

# HOUSE BILL No. 5025

June 27, 1991, Introduced by Reps. Jondahl, DeMars, Gubow, Barns, Perry Bullard, Keith and O'Neill and referred to the Committee on Education.

A bill to amend sections 1204a and 1311 of Act No. 451 of the Public Acts of 1976, entitled as amended

"The school code of 1976,"

section 1204a as amended by Act No. 25 of the Public Acts of 1990, being sections 380.1204a and 380.1311 of the Michigan Compiled Laws; and to add sections 1311a, 1311b, 1311c, 1311d, 1311e, 1311f, 1311g, 1311h, 1311i, 1311j, 1311k, 1311l, and 1763.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Sections 1204a and 1311 of Act No. 451 of the  
2 Public Acts of 1976, section 1204a as amended by Act No. 25 of  
3 the Public Acts of 1990, being sections 380.1204a and 380.1311 of  
4 the Michigan Compiled Laws, are amended and sections 1311a,  
5 1311b, 1311c, 1311d, 1311e, 1311f, 1311g, 1311h, 1311i, 1311j,  
6 1311k, 1311l, and 1763 are added to read as follows:

1       Sec. 1204a. (1) The board of a school district that does  
2 not want to forfeit a percentage of the school district's state  
3 school aid as described in section 19 of the state school aid act  
4 of 1979, Act No. 94 of the Public Acts of 1979, being  
5 section 388.1619 of the Michigan Compiled Laws, or that wants to  
6 receive and is eligible for additional state school aid for qual-  
7 ity programs as provided in sections 21(1) and 21a of the state  
8 school aid act of 1979, being sections 388.1621 and 388.1621a of  
9 the Michigan Compiled Laws, shall prepare AN ANNUAL EDUCATION  
10 REPORT, make THAT REPORT available to the state board and the  
11 public, and provide that each school in the school district dis-  
12 tributes THAT REPORT to the public at an open meeting. ~~an~~  
13 ~~annual educational report. The~~ EXCEPT AS PROVIDED IN  
14 SUBSECTION (2), THE annual educational report shall include, but  
15 is not limited to, all of the following information for each  
16 public school in the school district:

17       (a) The accreditation status of each school within the  
18 school district, the process by which pupils are assigned to par-  
19 ticular schools, and a description of each specialized school.

20       (b) The status of the 3- to 5-year school improvement plan  
21 as described in section 1277 for each school within the school  
22 district.

23       (c) A copy of the core curriculum and a description of its  
24 implementation and the variances from the model core curriculum  
25 developed by the state board pursuant to section 1278(2).

26       (d) A report for each school of aggregate student  
27 achievement based upon the results of any locally-administered

1 student competency tests, statewide assessment tests, or  
2 nationally normed achievement tests that were given to pupils  
3 attending school in the school district.

4 (E) FOR THE YEAR IN WHICH THE REPORT IS FILED, A REPORT OF  
5 EACH OF THE FOLLOWING, WITH THE NUMBER AND PERCENTAGE OF PUPILS  
6 IDENTIFIED BY AGE, GRADE LEVEL, SOCIOECONOMIC STATUS AS DETER-  
7 MINED BY THE PUPIL'S ELIGIBILITY FOR THE FEDERAL HOT LUNCH SUBSI-  
8 DY, RACE OR ETHNICITY, GENDER, AND WHETHER THEY RECEIVE SPECIAL  
9 EDUCATION SERVICES:

10 (i) THE NUMBER AND PERCENTAGE OF PUPILS WHO WERE SUSPENDED  
11 FROM ANY SCHOOL IN THE SCHOOL DISTRICT FOR A TOTAL ACCUMULATION  
12 OF NOT LESS THAN 10 DAYS DURING THE SCHOOL YEAR, THE LENGTH OF  
13 TIME OF EACH SUSPENSION, THE REASON FOR EACH SUSPENSION, AND  
14 WHETHER THE SUSPENSION AFFECTED THE PUPIL'S ACADEMIC STANDING BY  
15 CONTRIBUTING TO A NUMBER OF ABSENCES THAT CAUSED A LOSS OF  
16 CREDIT.

17 (ii) THE NUMBER AND PERCENTAGE OF PUPILS WHO LOST ACADEMIC  
18 CREDIT OR RECEIVED A FAILING GRADE IN A COURSE SOLELY BECAUSE OF  
19 THE OPERATION OF A SCHOOL'S ATTENDANCE POLICY.

20 (iii) THE NUMBER AND PERCENTAGE OF PUPILS WHO WERE EXPELLED  
21 FROM ANY SCHOOL IN THE SCHOOL DISTRICT, THE LENGTH OF TIME OF  
22 EACH EXPULSION, WHETHER THE EXPULSION WAS PERMANENT OR LESS THAN  
23 PERMANENT, AND WHETHER THE OPPORTUNITY FOR ALTERNATIVE EDUCATION  
24 WAS MADE AVAILABLE TO THE PUPIL.

25 (iv) THE NUMBER AND PERCENTAGE OF PUPILS WHO WERE RETAINED  
26 AT THE SAME GRADE LEVEL IN WHICH THEY WERE ENROLLED DURING THE  
27 IMMEDIATELY PRECEDING SCHOOL YEAR.

1 (v) THE NUMBER AND PERCENTAGE OF PUPILS WHO ARE MORE THAN 2  
 2 YEARS BEHIND THE GRADE LEVEL IN WHICH THEY WOULD BE EXPECTED TO  
 3 BE BASED UPON THE AGE AT WHICH THEY STARTED SCHOOL.

4 (vi) THE NUMBER AND PERCENTAGE OF SCHOOL DROPOUTS, AS  
 5 DEFINED BY THE STATE BOARD, IN THE SCHOOL DISTRICT, AND WHETHER  
 6 INTERVENTION BEFORE OR AFTER DROPOUT WAS FACILITATED BY ANY STATE  
 7 FUNDED PROGRAM FOR IDENTIFYING AND SERVING AT RISK PUPILS AND  
 8 DROPOUTS.

9 (F) ~~(e)~~ For the year in which the report is filed and the  
 10 previous school year, the district membership retention report as  
 11 defined in section 6 of the state school aid act of 1979, Act  
 12 No. 94 of the Public Acts of 1979, being section 388.1606 of the  
 13 Michigan Compiled Laws.

14 (G) ~~(f)~~ The number and percentage of parents, legal guard-  
 15 ians, or persons in loco parentis with pupils enrolled in the  
 16 school district who participate in parent-teacher conferences for  
 17 pupils at the elementary, middle, and secondary school level, as  
 18 appropriate.

19 (H) ~~(g)~~ A comparison with the immediately preceding school  
 20 year of the information required by subdivisions (a) through  
 21 ~~(f)~~ (G).

22 (2) FOR THE PURPOSE OF THE REPORT DISTRIBUTED TO THE PUBLIC  
 23 AS DESCRIBED IN SUBSECTION (1), THE INFORMATION REQUIRED TO BE  
 24 REPORTED UNDER ANY SINGLE CATEGORY SPECIFIED IN SUBSECTION (1)(E)  
 25 OR UNDER SUBSECTION (1)(F) OR (G) MAY BE AGGREGATED BY SCHOOL IF  
 26 THE NUMBER OF PUPILS IN A SPECIFIED CATEGORY AT THE SCHOOL IS 2  
 27 OR LESS IN EACH GRADE LEVEL AND MAY BE AGGREGATED BY SCHOOL

1 DISTRICT IF THE NUMBER OF PUPILS IN A SPECIFIED CATEGORY  
2 AGGREGATED BY SCHOOL IS 2 OR LESS IN EACH SCHOOL. THE SCHOOL  
3 DISTRICT SHALL ENSURE THAT ALL INFORMATION REPORTED TO THE  
4 DEPARTMENT UNDER SUBSECTION (1) IS AVAILABLE TO THE PUBLIC AT  
5 EACH SCHOOL WITHIN THE SCHOOL DISTRICT IN ACCORDANCE WITH THE  
6 FREEDOM OF INFORMATION ACT, ACT NO. 442 OF THE PUBLIC ACTS OF  
7 1976, BEING SECTIONS 15.231 TO 15.246 OF THE MICHIGAN COMPILED  
8 LAWS, AND SHALL PUBLISH THE INFORMATION IN A NEWSPAPER IN GENERAL  
9 CIRCULATION WITHIN THE SCHOOL DISTRICT.

10 (3) ~~(2) Within 90 days after the effective date of the~~  
11 ~~amendatory act that added this section~~ NOT LATER THAN  
12 JANUARY 15, 1992, the state board shall prepare and make avail-  
13 able to school districts suggestions for accumulating the infor-  
14 mation listed in subsection (1) and a model educational report  
15 for school districts to consider in the implementation of this  
16 section.

