



HOUSE BILL No. 5096

October 12, 1993, Introduced by Reps. Jondahl, Schroer, Scott, Brown, Wallace, Points, Freeman, DeMars, Rivers, Dalman, Hollister and Dobronski 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~~ IF THE board of a school district
2 ~~that~~ does not want to forfeit a percentage of the school
3 district's state school aid as described in section 19 of the
4 state school aid act of 1979, Act No. 94 of the Public Acts of
5 1979, being section 388.1619 of the Michigan Compiled Laws, or
6 ~~that~~ wants THE SCHOOL DISTRICT to receive and ~~is~~ TO BE eligi-
7 ble for additional state school aid for quality programs as pro-
8 vided in sections 21(1) and 21a of the state school aid act of
9 1979, being sections 388.1621 and 388.1621a of the Michigan
10 Compiled Laws, THE BOARD shall prepare AN ANNUAL EDUCATION
11 REPORT, make THAT REPORT available to the state board and the
12 public, and provide that each school in the school district dis-
13 tributes THAT REPORT to the public at an open meeting. ~~an~~
14 ~~annual educational report. The~~ EXCEPT AS PROVIDED IN
15 SUBSECTION (2), THE annual educational report shall include, but
16 is not limited to, all of the following information for each
17 public school in the school district:

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

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

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

(d) A report for each school of aggregate student

achievement based upon the results of any locally-administered student competency tests, statewide assessment tests, or nationally normed achievement tests that were given to pupils attending school in the school district.

(E) FOR THE YEAR IN WHICH THE REPORT IS FILED, A REPORT OF

EACH OF THE FOLLOWING, WITH THE NUMBER AND PERCENTAGE OF PUPILS

IDENTIFIED BY AGE, GRADE LEVEL, SOCIOECONOMIC STATUS AS DETER-

MINED BY THE PUPIL'S ELIGIBILITY FOR THE FEDERAL HOT LUNCH SUBSI-

DY, RACE OR ETHNICITY, GENDER, AND WHETHER THEY RECEIVE SPECIAL

EDUCATION SERVICES:

(i) THE NUMBER AND PERCENTAGE OF PUPILS WHO WERE SUSPENDED

FROM ANY SCHOOL IN THE SCHOOL DISTRICT FOR A TOTAL ACCUMULATION

OF NOT LESS THAN 10 DAYS DURING THE SCHOOL YEAR, THE LENGTH OF

TIME OF EACH SUSPENSION, THE REASON FOR EACH SUSPENSION, AND

WHETHER THE SUSPENSION AFFECTED THE PUPIL'S ACADEMIC STANDING BY

CONTRIBUTING TO A NUMBER OF ABSENCES THAT CAUSED A LOSS OF

CREDIT.

(ii) THE NUMBER AND PERCENTAGE OF PUPILS WHO LOST ACADEMIC

CREDIT, OR RECEIVED A FAILING GRADE IN A COURSE, SOLELY BECAUSE

OF THE OPERATION OF A SCHOOL'S ATTENDANCE POLICY.

(iii) THE NUMBER AND PERCENTAGE OF PUPILS WHO WERE EXPELLED

FROM ANY SCHOOL IN THE SCHOOL DISTRICT, THE LENGTH OF TIME OF

EACH EXPULSION, WHETHER THE EXPULSION WAS PERMANENT OR LESS THAN

PERMANENT, AND WHETHER THE OPPORTUNITY FOR ALTERNATIVE EDUCATION

WAS MADE AVAILABLE TO THE PUPIL.

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

4 (v) THE NUMBER AND PERCENTAGE OF PUPILS WHO ARE MORE THAN 2
5 GRADE LEVELS BEHIND THE GRADE LEVEL IN WHICH THEY WOULD BE
6 EXPECTED TO BE ENROLLED BASED UPON THE AGE AT WHICH THEY STARTED
7 SCHOOL.

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

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

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

23 (H) ~~(g)~~ A comparison with the immediately preceding school
24 year of the information required by subdivisions (a) through
25 ~~(f)~~ (G).

26 (2) FOR THE PURPOSE OF THE ANNUAL EDUCATION REPORT
27 DISTRIBUTED TO THE PUBLIC AS DESCRIBED IN SUBSECTION (1), THE

1 INFORMATION REQUIRED TO BE REPORTED UNDER ANY SINGLE CATEGORY
2 SPECIFIED IN SUBSECTION (1)(E) OR UNDER SUBSECTION (1)(F) OR (G)
3 MAY BE AGGREGATED BY SCHOOL IF THE NUMBER OF PUPILS IN A SPECI-
4 FIED CATEGORY AT THE SCHOOL IS 2 OR LESS IN EACH GRADE LEVEL, AND
5 MAY BE AGGREGATED BY SCHOOL DISTRICT IF THE NUMBER OF PUPILS IN A
6 SPECIFIED CATEGORY AGGREGATED BY SCHOOL IS 2 OR LESS IN EACH
7 SCHOOL. THE SCHOOL DISTRICT SHALL ENSURE THAT ALL INFORMATION
8 REPORTED TO THE DEPARTMENT UNDER SUBSECTION (1) IS AVAILABLE TO
9 THE PUBLIC AT EACH SCHOOL WITHIN THE SCHOOL DISTRICT IN ACCORD-
10 ANCE WITH THE FREEDOM OF INFORMATION ACT, ACT NO. 442 OF THE
11 PUBLIC ACTS OF 1976, BEING SECTIONS 15.231 TO 15.246 OF THE
12 MICHIGAN COMPILED LAWS, AND SHALL PUBLISH THE INFORMATION IN A
13 NEWSPAPER IN GENERAL CIRCULATION WITHIN THE SCHOOL DISTRICT.

