


Michigan State - Rethink Discipline Bills

 The bills revise the state's zero-tolerance law and address the overuse of exclusionary discipline practices such as suspensions and expulsions

Policy Background

Michigan's [Rethink Discipline bills](#) revise the state's former zero-tolerance law and address the overuse of exclusionary discipline practices such as suspensions and expulsions.

The bills are based on recommendations that arose from the formation of the [Michigan School-Justice Partnership](#), which invited every county in Michigan to create a "School Justice Partnership Team" in 2013 and develop an action plan to reduce suspensions, expulsions, and absenteeism. Diverse teams of students, educators, judges, and advocates, among many others, came together to put forward recommendations for changing the state's harsh discipline laws, which resulted in the drafting of a model discipline code, school board resolutions, and ultimately the Rethink Discipline bill.

The Student Advocacy Center of Michigan explains the rationale for developing the Rethink Discipline bills:

"Michigan had one of the harshest discipline codes in the country, mandating expulsion for a large variety of reasons. The intent was to keep students safe, but evidence showed that far too many students were being removed, and that districts often felt their hands were tied and were forced to expel. In the end, students (particularly students of color and students with disabilities) were put at greater risk of school dropout and criminal justice involvement and not given the adult support needed to truly learn from their mistakes, make amends, and make educational progress."

The new laws end state-mandated student expulsions for every offense except for the possession of firearms, and they require school districts to consider the use of restorative practices as an alternative to, or addition to, suspension or expulsion. According to the law, restorative practices should be the first consideration to remediate offenses such as interpersonal conflicts, bullying, verbal and physical conflicts, theft, damage to property, class disruption, and harassment and cyberbullying.

Partners who were involved in drafting the bill added a rebuttable presumption clause intended to

protect students and families; the clause states that student removals from school that exceed 10 days are not justified until seven factors are considered, including whether or not less severe interventions could be used to address the issue:

1. The student's age.
2. The student's disciplinary history.
3. Whether the student has a disability.
4. The seriousness of the violation or behavior.
5. Whether the violation or behavior committed by the student threatened the safety of any student or staff member.
6. Whether restorative practices will be used to address the violation or behavior.
7. Whether a lesser intervention would properly address the violation or behavior.

The [Student Advocacy Center of Michigan](#) and its partners fought to keep the clause in the bill even when some advocates expressed concern about the language. In addition, the Student Advocacy Center and other grassroots organizations brought students to Michigan's capital to testify in support of the bills and participate in direct actions and demonstrations, including "[The Zero Tolerance Game of Life](#)" on the Capitol Lawn.

In December 2016, the bills passed with the rebuttable presumption clause intact. The new bills went into effect on August 1, 2017.

Policy Language

[EXCERPT]

THE REVISED SCHOOL CODE Act 451 of 1976

380.1310c Restorative practices as alternative or in addition to suspension or expulsion; definitions.

(1) A school board or its designee shall consider using restorative practices as an alternative or in addition to suspension or expulsion under this act. If a school board or its designee suspends or expels a pupil under this act, the school board or its designee shall consider using restorative practices in

addition to suspension or expulsion. If a school board or its designee decides not to suspend or expel a pupil for a disciplinary issue, the school board or its designee shall consider using restorative practices to address the disciplinary issue.

(2) Restorative practices may include victim-offender conferences that are initiated by the victim; that are approved by the victim's parent or legal guardian or, if the victim is at least age 15, by the victim; that are attended voluntarily by the victim, a victim advocate, the offender, members of the school community, and supporters of the victim and the offender; and that provide an opportunity for the offender to accept responsibility for the harm caused to those affected by the misconduct and to participate in setting consequences to repair the harm. The attendees, known as a restorative practices team, may require the pupil to do 1 or more of the following: apologize; participate in community service, restoration, or counseling; or pay restitution. The selected consequences shall be incorporated into an agreement that sets time limits for completion of the consequences and is signed by all participants. Restorative practices should be the first consideration to remediate offenses such as interpersonal conflicts, bullying, verbal and physical conflicts, theft, damage to property, class disruption, and harassment and cyberbullying.

(3) As used in this section:

(a) "Bullying" and "cyberbullying" mean those terms as defined in section 1310b.

(b) "Restorative practices" means practices that emphasize repairing the harm to the victim and the school community caused by a pupil's misconduct.

(c) "School board" means a school board, intermediate school board, or the board of directors of a public school academy.

(d) "School district" means a school district, an intermediate school district, or a public school academy.

380.1310d Suspension or expulsion of pupil; factors; exercise of discretion; rebuttable presumption; section inapplicable for possession of firearm in weapon free school zone; consideration of factors mandatory; definitions.

(1) Before suspending or expelling a pupil under section 1310, 1311(1), 1311(2), or 1311a, the board of a school district or intermediate school district or board of directors of a public school academy, or a superintendent, school principal, or other designee under section 1311(1), shall consider each of the following factors:

(a) The pupil's age.

(b) The pupil's disciplinary history.

(c) Whether the pupil is a student with a disability.

(d) The seriousness of the violation or behavior committed by the pupil.

(e) Whether the violation or behavior committed by the pupil threatened the safety of any pupil or staff

member.

(f) Whether restorative practices will be used to address the violation or behavior committed by the pupil.

(g) Whether a lesser intervention would properly address the violation or behavior committed by the pupil.

(2) Except as provided in subsection (3), this section applies to give the board of a school district or intermediate school district or board of directors of a public school academy, or its designee, discretion over whether or not to suspend or expel a pupil under section 1310, 1311(1), 1311(2), or 1311a. In exercising this discretion with regard to a suspension of more than 10 days or an expulsion, there is a rebuttable presumption that a suspension or expulsion is not justified unless the board or board of directors, or its designee, can demonstrate that it considered each of the factors listed under subsection (1). For a suspension of 10 or fewer days, there is no rebuttable presumption, but the board or board of directors, or its designee, shall consider each of the factors listed under subsection (1).

(3) This section does not apply to a pupil being expelled under section 1311(2) for possessing a firearm in a weapon free school zone.

(4) Except as provided in subsection (3), consideration of the factors listed in subsection (1) is mandatory before suspending or expelling a student under section 1310, 1311(1), 1311(2), or 1311a. The method used for consideration of the factors is at the sole discretion of the board of a school district or intermediate school district or board of directors of a public school academy, or its designee.

(5) As used in this section:

(a) “Expel” means to exclude a pupil from school for disciplinary reasons for a period of 60 or more school days.

(b) “Firearm” means that term as defined in section 1311.

(c) “Suspend” means to exclude a pupil from school for disciplinary reasons for a period of fewer than 60 school days.

(d) “Weapon free school zone” means that term as defined in section 1311.

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