17 (4) NOT LATER THAN 90 DAYS AFTER THE EFFECTIVE DATE OF THIS  
18 SUBSECTION, THE STATE BOARD SHALL PREPARE AND MAKE AVAILABLE TO  
19 SCHOOL DISTRICTS A FORM TO BE USED UNDER THIS SECTION FOR REPORT-  
20 ING THE INFORMATION REQUIRED UNDER SUBSECTION (1)(E) THROUGH  
21 (G). THE FORM SHALL BE DEVELOPED IN A MANNER THAT ENSURES THAT A  
22 PUPIL IS NOT COUNTED MORE THAN ONCE FOR EACH SUSPENSION, EXPUL-  
23 SION, DROPOUT, COURSE FAILURE RELATED TO ATTENDANCE, OR RETENTION  
24 AT GRADE LEVEL AND TO ENSURE AN ACCURATE COUNT OF THE TOTAL  
25 NUMBER OF SUSPENSIONS, EXPULSIONS, DROPOUTS, COURSE FAILURES  
26 RELATED TO ATTENDANCE, AND RETENTIONS AT GRADE LEVEL IN A SCHOOL  
27 DISTRICT.

1       Sec. 1311. The board OF A SCHOOL DISTRICT may authorize or  
2 order the suspension or expulsion from school of a pupil ~~guilty~~  
3 ~~of gross misdemeanor or persistent disobedience when in the~~  
4 ~~board's judgment the interest of the school may demand the autho-~~  
5 ~~rization or order~~ IN ACCORDANCE WITH SECTIONS 1311A THROUGH  
6 1311~~l~~. If ~~there is~~ AN ADMINISTRATOR INVOLVED IN A SUSPENSION  
7 OR EXPULSION HAS reasonable cause to believe that the pupil is  
8 handicapped OR IF REQUESTED BY THE PARENT OR LEGAL GUARDIAN OF A  
9 PUPIL SUBJECT TO SUSPENSION OR EXPULSION, and the school district  
10 has not evaluated the pupil in accordance with rules of the state  
11 board, the pupil shall be evaluated immediately by the intermedi-  
12 ate school district of which the school district is constituent  
13 in accordance with section 1711 AND THE PUPIL SHALL BE ALLOWED TO  
14 REMAIN IN HIS OR HER REGULAR EDUCATIONAL PROGRAM AS PROVIDED IN  
15 SECTION 1763.

16       SEC. 1311A. AS USED IN SECTIONS 1311B THROUGH 1311~~l~~:

17       (A) "DROPOUT" MEANS A PUPIL WHO WAS ENROLLED IN A REGULAR  
18 SCHOOL EDUCATIONAL PROGRAM IN A SCHOOL DISTRICT BUT LEAVES THE  
19 REGULAR SCHOOL PROGRAM IN THAT DISTRICT FOR A REASON OTHER THAN  
20 DEATH AND DOES NOT REENROLL IN A REGULAR SCHOOL PROGRAM IN  
21 ANOTHER DISTRICT.

22       (B) "EXPULSION" OR "EXPEL" MEANS TO PROHIBIT A PUPIL FROM  
23 ATTENDING ALL OR PART OF THE SCHOOL DAY OR FROM BEING TRANSPORTED  
24 TO OR FROM SCHOOL ON A SCHOOL BUS FOR A TIME PERIOD OF MORE THAN  
25 10 CONSECUTIVE SCHOOL DAYS.

26       (C) "LONG-TERM SUSPENSION" MEANS TO SUSPEND A PUPIL FROM ALL  
27 OR PART OF THE SCHOOL DAY FOR EITHER A TIME PERIOD OF MORE THAN 3

1 CONSECUTIVE SCHOOL DAYS UP TO 10 CONSECUTIVE SCHOOL DAYS, OR A  
2 CUMULATIVE TOTAL TIME PERIOD OF MORE THAN 10 SCHOOL DAYS IN 1  
3 SEMESTER.

4 (D) "SCHOOL DAY" MEANS A DAY IN WHICH CLASSES ARE SCHEDULED  
5 TO BE HELD FOR PUPILS.

6 (E) "SCHOOL DISTRICT" MEANS A SCHOOL DISTRICT, LOCAL ACT  
7 SCHOOL DISTRICT, OR INTERMEDIATE SCHOOL DISTRICT.

8 (F) "SHORT-TERM SUSPENSION" MEANS TO SUSPEND A PUPIL FROM  
9 ALL OR PART OF THE SCHOOL DAY FOR NOT MORE THAN 3 CONSECUTIVE  
10 SCHOOL DAYS.

11 (G) "SUSPENSION" OR "SUSPEND" MEANS TO EXCLUDE A PUPIL FOR  
12 DISCIPLINARY REASONS FROM HIS OR HER REGULARLY SCHEDULED CLASSES  
13 FOR AT LEAST 1 FULL CLASS PERIOD OR FROM BEING TRANSPORTED TO OR  
14 FROM SCHOOL ON A SCHOOL BUS FOR 1 OR MORE DAYS, BUT DOES NOT  
15 INCLUDE EXPULSION.

16 SEC. 1311B. (1) A SCHOOL DISTRICT SHALL NOT SUSPEND A PUPIL  
17 FOR AN INDEFINITE TIME PERIOD, AND SHALL NOT MAKE A SUSPENSION  
18 CONDITIONAL.

19 (2) A SCHOOL DISTRICT SHALL NOT EXPEL A PUPIL FOR A TIME  
20 PERIOD THAT EXCEEDS THE NUMBER OF DAYS REMAINING IN THE BALANCE  
21 OF THE SEMESTER IN WHICH THE PUPIL IS EXPELLED OR THAT EXCEEDS  
22 THE TOTAL NUMBER OF DAYS IN A SEMESTER.

23 (3) A SCHOOL DISTRICT SHALL NOT EXPEL OR SUSPEND A PUPIL FOR  
24 TARDINESS, EXCESSIVE ABSENCES, OR ANY OTHER ATTENDANCE-RELATED  
25 PROBLEM.

26 (4) A SCHOOL DISTRICT SHALL NOT SUSPEND, EXPEL, EXCLUDE FROM  
27 CURRICULAR OR EXTRACURRICULAR SCHOOL ACTIVITIES, OR OTHERWISE

1 DISCIPLINE A PUPIL FOR IMPROPER CONDUCT UNLESS THE CONDUCT TAKES  
2 PLACE EITHER ON SCHOOL PREMISES OR WHILE THE PUPIL IS ENGAGED IN  
3 A SCHOOL ACTIVITY.

4 (5) A SCHOOL DISTRICT SHALL TREAT A CLASS HOUR OR SCHOOL DAY  
5 MISSED BY A SUSPENDED OR EXPELLED PUPIL OR MISSED BY A PUPIL  
6 PENDING SUSPENSION OR EXPULSION AS AN EXCUSED ABSENCE AND SHALL  
7 NOT IMPOSE AN ACADEMIC PENALTY FOR AN ABSENCE EXCUSED UNDER THIS  
8 SUBSECTION.

9 (6) A SCHOOL DISTRICT SHALL ENSURE THAT A SUSPENDED OR  
10 EXPELLED PUPIL IS ALLOWED A REASONABLE PERIOD OF TIME TO COMPLETE  
11 ASSIGNMENTS AND EXAMINATIONS THE PUPIL MISSED WHILE SUSPENDED OR  
12 EXPELLED AND THAT THE PUPIL RECEIVES FULL CREDIT FOR SUCCESSFUL  
13 COMPLETION OF THOSE ASSIGNMENTS AND EXAMINATIONS.

14 (7) IF SCHOOL DISTRICT PERSONNEL HAVE REASON TO BELIEVE THAT  
15 A PUPIL IS ENGAGED IN SUBSTANCE ABUSE, THE SCHOOL DISTRICT SHALL  
16 NOT SUSPEND OR EXPEL THE PUPIL FOR THE SUBSTANCE ABUSE BUT SHALL  
17 REFER THE PUPIL TO APPROPRIATE SUBSTANCE ABUSE SERVICES.

18 SEC. 1311C. (1) NOT LATER THAN 6 MONTHS AFTER THE EFFECTIVE  
19 DATE OF THIS SECTION, THE BOARD OF A SCHOOL DISTRICT SHALL ADOPT  
20 A WRITTEN POLICY ON SUSPENSIONS AND EXPULSIONS THAT IS CONSISTENT  
21 WITH SECTIONS 1311A THROUGH 1311I. THE POLICY SHALL AT LEAST  
22 EXPLAIN THE OFFENSES FOR WHICH A PUPIL MAY BE SUSPENDED OR  
23 EXPELLED, THE RANGE OF DISCIPLINE FOR EACH OFFENSE, AND THE  
24 RIGHTS OF PUPILS AND PARENTS IN THE DISCIPLINARY PROCESS.

25 (2) THE POLICY ADOPTED UNDER THIS SECTION SHALL IDENTIFY AND  
26 DEFINE A CONTINUUM OF RESPONSES TO DISCIPLINARY SITUATIONS THAT



1 INCLUDES RESPONSES SUCH AS POSITIVE REWARDS, COUNSELING, AND  
2 IN-SCHOOL PENALTIES AS WELL AS SUSPENSIONS AND EXPULSIONS.

