



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

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Sub. S.B. 246

132nd General Assembly
(As Passed by the Senate)

Sens. Lehner and Manning, Beagle, Wilson, Brown, Williams, Sykes, Thomas, Tavares, Eklund, Hottinger, O'Brien, Schiavoni

BILL SUMMARY

Positive Behavior Intervention and Supports

- Clarifies that each school district, community school, STEM or STEAM school, and college-preparatory boarding school must implement a Positive Behavior Intervention and Supports (PBIS) framework and provides a list of potential objectives.
- Requires all teacher preparation programs to include PBIS instruction to students pursuing a license to teach in any of grades pre-kindergarten to five.
- Requires each school district, within three years, to provide professional development in PBIS to certain prescribed teachers and administrators.
- Requires each district's professional development committee to establish model courses and monitor a district's provision of professional development in PBIS.
- Includes as a nongraded measure on a district's or building's report card a statement of whether the district or school has implemented a PBIS framework.

Suspension and expulsion

- Specifies that a student may be expelled for one year for bringing or possessing a knife only if that knife is capable of causing serious bodily injury.
- Requires a school district or school to permit suspended students to complete missed assignments and specifies that any in-school suspension must be served in a supervised learning environment.

- Prohibits out-of-school suspension or expulsion of students in grades pre-K through three for minor offenses but delays full implementation of the prohibition until the 2020-2021 school year.
- During the tiered implementation phase, requires each school district and school to annually report the out-of-school suspensions and expulsions it issues for pre-K through three students, categorized by type of offense.
- Requires the Department, by October 1 of each of school years 2017-2018, 2018-2019, 2019-2020, and 2020-2021, to submit a report containing both a summary of the best practices of implementing a PBIS framework and the total number of out-of-school suspensions and expulsions issued for pre-K through three students.

Emergency removal

- Reduces from three school days to one school day the time within which a hearing must be held on a student's emergency removal for posing a continuing danger to persons or property or an ongoing threat of disruption.
- Specifies that a student in any of grades pre-K through three may be removed under that provision only for the remainder of the school day unless the student committed an offense warranting suspension or expulsion.

Grants to implement PBIS

- Makes an appropriation and prescribes procedures for competitive grants to school districts, community schools, and STEM or STEAM schools to implement PBIS frameworks, evidence- or research-based social and emotional learning initiatives, or both, in buildings that serve any of grades kindergarten through three.

Title

- Entitles the bill the "Supporting Alternatives for Education Act," or the "SAFE Act."

CONTENT AND OPERATION

Overview

The bill specifies the objectives and contents of the Positive Behavior Intervention and Supports (PBIS) framework that each public school is required to implement under current law and administrative rule. Next, it promotes use of the PBIS framework in lieu of suspending or expelling younger students by gradually prohibiting suspension and expulsion of those students for minor offenses. The bill also makes related changes to the process for emergency removal of students, with specific provisions applying

only to younger students. Finally, the bill makes an appropriation for PBIS implementation grants.

I. Positive Behavior Intervention and Supports (PBIS)

Adoption of a PBIS framework

The bill clarifies that each school district, community school, STEM or STEAM school, or college-preparatory boarding school must implement a PBIS framework on a system-wide basis designed to improve academic and social outcomes and increase learning for all students.¹ The bill requires the Department of Education to oversee compliance with framework implementation. Each framework may focus on the following:

(1) Comprehensive, school-wide data systems that enable monitoring of academic progress, behavioral incidents, attendance, and other critical indicators across classrooms;

(2) School-wide investment in evidence-based curriculum and effective instructional strategies, matched to students' needs, and data to support teachers' academic instruction;

(3) An expectation by school administrators that classroom practices be linked to and aligned with the school-wide system; and

(4) Improving staff climate and culture regarding the role of discipline in the classroom, established through the use of positive and proactive communication and staff recognition.²

The bill specifies that each school district's policy of zero tolerance for violent, disruptive, or inappropriate behavior (required under continuing law) must comply with the PBIS provisions.³ Because community schools, STEM and STEAM schools, and college-preparatory boarding schools are not required to adopt zero tolerance policies, they are not included in this specification.

¹ R.C. 3319.46(B)(1)(a) and (C). R.C. 3319.46 applies to community schools, STEM and STEAM schools, and college-preparatory boarding schools through references in R.C. 3314.03(A)(11)(d), 3326.11, and 3328.24, none in bill. Currently, there are no public college-preparatory boarding schools organized under R.C. Chapter 3328. operating anywhere in the state.

² R.C. 3319.46(B)(2).

³ R.C. 3313.534.



