2020 Second Extraordinary Session

HOUSE BILL NO. 83

BY REPRESENTATIVES ROMERO, AMEDEE, BRASS, GARY CARTER, EDMONDS, FREEMAN, FREIBERG, GAROFALO, HILFERTY, JEFFERSON, CHARLES OWEN, PHELPS, ST. BLANC, THOMAS, AND WRIGHT

STUDENT/DISCIPLINE: Provides relative to student discipline (Item #42)

AN ACT

To amend and reenact R.S. 17:416(C)(4) and (5) and to enact R.S. 17:416(K) and (L), relative to student discipline; to provide for judicial review of certain discipline actions; to provide for discipline policies applicable during online instruction; to provide for awarding of damages and attorney fees; to provide for applicability; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 17:416(C)(4) and (5) are hereby amended and reenacted and R.S. 17:416(K) and (L) are hereby enacted to read as follows:

§416. Discipline of students; suspension; expulsion

C.(1)

(4) The parent or tutor of the pupil who has been recommended for expulsion pursuant to this Section may, within five days after the decision is rendered, request the city or parish school board to review the findings of the superintendent or his designee at a time set by the school board; otherwise the decision of the superintendent shall be final. If requested, as herein provided, and after reviewing the findings of the superintendent or his designee, the school board may affirm, modify, or reverse the action previously taken. The parent or tutor of the pupil shall...
have such right of review even if the recommendation for expulsion is reduced to a suspension.

(5) The parent or tutor of the pupil who has been recommended for expulsion pursuant to this Section may, within ten days, appeal to the district court for the parish in which the student's school is located, an adverse ruling of the school board in upholding the action of the superintendent or his designee. The court may reverse or revise the ruling of the school board upon a finding that the ruling of the board was based on an absence of any relevant evidence in support thereof. The parent or tutor of the pupil shall have such right to appeal to the district court even if the recommendation for expulsion is reduced to a suspension.

* * *

K.(1) For the purposes of this Subsection, "virtual instruction" shall mean instruction provided to a student through an electronic delivery medium including but not limited to electronic learning platforms that remotely connect a student to classroom instruction from school property. A city or parish school board discipline policy shall clearly define the rules of conduct and expectations of students engaged in virtual instruction, shall provide for notice of such rule and expectations to the parents and guardians of students, shall include clearly defined consequences of conduct, shall be narrowly tailored to address compelling government interests, and shall take into consideration the students and their families' rights to privacy and other constitutional rights while at home or in a location that is not school property.

(2) Any student who has been subjected to suspension or recommended for expulsion for behavior displayed while participating in virtual instruction shall be entitled to the following:

(a) A hearing within thirty days conducted by the school board to determine whether charges should be dismissed and to provide the student with any other relief including but not limited to reinstating a student's enrollment status.
(b) De novo judicial review of the decision of the school board to have his
record cleared of the charge, to remove any other conditions placed on the student,
and to obtain any other relevant relief.

(c) Judicial review of any decision by the school board in the district court
where the student's school is located.

(d) Attorney fees awarded to the student, his parent, guardian, or tutor to
clear a student's record.

L. If a judgment is rendered in favor of a student who sought judicial review
of a decision of a school board pursuant to this Section, the judgment may include
an award for attorney fees if the court finds any school official acted in a grossly
negligent manner; with deliberate disregard for the consequences of his actions to
the student; with willful or malicious indifference; with intent to deprive the student,
his parent, guardian, or tutor of due process; or initiated a charge that is knowingly
false. The court may award any damages appropriate under the circumstances and
render any other appropriate relief including but not limited to requiring the school
board to issue an official apology letter, which shall be provided to the student, his
parent, guardian, or tutor, and retained in the student's educational records.

Section 2. This Act shall be applied retroactively to March 13, 2020, when all public
schools were ordered to close facilities to students pursuant to Section 2 of State of
Louisiana Executive Department Proclamation Number JBE 2020-27, "Additional Measures
for COVID-19 Public Health Emergency". This Act shall also be given prospective
application.

Section 3. No later than December 31, 2020, every public school board shall comply
with the provisions of R.S. 17:416.8 and convene a meeting of its disciplinary policy review
committee to update all policies and procedures relative to conduct that occurs at home or
other locations that are not school property where a student is participating in virtual
instruction.

Section 4. This Act shall become effective upon signature by the governor or, if not
signed by the governor, upon expiration of the time for bills to become law without signature

by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
vetoed by the governor and subsequently approved by the legislature, this Act shall become
effective on the day following such approval.
Section 5. This Act shall be known and may be cited as the "Ka'Mauri Harrison
Act".

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part
of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute
part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 83 Engrossed 2020 Second Extraordinary Session Romero

Abstract: Provides for judicial review of certain student discipline cases; requires public
school governing authorities to develop protocol for discipline of students
participating in online instruction.

Present law provides for the discipline of students for disorderly conduct in school, on
school playgrounds, while going to and from school, or during intermission or recess.
Proposed law retains present law.

Present law, upon the recommendation of a principal for the expulsion of a student, provides
for a hearing by the school board to determine the facts of the case and if the student's
conduct warrants expulsion. Proposed law retains present law. Proposed law makes present
law applicable even when a student's penalty is reduced to a suspension.

Present law authorizes a parent or tutor to appeal an expulsion to the district court for the
parish in which the student's school is located. Proposed law makes present law applicable
even when a student's penalty is reduced to a suspension.

Proposed law provides for discipline policies regarding students engaged in online
instruction while at home or a location that is not school property and provides for judicial
review of expulsions pursuant to such policies.

Proposed law provides that a judgment may include awarding of damages and attorney fees
if a court finds a school official's actions meet specified criteria.


Present law requires each public school board to review its discipline policies at least
annually. Requires each public school board to have established a discipline policy review
committee. Proposed law retains present law and requires such committees to meet no later
than Dec. 31, 2020, and update all policies and procedures relative to conduct that occurs at
home or any location that is not school property while a student is engaged in virtual
instruction.

Proposed law may be cited as the "Ka'Mauri Harrison Act".

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 17:416(C)(4) and (5); Adds R.S. 17:416(K) and (L))
Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Education to the original bill:

1. Add provision that proposed law shall be known as the "Ka'Mauri Harrison Act".