

By: Representative Fleming

To: Education

HOUSE BILL NO. 417

1 AN ACT TO AMEND SECTION 37-11-53, MISSISSIPPI CODE OF 1972,
2 TO PROHIBIT SCHOOL DISTRICTS FROM MAINTAINING ZERO TOLERANCE
3 DISCIPLINE PLANS; TO AMEND SECTION 37-11-18, MISSISSIPPI CODE OF
4 1972, TO CLARIFY THAT THE LAW AUTHORIZING AUTOMATIC EXPULSION FOR
5 CERTAIN OFFENSES DOES NOT ALLOW SCHOOL DISTRICTS TO IMPLEMENT AND
6 MAINTAIN ZERO TOLERANCE DISCIPLINE PLANS; AND FOR RELATED
7 PURPOSES.

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

9 **SECTION 1.** Section 37-11-53, Mississippi Code of 1972, is
10 amended as follows:

11 37-11-53. (1) A copy of the school district's discipline
12 plan shall be distributed to each student enrolled in the
13 district, and the parents, guardian or custodian of such student
14 shall sign a statement verifying that they have been given notice
15 of the discipline policies of their respective school district.
16 The school board shall have its official discipline plan and code
17 of student conduct legally audited on an annual basis to insure
18 that its policies and procedures are currently in compliance with
19 applicable statutes, case law and state and federal constitutional
20 provisions. As part of the first legal audit occurring after July
21 1, 2001, the provisions of this section, Section 37-11-55 and
22 Section 37-11-18.1 shall be fully incorporated into the school
23 district's discipline plan and code of student conduct.

24 (2) The school board of a school district may not implement
25 a zero tolerance discipline plan. Any school district that has a
26 zero tolerance discipline plan in force on July 1, 2007, must
27 discontinue the use of the zero tolerance discipline plan on that
28 date.

29 (3) All discipline plans of school districts shall include,
30 but not be limited to, the following:

31 (a) A parent, guardian or custodian of a
32 compulsory-school-age child enrolled in a public school district
33 shall be responsible financially for his or her minor child's
34 destructive acts against school property or persons;

35 (b) A parent, guardian or custodian of a
36 compulsory-school-age child enrolled in a public school district
37 may be requested to appear at school by the school attendance
38 officer or an appropriate school official for a conference
39 regarding acts of the child specified in paragraph (a) of this
40 subsection, or for any other discipline conference regarding the
41 acts of the child;

42 (c) Any parent, guardian or custodian of a
43 compulsory-school-age child enrolled in a school district who
44 refuses or willfully fails to attend such discipline conference
45 specified in paragraph (b) of this subsection may be summoned by
46 proper notification by the superintendent of schools or the school
47 attendance officer and be required to attend such discipline
48 conference; and

49 (d) A parent, guardian or custodian of a
50 compulsory-school-age child enrolled in a public school district
51 shall be responsible for any criminal fines brought against such
52 student for unlawful activity occurring on school grounds or
53 buses.

54 (4) Any parent, guardian or custodian of a
55 compulsory-school-age child who * * * fails to attend a discipline
56 conference to which such parent, guardian or custodian has been
57 summoned under the provisions of this section or * * * refuses or
58 willfully fails to perform any other duties imposed upon him or
59 her under the provisions of this section, shall be guilty of a
60 misdemeanor and, upon conviction, shall be fined not to exceed Two
61 Hundred Fifty Dollars (\$250.00).

62 (5) Any public school district shall be entitled to recover
63 damages in an amount not to exceed Twenty Thousand Dollars
64 (\$20,000.00), plus necessary court costs, from the parents of any
65 minor under the age of eighteen (18) years and over the age of six
66 (6) years, who maliciously and willfully damages or destroys
67 property belonging to such school district. However, this section
68 shall not apply to parents whose parental control of such child
69 has been removed by court order or decree. The action authorized
70 in this subsection shall be in addition to all other actions which
71 the school district is entitled to maintain, and nothing in this
72 section shall preclude recovery in a greater amount from the minor
73 or from a person, including the parents, for damages to which such
74 minor or other person would otherwise be liable.

75 (6) A school district's discipline plan may provide that as
76 an alternative to suspension, a student may remain in school by
77 having the parent, guardian or custodian, with the consent of the
78 student's teacher or teachers, attend class with the student for a
79 period of time specifically agreed upon by the reporting teacher
80 and school principal. If the parent, guardian or custodian does
81 not agree to attend class with the student or fails to attend
82 class with the student, the student shall be suspended in
83 accordance with the code of student conduct and discipline
84 policies of the school district.

85 **SECTION 2.** Section 37-11-18, Mississippi Code of 1972, is
86 amended as follows:

87 37-11-18. (1) Any student in any school who possesses any
88 controlled substance in violation of the Uniform Controlled
89 Substances Law, a knife, handgun, other firearm or any other
90 instrument considered to be dangerous and capable of causing
91 bodily harm or who commits a violent act on educational property,
92 as defined in Section 97-37-17, shall be subject to automatic
93 expulsion for a calendar year by the superintendent or principal
94 of the school in which the student is enrolled; * * *

95 however, * * * the superintendent of the school shall be
96 authorized to modify the period of time for such expulsion on a
97 case by case basis. Such expulsion shall take effect immediately
98 subject to the constitutional rights of due process, which shall
99 include the student's right to appeal to the local school board.

100 (2) This section does not authorize a public school district
101 to implement and maintain a zero tolerance discipline plan.

102 **SECTION 3.** This act shall take effect and be in force from
103 and after July 1, 2007.