Teacher training on PBIS required

Teacher preparation programs

The bill requires that each teacher preparation program include a course for all students pursuing a license to teach in any of grades pre-K to five that provides instruction on all of the following:

- (1) PBIS and social-emotional development;
- (2) Classroom systems for establishing the foundation for positive behavior, such as supervision, acknowledgment, prompts, and precorrection;
- (3) Classroom systems for responding to unwanted behavior, including error correction and other strategies;
- (4) Classroom data collection systems;
- (5) Effective instructional strategies and how to implement them with fidelity;
- (6) Matching curriculum to student needs and data; and
- (7) The impact of trauma, toxic stress, and other environmental variables on learning behavior.⁴

Continuing education

As part of the school-wide implementation of a PBIS framework, each school district must, within three years after the bill's effective date, provide professional development or continuing education in PBIS to all of the district's (1) teachers in buildings that serve students in any of grades pre-K through three and who completed a teacher preparation program prior to the bill's effective date and (2) administrators who serve students in any of grades pre-K through three who have not already completed a course, professional development, or continuing education in PBIS. Each district's local professional development committee must monitor compliance with this requirement and establish model professional development courses to assist in that compliance.⁵

⁴ R.C. 3319.237(A).

⁵ R.C. 3319.237(B).



State Board policy regarding PBIS

Within 90 days after the bill's effective date, the State Board of Education must amend its current policy and standards for the implementation of a PBIS framework to reflect the changes made by the bill.⁶ The current policy requires each school district to adopt PBIS, and encourages, but does not require, training on PBIS.⁷ The bill makes no changes that affect the State Board's policy and standards for the use of physical restraint or seclusion.

Compliance with PBIS as a report card measure

The bill requires the Department to include on a school district's or building's state report card without an assigned letter grade an answer of "yes" or "no" to the question of whether the district or building has implemented a PBIS framework in compliance with the bill.⁸

II. Suspension and expulsion

Provisions applicable to all students regardless of grade level

Specific violations warranting suspension or expulsion

Subject to procedural due process requirements applicable to all students, current law authorizes (but does not require) the suspension of any student from school for up to ten days for minor infractions and expulsion for up to 80 days for serious violations of the student code of conduct.⁹ The law also specifies a number of serious offenses for which expulsions of a year are required or may be authorized, such as: (1) bringing a firearm or knife to school, (2) possessing a firearm or knife at school, (3) making a bomb threat, or (4) causing serious physical harm to persons or property.¹⁰ The bill specifies that a student may be expelled on the basis of bringing or possessing a knife at school only if that knife is capable of causing serious bodily injury.¹¹

⁶ R.C. 3319.46(A).

⁷ Ohio Administrative Code 3301-35-15.

⁸ R.C. 3302.03(C)(2)(h).

⁹ R.C. 3313.66(A) and (B)(1).

¹⁰ R.C. 3313.66(B)(2) through (5).

¹¹ R.C. 3313.66(B)(3) and 3313.661(A).



Ability to make up work required

The bill requires, rather than permits as under current law enacted in 2016, a school district board to permit a student to complete classroom assignments missed during both in-school and out-of-school suspensions.¹²

Supervised learning environment

The bill specifies that the entirety of an "in-school suspension" must be served in a supervised learning environment within a school setting.¹³

Notice to the treasurer of the board

The bill requires a district superintendent or school principal to notify the district treasurer within one school day after an expulsion. Currently, they must notify the treasurer within one school day after either a suspension or an expulsion.¹⁴

Provisions applicable only to students in grades pre-K through three

Out-of-school suspension or expulsion for "minor offenses" prohibited

The bill prohibits a public school from issuing an out-of-school suspension or expulsion for a student in any of grades pre-K through three except, as provided by continuing law, for serious offenses or only as necessary to protect the immediate health and safety of the student, fellow classmates, classroom staff and teachers, or other school employees.¹⁵

A school district or school's authority to issue an in-school suspension to a student in any of grades pre-K through three is expressly not affected by the bill, as long as the suspension is served in a supervised learning environment.¹⁶

Delayed implementation

The bill delays full implementation of this prohibition. To that end, for each of school years 2017-2018, 2018-2019, 2019-2020, and 2020-2021, each school district or school must report to the Department the number of out-of-school suspensions and

¹² R.C. 3313.66(A).

¹³ R.C. 3313.66(A)(2) and (K)(2).

¹⁴ R.C. 3313.66(D).

¹⁵ R.C. 3313.668(B)(1).

¹⁶ R.C. 3313.668(B)(4).

expulsions issued for any of its students in any of grades pre-K through three, placing each suspension or expulsion in one of three categories:

- Category 1: A serious and specific offense for which suspension or expulsion is statutorily required (e.g., bringing a firearm to school) or statutorily authorized (e.g., possessing a firearm, bringing a knife capable of bodily injury, making a bomb threat, or causing serious harm to persons or property).
- Category 2: An offense not listed in Category 1 but for which the school district or school determined suspension was necessary to protect the immediate health and safety of the student, the student's fellow classmates, or the classroom staff or teachers.
- Category 3: A "minor offense" that neither belongs in Category 1 or Category 2.

