

SENATE BILL NO. 1228

November 18, 2020, Introduced by Senators IRWIN, HOLLIER, MCBROOM, BAYER, GEISS, CHANG and SANTANA and referred to the Committee on Education and Career Readiness.

A bill to amend 1976 PA 451, entitled
"The revised school code,"
(MCL 380.1 to 380.1852) by adding section 1310e.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1310e. (1) The board of a school district or intermediate
2 school district or board of directors of a public school academy,
3 or its designee, must appoint 1 or more independent decision
4 makers. A hearing required under section 1310d(5) must be conducted
5 by the independent decision maker or independent decision makers.
6 The independent decision maker or independent decision makers shall

1 determine whether the pupil is to be subject to a suspension of
2 more than 10 days, expulsion, or alternative placement for more
3 than 10 days and make an alternative placement recommendation for
4 the pupil if appropriate. The independent decision maker or
5 independent decision makers shall not do any of the following:

6 (a) Conduct an independent investigation of the disciplinary
7 incident.

8 (b) Provide testimony at the hearing.

9 (c) Present evidence at the hearing.

10 (2) The independent decision maker or independent decision
11 makers shall apply a preponderance of the evidence standard when
12 rendering a decision under this section.

13 (3) The independent decision maker or independent decision
14 makers shall do all of the following at a hearing under this
15 section:

16 (a) Disclose to a pupil that it is possible under applicable
17 law that any testimony the pupil gives in the presence of law
18 enforcement officers may be used against the pupil in a court of
19 law at a future date.

20 (b) Offer to the pupil, and the pupil's parent, legal
21 guardian, or representative described in subsection (5), a closed
22 hearing without the presence of the public, law enforcement
23 officers, or security guards except as necessary for the safety of
24 the participants in the hearing.

25 (c) Invite input from the pupil, and the pupil's parent, legal
26 guardian, or representative described in subsection (5), for each
27 of the factors listed in section 1310d(1).

28 (d) Make findings for each of the factors listed in section
29 1310d(1).

1 (4) The independent decision maker or independent decision
2 makers shall submit a written report of a decision under this
3 section to the appointing board of a school district or
4 intermediate school district or board of directors of a public
5 school academy, or designee, that must contain all of the
6 following:

7 (a) A finding of whether the evidence proves that the pupil
8 committed the conduct in question.

9 (b) A justification for the finding of whether the evidence
10 proves that the pupil committed the conduct in question.

11 (c) Clear and convincing evidence that the independent
12 decision maker or independent decision makers considered each of
13 the factors set forth in section 1310d(1).

14 (d) An alternative placement recommendation for the pupil, if
15 appropriate.

16 (e) If an alternative placement recommendation is not
17 appropriate, the rationale for that determination.

18 (f) An explanation of the pupil's appeal rights and the appeal
19 procedures.

20 (5) A pupil has the right to be represented by an attorney or
21 a non-attorney advocate at a hearing required by section 1310d(5).
22 An attorney or a non-attorney advocate may participate in the
23 hearing on behalf of the pupil and take any action the pupil is
24 entitled to take.

25 (6) The board of a school district or intermediate school
26 district or board of directors of a public school academy, or its
27 designee, must give the pupil's parent or legal guardian a copy of
28 the report required under subsection (4), and notice by telephone
29 and by mail or electronic mail of all of the following:

1 (a) The disciplinary decision.

2 (b) A reinstatement plan, if appropriate.

3 (c) If a reinstatement plan is not appropriate, the rationale
4 for that determination.

5 (7) This section does not diminish any rights of a pupil under
6 federal law.

7 (8) Before implementing a disciplinary decision under this
8 section for a pupil with an individualized education program, the
9 board of a school district or intermediate school district or board
10 of directors of a public school academy, or its designee, must
11 invite the pupil to meet with his or her individualized education
12 program team to determine how the school district will provide a
13 free and appropriate public education in a timely manner.

14 (9) An independent decision maker appointed under this section
15 must not be either of the following:

16 (a) An employee of a school district, intermediate school
17 district, or public school academy, that is involved in the
18 education or care of the pupil subject to disciplinary action.

19 (b) An individual with a personal or professional conflict of
20 interest.

21 (10) As used in this section:

22 (a) "Alternative placement recommendation" means an
23 individualized recommendation for a pupil to further the pupil's
24 public education for the duration of the removal, including
25 placement in any of the following:

26 (i) Another school building.

27 (ii) An alternative or disciplinary program.

28 (iii) A cyber school.

29 (iv) An alternative, disciplinary, or virtual program offered

1 by a neighboring school district or by an intermediate school
2 district.

3 (v) Home-based or community-based instruction with district-
4 provided curriculum.

5 (vi) An adult education program.

6 (vii) A community college if a dual-enrollment relationship
7 exists.

8 (b) "Individualized education program" means that term as
9 defined in section 614 of the individuals with disabilities
10 education act, 20 USC 1414.

11 (c) "Individualized education program team" means that term as
12 defined in section 614 of the individuals with disabilities
13 education act, 20 USC 1414.

14 Enacting section 1. This amendatory act does not take effect
15 unless all of the following bills of the 100th Legislature are
16 enacted into law:

17 (a) Senate Bill No. 1230.

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19 (b) Senate Bill No. 1229.

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