

# State of Wisconsin



1995 Assembly Bill 811

Date of enactment: **April 18, 1996**

Date of publication\*: **May 2, 1996**

## 1995 WISCONSIN ACT 235

AN ACT *to renumber* 120.13 (1) (c) 2.; *to renumber and amend* 120.13 (1) (f); *to amend* 119.25 (2) (a) 2., 119.25 (2) (b), 120.13 (1) (b), 120.13 (1) (c) 3., 120.13 (1) (e) 2. a., 120.13 (1) (e) 2. b. and 120.13 (1) (e) 3.; and *to create* 119.25 (2) (c), 120.13 (1) (c) 4. and 120.13 (1) (e) 4. of the statutes; **relating to:** notices of pupil expulsion hearings.

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

**SECTION 2.** 119.25 (2) (a) 2. of the statutes, as created by [1995 Wisconsin Act 75](#), is amended to read:

119.25 (2) (a) 2. Shall commence proceedings under par. (b) and expel a pupil from school for not less than one year whenever the hearing officer or panel finds that the pupil engaged in conduct that constitutes grounds for expulsion under s. 120.13 (1) (c) ~~2.~~ 2m.

**SECTION 3.** 119.25 (2) (b) of the statutes, as affected by [1995 Wisconsin Acts 32](#) and [75](#), is amended to read:

119.25 (2) (b) No administrator may be designated to participate in an expulsion hearing if he or she was involved in the incident that led to the expulsion proceeding. Prior to expelling a pupil, the hearing officer or panel shall hold a hearing. ~~Not less than 5 days' written notice of the hearing shall be sent to the pupil and, if the pupil is a minor, to the pupil's parent or guardian, specifying the particulars of the alleged conduct, stating the time and place of the hearing and stating that the hearing may result in the pupil's expulsion. This section shall be printed in full on the face or back of the notice.~~ Upon request of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the hearing shall be closed. The pupil and, if the pupil is a minor, the pupil's parent or guardian, may be represented at the hearing by counsel. The hearing of-

ficer or panel shall keep a full record of the hearing. The hearing officer or panel shall inform each party of the right to a complete record of the proceeding. Upon request, the hearing officer or panel shall direct that a transcript of the record be prepared and that a copy of the transcript be given to the pupil and, if the pupil is a minor, the pupil's parent or guardian. Upon the ordering by the hearing officer or panel of the expulsion of a pupil, the school district shall mail a copy of the order to the board, the pupil and, if the pupil is a minor, the pupil's parent or guardian. A school board, hearing officer or panel may disclose the transcript to the parent or guardian of an adult pupil, if the adult pupil is a dependent of his or her parent or guardian under section [152](#) of the internal revenue code. Within 30 days after the date on which the order is issued, the board shall review the expulsion order and shall, upon review, approve, reverse or modify the order. The order of the hearing officer or panel shall be enforced while the board reviews the order. The expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the board's decision to the department. If the board's decision is appealed to the department, within 60 days after the date on which the department receives the appeal, the department shall review the decision and shall, upon review, approve, reverse or modify the decision. The decision of the board shall be enforced while the department reviews the decision. An appeal from the

\* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

decision of the department may be taken within 30 days to the circuit court for the county in which the school is located.

**SECTION 4.** 119.25 (2) (c) of the statutes is created to read:

119.25 (2) (c) Not less than 5 days' written notice of the hearing under par. (b) shall be sent to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The notice shall include all of the information specified in s. 120.13 (1) (e) 4.