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

21 (4) NOT LATER THAN 90 DAYS AFTER THE EFFECTIVE DATE OF THE
22 AMENDATORY ACT THAT ADDED THIS SUBSECTION, THE STATE BOARD SHALL
23 PREPARE AND MAKE AVAILABLE TO SCHOOL DISTRICTS A FORM TO BE USED
24 UNDER THIS SECTION FOR REPORTING THE INFORMATION REQUIRED UNDER
25 SUBSECTION (1)(E) THROUGH (G). THE FORM SHALL BE DEVELOPED IN A
26 MANNER THAT ENSURES THAT A PUPIL IS NOT COUNTED MORE THAN ONCE
27 FOR EACH SUSPENSION, EXPULSION, DROPOUT, COURSE FAILURE RELATED

1 TO ATTENDANCE, OR RETENTION AT GRADE LEVEL AND TO ENSURE AN
2 ACCURATE COUNT OF THE TOTAL NUMBER OF SUSPENSIONS, EXPULSIONS,
3 DROPOUTS, COURSE FAILURES RELATED TO ATTENDANCE, AND RETENTIONS
4 AT GRADE LEVEL IN A SCHOOL DISTRICT.

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

21 SEC. 1311A. AS USED IN SECTIONS 1311B THROUGH 1311L:

22 (A) "DROPOUT" MEANS A PUPIL WHO WAS ENROLLED IN A REGULAR
23 SCHOOL EDUCATIONAL PROGRAM IN A SCHOOL DISTRICT BUT LEAVES THE
24 REGULAR SCHOOL PROGRAM IN THAT SCHOOL DISTRICT FOR A REASON OTHER
25 THAN DEATH AND DOES NOT REENROLL IN A REGULAR SCHOOL PROGRAM IN
26 ANOTHER SCHOOL DISTRICT.

1 (B) "EXPULSION" OR "EXPEL" MEANS TO PROHIBIT A PUPIL FROM
2 ATTENDING ALL OR PART OF THE SCHOOL DAY OR FROM BEING TRANSPORTED
3 TO OR FROM SCHOOL BY THE SCHOOL DISTRICT FOR A TIME PERIOD OF
4 MORE THAN 10 CONSECUTIVE SCHOOL DAYS.

5 (C) "LONG-TERM SUSPENSION" MEANS TO SUSPEND A PUPIL FROM ALL
6 OR PART OF THE SCHOOL DAY FOR EITHER A TIME PERIOD OF MORE THAN 3
7 CONSECUTIVE SCHOOL DAYS UP TO 10 CONSECUTIVE SCHOOL DAYS, OR A
8 CUMULATIVE TOTAL TIME PERIOD OF MORE THAN 10 SCHOOL DAYS IN 1
9 SEMESTER.

10 (D) "SCHOOL DAY" MEANS A DAY ON WHICH CLASSES ARE SCHEDULED
11 TO BE HELD FOR PUPILS.

12 (E) "SCHOOL DISTRICT" MEANS A SCHOOL DISTRICT, LOCAL ACT
13 SCHOOL DISTRICT, OR INTERMEDIATE SCHOOL DISTRICT.

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

17 (G) "SUSPENSION" OR "SUSPEND" MEANS TO EXCLUDE A PUPIL FOR
18 DISCIPLINARY REASONS FROM HIS OR HER REGULARLY SCHEDULED CLASSES
19 FOR AT LEAST 1 FULL CLASS PERIOD OR FROM BEING TRANSPORTED TO OR
20 FROM SCHOOL BY THE SCHOOL DISTRICT FOR 1 OR MORE SCHOOL DAYS, BUT
21 DOES NOT INCLUDE EXPULSION.

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

25 (2) A SCHOOL DISTRICT SHALL NOT EXPEL A PUPIL FOR A TIME
26 PERIOD THAT EXCEEDS THE NUMBER OF DAYS REMAINING IN THE BALANCE

1 OF THE SEMESTER DURING WHICH THE PUPIL IS EXPELLED OR FOR A TIME
2 PERIOD THAT EXCEEDS THE TOTAL NUMBER OF DAYS IN A SEMESTER.

3 (3) A SCHOOL DISTRICT SHALL NOT EXPEL OR SUSPEND A PUPIL FOR
4 TARDINESS, EXCESSIVE ABSENCES, OR ANY OTHER ATTENDANCE RELATED
5 REASON.

6 (4) A SCHOOL DISTRICT SHALL NOT SUSPEND, EXPEL, EXCLUDE FROM
7 CURRICULAR OR EXTRACURRICULAR SCHOOL ACTIVITIES, OR OTHERWISE
8 DISCIPLINE A PUPIL FOR IMPROPER CONDUCT UNLESS THE CONDUCT TAKES
9 PLACE EITHER ON SCHOOL PREMISES OR WHILE THE PUPIL IS ENGAGED IN
10 A SCHOOL ACTIVITY.