3       (3) THE POLICY ADOPTED UNDER THIS SECTION SHALL BE WRITTEN  
4 IN PLAIN LANGUAGE THAT PUPILS AND PARENTS CAN REASONABLY BE  
5 EXPECTED TO UNDERSTAND, INCLUDING WRITTEN TRANSLATIONS FOR HOME  
6 LANGUAGES OTHER THAN ENGLISH, AND THE BOARD SHALL ENSURE THAT A  
7 COPY OF THE POLICY IS PROVIDED TO EACH PUPIL AND PARENT IN THE  
8 DISTRICT WITHIN 3 MONTHS AFTER IT IS APPROVED BY THE STATE  
9 BOARD. AFTER THE INITIAL DISTRIBUTION OF THE POLICY, THE BOARD  
10 SHALL ENSURE THAT EACH PUPIL AND PARENT RECEIVE A COPY OF THE  
11 POLICY AT THE BEGINNING OF EACH SCHOOL YEAR AND THAT NEW PUPILS  
12 AND THEIR PARENTS RECEIVE A COPY UPON ENROLLMENT IN THE  
13 DISTRICT. IN ADDITION, EACH SCHOOL SHALL POST A COPY OF ITS  
14 DISTRICT'S POLICY IN CONSPICUOUS, PUPIL-ORIENTED LOCATIONS AROUND  
15 THE SCHOOL PREMISES.

16       (4) BEFORE DISTRIBUTING COPIES OF THE POLICY REQUIRED UNDER  
17 THIS SECTION, THE BOARD SHALL SUBMIT A COPY OF THE POLICY TO THE  
18 STATE BOARD FOR APPROVAL. IF THE POLICY MEETS THE REQUIREMENTS  
19 OF THIS SECTION, THE STATE BOARD SHALL APPROVE THE POLICY. IF  
20 THE POLICY DOES NOT MEET THE REQUIREMENTS OF THIS SECTION, THE  
21 STATE BOARD SHALL NOTIFY THE LOCAL BOARD OF THE DEFECT AND THE  
22 LOCAL BOARD SHALL REVISE THE POLICY ACCORDINGLY.

23       (5) THE BOARD MAY PERIODICALLY REVISE THE POLICY ADOPTED  
24 UNDER THIS SECTION. A REVISED POLICY SHALL BE SUBMITTED TO THE  
25 STATE BOARD FOR APPROVAL AS PROVIDED IN SUBSECTION (3), AND  
26 REVISED COPIES SHALL BE DISTRIBUTED AS PROVIDED IN SUBSECTION (2)  
27 AFTER STATE BOARD APPROVAL.

1 (6) IN DEVELOPING THE POLICY REQUIRED UNDER THIS SECTION,  
2 THE BOARD SHALL ENSURE THE ACTIVE PARTICIPATION OF SCHOOL BOARD  
3 MEMBERS, SCHOOL BUILDING ADMINISTRATORS, TEACHERS AND OTHER  
4 SCHOOL EMPLOYEES, PUPILS, PARENTS, AND OTHER RESIDENTS OF THE  
5 SCHOOL DISTRICT. THE PERSONS SELECTED TO PARTICIPATE UNDER THIS  
6 SUBSECTION SHALL BE REPRESENTATIVE OF THE RACIAL, ETHNIC, SOCIAL,  
7 AND ECONOMIC MAKEUP OF RESIDENTS OF THE SCHOOL DISTRICT.

8 (7) THE POLICY ADOPTED UNDER THIS SECTION SHALL CONTAIN A  
9 STATEMENT OF THE RIGHTS OF PUPILS UNDER STATE AND FEDERAL LAW.

10 SEC. 1311D. (1) A SCHOOL DISTRICT MAY SUSPEND A PUPIL FOR A  
11 SHORT-TERM SUSPENSION ONLY FOR INTENTIONAL CONDUCT THAT VIOLATES  
12 RULES REASONABLY DESIGNED TO ENSURE A SAFE AND PRODUCTIVE EDUCA-  
13 TIONAL ENVIRONMENT AND THAT CONSTITUTES A SUBSTANTIAL DISRUPTION  
14 OF THE EDUCATIONAL PROCESS.

15 (2) THE BOARD OF EACH SCHOOL DISTRICT SHALL DESIGNATE 1 OR  
16 MORE BUILDING ADMINISTRATORS IN EACH CLASSROOM BUILDING IN THE  
17 DISTRICT TO ACT AS A BUILDING LEVEL HEARING OFFICER TO CONDUCT  
18 HEARINGS HELD UNDER SUBSECTION (3). A HEARING UNDER  
19 SUBSECTION (3) SHALL BE CONDUCTED BY A BUILDING LEVEL HEARING  
20 OFFICER FROM A BUILDING OTHER THAN THE BUILDING WHERE THE EVENTS  
21 THAT ARE THE SUBJECT OF THE HEARING OCCURRED AND WHO WAS NOT  
22 INVOLVED IN THOSE EVENTS.

23 (3) BEFORE A PUPIL MAY BE SUSPENDED FOR A SHORT-TERM SUSPEN-  
24 SION, THE SCHOOL DISTRICT SHALL PROVIDE ALL OF THE FOLLOWING  
25 PROCEDURES:

26 (A) THE BUILDING LEVEL HEARING OFFICER THAT WILL CONDUCT THE  
27 HEARING UNDER SUBDIVISION (B) SHALL INFORM THE PUPIL AND THE

1 PUPIL'S PARENT OR LEGAL GUARDIAN, ORALLY OR IN WRITING AND IN  
2 TERMS AND A LANGUAGE THAT THE PUPIL OR PARENT OR LEGAL GUARDIAN  
3 UNDERSTANDS, OF ALL OF THE FOLLOWING:

4 (i) THE CONDUCT THAT IS THE BASIS OF THE ALLEGATIONS AGAINST  
5 THE PUPIL.

6 (ii) THE RULE OR RULES THAT THE PUPIL IS ALLEGED TO HAVE  
7 VIOLATED.

8 (iii) THE EVIDENCE AND WITNESSES AGAINST THE PUPIL.

9 (iv) THE PROPOSED TIME AND PLACE OF THE HEARING TO BE HELD  
10 UNDER SUBDIVISION (B).

11 (v) THE PROCEDURES AND RIGHTS TO APPEAL PROVIDED UNDER THIS  
12 SECTION AND THE RIGHT TO JUDICIAL REVIEW PROVIDED UNDER  
13 SECTION 1311G.

14 (vi) SOURCES AVAILABLE IN THE AREA TO THE PUPIL AND PARENT  
15 OR LEGAL GUARDIAN FOR FREE OR LOW-COST LEGAL SERVICES OR OTHER  
16 INFORMED ADVICE.

17 (B) THE BUILDING LEVEL HEARING OFFICER SHALL CONDUCT A HEAR-  
18 ING IN WHICH THE PUPIL IS GIVEN AN ADEQUATE OPPORTUNITY TO CHAL-  
19 LENGE THE EVIDENCE AND WITNESSES AGAINST HIM OR HER. AT THE  
20 HEARING, THE PUPIL SHALL BE INFORMED, IN TERMS AND A LANGUAGE  
21 THAT THE PUPIL UNDERSTANDS, THAT HE OR SHE IS NOT REQUIRED TO  
22 ADMIT OR DENY THE ALLEGATIONS AGAINST HIM OR HER.

23 (C) THE BUILDING LEVEL HEARING OFFICER WHO WILL CONDUCT THE  
24 HEARING REQUIRED UNDER SUBDIVISION (B) SHALL NOTIFY THE PUPIL'S  
25 PARENT OR LEGAL GUARDIAN BEFORE CONDUCTING THE HEARING AND DETER-  
26 MINE WHETHER THE PARENT OR LEGAL GUARDIAN CHOOSES TO ATTEND. IF  
27 THE PARENT OR LEGAL GUARDIAN CHOOSES TO ATTEND THE HEARING, THE

1 HEARING SHALL BE HELD AT A TIME AND PLACE THAT IS CONVENIENT FOR  
2 THE PARENT OR LEGAL GUARDIAN AND HE OR SHE SHALL BE GIVEN AN ADE-  
3 QUATE OPPORTUNITY TO CHALLENGE THE EVIDENCE AND WITNESSES AGAINST  
4 THE PUPIL.

5 (D) THE BUILDING LEVEL HEARING OFFICER WHO CONDUCTS THE  
6 HEARING REQUIRED UNDER SUBDIVISION (B) SHALL DOCUMENT HIS OR HER  
7 DECISION AND THE FACTS SUPPORTING HIS OR HER DECISION IN WRITING  
8 AND SUBMIT A COPY OF THE DECISION TO THE LOCAL BOARD.

