

By: Representative West

To: Education

HOUSE BILL NO. 751

1 AN ACT TO AMEND SECTION 37-7-301, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT SCHOOL BOARDS SHALL ESTABLISH A POLICY REGARDING
3 THE DISCIPLINE OF STUDENTS WHO FIGHT ON SCHOOL PROPERTY THAT
4 REQUIRES A PRINCIPAL TO INVESTIGATE THE FACTS BEFORE ISSUING A
5 PUNISHMENT; TO AMEND SECTION 37-9-71, MISSISSIPPI CODE OF 1972, TO
6 REQUIRE SUPERINTENDENTS AND PRINCIPALS TO INVESTIGATE THE FACTS
7 REGARDING STUDENTS WHO HAVE BEEN FIGHTING BEFORE THOSE STUDENTS
8 MAY BE SUSPENDED; AND FOR RELATED PURPOSES.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

10 **SECTION 1.** Section 37-7-301, Mississippi Code of 1972, is
11 amended as follows:

12 37-7-301. The school boards of all school districts shall
13 have the following powers, authority and duties in addition to all
14 others imposed or granted by law, to wit:

15 (a) To organize and operate the schools of the district
16 and to make such division between the high school grades and
17 elementary grades as, in their judgment, will serve the best
18 interests of the school;

19 (b) To introduce public school music, art, manual
20 training and other special subjects into either the elementary or
21 high school grades, as the board shall deem proper;

22 (c) To be the custodians of real and personal school
23 property and to manage, control and care for same, both during the
24 school term and during vacation;

25 (d) To have responsibility for the erection, repairing
26 and equipping of school facilities and the making of necessary
27 school improvements;

28 (e) (i) To suspend or to expel a pupil or to change
29 the placement of a pupil to the school district's alternative
30 school or home-bound program for misconduct in the school or on

31 school property, as defined in Section 37-11-29, on the road to
32 and from school, or at any school-related activity or event, or
33 for conduct occurring on property other than school property or
34 other than at a school-related activity or event when such conduct
35 by a pupil, in the determination of the school superintendent or
36 principal, renders that pupil's presence in the classroom a
37 disruption to the educational environment of the school or a
38 detriment to the best interest and welfare of the pupils and
39 teacher of such class as a whole, and to delegate such authority
40 to the appropriate officials of the school district;

41 (ii) To establish a policy regarding the
42 discipline of students who fight on school property, as defined in
43 Section 37-11-29, that requires the principal of a school to
44 investigate the facts regarding the fight before issuing a
45 punishment to those students who are involved in the fight. The
46 policy shall provide for different levels of punishment depending
47 on each student's amount of involvement in the fight;

48 (f) To visit schools in the district, in their
49 discretion, in a body for the purpose of determining what can be
50 done for the improvement of the school in a general way;

51 (g) To support, within reasonable limits, the
52 superintendent, principal and teachers where necessary for the
53 proper discipline of the school;

54 (h) To exclude from the schools students with what
55 appears to be infectious or contagious diseases; provided,
56 however, such student may be allowed to return to school upon
57 presenting a certificate from a public health officer, duly
58 licensed physician or nurse practitioner that the student is free
59 from such disease;

60 (i) To require those vaccinations specified by the
61 State Health Officer as provided in Section 41-23-37, Mississippi
62 Code of 1972;

63 (j) To see that all necessary utilities and services
64 are provided in the schools at all times when same are needed;

65 (k) To authorize the use of the school buildings and
66 grounds for the holding of public meetings and gatherings of the
67 people under such regulations as may be prescribed by said board;

68 (l) To prescribe and enforce rules and regulations not
69 inconsistent with law or with the regulations of the State Board
70 of Education for their own government and for the government of
71 the schools, and to transact their business at regular and special
72 meetings called and held in the manner provided by law;

73 (m) To maintain and operate all of the schools under
74 their control for such length of time during the year as may be
75 required;

76 (n) To enforce in the schools the courses of study and
77 the use of the textbooks prescribed by the proper authorities;

78 (o) To make orders directed to the superintendent of
79 schools for the issuance of pay certificates for lawful purposes
80 on any available funds of the district and to have full control of
81 the receipt, distribution, allotment and disbursement of all funds
82 provided for the support and operation of the schools of such
83 school district whether such funds be derived from state
84 appropriations, local ad valorem tax collections, or otherwise;

