

CHAPTER 324  
FORMERLY  
SENATE SUBSTITUTE NO. 1  
TO  
SENATE BILL NO. 85  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO THE LAWFUL AUTHORITY OF TEACHERS OVER PUPILS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

WHEREAS, restorative justice practices are non-punitive disciplinary responses that focus on repairing harm done to relationships and people, developing solutions by engaging all persons affected by a harm, and encouraging accountability; and

WHEREAS, restorative justice practices include a variety of interventions, such as brief on-the-spot responses to student behavior in the classroom; and

WHEREAS, restorative justice practices also include community conferencing which involves multiple parties, such as students, parents, and educators, and is intended to address the harm committed by a student's disruptive behavior, enhance responsibility and accountability, build relationships and community, and teach students empathy and problem solving skills that can help prevent the occurrence of inappropriate behavior in the future.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 701, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 701. Authority of teachers and administrators to control the disruptive behavior of students.

(a) As used in this chapter:

(1) "Department" means the Department of Education.

(2) "Disruptive behavior" ~~includes~~ means conduct that is so unruly, ~~disruptive~~ disruptive, or abusive that it seriously interferes with a school teacher's or school administrator's ability to communicate with the students in a classroom, with a student's ability to learn, or with the operation of a school or a school-sponsored activity.

(3) "School" means a traditional public school, vocational technical school, or charter school.

(4) "Racial subgroup" means the racial and ethnic subgroups of students as defined under the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 6301 et seq., as amended, which includes African American or Black, American Indian or Alaska Native, Asian American, Native Hawaiian or other Pacific Islander, Hispanic or Latino, White or Caucasian, and Multi-Racial.

(5) "Subgroup" means as subgroup is defined under the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 6301 et seq., as amended, which includes racial subgroups, economically disadvantaged students, children with disabilities, and English learners.

(b) While a student is entrusted in their care or supervision, public school teachers, and administrators have the same authority to control the behavior of the student and to discipline or punish the student as a parent, custodian, ~~guardian-guardian~~, or other person similarly responsible for the care and supervision of the student except as provided in §§ 702 and 4112F of this title. The authority includes removing a student from a classroom or school-sponsored activity.

(g) Each local board of education shall establish, adopt, ~~publish~~ publish, and distribute to students in the district and their parents or guardians policy or standards ~~that:~~ that are consistent with the regulations developed under § 122(b)(26) of this title and include all of the following:

(1) Specify the general circumstances under which a student may be removed from a classroom or school-sponsored activity, consistent with a teacher's and administrator's ultimate authority to determine disruptive behavior and to remove a student from a classroom or school-sponsored ~~activity; and activity.~~

(2) ~~Further define and/or provide~~ Provide an explanation or examples of "disruptive behavior" set forth in paragraph (a)(2) of this section.

Section 2. Amend Chapter 7, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 703. Student discipline report; school discipline improvement plan.

(a) The Department shall compile and release an annual report on student discipline in all schools as follows:

(1) The analysis must be based on data, as permitted under the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, collected over the 3 most recent consecutive school years.

(2) The report must be posted on the Department's website no later than October 30.

(3) The report shall include both statewide totals and individual school data, for each of the school years in the report, on the issuance of out-of-school suspensions, expulsions, alternative school

assignments, and in-school suspensions, disaggregated by race, ethnicity, gender, grade level, limited English proficiency, incident type, discipline duration, and if the student is identified as having a disability.

(4) The report must identify, for each school year in the report, schools that meet any of the following thresholds:

a. Calculations under this subsection should exclude subgroups that contain fewer than 15 students.

b. A school with an out-of-school suspension rate for all students or any 1 subgroup that exceeds any of the following:

1. A rate of 20 suspensions per 100 students for the 2018 through 2019 school year.

2. A rate of 15 suspensions per 100 students for the 2019 through 2020 school year and each school year thereafter.

c. A school for which the out-of-school suspension gap between the lowest-suspended racial subgroup and the highest suspended racial subgroup, or the suspension gap between students with disabilities and students without disabilities, exceeds any of the following:

1. 20% for the 2018 through 2019 school year.

2. 15% for the 2019 through 2020 school year.

3. 10% for the 2020 through 2021 school year and each school year thereafter.

(b) If a school is identified as meeting a threshold under paragraph (a)(4) of this section for 3 consecutive school years, the Department shall notify the school of this status by December 1 and the school must do all of the following:

(1) Review its discipline policies, practices, and data.

(2) If a school has already implemented restorative justice practices, the school must review the interventions being used to assure research-based quality, scope of training provided, and follow-up support to assure proper implementation. Restorative justice practices program improvements should be made based on this review.

(3) Submit a plan to the Department that identifies the strategies the school will implement beginning in the following school year to reduce the use of exclusionary disciplinary practices or disproportionate use of exclusionary disciplinary practices with racial subgroups or students with disabilities, or both.

a. The plan may be part of their school improvement plan.

b. The plan must be developed with input from students, parents, educators, administrators, and community stakeholders to incorporate strategies to promote fairness and equity in discipline.

c. The plan may increase or improve professional development opportunities for educators, administrators, and staff. Components of such professional development may include 1 or more of the following:

1. Restorative practices.
2. Trauma informed care.
3. Implicit bias awareness.
4. Cultural competency.
5. Classroom management.
6. Other appropriate programming.

d. The plan must be approved at either a public local school board meeting or a charter school's public board of directors meeting.

e. The school must submit the plan to the Department and post the plan on the school's Internet website no later than the beginning of the following school year.

f. The school shall submit to the Department an annual progress report describing the implementation of the plan and post the progress report on the school's Internet website no later than October 30. The school may cease submitting a progress report when the school does not meet a threshold under paragraph (a)(4) of this section for 3 consecutive years.

(c) The Department may promulgate regulations necessary to implement and enforce this section. The Department must consult with school administrators, parents, educators, and other stakeholders in developing regulations under this section.

Section 3. Section 703(b) of Title 14 takes effect on December 1, 2019.

Approved July 11, 2018