9 (E) THE PUPIL OR THE PUPIL'S PARENT OR LEGAL GUARDIAN, OR  
10 BOTH, MAY APPEAL THE DECISION OF THE BUILDING PRINCIPAL OR  
11 ASSISTANT PRINCIPAL TO THE SCHOOL DISTRICT SUPERINTENDENT. IF AN  
12 APPEAL IS MADE, THE SUPERINTENDENT SHALL REVIEW THE SUSPENSION  
13 AND DETERMINE WHETHER, UNDER ALL THE CIRCUMSTANCES, THE SUSPEN-  
14 SION IS JUSTIFIED AND WHETHER THE PROCEDURES REQUIRED UNDER THIS  
15 SECTION WERE FOLLOWED CORRECTLY. IF THE SUPERINTENDENT FINDS  
16 THAT THE SUSPENSION IS NOT JUSTIFIED OR THAT THE PROCEDURES WERE  
17 NOT FOLLOWED CORRECTLY, THE PUPIL SHALL NOT BE SUSPENDED. THE  
18 SUPERINTENDENT SHALL DOCUMENT HIS OR HER DECISION AND THE FACTS  
19 SUPPORTING HIS OR HER DECISION IN WRITING AND SUBMIT A COPY OF  
20 THE DECISION TO THE LOCAL BOARD.

21 (F) NOT LATER THAN 10 SCHOOL DAYS AFTER RECEIVING THE DECI-  
22 SION OF THE SCHOOL DISTRICT SUPERINTENDENT UNDER SUBDIVISION (E),  
23 THE PUPIL OR THE PUPIL'S PARENT OR LEGAL GUARDIAN, OR BOTH, MAY  
24 APPEAL THE DECISION OF THE SCHOOL DISTRICT SUPERINTENDENT TO THE  
25 BOARD OF THE SCHOOL DISTRICT. IF AN APPEAL IS MADE TO THE LOCAL  
26 BOARD, THE LOCAL BOARD SHALL, NOT EARLIER THAN 15 DAYS AND NOT  
27 LATER THAN 30 DAYS AFTER RECEIVING THE APPEAL, REVIEW THE

1 SUSPENSION AND DETERMINE WHETHER, UNDER ALL THE CIRCUMSTANCES,  
2 THE SUSPENSION IS JUSTIFIED AND WHETHER THE PROCEDURES REQUIRED  
3 UNDER THIS SECTION WERE FOLLOWED CORRECTLY.

4 (G) NOT LATER THAN 15 DAYS AFTER ITS REVIEW OR 30 DAYS AFTER  
5 RECEIVING THE APPEAL, WHICHEVER IS EARLIER, THE LOCAL BOARD SHALL  
6 MAKE WRITTEN FINDINGS OF FACT AND A FINAL WRITTEN DECISION  
7 REGARDING THE SUSPENSION AND SEND A COPY OF THE FINDINGS AND  
8 DECISION BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE  
9 PUPIL OR THE PUPIL'S PARENT OR LEGAL GUARDIAN AND TO THE  
10 DEPARTMENT.

11 (H) UNLESS THE PUPIL OR PARENT OR LEGAL GUARDIAN BRINGS AN  
12 ACTION UNDER SECTION 1311G, THE DECISION OF THE LOCAL BOARD IS  
13 FINAL.

14 (4) UNLESS THE BUILDING PRINCIPAL SPECIFICALLY FINDS THAT  
15 THE PRESENCE OF THE PUPIL POSES A SERIOUS THREAT TO THE PHYSICAL  
16 SAFETY OF OTHER PUPILS OR SCHOOL PERSONNEL AND DOCUMENTS THAT  
17 FINDING IN WRITING, A PUPIL INVOLVED IN THE SHORT-TERM SUSPENSION  
18 PROCEEDINGS UNDER THIS SECTION OR IN A JUDICIAL PROCEEDING  
19 BROUGHT UNDER SECTION 1311G REGARDING THE SUSPENSION SHALL BE  
20 ALLOWED TO REMAIN IN HIS OR HER REGULAR EDUCATIONAL PROGRAM PEND-  
21 ING THE OUTCOME OF THE PROCEEDINGS. IF A PUPIL IS EXCLUDED UNDER  
22 THIS SUBSECTION, THE BUILDING PRINCIPAL OR ASSISTANT PRINCIPAL  
23 SHALL INITIATE THE PROCEDURES REQUIRED UNDER SUBSECTION (3) NOT  
24 LATER THAN 24 HOURS AFTER THE PUPIL IS EXCLUDED.

25 SEC. 1311E. (1) A SCHOOL DISTRICT MAY SUSPEND A PUPIL FOR A  
26 LONG-TERM SUSPENSION ONLY FOR INTENTIONAL CONDUCT THAT CREATES A

1 DEFINABLE THREAT TO THE PHYSICAL SAFETY OF OTHER PUPILS OR SCHOOL  
2 PERSONNEL.

3 (2) CONSISTENT WITH THE REQUIREMENTS OF SECTION 1311C, THE  
4 BOARD OF A SCHOOL DISTRICT SHALL ESTABLISH AND DISTRIBUTE RULES  
5 SPECIFICALLY DEFINING THE TYPES OF INTENTIONAL CONDUCT FOR WHICH  
6 LONG-TERM SUSPENSION MAY BE IMPOSED. THESE RULES SHALL BE  
7 INCLUDED IN THE POLICY DISTRIBUTED UNDER SECTION 1311C.

8 (3) BEFORE A PUPIL MAY BE SUSPENDED FOR A LONG-TERM SUSPEN-  
9 SION, THE SCHOOL DISTRICT SHALL PROVIDE ALL OF THE FOLLOWING  
10 PROCEDURES:

11 (A) AT LEAST 3 SCHOOL DAYS BEFORE THE HEARING DESCRIBED IN  
12 SUBDIVISION (B), THE DISTRICT SUPERINTENDENT SHALL NOTIFY THE  
13 PUPIL AND THE PUPIL'S PARENT OR LEGAL GUARDIAN ORALLY AND IN  
14 WRITING, IN WORDS AND A LANGUAGE THE PUPIL AND PARENT OR LEGAL  
15 GUARDIAN WILL UNDERSTAND, OF ALL OF THE FOLLOWING:

16 (i) THE CONDUCT THAT FORMS THE BASIS FOR THE ALLEGATIONS  
17 AGAINST THE PUPIL.

18 (ii) THE RULES THE PUPIL IS ALLEGED TO HAVE VIOLATED.

19 (iii) THE EVIDENCE AND WITNESSES AGAINST THE PUPIL.

20 (iv) THE DATE, TIME, AND PLACE OF THE HEARING TO BE HELD BY  
21 THE SUPERINTENDENT ON THE SUSPENSION.

22 (v) THE PROCEDURES AND RIGHTS TO APPEAL PROVIDED UNDER THIS  
23 SECTION AND THE RIGHT TO JUDICIAL REVIEW PROVIDED UNDER  
24 SECTION 1311G.

25 (vi) SOURCES AVAILABLE TO THE PUPIL AND PARENT OR LEGAL  
26 GUARDIAN FOR FREE OR LOW-COST LEGAL SERVICES OR OTHER INFORMED  
27 ADVICE.

1 (B) THE DISTRICT SUPERINTENDENT SHALL CONDUCT A FAIR AND  
2 IMPARTIAL HEARING ON THE ALLEGATIONS. THE SUPERINTENDENT SHALL  
3 CONSIDER ONLY EVIDENCE DISCLOSED TO THE PUPIL AND THE PARENT OR  
4 LEGAL GUARDIAN UNDER SUBDIVISION (A) AND MAY DETERMINE WHETHER  
5 THE REQUIREMENTS OF SUBDIVISION (A) HAVE BEEN MET. THE SUPERIN-  
6 TENDENT MAY ISSUE SUBPOENAS TO COMPEL THE TESTIMONY OF  
7 WITNESSES.

8 (C) AT THE HEARING, THE PUPIL AND PARENT OR LEGAL GUARDIAN  
9 HAVE ALL OF THE FOLLOWING RIGHTS:

10 (i) MAY BE ADVISED AND REPRESENTED BY AN ATTORNEY OR OTHER  
11 PERSON OF THEIR CHOOSING.

12 (ii) MAY CONFRONT AND CROSS-EXAMINE ADVERSE WITNESSES.

13 (iii) MAY PRESENT EVIDENCE ON BEHALF OF THE PUPIL AND MAY  
14 SUBPOENA WITNESSES.

15 (iv) IS NOT REQUIRED TO TESTIFY.

16 (D) A VERBATIM RECORD SHALL BE MADE OF THE HEARING AND A  
17 TRANSCRIPT OR TAPE RECORDING SHALL BE PROVIDED AT NO COST TO THE  
18 PUPIL OR PARENT OR LEGAL GUARDIAN.