11 (5) A SCHOOL DISTRICT SHALL TREAT A CLASS HOUR OR SCHOOL DAY
12 MISSED BY A SUSPENDED OR EXPELLED PUPIL OR MISSED BY A PUPIL
13 PENDING SUSPENSION OR EXPULSION AS AN EXCUSED ABSENCE AND SHALL
14 NOT IMPOSE AN ACADEMIC PENALTY FOR AN ABSENCE EXCUSED UNDER THIS
15 SUBSECTION.

16 (6) A SCHOOL DISTRICT SHALL ENSURE THAT A SUSPENDED OR
17 EXPELLED PUPIL IS ALLOWED A REASONABLE PERIOD OF TIME TO COMPLETE
18 ASSIGNMENTS AND EXAMINATIONS THE PUPIL MISSED WHILE SUSPENDED OR
19 EXPELLED AND THAT THE PUPIL RECEIVES FULL ACADEMIC CREDIT FOR
20 SUCCESSFUL COMPLETION OF THOSE ASSIGNMENTS AND EXAMINATIONS.

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

25 SEC. 1311C. (1) NOT LATER THAN 6 MONTHS AFTER THE EFFECTIVE
26 DATE OF THIS SECTION, THE BOARD OF EACH SCHOOL DISTRICT SHALL
27 ADOPT A WRITTEN POLICY ON SUSPENSIONS AND EXPULSIONS THAT IS

1 CONSISTENT WITH SECTIONS 1311A THROUGH 1311L. THE POLICY SHALL
2 AT LEAST EXPLAIN THE OFFENSES FOR WHICH A PUPIL MAY BE SUSPENDED
3 OR EXPELLED, THE RANGE OF DISCIPLINE FOR EACH OFFENSE, AND THE
4 RIGHTS OF PUPILS AND PARENTS IN THE DISCIPLINARY PROCESS.

5 (2) THE POLICY ADOPTED UNDER THIS SECTION SHALL IDENTIFY AND
6 DEFINE A CONTINUUM OF RESPONSES TO DISCIPLINARY SITUATIONS THAT
7 INCLUDES RESPONSES SUCH AS POSITIVE REWARDS, COUNSELING, AND
8 IN-SCHOOL PENALTIES AS WELL AS SUSPENSIONS AND EXPULSIONS.

9 (3) THE POLICY ADOPTED UNDER THIS SECTION SHALL BE WRITTEN
10 IN PLAIN LANGUAGE THAT PUPILS AND PARENTS CAN REASONABLY BE
11 EXPECTED TO UNDERSTAND, INCLUDING WRITTEN TRANSLATIONS FOR HOME
12 LANGUAGES OTHER THAN ENGLISH, AND THE BOARD OF THE SCHOOL DIS-
13 TRICT SHALL ENSURE THAT A COPY OF THE POLICY IS PROVIDED TO EACH
14 PUPIL AND PARENT OF A PUPIL IN THE SCHOOL DISTRICT WITHIN 3
15 MONTHS AFTER IT IS APPROVED BY THE STATE BOARD. AFTER THE INI-
16 TIAL DISTRIBUTION OF THE POLICY, THE BOARD SHALL ENSURE THAT EACH
17 PUPIL AND PARENT OF A PUPIL IN THE DISTRICT RECEIVE A COPY OF THE
18 POLICY AT THE BEGINNING OF EACH SCHOOL YEAR AND THAT NEWLY
19 ENROLLED PUPILS AND THEIR PARENTS RECEIVE A COPY UPON ENROLLMENT
20 IN THE SCHOOL DISTRICT. IN ADDITION, EACH SCHOOL SHALL POST A
21 COPY OF ITS SCHOOL DISTRICT'S POLICY IN CONSPICUOUS, PUPIL ORI-
22 ENTED LOCATIONS ON THE SCHOOL PREMISES.

23 (4) BEFORE DISTRIBUTING COPIES OF THE POLICY REQUIRED UNDER
24 THIS SECTION, THE BOARD OF A SCHOOL DISTRICT SHALL SUBMIT A COPY
25 OF THE POLICY TO THE STATE BOARD FOR APPROVAL. IF THE POLICY
26 MEETS THE REQUIREMENTS OF THIS SECTION, THE STATE BOARD SHALL
27 APPROVE THE POLICY. IF THE POLICY DOES NOT MEET THE REQUIREMENTS

1 OF THIS SECTION, THE STATE BOARD SHALL NOTIFY THE LOCAL BOARD OF
2 THE DEFECT AND THE LOCAL BOARD SHALL REVISE THE POLICY
3 ACCORDINGLY.

4 (5) THE BOARD OF A SCHOOL DISTRICT MAY PERIODICALLY REVISE
5 THE POLICY ADOPTED UNDER THIS SECTION. A REVISED POLICY SHALL BE
6 SUBMITTED TO THE STATE BOARD FOR APPROVAL AS PROVIDED IN
7 SUBSECTION (4), AND REVISED COPIES SHALL BE DISTRIBUTED AS PRO-
8 VIDED IN SUBSECTION (3) AFTER STATE BOARD APPROVAL.

9 (6) IN DEVELOPING THE POLICY REQUIRED UNDER THIS SECTION,
10 THE BOARD OF A SCHOOL DISTRICT SHALL ENSURE THE ACTIVE PARTICIPA-
11 TION OF BOARD MEMBERS, SCHOOL BUILDING ADMINISTRATORS, TEACHERS
12 AND OTHER SCHOOL EMPLOYEES, PUPILS, PARENTS, AND OTHER RESIDENTS
13 OF THE SCHOOL DISTRICT. THE BOARD SHALL ALSO ENSURE THAT THE
14 PERSONS SELECTED TO PARTICIPATE UNDER THIS SUBSECTION ARE REPRE-
15 SENTATIVE OF THE RACIAL, ETHNIC, SOCIAL, AND ECONOMIC MAKEUP OF
16 RESIDENTS OF THE SCHOOL DISTRICT.

