



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1995 ASSEMBLY BILL 116**

February 28, 1995 - Offered by COMMITTEE ON EDUCATION.

1 **AN ACT to amend** 119.25 (2), 120.13 (1) (b), 120.13 (1) (c), 120.13 (1) (e) 1. (intro.)
2 and 2. and 252.04 (5) (b) 4.; and **to create** 120.13 (1) (c) 2. of the statutes;
3 **relating to:** reasons for pupil expulsions.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 **SECTION 1.** 119.25 (2) of the statutes is amended to read:

5 119.25 (2) During any school year in which a resolution adopted under sub. (1)
6 is effective, the independent hearing officer or independent hearing panel appointed
7 by the board may expel a pupil from school whenever the hearing officer or panel
8 finds that the pupil engaged in conduct that constitutes grounds for expulsion under
9 s. 120.13 (1) (c) 1. or 2. No administrator may be designated to participate in an
10 expulsion hearing if he or she was involved in the incident that led to the expulsion
11 proceeding. Prior to such expulsion, the hearing officer or panel shall hold a hearing.
12 Not less than 5 days' written notice of the hearing shall be sent to the pupil and, if
13 the pupil is a minor, to the pupil's parent or guardian, specifying the particulars of
14 the alleged conduct, stating the time and place of the hearing and stating that the

1 hearing may result in the pupil's expulsion. This section shall be printed in full on
2 the face or back of the notice. Upon request of the pupil and, if the pupil is a minor,
3 the pupil's parent or guardian, the hearing shall be closed. The pupil and, if the pupil
4 is a minor, the pupil's parent or guardian, may be represented at the hearing by
5 counsel. The hearing officer or panel shall keep a full record of the hearing. The
6 hearing officer or panel shall inform each party of the right to a complete record of
7 the proceeding. Upon request, the hearing officer or panel shall direct that a
8 transcript of the record be prepared and that a copy of the transcript be given to the
9 pupil and, if the pupil is a minor, the pupil's parent or guardian. Upon the ordering
10 by the hearing officer or panel of the expulsion of a pupil, the school district shall mail
11 a copy of the order to the board, the pupil and, if the pupil is a minor, the pupil's
12 parent or guardian. A school board, hearing officer or panel may disclose the
13 transcript to the parent or guardian of an adult pupil, if the adult pupil is a
14 dependent of his or her parent or guardian under section 152 of the internal revenue
15 code. Within 30 days after the date on which the order is issued, the board shall
16 review the expulsion order and shall, upon review, approve, reverse or modify the
17 order. The order of the hearing officer or panel shall be enforced while the board
18 reviews the order. The expelled pupil or, if the pupil is a minor, the pupil's parent or
19 guardian may appeal the board's decision to the state superintendent. If the board's
20 decision is appealed to the state superintendent, within 60 days after the date on
21 which the state superintendent receives the appeal, the state superintendent shall
22 review the decision and shall, upon review, approve, reverse or modify the decision.
23 The decision of the board shall be enforced while the state superintendent reviews
24 the decision. An appeal from the decision of the state superintendent may be taken
25 within 30 days to the circuit court for the county in which the school is located.

1 **SECTION 2.** 120.13 (1) (b) of the statutes is amended to read:

2 120.13 (1) (b) The school district administrator or any principal or teacher
3 designated by the school district administrator also may make rules, with the
4 consent of the school board, and may suspend a pupil for not more than 3 school days
5 or, if a notice of expulsion hearing has been sent under par. (c) 3 or (e) or s. 119.25,
6 for not more than a total of 15 consecutive school days for noncompliance with such
7 rules or school board rules, or for knowingly conveying any threat or false
8 information concerning an attempt or alleged attempt being made or to be made to
9 destroy any school property by means of explosives, or for conduct by the pupil while
10 at school or while under the supervision of a school authority which endangers the
11 property, health or safety of others, or for conduct while not at school or while not
12 under the supervision of a school authority which endangers the property, health or
13 safety of others at school or under the supervision of a school authority or endangers
14 the property, health or safety of any employe or school board member of the school
15 district in which the pupil is enrolled. Prior to any suspension, the pupil shall be
16 advised of the reason for the proposed suspension. The pupil may be suspended if
17 it is determined that the pupil is guilty of noncompliance with such rule, or of the
18 conduct charged, and that the pupil's suspension is reasonably justified. The parent
19 or guardian of a suspended minor pupil shall be given prompt notice of the
20 suspension and the reason for the suspension. The suspended pupil or the pupil's
21 parent or guardian may, within 5 school days following the commencement of the
22 suspension, have a conference with the school district administrator or his or her
23 designee who shall be someone other than a principal, administrator or teacher in
24 the suspended pupil's school. If the school district administrator or his or her
25 designee finds that the pupil was suspended unfairly or unjustly, or that the

1 suspension was inappropriate, given the nature of the alleged offense, or that the
2 pupil suffered undue consequences or penalties as a result of the suspension,
3 reference to the suspension on the pupil's school record shall be expunged. Such
4 finding shall be made within 15 days of the conference. A pupil suspended under this
5 paragraph shall not be denied the opportunity to take any quarterly, semester or
6 grading period examinations or to complete course work missed during the
7 suspension period, as provided in the attendance policy established under s. 118.16
8 (4) (a).