19 (E) AFTER THE HEARING, THE SUPERINTENDENT SHALL MAKE WRITTEN  
20 FINDINGS OF FACT AND A WRITTEN DECISION, AND SHALL IMPOSE A  
21 LONG-TERM SUSPENSION ONLY IF HE OR SHE FINDS BY CLEAR AND CON-  
22 VINCING EVIDENCE PRESENTED AT THE HEARING THAT THE PUPIL HAS COM-  
23 MITTED THE ACT OR ACTS ALLEGED AND THAT THOSE ACTS VIOLATE 1 OR  
24 MORE PROPERLY ESTABLISHED AND DISTRIBUTED SCHOOL RULES. THE  
25 SUPERINTENDENT SHALL NOT IMPOSE A LONG-TERM SUSPENSION IF HE OR  
26 SHE FINDS THAT THE REQUIREMENTS OF SUBDIVISION (A) HAVE NOT BEEN

1 MET. THE SUPERINTENDENT SHALL SUBMIT A COPY OF HIS OR HER  
2 FINDINGS AND DECISION TO THE LOCAL BOARD.

3 (F) NOT LATER THAN 10 SCHOOL DAYS AFTER RECEIVING THE DECI-  
4 SION OF THE SCHOOL DISTRICT SUPERINTENDENT UNDER SUBDIVISION (E),  
5 THE PUPIL OR THE PUPIL'S PARENT OR LEGAL GUARDIAN, OR BOTH, MAY  
6 APPEAL THE DECISION OF THE SCHOOL DISTRICT SUPERINTENDENT TO THE  
7 BOARD OF THE SCHOOL DISTRICT. IF AN APPEAL IS MADE TO THE LOCAL  
8 BOARD, THE LOCAL BOARD SHALL APPOINT OR CONTRACT WITH AN INDEPEN-  
9 DENT HEARING OFFICER WHO IS MUTUALLY AGREEABLE TO THE PARTIES.  
10 THE HEARING OFFICER SHALL NOT BE AN EMPLOYEE OR BOARD MEMBER OF A  
11 SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, THE DEPARTMENT, OR  
12 THE STATE BOARD; SHALL NOT HAVE A PERSONAL OR PROFESSIONAL INTER-  
13 EST THAT WOULD CONFLICT WITH HIS OR HER OBJECTIVITY IN CONDUCTING  
14 THE HEARING; AND SHALL HAVE GOOD WORKING KNOWLEDGE OF STATE AND  
15 FEDERAL LAW RELATING TO EDUCATION. THE LOCAL BOARD SHALL COMPEN-  
16 SATE THE HEARING OFFICER AND PAY ALL OTHER COSTS OF CONDUCTING  
17 THE HEARING.

18 (G) NOT EARLIER THAN 15 DAYS AND NOT LATER THAN 30 DAYS  
19 AFTER THE LOCAL BOARD RECEIVES THE APPEAL UNDER SUBDIVISION (F),  
20 THE HEARING OFFICER SHALL CONDUCT A HEARING TO REVIEW THE SUSPEN-  
21 SION AND DETERMINE WHETHER, UNDER ALL THE CIRCUMSTANCES, THE SUS-  
22 PENSION IS JUSTIFIED AND WHETHER THE PROCEDURES REQUIRED UNDER  
23 THIS SECTION WERE FOLLOWED CORRECTLY. THE HEARING OFFICER MAY  
24 ISSUE SUBPOENAS AND COMPEL THE TESTIMONY OF WITNESSES, REQUIRE A  
25 PREHEARING CONFERENCE TO CLARIFY MATTERS PERTAINING TO THE HEAR-  
26 ING, CONTROL THE CONDUCT OF PARTIES OR PARTICIPANTS IN THE  
27 HEARING TO ASSURE AN ORDERLY PROCEEDING, AND SUSPEND OR POSTPONE



1 THE HEARING FOR GOOD CAUSE. AT THE HEARING, THE PUPIL AND PARENT  
2 OR LEGAL GUARDIAN HAVE ALL OF THE FOLLOWING RIGHTS:

3 (i) TO BE PRESENT AT THE HEARING.

4 (ii) TO BE REPRESENTED, ACCOMPANIED, AND ADVISED BY AN  
5 ATTORNEY OR OTHER PERSON OF THEIR CHOOSING.

6 (iii) TO PRESENT EVIDENCE AND COMPEL THE TESTIMONY OF ANY  
7 PERSON, INCLUDING, BUT NOT LIMITED TO, AN OFFICIAL, EMPLOYEE, OR  
8 AGENT OF THE SCHOOL DISTRICT WHO MAY HAVE RELEVANT EVIDENCE.

9 (iv) TO CONFRONT AND CROSS-EXAMINE ADVERSE WITNESSES.

10 (v) TO PROHIBIT THE INTRODUCTION OF ANY EVIDENCE OR THE TES-  
11 TIMONY OF ANY WITNESS IF THE EVIDENCE OR SUBSTANCE OF THE TESTI-  
12 MONY HAS NOT BEEN DISCLOSED TO THE PUPIL AND PARENT OR LEGAL  
13 GUARDIAN AT LEAST 5 CALENDAR DAYS BEFORE THE HEARING.

14 (vi) TO OBTAIN A WRITTEN OR ELECTRONIC VERBATIM RECORD OF  
15 THE HEARING OR AN ALTERNATE FORM OF THE VERBATIM RECORD IN THE  
16 PARENT'S NATIVE LANGUAGE.

17 (vii) TO OBTAIN WRITTEN FINDINGS OF FACT AND A WRITTEN  
18 DECISION.

19 (viii) TO OPEN THE HEARING TO THE PUBLIC.

20 (H) NOT LATER THAN 30 DAYS AFTER THE HEARING OR 45 DAYS  
21 AFTER THE APPEAL IS RECEIVED BY THE LOCAL BOARD, WHICHEVER IS  
22 EARLIER, THE HEARING OFFICER SHALL MAKE WRITTEN FINDINGS OF FACT  
23 AND A FINAL WRITTEN DECISION REGARDING THE HEARING AND SEND A  
24 COPY OF THE FINDINGS AND DECISION BY CERTIFIED MAIL, RETURN  
25 RECEIPT REQUESTED, TO EACH PARTY AND TO THE DEPARTMENT.

26 (I) NOT LATER THAN 10 SCHOOL DAYS AFTER RECEIVING THE  
27 DECISION OF THE IMPARTIAL HEARING OFFICER, A PARTY AGGRIEVED BY

1 THE FINDINGS AND DECISION OF THE HEARING OFFICER MAY APPEAL TO  
2 THE DEPARTMENT. THE APPEALING PARTY SHALL SEND A COPY OF THE  
3 APPEAL TO EACH OF THE OTHER PARTIES. IF AN APPEAL IS MADE UNDER  
4 THIS SUBSECTION, THE SCHOOL DISTRICT SHALL ENSURE THAT THE HEAR-  
5 ING OFFICER HAS DELIVERED THE WRITTEN FINDINGS AND DECISION TO  
6 THE DEPARTMENT PURSUANT TO SUBDIVISION (H) AND SHALL DELIVER A  
7 COPY OF THE VERBATIM WRITTEN RECORD OF THE HEARING TO THE DEPART-  
8 MENT NOT LATER THAN 3 SCHOOL DAYS AFTER RECEIPT OF THE APPEAL.  
9 THE DEPARTMENT SHALL CONDUCT AN IMPARTIAL REVIEW OF THE HEARING.  
10 THE DEPARTMENT REVIEWING OFFICIAL SHALL DO ALL OF THE FOLLOWING:

11       (i) EXAMINE THE ENTIRE HEARING RECORD.

12       (ii) ENSURE THAT THE PROCEDURES AT THE HEARING WERE CONSIS-  
13 TENT WITH THIS SECTION AND THE REQUIREMENTS OF DUE PROCESS.

14       (iii) SEEK ADDITIONAL EVIDENCE IF NECESSARY. IF A HEARING  
15 IS HELD TO OBTAIN ADDITIONAL EVIDENCE, THE PUPIL AND PARENT OR  
16 LEGAL GUARDIAN HAVE THE SAME RIGHTS IN THAT HEARING AS UNDER SUB-  
17 DIVISION (G), THE DEPARTMENT REVIEWING OFFICIAL HAS THE SAME  
18 POWERS AND FUNCTIONS AS THE HEARING OFFICER UNDER THAT SUBDIVI-  
19 SION, AND THE HEARING SHALL BE HELD AT A TIME AND PLACE REASON-  
20 ABLY CONVENIENT TO THE PARTIES.

21       (iv) AFFORD THE PARTIES AN OPPORTUNITY FOR ORAL OR WRITTEN  
22 ARGUMENT, OR BOTH, AT THE DISCRETION OF THE REVIEWING OFFICIAL.  
23 IF ORAL ARGUMENT IS HELD, IT SHALL BE HELD AT A TIME AND PLACE  
24 REASONABLY CONVENIENT TO THE PARTIES.

25       (v) NOT LATER THAN 30 CALENDAR DAYS AFTER RECEIPT OF THE  
26 APPEAL, MAKE AN INDEPENDENT WRITTEN DECISION AFTER COMPLETION OF  
27 THE REVIEW AFFIRMING, REVERSING, OR MODIFYING THE DECISION OF THE

1 HEARING OFFICER OR REMANDING THE MATTER TO THE HEARING OFFICER  
2 FOR FURTHER PROCEEDINGS AND MAIL A COPY OF THE WRITTEN DECISION  
3 TO EACH PARTY BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED.

4 (J) UNLESS THE PUPIL OR PARENT OR LEGAL GUARDIAN BRINGS AN  
5 ACTION UNDER SECTION 1311G, THE DECISION OF THE DEPARTMENT  
6 REVIEWING OFFICIAL IS FINAL.

