

AMENDMENT TO H.R. 1, AS REPORTED
OFFERED BY MR. NORWOOD OF GEORGIA

At the end of part A of title V of the Elementary and Secondary Education Act of 1965, as amended by section 501 of the bill, add the following:

1 **“SEC. 5155. DISCIPLINE OF CHILDREN WITH DISABILITIES.**

2 “(a) **AUTHORITY OF SCHOOL PERSONNEL.**—Each
3 State receiving funds under this Act shall require each
4 local educational agency to have in effect a policy under
5 which school personnel of such agency may discipline (in-
6 cluding expel or suspend) a child with a disability who—

7 “(1) carries or possesses a weapon to or at a
8 school, on school premises, or to or at a school func-
9 tion, under the jurisdiction of a State or a local edu-
10 cational agency;

11 “(2) knowingly possesses or uses illegal drugs
12 or sells or solicits the sale of a controlled substance
13 at a school, on school premises, or at a school func-
14 tion, under the jurisdiction of a State or a local edu-
15 cational agency; or

16 “(3) commits an aggravated assault or battery
17 (as defined under State or local law) at a school, on
18 school premises, or at a school function, under the
19 jurisdiction of a State or local educational agency,

1 in the same manner in which such personnel may dis-
2 cipline a child without a disability. Such personnel may
3 modify the disciplinary action on a case-by-case basis.

4 “(b) RULE OF CONSTRUCTION.—Nothing in sub-
5 section (a) shall be construed to prevent a child with a
6 disability who is disciplined pursuant to the authority pro-
7 vided under paragraph (1) or (2) of subsection (a) from
8 asserting a defense that the carrying or possession of the
9 weapon, or the possession or use of the illegal drugs (or
10 the sale or solicitation of the controlled substance), as the
11 case may be, was unintentional or innocent.

12 “(c) FREE APPROPRIATE PUBLIC EDUCATION.—

13 “(1) CEASING TO PROVIDE EDUCATION.—Not-
14 withstanding any other provision of Federal law, a
15 child expelled or suspended under subsection (a)
16 shall not be entitled to continue educational services,
17 including a free appropriate public education, re-
18 quired under Federal law during the term of such
19 expulsion or suspension, if the State in which the
20 local educational agency responsible for providing
21 educational services to such child does not require a
22 child without a disability to receive educational serv-
23 ices after being expelled or suspended.

24 “(2) PROVIDING EDUCATION.—Notwithstanding
25 paragraph (1), the local educational agency respon-

1 sible for providing educational services to a child
2 with a disability who is expelled or suspended under
3 paragraph (1) may choose to continue to provide
4 educational services or mental health services to
5 such child. If the local educational agency so chooses
6 to continue to provide the services—

7 “(A) nothing in any other provision of
8 Federal law shall require the local educational
9 agency to provide such child with any particular
10 level of service; and

11 “(B) the location where the local edu-
12 cational agency provides the services shall be
13 left to the discretion of the local educational
14 agency.

15 “(d) DEFINITIONS.—In this section:

16 “(1) CONTROLLED SUBSTANCE.—The term
17 ‘controlled substance’ has the meaning given the
18 term in section 5151.

19 “(2) ILLEGAL DRUG.—The term ‘illegal drug’
20 means a controlled substance, but does not include
21 such a substance that is legally possessed or used
22 under the supervision of a licensed health-care pro-
23 fessional or that is legally possessed or used under
24 any other authority under the Controlled Substances
25 Act or under any other provision of Federal law.

1 “(3) WEAPON.—The term ‘weapon’ has the
2 meaning given the term ‘dangerous weapon’ under
3 subsection (g)(2) of section 930 of title 18, United
4 States Code.