85 (p) To select all school district personnel in the
86 manner provided by law, and to provide for such employee fringe
87 benefit programs, including accident reimbursement plans, as may
88 be deemed necessary and appropriate by the board;

89 (q) To provide athletic programs and other school
90 activities and to regulate the establishment and operation of such
91 programs and activities;

92 (r) To join, in their discretion, any association of
93 school boards and other public school-related organizations, and
94 to pay from local funds other than minimum foundation funds, any
95 membership dues;

96 (s) To expend local school activity funds, or other
97 available school district funds, other than minimum education
98 program funds, for the purposes prescribed under this paragraph.
99 "Activity funds" shall mean all funds received by school officials
100 in all school districts paid or collected to participate in any
101 school activity, such activity being part of the school program
102 and partially financed with public funds or supplemented by public
103 funds. The term "activity funds" shall not include any funds
104 raised and/or expended by any organization unless commingled in a
105 bank account with existing activity funds, regardless of whether
106 the funds were raised by school employees or received by school
107 employees during school hours or using school facilities, and
108 regardless of whether a school employee exercises influence over
109 the expenditure or disposition of such funds. Organizations shall
110 not be required to make any payment to any school for the use of
111 any school facility if, in the discretion of the local school
112 governing board, the organization's function shall be deemed to be
113 beneficial to the official or extracurricular programs of the
114 school. For the purposes of this provision, the term
115 "organization" shall not include any organization subject to the
116 control of the local school governing board. Activity funds may
117 only be expended for any necessary expenses or travel costs,
118 including advances, incurred by students and their chaperons in
119 attending any in-state or out-of-state school-related programs,
120 conventions or seminars and/or any commodities, equipment, travel
121 expenses, purchased services or school supplies which the local
122 school governing board, in its discretion, shall deem beneficial
123 to the official or extracurricular programs of the district,
124 including items which may subsequently become the personal
125 property of individuals, including yearbooks, athletic apparel,
126 book covers and trophies. Activity funds may be used to pay
127 travel expenses of school district personnel. The local school
128 governing board shall be authorized and empowered to promulgate

129 rules and regulations specifically designating for what purposes
130 school activity funds may be expended. The local school governing
131 board shall provide (i) that such school activity funds shall be
132 maintained and expended by the principal of the school generating
133 the funds in individual bank accounts, or (ii) that such school
134 activity funds shall be maintained and expended by the
135 superintendent of schools in a central depository approved by the
136 board. The local school governing board shall provide that such
137 school activity funds be audited as part of the annual audit
138 required in Section 37-9-18. The State Auditor shall prescribe a
139 uniform system of accounting and financial reporting for all
140 school activity fund transactions;

141 (t) To contract, on a shared savings, lease or
142 lease-purchase basis, for energy efficiency services and/or
143 equipment as provided for in Section 31-7-14, not to exceed ten
144 (10) years;

145 (u) To maintain accounts and issue pay certificates on
146 school food service bank accounts;

147 (v) (i) To lease a school building from an individual,
148 partnership, nonprofit corporation or a private for-profit
149 corporation for the use of such school district, and to expend
150 funds therefor as may be available from any nonminimum program
151 sources. The school board of the school district desiring to
152 lease a school building shall declare by resolution that a need
153 exists for a school building and that the school district cannot
154 provide the necessary funds to pay the cost or its proportionate
155 share of the cost of a school building required to meet the
156 present needs. The resolution so adopted by the school board
157 shall be published once each week for three (3) consecutive weeks
158 in a newspaper having a general circulation in the school district
159 involved, with the first publication thereof to be made not less
160 than thirty (30) days prior to the date upon which the school
161 board is to act on the question of leasing a school building. If