9 **SECTION 3.** 120.13 (1) (c) of the statutes is amended to read:

10 120.13 (1) (c) 1. The school board may expel a pupil from school whenever it
11 finds the pupil guilty of repeated refusal or neglect to obey the rules, or finds that a
12 pupil knowingly conveyed or caused to be conveyed any threat or false information
13 concerning an attempt or alleged attempt being made or to be made to destroy any
14 school property by means of explosives, or finds that the pupil engaged in conduct
15 while at school or while under the supervision of a school authority which
16 endangered the property, health or safety of others, or finds that a pupil while not
17 at school or while not under the supervision of a school authority engaged in conduct
18 which endangered the property, health or safety of others at school or under the
19 supervision of a school authority or endangered the property, health or safety of any
20 employe or school board member of the school district in which the pupil is enrolled,
21 and is satisfied that the interest of the school demands the pupil's expulsion.

22 3. Prior to such ~~expulsion~~ expelling a pupil, the school board shall hold a
23 hearing. Not less than 5 days' written notice of the hearing shall be sent to the pupil
24 and, if the pupil is a minor, to the pupil's parent or guardian, specifying the
25 particulars of the alleged refusal, neglect or conduct, stating the time and place of

1 the hearing and stating that the hearing may result in the pupil's expulsion. Upon
2 request of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the
3 hearing shall be closed. The pupil and, if the pupil is a minor, the pupil's parent or
4 guardian may be represented at the hearing by counsel. The school board shall keep
5 written minutes of the hearing. Upon the ordering by the school board of the
6 expulsion of a pupil, the school district clerk shall mail a copy of the order to the pupil
7 and, if the pupil is a minor, to the pupil's parent or guardian. The expelled pupil or,
8 if the pupil is a minor, the pupil's parent or guardian may appeal the expulsion to the
9 state superintendent. If the school board's decision is appealed to the state
10 superintendent, within 60 days after the date on which the state superintendent
11 receives the appeal, the state superintendent shall review the decision and shall,
12 upon review, approve, reverse or modify the decision. The decision of the school board
13 shall be enforced while the state superintendent reviews the decision. An appeal
14 from the decision of the state superintendent may be taken within 30 days to the
15 circuit court of the county in which the school is located. This paragraph shall be
16 printed in full on the face or back of the notice.

17 **SECTION 4.** 120.13 (1) (c) 2. of the statutes is created to read:

18 120.13 (1) (c) 2. In addition to the grounds for expulsion under subd. 1., the
19 school board may expel from school a pupil who is at least 16 years old if the school
20 board finds that the pupil repeatedly engaged in conduct while at school or while
21 under the supervision of a school authority that disrupted the ability of school
22 authorities to maintain order or an educational atmosphere at school or at an activity
23 supervised by a school authority and that such conduct does not constitute grounds
24 for expulsion under subd. 1., and is satisfied that the interest of the school demands
25 the pupil's expulsion.

1 **SECTION 5.** 120.13 (1) (e) 1. (intro.) and 2. of the statutes are amended to read:

2 120.13 (1) (e) 1. (intro.) The school board may adopt a resolution, which is
3 effective only during the school year in which it is adopted, authorizing any of the
4 following to determine pupil expulsion from school under subd. 2. instead of using
5 the procedure under par. (c) 3.:

6 2. During any school year in which a resolution adopted under subd. 1 is
7 effective, the independent hearing officer or independent hearing panel appointed
8 by the school board may expel a pupil from school whenever the hearing officer or
9 panel finds that the pupil engaged in conduct that constitutes grounds for expulsion
10 under par. (c) 1. or 2. Prior to such expulsion, the hearing officer or panel shall hold
11 a hearing. Not less than 5 days' written notice of the hearing shall be sent to the pupil
12 and, if the pupil is a minor, to the pupil's parent or guardian, specifying the
13 particulars of the alleged conduct, stating the time and place of the hearing and
14 stating that the hearing may result in the pupil's expulsion. This paragraph shall
15 be printed in full on the face or back of the notice. Upon request of the pupil and, if
16 the pupil is a minor, the pupil's parent or guardian, the hearing shall be closed. The
17 pupil and, if the pupil is a minor, the pupil's parent or guardian, may be represented
18 at the hearing by counsel. The hearing officer or panel shall keep a full record of the
19 hearing. The hearing officer or panel shall inform each party of the right to a
20 complete record of the proceeding. Upon request, the hearing officer or panel shall
21 direct that a transcript of the record be prepared and that a copy of the transcript be
22 given to the pupil and, if the pupil is a minor, the pupil's parent or guardian. Upon
23 the ordering by the hearing officer or panel of the expulsion of a pupil, the school
24 district shall mail a copy of the order to the school board, the pupil and, if the pupil
25 is a minor, the pupil's parent or guardian. Within 30 days after the date on which

1 the order is issued, the school board shall review the expulsion order and shall, upon
2 review, approve, reverse or modify the order. The order of the hearing officer or panel
3 shall be enforced while the school board reviews the order. The expelled pupil or, if
4 the pupil is a minor, the pupil's parent or guardian may appeal the school board's
5 decision to the state superintendent. If the school board's decision is appealed to the
6 state superintendent, within 60 days after the date on which the state
7 superintendent receives the appeal, the state superintendent shall review the
8 decision and shall, upon review, approve, reverse or modify the decision. The
9 decision of the school board shall be enforced while the state superintendent reviews
10 the decision. An appeal from the decision of the state superintendent may be taken
11 within 30 days to the circuit court of the county in which the school is located. This
12 paragraph does not apply to a school district operating under ch. 119.

13 **SECTION 6.** 252.04 (5) (b) 4. of the statutes is amended to read:

14 252.04 (5) (b) 4. No student may be excluded from public school under this
15 paragraph for more than 10 consecutive school days unless, prior to the 11th
16 consecutive school day of exclusion, the school board provides the student and the
17 student's parent, guardian or legal custodian with an additional notice, a hearing
18 and the opportunity to appeal the exclusion, as provided under s. 120.13 (1) (c) 3.

19 (END)