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

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

24 (2) THE BOARD OF EACH SCHOOL DISTRICT SHALL DESIGNATE 1 OR
25 MORE BUILDING ADMINISTRATORS IN EACH CLASSROOM BUILDING IN THE
26 DISTRICT TO ACT AS A BUILDING LEVEL HEARING OFFICER TO CONDUCT
27 HEARINGS HELD UNDER SUBSECTION (3). A HEARING UNDER

1 SUBSECTION (3) SHALL BE CONDUCTED BY A BUILDING LEVEL HEARING
2 OFFICER FROM A BUILDING OTHER THAN THE BUILDING WHERE THE EVENTS
3 THAT ARE THE SUBJECT OF THE HEARING OCCURRED AND WHO WAS NOT
4 INVOLVED IN THOSE EVENTS.

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

8 (A) THE BUILDING LEVEL HEARING OFFICER THAT WILL CONDUCT THE
9 HEARING UNDER SUBDIVISION (B) SHALL INFORM THE PUPIL AND THE
10 PUPIL'S PARENT OR LEGAL GUARDIAN, ORALLY OR IN WRITING AND IN
11 WORDS AND A LANGUAGE THAT THE PUPIL OR PARENT OR LEGAL GUARDIAN
12 UNDERSTANDS, OF ALL OF THE FOLLOWING:

13 (i) THE CONDUCT THAT IS THE BASIS OF THE ALLEGATIONS AGAINST
14 THE PUPIL.

15 (ii) THE RULE OR RULES THAT THE PUPIL IS ALLEGED TO HAVE
16 VIOLATED.

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

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

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

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

26 (B) THE BUILDING LEVEL HEARING OFFICER SHALL CONDUCT A
27 HEARING IN WHICH THE PUPIL IS GIVEN AN ADEQUATE OPPORTUNITY TO

1 CHALLENGE THE EVIDENCE AND WITNESSES AGAINST HIM OR HER. AT THE
2 HEARING, THE PUPIL SHALL BE INFORMED, IN TERMS AND A LANGUAGE
3 THAT THE PUPIL UNDERSTANDS, THAT HE OR SHE IS NOT REQUIRED TO
4 ADMIT OR DENY THE ALLEGATIONS AGAINST HIM OR HER.

5 (C) THE BUILDING LEVEL HEARING OFFICER WHO WILL CONDUCT THE
6 HEARING REQUIRED UNDER SUBDIVISION (B) SHALL NOTIFY THE PUPIL'S
7 PARENT OR LEGAL GUARDIAN OF THE HEARING BEFORE CONDUCTING THE
8 HEARING AND SHALL DETERMINE WHETHER THE PARENT OR LEGAL GUARDIAN
9 CHOOSES TO ATTEND. IF THE PARENT OR LEGAL GUARDIAN CHOOSES TO
10 ATTEND THE HEARING, THE HEARING SHALL BE HELD AT A TIME AND PLACE
11 THAT IS CONVENIENT FOR THE PARENT OR LEGAL GUARDIAN AND HE OR SHE
12 SHALL BE GIVEN AN ADEQUATE OPPORTUNITY TO CHALLENGE THE EVIDENCE
13 AND WITNESSES AGAINST THE PUPIL.

14 (D) THE BUILDING LEVEL HEARING OFFICER WHO CONDUCTS THE
15 HEARING REQUIRED UNDER SUBDIVISION (B) SHALL DECIDE WHETHER OR
16 NOT THE SUSPENSION IS JUSTIFIED AND SHALL DOCUMENT HIS OR HER
17 DECISION AND THE FACTS SUPPORTING HIS OR HER DECISION IN WRITING
18 AND SUBMIT A COPY OF THE WRITTEN DECISION TO THE BOARD OF THE
19 SCHOOL DISTRICT. IF THE BUILDING LEVEL HEARING OFFICER'S DECISION
20 IS THAT THE SUSPENSION IS NOT JUSTIFIED, THE PUPIL SHALL NOT
21 BE SUSPENDED.

22 (E) THE PUPIL OR THE PUPIL'S PARENT OR LEGAL GUARDIAN, OR
23 BOTH, MAY APPEAL THE DECISION OF THE BUILDING LEVEL HEARING OFFICER
24 TO THE SCHOOL DISTRICT SUPERINTENDENT. IF AN APPEAL IS MADE,
25 THE SUPERINTENDENT SHALL REVIEW THE SUSPENSION AND DETERMINE
26 WHETHER, UNDER ALL THE CIRCUMSTANCES, THE SUSPENSION IS JUSTIFIED
27 AND WHETHER THE PROCEDURES REQUIRED UNDER THIS SECTION WERE

1 FOLLOWED CORRECTLY. IF THE SUPERINTENDENT DETERMINES THAT THE
2 SUSPENSION IS NOT JUSTIFIED OR THAT THE PROCEDURES WERE NOT FOL-
3 LOWED CORRECTLY, THE PUPIL SHALL NOT BE SUSPENDED. THE SUPERIN-
4 TENDENT SHALL DOCUMENT HIS OR HER DECISION AND THE FACTS SUPPORT-
5 ING HIS OR HER DECISION IN WRITING AND SUBMIT A COPY OF THE WRIT-
6 TEN DECISION TO THE BOARD OF THE SCHOOL DISTRICT.