Using the numbers reported for the 2017-2018 school year as a base line, each district or school must reduce the number of Category 3 suspensions according to the following schedule:¹⁷

Percentage of Reduction in Category 3 suspensions			
2017-2018	2018-2019	2019-2020	2020-2021
0%	25%	50%	100%

Accordingly, for the 2020-2021 school year, and each year thereafter, all suspensions and expulsions for students in any of grades pre-K through three must be for either Category 1 or Category 2 offenses. After that school year, a district is required to report the number of out-of-school suspensions and expulsions only if the Department determines that continued reporting is necessary to carry out any of the requirements of the bill.¹⁸

Consultation with a mental health professional

The bill requires the principal of a school, beginning with the 2018-2019 school year, to consult with a mental health professional under contract with the district or school prior to issuing an out-of-school suspension or expulsion for a student in any of grades pre-K through three. If the events leading up to suspension or expulsion indicate a need for additional mental health services, the principal or mental health professional

¹⁷ Section 5.

¹⁸ Section 5(A)(2).



must, without a financial burden to the district or school, assist the student's parent or guardian with locating providers or obtaining those services. That assistance might include referral to an independent mental health professional. This and all other provisions of the bill expressly do not limit a district's responsibility to provide special education and support services in the manner required by state and federal law.¹⁹

Reporting requirements

Under the bill, each school district, community school, STEM or STEAM school, and college-preparatory boarding school must submit any reports required by the Department of Education or the General Assembly with respect to (1) implementation of a PBIS framework or (2) suspension or expulsion of students in any of grades pre-K through three.²⁰ As discussed above, for each of school years 2017-2018 through 2020-2021, each board or governing authority must report to the Department data evidencing a reduction in Category 3 suspensions in compliance with the tiered implementation schedule.

Using that data, and not later than October 1 of each of school years 2017-2018 through 2020-2021, the Department must submit to the General Assembly and the Superintendent of Public Instruction a report containing the following:

(1) A summary of the best practices of implementing a PBIS framework by school districts throughout Ohio; and

(2) The total number of out-of-school suspensions and expulsions issued by a district or building to students in any of grades pre-K through three, disaggregated by category of offense and disaggregated within each category of offense according to sex, race, whether the student is economically disadvantaged, and whether the student has a disability.²¹

III. Emergency removal

Provisions applicable to all students regardless of grade level

Under continuing law, a building principal or teacher without prior notice and hearing may remove a student whose presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process taking place. That law

¹⁹ R.C. 3313.668(B)(2) and Sections 5(C)(1) and 6.

²⁰ R.C. 3319.46(B)(1)(c).

²¹ Section 5(F).



requires written notice as soon as practicable, prior to the post-removal hearing, which must be held within three school days from the time the initial removal was ordered.

The bill reduces the time limit for the post removal hearing to one school day.²²

Provisions applicable only to students in grades pre-k through three

The bill also specifies that a student in any of grades pre-K through three may be removed only for the remainder of the school day and must be permitted to return to curricular and extracurricular activities on the school day following the day the student was removed.²³ If the student is returned to activities in accordance with this requirement, the district or school does not have to satisfy the written notice and one-day post-removal hearing requirements. However, a school district may not initiate a suspension or expulsion proceeding against a young student who was removed unless (1) the student committed a serious offense or (2) it is necessary to protect the immediate health and safety of the student, the student's fellow classmates, or the classroom staff and teachers.²⁴

IV. Grants to implement PBIS

The bill appropriates \$2 million in fiscal year 2019 to provide competitive grants to school districts, community schools, and STEM or STEAM schools to implement PBIS frameworks, evidence- or research-based social and emotional learning initiatives, or both. The grants are limited to school buildings that serve any of grades kindergarten through three. The amount of any grant awarded must not exceed \$5,000 per eligible building, up to a maximum of \$50,000. The Superintendent of Public Instruction must administer and award the grants in accordance to prescribed priorities.

Highest priority must be given to districts and schools whose grant proposal serves at least one school building in which the percentage of economically disadvantaged students is greater than the statewide average. Next, secondary priority must be given to districts and schools whose grant proposal serves at least one building that has a high suspension rate, as determined by the state Superintendent. Finally, the remaining funds must be awarded to other applicants in the order in which applications are received.

²² R.C. 3313.66(C)(1) and (3).

²³ R.C. 3313.66(C)(2).

²⁴ R.C. 3313.66(C)(2).



The bill authorizes the state Superintendent to enter into a written agreement with each award recipient establishing the terms and conditions governing use award funds. The state Superintendent may also monitor and ensure the district's compliance with those conditions.

All grant funds must be used within two years from the date of an award.²⁵

HISTORY

ACTION	DATE
Introduced	12-21-17
Reported, S. Finance	05-16-18
Passed Senate (32-0)	05-16-18

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²⁵ Sections 3 and 4.

