

STRICT DISCIPLINE ACADEMIES

Phone: (517) 373-8080
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House Bill 4675 (H-3) as referred to second committee

Sponsor: Rep. Lynn Afendoulis

1st Committee: Education

2nd Committee: Ways and Means

Complete to 12-8-19

Analysis available at
<http://www.legislature.mi.gov>

BRIEF SUMMARY: House Bill 4675 would amend the Revised School Code to expand the eligibility for enrollment at strict discipline academies (SDAs) to students requiring certain interventions, including Tier 3 support based on a multi-tiered system of supports. An SDA could only enroll a qualifying student once that student had completed a previously scheduled evaluation to determine eligibility for special education programs or services.

FISCAL IMPACT: There would be no fiscal impact for the state or local units of government. However, state aid funding follows pupils to the district in which the pupil is enrolled, so there could be a redistribution between districts depending on the pupil's enrollment.

THE CONTENT OF THE BILL:

Currently, the following students are eligible for enrollment at a strict discipline academy:

- A student placed in an SDA by a court or by the Department of Health and Human Services (DHHS) or a county juvenile agency under the direction of a court.
- A student who had been expelled for possessing a dangerous weapon in a weapon-free school zone or committing arson or criminal sexual conduct at school.
- A student in grade six or above who had been expelled for committing a physical or verbal assault against a school employee, volunteer or contractor; for making a bomb threat or similar threat against the school; or under another provision of the Revised School Code.
- Other students who had been expelled from school, or suspended for more than 10 days, and who were referred to the SDA by the student's school or placed in the SDA by the student's parent or legal guardian.
- A special education student who had not been suspended or expelled, but whose individualized education program (IEP) team recommended placement in an SDA.
- A student who had not been suspended or expelled, but who was placed in a high- or medium-security juvenile facility, mental health facility, or child caring institution that was operated by a private company.
- A student who became a resident of the state as an unaccompanied or resettled minor under the care of DHHS and who was under 22 years old as of September 1 of the current school year.

Under the bill, SDAs could allow enrollment of a student who was (1) identified by the chief school administrator of the student's school as requiring intense individual intervention designed for a student with highly accelerated or severe and persistently challenging academic or nonacademic needs, including Tier 3 support based on a multi-

tiered system of supports, before being suspended under provisions of the Revised School Code, and (2) referred to the SDA by the student's school.

Additionally, if the student was scheduled for or undergoing an evaluation to determine eligibility for special education programs or services, the SDA would have to wait to enroll the student until that evaluation was completed. The placement of a student in an SDA would be subject to state and federal special education laws.

MCL 380.1311d and 380.1311g

BACKGROUND INFORMATION:

Strict discipline academies, a type of public school academy (PSA) or charter school, were incorporated into Michigan law following the Columbine High School shooting in 1999 as part of a push for school safety measures. Other such measures include zero tolerance suspension and expulsion policies for certain offenses. The goal of SDAs is largely to provide education in a more controlled environment to a population that is unable to participate in a traditional school setting. SDAs typically require metal detector checks at the school door, uniforms, and strict adherence to behavior policies.

2018 PA 42 (House Bill 4665) recently expanded the criteria for enrollment at SDAs to include unaccompanied or resettled minors as well as students referred by their schools or placed there by their parents (replacing the previous requirement that both occur). It also allowed students to remain at SDAs after the expiration of their suspensions or expulsions.

ARGUMENTS:

For:

Supporters offered the bill as a way of extending targeted support and wraparound services like substance abuse treatment to students before the student's action rises to the level of suspension or expulsion. SDAs have promoted themselves as stemming the "school to prison pipeline" and ensuring that students who were suspended or expelled would not graduate to more serious offenses because of a lack of diversion or support. The bill, they say, would provide those students with much-needed support even earlier in the process. Instead of waiting for a more serious offense necessitating suspension or expulsion, a student's school could recommend admittance to an SDA if the student had been identified as requiring intense individual intervention designed for a student with highly accelerated or severe and persistently challenging academic or nonacademic needs, including Tier 3 support based on a multi-tiered system of support.

Against:

Opponents expressed concern that compliance with the bill would put the state out of compliance with federal statutory requirements and at risk of losing federal funding tied to those requirements. As introduced, the bill would allow an SDA to enroll a student who had been identified as needing Tier 3 support and who had been referred to the SDA by his or her school. Critics argued that the Individuals with Disabilities Education Act (IDEA)

requires certain due process protections and that a student that a district had reason to believe may have a disability had to be tested before being sent to an SDA. Additionally, IDEA requires states to ensure that students receiving special education receive those services in the “least restrictive environment”—meaning that they should spend as much time with students in general education as possible. While IDEA generally leaves the determination of a student’s least restrictive environment up to the people developing that student’s individualized education program (IEP), critics argued that moving that student to a strict discipline academy seemed counter to that goal.

Response:

The H-3 substitute to the bill added a section stating that enrollment of the type of student contemplated in the bill in an SDA could not occur if the student was scheduled do have an evaluation to determine his or her eligibility for special education programs or services or the student was undergoing that evaluation. Additionally, it states that placement at an SDA would be subject to state and federal laws.

Against:

Critics also wondered why students should be removed from their initial school for issues that could be handled at the district level (or the district’s intermediate school district), potentially with additional funding. After all, additional counselors, truancy officers, and school resource officers at a local level could surely address the same issues as those at an SDA and would be able to serve a broader overview of students.

Some also expressed the concern that schools would take the opportunity provided by the bill to get rid of the “problem” children by sending them to SDAs rather than dealing with them in the district. While special education children receive increased funding, they also may require significantly more time and energy than other students—why, then, would schools not funnel those students into SDAs in order to enjoy a potentially less combative and challenging school environment?

POSITIONS:

A representative of Lighthouse Academy testified in support of the bill. (9-10-19)

The Michigan Association of Public School Administrators indicated support for the bill. (9-10-19)

Representatives of the Michigan Department of Education testified in opposition to the bill. (10-8-19)

Legislative Analyst: Jenny McInerney
Fiscal Analysts: Samuel Christensen
Jacqueline Mullen

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.