7 (F) NOT LATER THAN 10 SCHOOL DAYS AFTER RECEIVING THE DECI-
8 SION OF THE SCHOOL DISTRICT SUPERINTENDENT UNDER SUBDIVISION (E),
9 THE PUPIL OR THE PUPIL'S PARENT OR LEGAL GUARDIAN, OR BOTH, MAY
10 APPEAL THE DECISION OF THE SCHOOL DISTRICT SUPERINTENDENT TO THE
11 BOARD OF THE SCHOOL DISTRICT. IF AN APPEAL IS MADE TO THE BOARD,
12 THE BOARD SHALL, NOT EARLIER THAN 15 DAYS AND NOT LATER THAN 30
13 DAYS AFTER RECEIVING THE APPEAL, REVIEW THE SUSPENSION AND DETER-
14 MINE WHETHER, UNDER ALL THE CIRCUMSTANCES, THE SUSPENSION IS JUS-
15 TIFIED AND WHETHER THE PROCEDURES REQUIRED UNDER THIS SECTION
16 WERE FOLLOWED CORRECTLY. IF THE BOARD DETERMINES THAT THE SUS-
17 PENSION IS NOT JUSTIFIED OR THAT THE PROCEDURES WERE NOT FOLLOWED
18 CORRECTLY, THE PUPIL SHALL NOT BE SUSPENDED.

19 (G) NOT LATER THAN 15 DAYS AFTER ITS REVIEW OR 30 DAYS AFTER
20 RECEIVING THE APPEAL; WHICHEVER IS EARLIER, THE BOARD OF THE
21 SCHOOL DISTRICT SHALL MAKE WRITTEN FINDINGS OF FACT AND A FINAL
22 WRITTEN DECISION REGARDING THE SUSPENSION AND SEND A COPY OF THE
23 FINDINGS AND DECISION BY CERTIFIED MAIL, RETURN RECEIPT
24 REQUESTED, TO THE PUPIL OR THE PUPIL'S PARENT OR LEGAL GUARDIAN
25 AND TO THE DEPARTMENT.

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

4 (4) UNLESS THE BUILDING PRINCIPAL OF THE BUILDING THE PUPIL
5 ATTENDS SPECIFICALLY FINDS THAT THE PRESENCE OF THE PUPIL IN
6 SCHOOL POSES A SERIOUS THREAT TO THE PHYSICAL SAFETY OF OTHER
7 PUPILS OR SCHOOL PERSONNEL AND DOCUMENTS THAT FINDING IN WRITING,
8 A PUPIL INVOLVED IN THE SHORT-TERM SUSPENSION PROCEEDINGS UNDER
9 THIS SECTION OR IN A JUDICIAL PROCEEDING BROUGHT UNDER SECTION
10 1311G REGARDING THE SUSPENSION SHALL BE ALLOWED TO REMAIN IN HIS
11 OR HER REGULAR EDUCATIONAL PROGRAM PENDING THE OUTCOME OF THE
12 PROCEEDINGS. IF A PUPIL IS EXCLUDED UNDER THIS SUBSECTION, THE
13 BUILDING LEVEL HEARING OFFICER SHALL INITIATE THE PROCEDURES
14 REQUIRED UNDER SUBSECTION (3) NOT LATER THAN 24 HOURS AFTER THE
15 PUPIL IS EXCLUDED.

16 SEC. 1311E. (1) A SCHOOL DISTRICT MAY SUSPEND A PUPIL FOR A
17 LONG-TERM SUSPENSION ONLY FOR INTENTIONAL CONDUCT THAT CREATES A
18 DEFINABLE THREAT TO THE PHYSICAL SAFETY OF OTHER PUPILS OR SCHOOL
19 PERSONNEL.

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

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

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

6 (i) THE CONDUCT THAT FORMS THE BASIS FOR THE ALLEGATIONS
7 AGAINST THE PUPIL.

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

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

10 (iv) THE DATE, TIME, AND PLACE OF THE HEARING TO BE HELD BY
11 THE SUPERINTENDENT UNDER SUBDIVISION (B).

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

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

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

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

1 (i) TO BE ADVISED AND REPRESENTED BY AN ATTORNEY OR OTHER
2 PERSON OF THEIR CHOOSING.

3 (ii) TO CONFRONT AND CROSS-EXAMINE ADVERSE WITNESSES.

4 (iii) TO PRESENT EVIDENCE ON BEHALF OF THE PUPIL AND MAY
5 SUBPOENA WITNESSES.

6 (iv) IS NOT REQUIRED TO TESTIFY.