162 no petition requesting an election is filed prior to such meeting
163 as hereinafter provided, then the school board may, by resolution
164 spread upon its minutes, proceed to lease a school building. If
165 at any time prior to said meeting a petition signed by not less
166 than twenty percent (20%) or fifteen hundred (1500), whichever is
167 less, of the qualified electors of the school district involved
168 shall be filed with the school board requesting that an election
169 be called on the question, then the school board shall, not later
170 than the next regular meeting, adopt a resolution calling an
171 election to be held within such school district upon the question
172 of authorizing the school board to lease a school building. Such
173 election shall be called and held, and notice thereof shall be
174 given, in the same manner for elections upon the questions of the
175 issuance of the bonds of school districts, and the results thereof
176 shall be certified to the school board. If at least three-fifths
177 (3/5) of the qualified electors of the school district who voted
178 in such election shall vote in favor of the leasing of a school
179 building, then the school board shall proceed to lease a school
180 building. The term of the lease contract shall not exceed twenty
181 (20) years, and the total cost of such lease shall be either the
182 amount of the lowest and best bid accepted by the school board
183 after advertisement for bids or an amount not to exceed the
184 current fair market value of the lease as determined by the
185 averaging of at least two (2) appraisals by certified general
186 appraisers licensed by the State of Mississippi. The term "school
187 building" as used in this item (v) shall be construed to mean any
188 building or buildings used for classroom purposes in connection
189 with the operation of schools and shall include the site therefor,
190 necessary support facilities, and the equipment thereof and
191 appurtenances thereto such as heating facilities, water supply,
192 sewage disposal, landscaping, walks, drives and playgrounds. The
193 term "lease" as used in this item (v)(i) may include a
194 lease/purchase contract;

195 (ii) If two (2) or more school districts propose
196 to enter into a lease contract jointly, then joint meetings of the
197 school boards having control may be held but no action taken shall
198 be binding on any such school district unless the question of
199 leasing a school building is approved in each participating school
200 district under the procedure hereinabove set forth in item (v)(i).
201 All of the provisions of item (v)(i) regarding the term and amount
202 of the lease contract shall apply to the school boards of school
203 districts acting jointly. Any lease contract executed by two (2)
204 or more school districts as joint lessees shall set out the amount
205 of the aggregate lease rental to be paid by each, which may be
206 agreed upon, but there shall be no right of occupancy by any
207 lessee unless the aggregate rental is paid as stipulated in the
208 lease contract. All rights of joint lessees under the lease
209 contract shall be in proportion to the amount of lease rental paid
210 by each;

211 (w) To employ all noninstructional and noncertificated
212 employees and fix the duties and compensation of such personnel
213 deemed necessary pursuant to the recommendation of the
214 superintendent of schools;

215 (x) To employ and fix the duties and compensation of
216 such legal counsel as deemed necessary;

217 (y) Subject to rules and regulations of the State Board
218 of Education, to purchase, own and operate trucks, vans and other
219 motor vehicles, which shall bear the proper identification
220 required by law;

221 (z) To expend funds for the payment of substitute
222 teachers and to adopt reasonable regulations for the employment
223 and compensation of such substitute teachers;

224 (aa) To acquire in its own name by purchase all real
225 property which shall be necessary and desirable in connection with
226 the construction, renovation or improvement of any public school
227 building or structure. Whenever the purchase price for such real

228 property is greater than Fifty Thousand Dollars (\$50,000.00), the
229 school board shall not purchase the property for an amount
230 exceeding the fair market value of such property as determined by
231 the average of at least two (2) independent appraisals by
232 certified general appraisers licensed by the State of Mississippi.
233 If the board shall be unable to agree with the owner of any such
234 real property in connection with any such project, the board shall
235 have the power and authority to acquire any such real property by
236 condemnation proceedings pursuant to Section 11-27-1 et seq.,
237 Mississippi Code of 1972, and for such purpose, the right of
238 eminent domain is hereby conferred upon and vested in said board.
239 Provided further, that the local school board is authorized to
240 grant an easement for ingress and egress over sixteenth section
241 land or lieu land in exchange for a similar easement upon
242 adjoining land where the exchange of easements affords substantial
243 benefit to the sixteenth section land; provided, however, the
244 exchange must be based upon values as determined by a competent
245 appraiser, with any differential in value to be adjusted by cash
246 payment. Any easement rights granted over sixteenth section land
247 under such authority shall terminate when the easement ceases to
248 be used for its stated purpose. No sixteenth section or lieu land
249 which is subject to an existing lease shall be burdened by any
250 such easement except by consent of the lessee or unless the school
251 district shall acquire the unexpired leasehold interest affected
252 by the easement;

253 (bb) To charge reasonable fees related to the
254 educational programs of the district, in the manner prescribed in
255 Section 37-7-335;

256 (cc) Subject to rules and regulations of the State
257 Board of Education, to purchase relocatable classrooms for the use
258 of such school district, in the manner prescribed in Section
259 37-1-13;

