 initiated."

135 **SECTION 8.**

136 Said part is further amended in Code Section 20-2-757, relating to applicability of public
 137 inspection and open meeting laws, by revising subsection (b) as follows:

138 "(b) All electronic or other written records of all hearings conducted under this part; all
 139 statements of charges; all notices of hearings; and all written decisions rendered by a
 140 ~~hearing officer~~, disciplinary panel or tribunal, the local board of education, or the State
 141 Board of Education shall not be subject to public inspection or other disclosure under
 142 Article 4 of Chapter 18 of Title 50 or other public disclosure laws; provided, however, that
 143 the board of education shall prepare a written summary of any proceeding conducted under
 144 this part, which summary shall include a description of the incident and the disposition
 145 thereof but shall not contain the names of any party to the incident. The summary shall be
 146 a public record."

147 **SECTION 9.**

148 Said part is further amended in Code Section 20-2-768, relating to expulsion or suspension
 149 of students for felonies, alternative educational system, and policy, by revising subsection
 150 (b) as follows:

151 "(b) A ~~hearing officer, tribunal, panel~~ disciplinary panel or tribunal, superintendent, or
 152 local board of education shall be authorized to place a student denied enrollment in a local
 153 school system under subsection (a) of this Code section in an alternative educational
 154 system as appropriate and in the best interest of the student and the education of other
 155 students within the school system."

156 **SECTION 10.**

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