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

10 (E) AFTER THE HEARING, THE SCHOOL DISTRICT SUPERINTENDENT
11 SHALL MAKE WRITTEN FINDINGS OF FACT AND A WRITTEN DECISION
12 WHETHER OR NOT TO IMPOSE A LONG-TERM SUSPENSION, AND SHALL IMPOSE
13 A LONG-TERM SUSPENSION ONLY IF HE OR SHE FINDS BY CLEAR AND CON-
14 VINING EVIDENCE PRESENTED AT THE HEARING THAT THE PUPIL HAS COM-
15 MITTED THE ACT OR ACTS ALLEGED, THAT THE ACT OR ACTS VIOLATE 1 OR
16 MORE PROPERLY ESTABLISHED AND DISTRIBUTED SCHOOL RULES, AND THAT
17 THE ACT OR ACTS CONSTITUTE A PROPER BASIS FOR LONG-TERM SUSPEN-
18 SION UNDER SUBSECTION (1). THE SUPERINTENDENT SHALL NOT IMPOSE A
19 LONG-TERM SUSPENSION IF HE OR SHE FINDS THAT THE REQUIREMENTS OF
20 SUBDIVISION (A) HAVE NOT BEEN MET. THE SUPERINTENDENT SHALL
21 SUBMIT A COPY OF HIS OR HER FINDINGS AND DECISION TO THE BOARD OF
22 THE SCHOOL DISTRICT AND TO THE PUPIL AND THE PUPIL'S PARENT OR
23 LEGAL GUARDIAN.

24 (F) NOT LATER THAN 10 SCHOOL DAYS AFTER RECEIVING THE DECI-
25 SION OF THE SCHOOL DISTRICT SUPERINTENDENT UNDER SUBDIVISION (E),
26 THE PUPIL OR THE PUPIL'S PARENT OR LEGAL GUARDIAN, OR BOTH, MAY
27 APPEAL THE DECISION OF THE SCHOOL DISTRICT SUPERINTENDENT TO THE

1 BOARD OF THE SCHOOL DISTRICT. IF AN APPEAL IS MADE TO THE BOARD,
2 THE BOARD SHALL APPOINT OR CONTRACT WITH AN INDEPENDENT HEARING
3 OFFICER WHO IS MUTUALLY AGREEABLE TO THE PARTIES. THE HEARING
4 OFFICER SHALL NOT BE AN EMPLOYEE OR BOARD MEMBER OF A SCHOOL DIS-
5 TRICT, THE DEPARTMENT, OR THE STATE BOARD; SHALL NOT HAVE A PER-
6 SONAL OR PROFESSIONAL INTEREST THAT WOULD CONFLICT WITH HIS OR
7 HER OBJECTIVITY IN CONDUCTING THE HEARING; AND SHALL HAVE GOOD
8 WORKING KNOWLEDGE OF STATE AND FEDERAL LAW RELATING TO
9 EDUCATION. THE BOARD OF THE SCHOOL DISTRICT SHALL COMPENSATE THE
10 HEARING OFFICER AND PAY ALL OTHER COSTS OF CONDUCTING THE
11 HEARING.

12 (G) NOT EARLIER THAN 15 DAYS AND NOT LATER THAN 30 DAYS
13 AFTER THE BOARD OF THE SCHOOL DISTRICT RECEIVES THE APPEAL UNDER
14 SUBDIVISION (F), THE HEARING OFFICER SHALL CONDUCT A HEARING TO
15 REVIEW THE LONG-TERM SUSPENSION AND DETERMINE WHETHER, UNDER ALL
16 THE CIRCUMSTANCES, THE LONG-TERM SUSPENSION IS JUSTIFIED AND
17 WHETHER THE PROCEDURES REQUIRED UNDER THIS SECTION WERE FOLLOWED
18 CORRECTLY. THE HEARING OFFICER MAY ISSUE SUBPOENAS AND COMPEL
19 THE TESTIMONY OF WITNESSES, REQUIRE A PREHEARING CONFERENCE TO
20 CLARIFY MATTERS PERTAINING TO THE HEARING, CONTROL THE CONDUCT OF
21 PARTIES OR PARTICIPANTS IN THE HEARING TO ASSURE AN ORDERLY PRO-
22 CEEDING, AND SUSPEND OR POSTPONE THE HEARING FOR GOOD CAUSE. AT
23 THE HEARING, THE PUPIL AND PARENT OR LEGAL GUARDIAN HAVE ALL OF
24 THE FOLLOWING RIGHTS:

25 (i) TO BE PRESENT AT THE HEARING.

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

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

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

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

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

12 (vii) TO OBTAIN WRITTEN FINDINGS OF FACT AND A WRITTEN
13 DECISION.

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

15 (h) NOT LATER THAN 30 DAYS AFTER THE HEARING OR 45 DAYS
16 AFTER THE APPEAL IS RECEIVED BY THE BOARD, WHICHEVER IS EARLIER,
17 THE HEARING OFFICER SHALL MAKE WRITTEN FINDINGS OF FACT AND A
18 FINAL WRITTEN DECISION ON WHETHER THE LONG-TERM SUSPENSION IS
19 JUSTIFIED AND SEND A COPY OF THE FINDINGS AND DECISION BY CERTI-
20 FIED MAIL, RETURN RECEIPT REQUESTED, TO EACH PARTY AND TO THE
21 DEPARTMENT.