7 (4) UNLESS THE SUPERINTENDENT SPECIFICALLY FINDS THAT THE  
8 PRESENCE OF THE PUPIL POSES A SERIOUS THREAT TO THE PHYSICAL  
9 SAFETY OF OTHER PUPILS OR SCHOOL PERSONNEL AND DOCUMENTS THAT  
10 FINDING IN WRITING, A PUPIL WHO IS THE SUBJECT OF LONG-TERM SUS-  
11 PENSION PROCEEDINGS UNDER THIS SECTION OR OF A JUDICIAL PROCEED-  
12 ING BROUGHT UNDER SECTION 1311G REGARDING THE SUSPENSION SHALL BE  
13 ALLOWED TO REMAIN IN HIS OR HER REGULAR EDUCATIONAL PROGRAM PEND-  
14 ING THE OUTCOME OF THE PROCEEDINGS. IF A PUPIL IS EXCLUDED UNDER  
15 THIS SUBSECTION, THE DISTRICT SUPERINTENDENT SHALL INITIATE THE  
16 PROCEDURES REQUIRED UNDER SUBSECTION (3) NOT LATER THAN 24 HOURS  
17 AFTER THE PUPIL IS EXCLUDED.

18 SEC. 1311F. (1) A SCHOOL BOARD MAY EXPEL A PUPIL ONLY FOR  
19 INTENTIONAL CONDUCT THAT CREATES OR IS LIKELY TO CREATE A SERI-  
20 OUS, CONTINUING THREAT TO THE PHYSICAL SAFETY OF PUPILS OR SCHOOL  
21 PERSONNEL.

22 (2) BEFORE A PUPIL MAY BE EXPELLED, THE SCHOOL DISTRICT  
23 SHALL PROVIDE ALL OF THE FOLLOWING PROCEDURES:

24 (A) AT LEAST 3 SCHOOL DAYS BEFORE THE HEARING DESCRIBED IN  
25 SUBDIVISION (B), THE DISTRICT SUPERINTENDENT SHALL NOTIFY THE  
26 PUPIL AND THE PUPIL'S PARENT OR LEGAL GUARDIAN ORALLY AND IN

1 WRITING, IN WORDS AND A LANGUAGE THE PUPIL AND PARENT OR LEGAL  
2 GUARDIAN WILL UNDERSTAND, OF ALL OF THE FOLLOWING:

3 (i) THE CONDUCT THAT FORMS THE BASIS FOR THE ALLEGATIONS  
4 AGAINST THE PUPIL.

5 (ii) THE RULES THE PUPIL IS ALLEGED TO HAVE VIOLATED.

6 (iii) THE EVIDENCE AND WITNESSES AGAINST THE PUPIL.

7 (iv) THE DATE, TIME, AND PLACE OF THE HEARING TO BE HELD BY  
8 THE SUPERINTENDENT ON THE EXPULSION.

9 (v) THE PROCEDURES AND RIGHTS TO APPEAL PROVIDED UNDER THIS  
10 SECTION AND THE RIGHT TO JUDICIAL REVIEW PROVIDED UNDER  
11 SECTION 1311G.

12 (vi) SOURCES AVAILABLE TO THE PUPIL AND PARENT OR LEGAL  
13 GUARDIAN FOR FREE OR LOW-COST LEGAL SERVICES OR OTHER INFORMED  
14 ADVICE.

15 (B) THE DISTRICT SUPERINTENDENT SHALL CONDUCT A FAIR AND  
16 IMPARTIAL HEARING ON THE ALLEGATIONS. THE SUPERINTENDENT SHALL  
17 CONSIDER ONLY EVIDENCE DISCLOSED TO THE PUPIL AND THE PARENT OR  
18 LEGAL GUARDIAN UNDER SUBDIVISION (A) AND MAY DETERMINE WHETHER  
19 THE REQUIREMENTS OF SUBDIVISION (A) HAVE BEEN MET. THE SUPERIN-  
20 TENDENT MAY ISSUE SUBPOENAS TO COMPEL THE TESTIMONY OF  
21 WITNESSES.

22 (C) AT THE HEARING, THE PUPIL AND PARENT OR LEGAL GUARDIAN  
23 HAVE ALL OF THE FOLLOWING RIGHTS:

24 (i) MAY BE ADVISED AND REPRESENTED BY AN ATTORNEY OR OTHER  
25 PERSON OF THEIR CHOOSING.

26 (ii) MAY CONFRONT AND CROSS-EXAMINE ADVERSE WITNESSES.

1 (iii) MAY PRESENT EVIDENCE ON BEHALF OF THE PUPIL AND MAY  
2 SUBPOENA WITNESSES.

3 (iv) IS NOT REQUIRED TO TESTIFY.

4 (D) A VERBATIM RECORD SHALL BE MADE OF THE HEARING AND A  
5 TRANSCRIPT OR TAPE RECORDING SHALL BE PROVIDED AT NO COST TO THE  
6 PUPIL OR PARENT OR LEGAL GUARDIAN.

7 (E) AFTER THE HEARING, THE SUPERINTENDENT SHALL MAKE WRITTEN  
8 FINDINGS OF FACT AND A WRITTEN DECISION, AND SHALL EXPEL A PUPIL  
9 ONLY IF HE OR SHE FINDS BY CLEAR AND CONVINCING EVIDENCE  
10 PRESENTED AT THE HEARING THAT THE PUPIL HAS COMMITTED THE ACT OR  
11 ACTS ALLEGED AND THAT THOSE ACTS VIOLATE 1 OR MORE PROPERLY  
12 ESTABLISHED AND DISTRIBUTED SCHOOL RULES. THE SUPERINTENDENT  
13 SHALL NOT EXPEL A PUPIL IF HE OR SHE FINDS THAT THE REQUIREMENTS  
14 OF SUBDIVISION (A) HAVE NOT BEEN MET. THE SUPERINTENDENT SHALL  
15 SUBMIT A COPY OF HIS OR HER FINDINGS AND DECISION TO THE LOCAL  
16 BOARD.

17 (F) NOT LATER THAN 10 SCHOOL DAYS AFTER RECEIVING THE DECISION  
18 OF THE SCHOOL DISTRICT SUPERINTENDENT UNDER SUBDIVISION (E),  
19 THE PUPIL OR THE PUPIL'S PARENT OR LEGAL GUARDIAN, OR BOTH, MAY  
20 APPEAL THE DECISION OF THE SCHOOL DISTRICT SUPERINTENDENT TO THE  
21 BOARD OF THE SCHOOL DISTRICT. IF AN APPEAL IS MADE TO THE LOCAL  
22 BOARD, THE LOCAL BOARD SHALL APPOINT OR CONTRACT WITH AN INDEPENDENT  
23 HEARING OFFICER WHO IS MUTUALLY AGREEABLE TO THE PARTIES.  
24 THE HEARING OFFICER SHALL NOT BE AN EMPLOYEE OR BOARD MEMBER OF A  
25 SCHOOL DISTRICT, INDEPENDENT SCHOOL DISTRICT, THE DEPARTMENT, OR  
26 THE STATE BOARD; SHALL NOT HAVE A PERSONAL OR PROFESSIONAL  
27 INTEREST THAT WOULD CONFLICT WITH HIS OR HER OBJECTIVITY IN

1 CONDUCTING THE HEARING; AND SHALL HAVE GOOD WORKING KNOWLEDGE OF  
2 STATE AND FEDERAL LAW RELATING TO EDUCATION. THE LOCAL BOARD  
3 SHALL COMPENSATE THE HEARING OFFICER AND PAY ALL OTHER COSTS OF  
4 CONDUCTING THE HEARING.

5 (G) NOT EARLIER THAN 15 DAYS AND NOT LATER THAN 30 DAYS  
6 AFTER THE LOCAL BOARD RECEIVES THE APPEAL UNDER SUBDIVISION (F),  
7 THE HEARING OFFICER SHALL CONDUCT A HEARING TO REVIEW THE EXPUL-  
8 SION AND DETERMINE WHETHER, UNDER ALL THE CIRCUMSTANCES, THE  
9 EXPULSION IS JUSTIFIED AND WHETHER THE PROCEDURES REQUIRED UNDER  
10 THIS SECTION WERE FOLLOWED CORRECTLY. THE HEARING OFFICER MAY  
11 ISSUE SUBPOENAS AND COMPEL THE TESTIMONY OF WITNESSES, REQUIRE A  
12 PREHEARING CONFERENCE TO CLARIFY MATTERS PERTAINING TO THE HEAR-  
13 ING, CONTROL THE CONDUCT OF PARTIES OR PARTICIPANTS IN THE HEAR-  
14 ING TO ASSURE AN ORDERLY PROCEEDING, AND SUSPEND OR POSTPONE THE  
15 HEARING FOR GOOD CAUSE. AT THE HEARING, THE PUPIL AND PARENT OR  
16 LEGAL GUARDIAN HAVE ALL OF THE FOLLOWING RIGHTS:

17 (i) TO BE PRESENT AT THE HEARING.

