

18A:37-2; 18A:37-2.1

LEGISLATIVE HISTORY CHECKLIST

NJSA 18A:37-2; 18A:37-2.1 (Schools - Student assault - suspension)

LAWS OF 1979 CHAPTER 189

Bill No. S1455

Sponsor(s) Lipman and Yates

Date Introduced Nov. 20, 1978

Committee: Assembly Education

Senate Education

Amended during passage Yes ~~xix~~ Amendments during passage denoted by asterisks

Date of Passage: Assembly June 14, 1979

Senate April 5, 1979

Date of approval Sept. 11, 1979

Following statements are attached if available:

Sponsor statement	Yes	xix
Committee Statement: Assembly	Yes	xix
Senate	Yes	xix
Fiscal Note	Yes	no
Veto message	Yes	no
Message on signing	Yes	xix

Following were printed:

Reports	Yes	xix
Hearings	Yes	xix

974.90 N.J. Task Force on Reducing Violence
 E24 and Vandalism.
 1979 Public hearing on reducing violence
 and vandalism in New Jersey schools:
 transcript of proceedings. N.J. Dept.
 of Education, 1979.

(over)

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974.90
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N.J. Task Force on Reducing Violence and Vandalism
Reducing violence, vandalism and disruption in
the schools: a special report to the New Jersey State
Board of Education. N.J. Dept. of Education, 1979.

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9-11-79

[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 1455

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 20, 1978

By Senators LIPMAN and YATES

Referred to Committee on Education

AN ACT concerning education, amending N. J. S. 18A:37-2 and supplementing chapter 37 of Title 18A of the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. N. J. S. 18A:37-2 is amended to read as follows:

2 18A:37-2. Any pupil who is guilty of continued and willful dis-
3 obedience, or of open defiance of the authority of any teacher or
4 person having authority over him, or of the habitual use of
5 profanity or of obscene language, or who shall cut, deface or
6 otherwise injure any school property, shall be liable to punishment
7 and to suspension or expulsion from school.

8 Conduct which shall constitute good cause for suspension or
9 expulsion of a pupil guilty of such conduct shall include, but not
10 be limited to, any of the following:

11 a. Continued and willful disobedience;

12 b. Open defiance of the authority of any teacher or person, having
13 authority over him;

14 c. Conduct of such character as to constitute a continuing danger
15 to the physical well-being of other pupils;

16 d. Physical assault upon another pupil **[**or upon any teacher
17 or other school employee**]**;

18 e. Taking, or attempting to take, personal property or money
19 from another pupil, or from his presence, by means of force or fear;

20 f. Willfully causing, or attempting to cause, substantial damage
21 to school property;

22 g. Participation in an unauthorized occupancy by any group of
23 pupils or others of any part of any school or other building owned

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

24 by any school district, and failure to leave such school or other
 25 facility promptly after having been directed to do so by the prin-
 26 cipal or other person then in charge of such building or facility;

27 h. Incitement which is intended to and does result in unautho-
 28 rized occupation by any group of pupils or others of any part of a
 29 school or other facility owned by any school district; and

30 i. Incitement which is intended to and does result in truancy by
 31 other pupils.

1 2. (New section) Any pupil who commits an assault **[and*
 2 *battery]** *, *as defined pursuant to N. J. S. 2C:12-1,** upon a
 3 teacher, administrator, board member or other employee of a board
 4 of education, acting in the performance of his duties and in a situa-
 5 tion where his authority to so act is apparent, or as a result of the
 6 victim's relationship to an institution of public education of this
 7 State, shall be **[expelled]** **immediately suspended** from school
 8 ****consistent with procedural due process**** **pending expulsion*
 9 *proceedings before the local board of education. Said proceedings*
 10 *shall take place no later than **[60]** **21** calendar days follow-*
 11 *ing the day on which the pupil is suspended **[; provided, however,*
 12 *that any pupil subject to more than one expulsion proceeding for*
 13 *assault pursuant to this act shall not be returned to school until the*
 14 *final disposition of any criminal charges arising from such*
 15 *assault*].***

1 3. This act shall take effect immediately.

27 h. Incitement which is intended to and does result in unautho-
28 rized occupation by any group of pupils or others of any part of a
29 school or other facility owned by any school district; and

30 i. Incitement which is intended to and does result in truancy by
31 other pupils.