22 (i) NOT LATER THAN 10 SCHOOL DAYS AFTER RECEIVING THE DECI-
23 SION OF THE HEARING OFFICER, A PARTY AGGRIEVED BY THE FINDINGS
24 AND DECISION OF THE HEARING OFFICER MAY APPEAL TO THE
25 DEPARTMENT. THE APPEALING PARTY SHALL SEND A COPY OF THE APPEAL
26 TO EACH OF THE OTHER PARTIES. IF AN APPEAL IS MADE UNDER THIS
27 SUBSECTION, THE SCHOOL DISTRICT SHALL ENSURE THAT THE HEARING

1 OFFICER HAS DELIVERED THE WRITTEN FINDINGS AND DECISION TO THE
2 DEPARTMENT PURSUANT TO SUBDIVISION (H) AND SHALL DELIVER A COPY
3 OF THE VERBATIM WRITTEN RECORD OF THE HEARING TO THE DEPARTMENT
4 NOT LATER THAN 3 SCHOOL DAYS AFTER RECEIPT OF THE APPEAL. THE
5 DEPARTMENT SHALL CONDUCT AN IMPARTIAL REVIEW OF THE HEARING. THE
6 DEPARTMENT REVIEWING OFFICIAL SHALL DO ALL OF THE FOLLOWING:

7 (i) EXAMINE THE ENTIRE HEARING RECORD.

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

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

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

21 (v) NOT LATER THAN 30 CALENDAR DAYS AFTER RECEIPT OF THE
22 APPEAL, MAKE AN INDEPENDENT WRITTEN DECISION AFTER COMPLETION OF
23 THE REVIEW AFFIRMING, REVERSING, OR MODIFYING THE DECISION OF THE
24 HEARING OFFICER OR REMANDING THE MATTER TO THE HEARING OFFICER
25 FOR FURTHER PROCEEDINGS AND MAIL A COPY OF THE WRITTEN DECISION
26 TO EACH PARTY BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED.

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

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

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

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

22 (A) AT LEAST 3 SCHOOL DAYS BEFORE THE HEARING DESCRIBED IN
23 SUBDIVISION (B), THE SCHOOL DISTRICT SUPERINTENDENT SHALL NOTIFY
24 THE PUPIL AND THE PUPIL'S PARENT OR LEGAL GUARDIAN ORALLY AND IN
25 WRITING, IN WORDS AND A LANGUAGE THE PUPIL AND PARENT OR LEGAL
26 GUARDIAN WILL UNDERSTAND, OF ALL OF THE FOLLOWING:

1 (i) THE CONDUCT THAT FORMS THE BASIS FOR THE ALLEGATIONS
2 AGAINST THE PUPIL.

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

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

5 (iv) THE DATE, TIME, AND PLACE OF THE HEARING TO BE HELD BY
6 THE SUPERINTENDENT UNDER SUBDIVISION (B).

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

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

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

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

22 (i) TO BE ADVISED AND REPRESENTED BY AN ATTORNEY OR OTHER
23 PERSON OF THEIR CHOOSING.

24 (ii) TO CONFRONT AND CROSS-EXAMINE ADVERSE WITNESSES.

25 (iii) TO PRESENT EVIDENCE ON BEHALF OF THE PUPIL AND MAY
26 SUBPOENA WITNESSES.

1 (iv) IS NOT REQUIRED TO TESTIFY.

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

5 (E) AFTER THE HEARING, THE SCHOOL DISTRICT SUPERINTENDENT
6 SHALL MAKE WRITTEN FINDINGS OF FACT AND A WRITTEN DECISION
7 WHETHER OR NOT TO EXPEL THE PUPIL, AND SHALL EXPEL THE PUPIL ONLY
8 IF THE SCHOOL DISTRICT SUPERINTENDENT FINDS BY CLEAR AND CONVINC-
9 ING EVIDENCE PRESENTED AT THE HEARING THAT THE PUPIL HAS COMMIT-
10 TED THE ACT OR ACTS ALLEGED, THAT THE ACT OR ACTS VIOLATE 1 OR
11 MORE PROPERLY ESTABLISHED AND DISTRIBUTED SCHOOL RULES, AND THAT
12 THE ACT OR ACTS CONSTITUTE A PROPER BASIS FOR EXPULSION UNDER
13 SUBSECTION (1). THE SUPERINTENDENT SHALL NOT EXPEL A PUPIL IF HE
14 OR SHE FINDS THAT THE REQUIREMENTS OF SUBDIVISION (A) HAVE NOT
15 BEEN MET. THE SUPERINTENDENT SHALL SUBMIT A COPY OF HIS OR HER
16 FINDINGS AND DECISION TO THE BOARD OF THE SCHOOL DISTRICT AND TO
17 THE PUPIL AND THE PUPIL'S PARENT OR LEGAL GUARDIAN.

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

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

6 (G) NOT EARLIER THAN 15 DAYS AND NOT LATER THAN 30 DAYS
7 AFTER THE BOARD OF THE SCHOOL DISTRICT RECEIVES THE APPEAL UNDER
8 SUBDIVISION (F), THE HEARING OFFICER SHALL CONDUCT A HEARING TO
9 REVIEW THE EXPULSION AND DETERMINE WHETHER, UNDER ALL THE CIRCUM-
10 STANCES, THE EXPULSION IS JUSTIFIED AND WHETHER THE PROCEDURES
11 REQUIRED UNDER THIS SECTION WERE FOLLOWED CORRECTLY. THE HEARING
12 OFFICER MAY ISSUE SUBPOENAS AND COMPEL THE TESTIMONY OF WIT-
13 NESSES, REQUIRE A PREHEARING CONFERENCE TO CLARIFY MATTERS PER-
14 TAINING TO THE HEARING, CONTROL THE CONDUCT OF PARTIES OR PARTIC-
15 IPANTS IN THE HEARING TO ASSURE AN ORDERLY PROCEEDING, AND SUS-
16 PEND OR POSTPONE THE HEARING FOR GOOD CAUSE. AT THE HEARING, THE
17 PUPIL AND PARENT OR LEGAL GUARDIAN HAVE ALL OF THE FOLLOWING
18 RIGHTS:

19 (i) TO BE PRESENT AT THE HEARING.