18 (ii) TO BE REPRESENTED, ACCOMPANIED, AND ADVISED BY AN  
19 ATTORNEY OR OTHER PERSON OF THEIR CHOOSING.

20 (iii) TO PRESENT EVIDENCE AND COMPEL THE TESTIMONY OF ANY  
21 PERSON, INCLUDING, BUT NOT LIMITED TO, AN OFFICIAL, EMPLOYEE, OR  
22 AGENT OF THE SCHOOL DISTRICT WHO MAY HAVE RELEVANT EVIDENCE.

23 (iv) TO CONFRONT AND CROSS-EXAMINE ADVERSE WITNESSES.

24 (v) TO PROHIBIT THE INTRODUCTION OF ANY EVIDENCE OR THE TES-  
25 TIMONY OF ANY WITNESS IF THE EVIDENCE OR SUBSTANCE OF THE TESTI-  
26 MONY HAS NOT BEEN DISCLOSED TO THE PUPIL AND PARENT OR LEGAL  
27 GUARDIAN AT LEAST 5 CALENDAR DAYS BEFORE THE HEARING.

1       (vi) TO OBTAIN A WRITTEN OR ELECTRONIC VERBATIM RECORD OF  
2 THE HEARING OR AN ALTERNATE FORM OF THE VERBATIM RECORD IN THE  
3 PARENT'S NATIVE LANGUAGE.

4       (vii) TO OBTAIN WRITTEN FINDINGS OF FACT AND A WRITTEN  
5 DECISION.

6       (viii) TO OPEN THE HEARING TO THE PUBLIC.

7       (H) NOT LATER THAN 30 DAYS AFTER THE HEARING OR 45 DAYS  
8 AFTER THE APPEAL IS RECEIVED BY THE LOCAL BOARD, WHICHEVER IS  
9 EARLIER, THE HEARING OFFICER SHALL MAKE WRITTEN FINDINGS OF FACT  
10 AND A FINAL WRITTEN DECISION REGARDING THE HEARING AND SEND A  
11 COPY OF THE FINDINGS AND DECISION BY CERTIFIED MAIL, RETURN  
12 RECEIPT REQUESTED, TO EACH PARTY AND TO THE DEPARTMENT.

13       (I) NOT LATER THAN 10 SCHOOL DAYS AFTER RECEIVING THE DECI-  
14 SION OF THE IMPARTIAL HEARING OFFICER, A PARTY AGGRIEVED BY THE  
15 FINDINGS AND DECISION OF THE HEARING OFFICER MAY APPEAL TO THE  
16 DEPARTMENT. THE APPEALING PARTY SHALL SEND A COPY OF THE APPEAL  
17 TO EACH OF THE OTHER PARTIES. IF AN APPEAL IS MADE UNDER THIS  
18 SUBDIVISION, THE SCHOOL DISTRICT SHALL ENSURE THAT THE HEARING  
19 OFFICER HAS DELIVERED THE WRITTEN FINDINGS AND DECISION TO THE  
20 DEPARTMENT PURSUANT TO SUBDIVISION (H) AND SHALL DELIVER A COPY  
21 OF THE VERBATIM WRITTEN RECORD OF THE HEARING TO THE DEPARTMENT  
22 NOT LATER THAN 3 SCHOOL DAYS AFTER RECEIPT OF THE APPEAL. THE  
23 DEPARTMENT SHALL CONDUCT AN IMPARTIAL REVIEW OF THE HEARING. THE  
24 DEPARTMENT REVIEWING OFFICIAL SHALL DO ALL OF THE FOLLOWING:

25       (i) EXAMINE THE ENTIRE HEARING RECORD.

1       (ii) ENSURE THAT THE PROCEDURES AT THE HEARING WERE  
2 CONSISTENT WITH THIS SECTION AND THE REQUIREMENTS OF DUE  
3 PROCESS.

4       (iii) SEEK ADDITIONAL EVIDENCE IF NECESSARY. IF A HEARING  
5 IS HELD TO OBTAIN ADDITIONAL EVIDENCE, THE PUPIL AND PARENT OR  
6 LEGAL GUARDIAN HAVE THE SAME RIGHTS IN THAT HEARING AS UNDER SUB-  
7 DIVISION (G), THE DEPARTMENT REVIEWING OFFICIAL HAS THE SAME  
8 POWERS AND FUNCTIONS AS THE HEARING OFFICER UNDER THAT SUBDIVI-  
9 SION, AND THE HEARING SHALL BE HELD AT A TIME AND PLACE REASON-  
10 ABLY CONVENIENT TO THE PARTIES.

11       (iv) AFFORD THE PARTIES AN OPPORTUNITY FOR ORAL OR WRITTEN  
12 ARGUMENT, OR BOTH, AT THE DISCRETION OF THE REVIEWING OFFICIAL.  
13 IF ORAL ARGUMENT IS HELD, IT SHALL BE HELD AT A TIME AND PLACE  
14 REASONABLY CONVENIENT TO THE PARTIES.

15       (v) NOT LATER THAN 30 CALENDAR DAYS AFTER RECEIPT OF THE  
16 APPEAL, MAKE AN INDEPENDENT WRITTEN DECISION AFTER COMPLETION OF  
17 THE REVIEW AFFIRMING, REVERSING, OR MODIFYING THE DECISION OF THE  
18 HEARING OFFICER OR REMANDING THE MATTER TO THE HEARING OFFICER  
19 FOR FURTHER PROCEEDINGS AND MAIL A COPY OF THE WRITTEN DECISION  
20 TO EACH PARTY BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED.

21       (J) UNLESS THE PUPIL OR PARENT OR LEGAL GUARDIAN BRINGS AN  
22 ACTION UNDER SECTION 1311G, THE DECISION OF THE DEPARTMENT  
23 REVIEWING OFFICIAL IS FINAL.

24       (3) UNLESS THE BOARD OF A SCHOOL DISTRICT SPECIFICALLY FINDS  
25 THAT THE PRESENCE OF THE PUPIL POSES A SERIOUS THREAT TO THE  
26 PHYSICAL SAFETY OF OTHER PUPILS OR SCHOOL PERSONNEL AND DOCUMENTS  
27 THAT FINDING IN WRITING, A PUPIL WHO IS THE SUBJECT OF EXPULSION



1 PROCEEDINGS UNDER THIS SECTION OR OF A JUDICIAL PROCEEDING  
2 BROUGHT UNDER SECTION 1311G REGARDING THE EXPULSION SHALL BE  
3 ALLOWED TO REMAIN IN HIS OR HER REGULAR EDUCATIONAL PROGRAM PEND-  
4 ING THE OUTCOME OF THE PROCEEDINGS. IF A PUPIL IS EXCLUDED UNDER  
5 THIS SECTION, THE SCHOOL DISTRICT SHALL INITIATE THE PROCEDURES  
6 REQUIRED UNDER SUBSECTION (2) NOT LATER THAN 24 HOURS AFTER THE  
7 PUPIL IS EXCLUDED.

8 SEC. 1311G. A PARTY AGGRIEVED BY THE FINAL DECISION OF THE  
9 BOARD OF A SCHOOL DISTRICT UNDER SECTION 1311D OR THE DEPARTMENT  
10 UNDER SECTION 1311E OR 1311F MAY BRING SUIT IN THE CIRCUIT COURT  
11 FOR A COUNTY IN WHICH ALL OR PART OF THE SCHOOL DISTRICT IS  
12 LOCATED. THE COURT MAY GRANT APPROPRIATE LEGAL OR EQUITABLE  
13 RELIEF.

14 SEC. 1311H. NOT LATER THAN 6 MONTHS AFTER THE EFFECTIVE  
15 DATE OF THIS SECTION, THE DEPARTMENT SHALL DEVELOP AND DISTRIBUTE  
16 A LIST OF INDIVIDUALS QUALIFIED TO SERVE AS A HEARING OFFICER FOR  
17 A HEARING CONDUCTED UNDER SECTION 1311E OR 1311F, AND SHALL PERI-  
18 ODICALLY UPDATE THE LIST. THE LIST SHALL INCLUDE A STATEMENT OF  
19 THE QUALIFICATIONS OF EACH OF THE INDIVIDUALS. EACH SCHOOL DIS-  
20 TRICT SHALL MAINTAIN THE LIST AND PROVIDE A COPY TO A PUPIL OR  
21 PARENT OR LEGAL GUARDIAN WHO REQUESTS A HEARING UNDER ANY OF  
22 THOSE SECTIONS.

23 SEC. 1311I. IF A PUPIL OR PARENT OR LEGAL GUARDIAN INVOLVED  
24 IN A PROCEEDING UNDER SECTION 1311D, 1311E, OR 1311F IS DEAF OR  
25 HAS LIMITED ENGLISH SPEAKING ABILITY, THE SCHOOL DISTRICT  
26 INVOLVED SHALL PROVIDE AN INTERPRETER FOR EACH HEARING.