1 2. (New section) Any pupil who commits an assault and battery
2 upon a teacher, administrator, board member or other employee
3 of a board of education, acting in the performance of his duties
4 and in a situation where his authority to so act is apparent, or as
5 a result of the victim's relationship to an institution of public
6 education of this State, shall be expelled from school.

1 3. This act shall take effect immediately.

STATEMENT

This legislation will revise the present statutes regarding expulsion from school to require that any pupil who commits an act of assault and battery upon any school employee arising out of the performance of his or her duties shall be expelled from school. The expulsion procedure is much faster than court action in removing a seriously disruptive student from the school community. Removal from the immediate scene is often essential to prevent outbreaks of further violence. Due process prosecution can then proceed in a calm atmosphere that assures fairness to all parties.

S. 1455 (1979)

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

SENATE, No. 1455

[OFFICIAL COPY REPRINT]

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MAY 21, 1979

The Assembly Education Committee favorably reports this bill which requires the expulsion from school of any pupil who commits an act of assault upon any school employee who is acting in performance of his or her duties.

FISCAL IMPLICATIONS:

There are no costs to the State associated with this bill.

ASSEMBLY COMMITTEE AMENDMENTS:

The committee amendments are designed to address two specific issues.

The first concern of the committee was to insure that a student's right to due process is protected. Therefore, rather than require expulsion proceedings to take place no later than 60 days after the suspension, the Assembly Education Committee requires the expulsion proceedings to take place no later than 21 days after the suspension. This conforms to current case law that required a full expulsion hearing "within a short period of time, no more than 21 days" after suspension. (R.R. v. Board of Education of Shore Regional High School, 109 N. J. Super. 237.)

The second concern of the committee was the requirement that a student be expelled without any hearing after the student had been alleged to have committed a second assault. The Assembly Education Committee removed this provision because it felt that this section was unconstitutional.

SENATE EDUCATION COMMITTEE

STATEMENT TO

SENATE, No. 1455

with Senate committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 26, 1979

The Senate Education Committee favorably reports this bill which requires the expulsion from school of any pupil who commits an act of assault upon any school employee who is acting in performance of his or her duties.

FISCAL IMPLICATIONS:

There are no costs to the State associated with this bill.

COMMITTEE AMENDMENTS:

The committee amendments are designed to address two specific issues.

The first concern of the committee was to insure that a student's right to due process is protected. Therefore, rather than require immediate expulsion, the bill now requires immediate suspension pending expulsion proceedings before the board of education. These proceedings would have to take place no later than 60 days after the suspension. This is in conformity with current statute which requires a hearing at the second regular meeting of the board after the student is suspended (N. J. S. 18A:37-4).

This conforms to current case law which provides that a student may be immediately suspended and a hearing may follow the suspension if school officials have reasonable cause to believe that a student presents a danger to himself or to others (*R.R. v. Board of Education of Shore Regional High School*, 109 N. J. Super. 237; *Goss v. Lopez*, 419 U. S. 565).

The second concern was the return of a pupil to school while criminal proceedings were pending. The committee amendments provide that in the event of a second assault by the same pupil, that pupil would be expelled until a criminal action, if any, were resolved.

Under these circumstances, the local board would have to provide alternative instruction to that pupil.

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

SEPTEMBER 12, 1979

KATHRYN FORSYTH

A student who assaults a teacher or other school employee while the employee is in the process of performing his or her duties will be immediately suspended from school under a bill signed today by Governor Brendan Byrne.

The bill, S-1455, was sponsored by Senator Wynona Lipman (D-Essex).

Under prior law, suspension for assault was permitted but was not mandatory.

According to the measure, the suspension must be consistent with due procedural process and an expulsion hearing must take place before the local board of education no later than 21 calendar days following the suspension.

"In the past few years, New Jersey has witnessed an increased incidence of assaults by students on school employees, particularly teachers," Byrne said.

New Jersey statutes define assault as an attempt to cause or purposely, knowingly or recklessly causing bodily injury to another person, negligently causing bodily injury to another person with a deadly weapon, or attempting by physical menace to put another person in fear of imminent serious bodily injury.

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