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

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

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

26 (v) TO PROHIBIT THE INTRODUCTION OF ANY EVIDENCE OR THE
27 TESTIMONY OF ANY WITNESS IF THE EVIDENCE OR SUBSTANCE OF THE

1 TESTIMONY HAS NOT BEEN DISCLOSED TO THE PUPIL AND PARENT OR LEGAL
2 GUARDIAN AT LEAST 5 CALENDAR DAYS BEFORE THE HEARING.

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

6 (vii) TO OBTAIN WRITTEN FINDINGS OF FACT AND A WRITTEN
7 DECISION.

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

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

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

1 (i) EXAMINE THE ENTIRE HEARING RECORD.

2 (ii) ENSURE THAT THE PROCEDURES AT THE HEARING WERE CONSIS-
3 TENT WITH THIS SECTION AND THE REQUIREMENTS OF DUE 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 IN SCHOOL POSES A SERIOUS THREAT
26 TO THE PHYSICAL SAFETY OF OTHER PUPILS OR SCHOOL PERSONNEL AND
27 DOCUMENTS THAT FINDING IN WRITING, A PUPIL WHO IS THE SUBJECT OF

1 EXPULSION PROCEEDINGS UNDER THIS SECTION OR OF A JUDICIAL
2 PROCEEDING BROUGHT UNDER SECTION 1311G REGARDING THE EXPULSION
3 SHALL BE ALLOWED TO REMAIN IN HIS OR HER REGULAR EDUCATIONAL PRO-
4 GRAM PENDING THE OUTCOME OF THE PROCEEDINGS. IF A PUPIL IS
5 EXCLUDED UNDER THIS SECTION, THE SCHOOL DISTRICT SUPERINTENDENT
6 SHALL INITIATE THE PROCEDURES REQUIRED UNDER SUBSECTION (2) NOT
7 LATER THAN 24 HOURS AFTER THE 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 TO EACH SCHOOL DISTRICT A LIST OF INDIVIDUALS QUALIFIED TO SERVE
17 AS A HEARING OFFICER FOR A HEARING CONDUCTED UNDER SECTION 1311E
18 OR 1311F, AND SHALL PERIODICALLY UPDATE THE LIST. THE LIST SHALL
19 INCLUDE A STATEMENT OF THE QUALIFICATIONS OF EACH OF THE
20 INDIVIDUALS. EACH SCHOOL DISTRICT SHALL MAINTAIN THE LIST AND
21 PROVIDE A COPY TO A PUPIL OR PARENT OR LEGAL GUARDIAN WHO
22 REQUESTS A HEARING UNDER SECTION 1311E OR 1311F.

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
5 MAKE THE ALTERNATIVE EDUCATION PROGRAMS AVAILABLE TO OTHER PUPILS
6 AND 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 ACADEMIC
20 CREDIT FOR WORK COMPLETED AND ALLOWS THE PUPIL TO MAKE REGULAR
21 PROGRESS 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 BOARD MEMBERS,
15 SCHOOL BUILDING ADMINISTRATORS, TEACHERS AND OTHER SCHOOL EMPLOY-
16 EES, PUPILS, PARENTS, AND OTHER RESIDENTS OF THE SCHOOL
17 DISTRICT. THE BOARD SHALL ALSO ENSURE THAT THE PERSONS SELECTED
18 TO PARTICIPATE UNDER THIS SUBSECTION ARE REPRESENTATIVE OF THE
19 RACIAL, ETHNIC, SOCIAL, AND ECONOMIC MAKEUP OF RESIDENTS OF THE
20 SCHOOL DISTRICT.

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

26 (6) NOT LATER THAN 3 MONTHS AFTER THE EFFECTIVE DATE OF THIS
27 SECTION, THE STATE BOARD SHALL DEVELOP A MODEL POLICY FOR

1 CREATION AND IMPLEMENTATION OF ALTERNATIVE EDUCATION PROGRAMS.
2 THE MODEL POLICY SHALL INCLUDE ILLUSTRATIVE MODELS OF VARIOUS
3 TYPES OF ALTERNATIVE EDUCATION THAT MEET THE REQUIREMENTS OF THIS
4 SECTION, INCLUDING AT LEAST ALL OF THE FOLLOWING:

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

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

11 (C) TRANSFER TO ANOTHER SCHOOL WITHIN OR WITHOUT THE SCHOOL
12 DISTRICT.

13 (D) SPECIAL CENTRALIZED ALTERNATIVE EDUCATION PROGRAMS.

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

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

25 SEC. 1311L. (1) SECTIONS 1311 TO 1311K DO NOT PROHIBIT
26 SCHOOL DISTRICT OFFICIALS FROM TAKING IMMEDIATE ACTION NECESSARY

1 TO PROTECT PUPILS AND EMPLOYEES FROM AN IMMINENT THREAT TO
2 PHYSICAL SAFETY.

3 (2) SECTIONS 1311 TO 1311K DO NOT LIMIT THE RIGHTS OF HANDI-
4 CAPPED PUPILS UNDER STATE AND FEDERAL LAW.

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