260 (dd) Enter into contracts or agreements with other
261 school districts, political subdivisions or governmental entities
262 to carry out one or more of the powers or duties of the school
263 board, or to allow more efficient utilization of limited resources
264 for providing services to the public;

265 (ee) To provide for in-service training for employees
266 of the district. Until June 30, 1994, the school boards may
267 designate two (2) days of the minimum school term, as defined in
268 Section 37-19-1, for employee in-service training for
269 implementation of the new statewide testing system as developed by
270 the State Board of Education. Such designation shall be subject
271 to approval by the State Board of Education pursuant to uniform
272 rules and regulations;

273 (ff) As part of their duties to prescribe the use of
274 textbooks, to provide that parents and legal guardians shall be
275 responsible for the textbooks and for the compensation to the
276 school district for any books which are not returned to the proper
277 schools upon the withdrawal of their dependent child. If a
278 textbook is lost or not returned by any student who drops out of
279 the public school district, the parent or legal guardian shall
280 also compensate the school district for the fair market value of
281 the textbooks;

282 (gg) To conduct fund-raising activities on behalf of
283 the school district that the local school board, in its
284 discretion, deems appropriate or beneficial to the official or
285 extracurricular programs of the district; provided that:

286 (i) Any proceeds of the fund-raising activities
287 shall be treated as "activity funds" and shall be accounted for as
288 are other activity funds under this section; and

289 (ii) Fund-raising activities conducted or
290 authorized by the board for the sale of school pictures, the
291 rental of caps and gowns or the sale of graduation invitations for
292 which the school board receives a commission, rebate or fee shall

293 contain a disclosure statement advising that a portion of the
294 proceeds of the sales or rentals shall be contributed to the
295 student activity fund;

296 (hh) To allow individual lessons for music, art and
297 other curriculum-related activities for academic credit or
298 nonacademic credit during school hours and using school equipment
299 and facilities, subject to uniform rules and regulations adopted
300 by the school board;

301 (ii) To charge reasonable fees for participating in an
302 extracurricular activity for academic or nonacademic credit for
303 necessary and required equipment such as safety equipment, band
304 instruments and uniforms;

305 (jj) To conduct or participate in any fund-raising
306 activities on behalf of or in connection with a tax-exempt
307 charitable organization;

308 (kk) To exercise such powers as may be reasonably
309 necessary to carry out the provisions of this section; and

310 (ll) To expend funds for the services of nonprofit arts
311 organizations or other such nonprofit organizations who provide
312 performances or other services for the students of the school
313 district.

314 **SECTION 2.** Section 37-9-71, Mississippi Code of 1972, is
315 amended as follows:

316 37-9-71. (1) The superintendent of schools and the
317 principal of a school shall have the power to suspend a pupil for
318 good cause, including misconduct in the school or on school
319 property, as defined in Section 37-11-29, on the road to and from
320 school, or at any school-related activity or event, or for conduct
321 occurring on property other than school property or other than at
322 a school-related activity or event when such conduct by a pupil,
323 in the determination of the superintendent or principal, renders
324 that pupil's presence in the classroom a disruption to the
325 educational environment of the school or a detriment to the best

326 interest and welfare of the pupils and teacher of such class as a
327 whole, or for any reason for which such pupil might be suspended,
328 dismissed or expelled by the school board under state or federal
329 law or any rule, regulation or policy of the local school
330 district. However, such action of the superintendent or principal
331 shall be subject to review by and the approval or disapproval of
332 the school board. If the parent, guardian or other person having
333 custody of any child shall feel aggrieved by the suspension or
334 dismissal of that child, then such parent, guardian or other
335 person shall have the right to a due process hearing. The parent
336 or guardian of the child shall be advised of this right to a
337 hearing by the appropriate superintendent or principal and the
338 proper form shall be provided for requesting such a hearing.

339 (2) Before a superintendent or principal of a school may
340 suspend a pupil for fighting on school property, the
341 superintendent or principal shall investigate the facts regarding
342 the fight before issuing a punishment to those students who are
343 involved in the fight. The superintendent or principal shall
344 adhere to the policy adopted by the school board under Section
345 37-7-301, which provides for different levels of punishment
346 depending on each student's amount of involvement in the fight.

347 **SECTION 3.** This act shall take effect and be in force from
348 and after July 1, 2004.