

MEMORANDUM

DATE: March 15, 2007

TO: Education Committee Members

FROM: Donald Strickland, Esq.

RE: HB 7273 AN ACT CONCERNING SUSPENSIONS AND EXPULSIONS

I urge you to reject HB 7273. I have practiced education law in Connecticut for 34 years with the firm of Siegel, O'Connor, O'Donnell & Beck. I believe the current statute already provides just about all the features of the proposed amendments. I have always felt that an elected board of education has the inherent power to reduce or even expunge the length of a disciplinary suspension imposed by the principal, as well as the length of an expulsion, even though the expulsion was imposed by the board of education in the first place.

I think that any question about the inherent right of the board of education to change the terms of an expulsion was answered when 10-233d(j) was added to the law, specifically giving the board of education the right to allow a student back in school before the initial expulsion expires and to impose reasonable conditions on that right. The board of education can delegate that right to the superintendent if it chooses. As to suspensions, I continue to believe that even without specific statutory language the principal has authority to reduce the suspension and to impose reasonable conditions on any such early return.

I believe the current statute already does what the proposed amendments would do, particularly in terms of changing the terms of an expulsion. I urge you to reject this bill for the following reasons:

- I see a real **fairness and equity issue here**. The amendments limit the right of the Board to reduce suspensions and expulsions to cases where **the student has never been suspended and/or expelled before. This is wrong, since the Board of Education should always have the right to address an injustice, even if the injustice is committed with respect to a child who has been disciplined in the past.** (Example: Student who has been suspended before for cutting classes is expelled for one calendar year for distribution of drugs based on testimony of two fellow students. Several weeks later, the accusers recant their testimony and give the police sworn statements indicating that they testified untruthfully at the expulsion hearing. Under the amendments, the Board is powerless to reduce or expunge the expulsion, simply because the student has been in trouble before.) The expulsion could be reviewed and changed under the current statute. This is terribly wrong, and the current statute, 10-233d(j) giving the Board the right to review **any expulsion**, regardless of prior discipline, is much fairer.
- It's time to **support** our school administrators, not **undercut** them, and we need to free our Boards of Education from getting tied up in menial tasks. It is wrong for a Board of Education to spend untold hours deciding whether to overrule a school principal as to whether a disciplinary suspension should be reduced. The school administrator has the statutory power to handle discipline up to 10 days and that should not be modified. Administrators, who already face almost insurmountable tasks, don't need to have their already limited disciplinary authority trumped by a board of education that has much more important things to do. The law on suspensions and expulsions is specifically structured so as to leave suspensions up to the school administration and keep the Board out, until the number of suspensions reaches 10/50 days.

- The proposed amendments are contrary to the entire body of law surrounding suspensions and expulsions. In the case that spawned our current statute, *Goss v. Lopez*, the U.S. Supreme Court specifically recognized that it was the **school principal** who needed the power to impose limited disciplinary suspensions. Under *Goss v Lopez*, the school board is involved only when the suspension exceeds the 10 day principal's maximum. These amendments overrule that, and give the Board of Education a direct role in imposing disciplinary suspensions in addition to their proper role as the only body that can expel a student.
- The amendments also frustrate the current statute and history of the law in this area by letting the elected Board of Education be involved in the **disciplinary suspension**. The current law already grants protection to students in the event that the principal abuses his/her power to impose disciplinary suspensions. There is an automatic vehicle for taking excessive suspensions by the principal to the Board level in the provision that requires an expulsion hearing for all disciplinary suspensions by principals in excess of 10 per year or 50 days.
- Existing statute already gives boards of education and/or the superintendent the right to reduce or change the terms of an expulsion, and to impose reasonable conditions (community service, drug testing, no further disciplinary problems, etc.)
- Under current law, the principal of the school, who is the statutory imposer of disciplinary suspensions, has the authority to reduce a previously imposed suspension, or even to expunge it, if there is a good reason to do so. The principal can also tell the student that she/he must comply with certain reasonable conditions in return for the early admission. **EXAMPLE: Student A and Student B are fighting in class. Both are suspended for 10 days for fighting. 2 days later, other students in the class come forward and tell the principal that Student A started the incident and hit and pushed Student B, who was only defending himself. Principal finds this to be true and reduces Student B's to 2 days and requires him to write letter of explanation to classroom teacher as a condition of early return. Records are adjusted to show only a 2 day suspension.**
- The amendments specify that any adjustment in the terms of a disciplinary suspension must be made by **"the Board of Education."** Since the expulsion statute clearly differentiates between what a Board can do and what a superintendent can do, I think this would be interpreted as a responsibility that has to be discharged by the full Board, not the superintendent. For example, the statute specifically allows the Board to delegate to the superintendent the determination as to whether an expulsion should be reduced and conditions imposed....and there is no similar delegation clause in the new amendments. Administratively, since a suspension can only be for 10 days, it would be virtually impossible for the Board to look into the matter and decide whether a suspension should be changed within 10 days. This is likely to lead to situations where the principal is forced to hold disciplinary suspensions in abeyance while the Board looks at whether or not to exercise its new statutory rights. The affluent students, whose parents can afford legal counsel, will end up getting a better deal than the poor, whose parents cannot.