1 SEC. 1311J. (1) THE BOARD OF A SCHOOL DISTRICT SHALL  
2 PROVIDE ALTERNATIVE EDUCATION FOR ALL PUPILS WHO ARE SUSPENDED OR  
3 EXPELLED OR ARE EXCLUDED PENDING SUSPENSION OR EXPULSION PROCEED-  
4 INGS UNDER SECTION 1311D(4), 1311E(4), OR 1311F(3) AND SHALL MAKE  
5 THE ALTERNATIVE EDUCATION PROGRAMS AVAILABLE TO OTHER PUPILS AND  
6 TO DROPOUTS WHO CHOOSE TO PARTICIPATE.

7 (2) NOT LATER THAN 6 MONTHS AFTER THE EFFECTIVE DATE OF THIS  
8 SECTION, A BOARD SHALL DEVELOP A POLICY TO CREATE AND IMPLEMENT 1  
9 OR MORE PROGRAMS OF ALTERNATIVE EDUCATION UNDER SUBSECTION (1)  
10 THAT MEET ALL OF THE FOLLOWING REQUIREMENTS:

11 (A) IS THE SUBSTANTIAL EQUIVALENT OF THE PUPIL'S PREVIOUS  
12 EDUCATIONAL PROGRAM.

13 (B) IS AVAILABLE TO A PUPIL UNTIL THE PUPIL ATTAINS AGE 21.

14 (C) IS APPROPRIATE FOR THE PUPIL'S AGE.

15 (D) IS PROVIDED AT NO COST TO THE PUPIL OR THE PUPIL'S  
16 PARENT OR LEGAL GUARDIAN.

17 (E) PROVIDES HOURS OF INSTRUCTION THAT ARE AT LEAST EQUIVA-  
18 LENT TO THE PUPIL'S PREVIOUS EDUCATIONAL PROGRAM.

19 (F) PROVIDES A PUPIL IN THE PROGRAM WITH FULL CREDIT FOR  
20 WORK COMPLETED AND ALLOWS THE PUPIL TO MAKE REGULAR PROGRESS  
21 TOWARD GRADUATION.

22 (G) RESULTS IN A HIGH SCHOOL DIPLOMA THAT IS IDENTICAL TO  
23 OTHER HIGH SCHOOL DIPLOMAS AWARDED BY THE SCHOOL DISTRICT.

24 (H) PROVIDES THE OPPORTUNITY FOR A PUPIL TO RETURN TO REGU-  
25 LAR EDUCATION AS SOON AS POSSIBLE BY INCLUDING AT LEAST THE EDU-  
26 CATIONAL AND BEHAVIORAL SERVICES NECESSARY TO PREPARE THE PUPIL  
27 TO SUCCESSFULLY RETURN TO REGULAR EDUCATION AND PERIODIC REVIEWS

1 OF EACH PUPIL TO MONITOR AND PROMOTE HIS OR HER READINESS TO  
2 RETURN TO REGULAR EDUCATION.

3 (I) IS TAUGHT BY CERTIFICATED TEACHERS.

4 (J) IF POSSIBLE, IS LOCATED IN THE SAME SCHOOL THE PUPIL  
5 WOULD ATTEND FOR HIS OR HER REGULAR EDUCATIONAL PROGRAM.

6 (K) PROVIDES TRANSPORTATION TO THE LOCATION OF THE ALTERNA-  
7 TIVE EDUCATION IF THAT LOCATION IS DIFFERENT FROM THE SCHOOL THE  
8 PUPIL WOULD ATTEND FOR HIS OR HER REGULAR EDUCATIONAL PROGRAM.

9 (L) IS PROVIDED IN 1 OR MORE UNLOCKED ROOMS OF ADEQUATE SIZE  
10 AND VENTILATION AND DOES NOT PLACE A PUPIL IN ISOLATION.

11 (3) A BOARD SHALL FILE A COPY OF THE POLICY REQUIRED UNDER  
12 SUBSECTION (2) WITH THE DEPARTMENT.

13 (4) IN DEVELOPING THE POLICY REQUIRED UNDER SUBSECTION (2),  
14 A BOARD SHALL ENSURE THE ACTIVE PARTICIPATION OF SCHOOL BOARD  
15 MEMBERS, SCHOOL BUILDING ADMINISTRATORS, TEACHERS AND OTHER  
16 SCHOOL EMPLOYEES, PUPILS, PARENTS, AND OTHER RESIDENTS OF THE  
17 SCHOOL DISTRICT. THE PERSONS SELECTED TO PARTICIPATE UNDER THIS  
18 SUBSECTION SHALL BE REPRESENTATIVE OF THE RACIAL, ETHNIC, SOCIAL,  
19 AND ECONOMIC MAKEUP OF RESIDENTS OF THE SCHOOL DISTRICT.

20 (5) A BOARD SHALL ENSURE THAT THE PARENT OR LEGAL GUARDIAN  
21 OF A SUSPENDED OR EXPELLED PUPIL HAS A MEANINGFUL OPPORTUNITY TO  
22 BE INVOLVED IN AND TO GIVE INPUT INTO THE DECISION ON THE TYPE OF  
23 ALTERNATIVE EDUCATION TO BE PROVIDED FOR THE PUPIL.

24 (6) NOT LATER THAN 3 MONTHS AFTER THE EFFECTIVE DATE OF THIS  
25 SECTION, THE STATE BOARD SHALL DEVELOP A MODEL POLICY FOR CRE-  
26 ATION AND IMPLEMENTATION OF ALTERNATIVE EDUCATION PROGRAMS. THE  
27 MODEL POLICY SHALL INCLUDE ILLUSTRATIVE MODELS OF VARIOUS TYPES

1 OF ALTERNATIVE EDUCATION THAT MEET THE REQUIREMENTS OF THIS  
2 SECTION, INCLUDING AT LEAST ALL OF THE FOLLOWING:

3 (A) OPPORTUNITIES TO COMPLETE AND RECEIVE CREDIT FOR ASSIGN-  
4 MENTS AND EXAMINATIONS MISSED DURING A SUSPENSION OR EXPULSION.

5 (B) IN-SCHOOL SUSPENSION PROGRAMS IN WHICH THE PUPIL IS  
6 REASSIGNED TO ANOTHER LOCATION WITHIN THE SCHOOL BUILDING TO WORK  
7 ON ASSIGNMENTS AND EXAMINATIONS UNDER THE SUPERVISION OF A  
8 TEACHER.

9 (C) TRANSFER TO ANOTHER SCHOOL WITHIN OR WITHOUT THE SCHOOL  
10 DISTRICT.

11 (D) SPECIAL CENTRALIZED ALTERNATIVE EDUCATION PROGRAMS.

12 (7) THIS SECTION DOES NOT LIMIT THE OPPORTUNITY OF A DROPOUT  
13 TO RETURN TO THE REGULAR EDUCATION PROGRAM AT ANY TIME.

14 SEC. 1311K. THE STATE BOARD SHALL REVIEW AND MONITOR EACH  
15 SCHOOL DISTRICT'S SUSPENSIONS AND EXPULSIONS AS REPORTED IN THE  
16 ANNUAL EDUCATIONAL REPORT UNDER SECTION 1204A. IF MONITORING  
17 REVEALS SUSPENSIONS OR EXPULSIONS IN A SCHOOL DISTRICT AT 125% OR  
18 MORE OF THE STATEWIDE AVERAGE IN A PARTICULAR SCHOOL YEAR OR DIS-  
19 PARATE IMPACT OF SUSPENSIONS AND EXPULSIONS IN A SCHOOL DISTRICT  
20 ON 1 OR MORE GROUPS OF PUPILS, THE STATE BOARD SHALL CONDUCT AN  
21 AUDIT OF SUSPENSION AND EXPULSION PRACTICES IN THE SCHOOL  
22 DISTRICT.

23 SEC. 1311L. (1) SECTIONS 1311 TO 1311K DO NOT PROHIBIT  
24 SCHOOL OFFICIALS FROM TAKING IMMEDIATE ACTION NECESSARY TO PRO-  
25 TECT PUPILS AND EMPLOYEES FROM AN IMMINENT THREAT TO PHYSICAL  
26 SAFETY.

1       (2) SECTIONS 1311 TO 1311K DO NOT LIMIT THE RIGHTS OF  
2 HANDICAPPED PUPILS UNDER STATE AND FEDERAL LAW.

3       SEC. 1763. THE BOARD OF A LOCAL SCHOOL DISTRICT SHALL  
4 ENSURE THAT A PUPIL WHO IS BEING EVALUATED PURSUANT TO STATE  
5 BOARD RULE OR SECTION 1311 OR 1711 TO DETERMINE IF HE OR SHE IS  
6 HANDICAPPED IS ALLOWED TO REMAIN IN HIS OR HER REGULAR EDUCA-  
7 TIONAL PROGRAM UNTIL THE INTERMEDIATE SCHOOL DISTRICT COMPLETES  
8 THE EVALUATION AND THE PUPIL'S PARENTS OR LEGAL GUARDIAN AGREE TO  
9 PLACING THE PUPIL IN A DIFFERENT EDUCATIONAL PROGRAM.