**SECTION 5.** 120.13 (1) (b) of the statutes, as affected by 1995 Wisconsin Acts 32, 33 and 75, is amended to read:

120.13 (1) (b) The school district administrator or any principal or teacher designated by the school district administrator also may make rules, with the consent of the school board, and may suspend a pupil for not more than 5 school days or, if a notice of expulsion hearing has been sent under par. (c) 3- 4. or (e) 4. or s. 119.25 (2) (b) (c), for not more than a total of 15 consecutive school days for noncompliance with such rules or school board rules, or for knowingly conveying any threat or false information concerning an attempt or alleged attempt being made or to be made to destroy any school property by means of explosives, or for conduct by the pupil while at school or while under the supervision of a school authority which endangers the property, health or safety of others, or for conduct while not at school or while not under the supervision of a school authority which endangers the property, health or safety of others at school or under the supervision of a school authority or endangers the property, health or safety of any employe or school board member of the school district in which the pupil is enrolled. Prior to any suspension, the pupil shall be advised of the reason for the proposed suspension. The pupil may be suspended if it is determined that the pupil is guilty of non-compliance with such rule, or of the conduct charged, and that the pupil's suspension is reasonably justified. The parent or guardian of a suspended minor pupil shall be given prompt notice of the suspension and the reason for the suspension. The suspended pupil or the pupil's parent or guardian may, within 5 school days following the commencement of the suspension, have a conference with the school district administrator or his or her designee who shall be someone other than a principal, administrator or teacher in the suspended pupil's school. If the school district administrator or his or her designee finds that the pupil was suspended unfairly or unjustly, or that the suspension was inappropriate, given the nature of the alleged offense, or that the pupil suffered undue consequences or penalties as a result of the suspension, reference to the suspension on the pupil's school record shall be expunged. Such finding shall be made within 15 days of the conference. A pupil suspended under this paragraph shall not be denied the opportunity to take any quarterly, semester or grading period examinations or to complete

course work missed during the suspension period, as provided in the attendance policy established under s. 118.16 (4) (a).

**SECTION 6.** 120.13 (1) (c) 2. of the statutes, as created by 1995 Wisconsin Act 75, is renumbered 120.13 (1) (c) 2m.

**SECTION 7.** 120.13 (1) (c) 3. of the statutes, as affected by 1995 Wisconsin Acts 32 and 75, is amended to read:

120.13 (1) (c) 3. Prior to expelling a pupil, the school board shall hold a hearing. ~~Not less than 5 days' written notice of the hearing shall be sent to the pupil and, if the pupil is a minor, to the pupil's parent or guardian, specifying the particulars of the alleged refusal, neglect or conduct, stating the time and place of the hearing and stating that the hearing may result in the pupil's expulsion.~~ Upon request of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the hearing shall be closed. The pupil and, if the pupil is a minor, the pupil's parent or guardian may be represented at the hearing by counsel. The school board shall keep written minutes of the hearing. Upon the ordering by the school board of the expulsion of a pupil, the school district clerk shall mail a copy of the order to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the expulsion to the department. If the school board's decision is appealed to the department, within 60 days after the date on which the department receives the appeal, the department shall review the decision and shall, upon review, approve, reverse or modify the decision. The decision of the school board shall be enforced while the department reviews the decision. An appeal from the decision of the department may be taken within 30 days to the circuit court of the county in which the school is located. ~~This paragraph shall be printed in full on the face or back of the notice.~~

**SECTION 8.** 120.13 (1) (c) 4. of the statutes is created to read:

120.13 (1) (c) 4. Not less than 5 days' written notice of the hearing under subd. 3. shall be sent to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The notice shall state all of the following:

- a. The specific grounds, under subd. 1., 2. or 2m., and the particulars of the pupil's alleged conduct upon which the expulsion proceeding is based.
- b. The time and place of the hearing.
- c. That the hearing may result in the pupil's expulsion.
- d. That, upon request of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the hearing shall be closed.
- e. That the pupil and, if the pupil is a minor, the pupil's parent or guardian may be represented at the hearing by counsel.

f. That the school board shall keep written minutes of the hearing.

g. That if the school board orders the expulsion of the pupil the school district clerk shall mail a copy of the order to the pupil and, if the pupil is a minor, to the pupil's parent or guardian.

h. That if the pupil is expelled by the school board the expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the school board's decision to the department.

i. That if the school board's decision is appealed to the department, within 60 days after the date on which the department receives the appeal, the department shall review the decision and shall, upon review, approve, reverse or modify the decision.

j. That the decision of the school board shall be enforced while the department reviews the school board's decision.

k. That an appeal from the decision of the department may be taken within 30 days to the circuit court for the county in which the school is located.

L. That the state statutes related to pupil expulsion are ss. 119.25 and 120.13 (1).

**SECTION 9.** 120.13 (1) (e) 2. a. of the statutes, as affected by 1995 Wisconsin Acts 32 and 75, is amended to read:

120.13 (1) (e) 2. a. May expel a pupil from school whenever the hearing officer or panel finds that the pupil engaged in conduct that constitutes grounds for expulsion under par. (c) 1. or 2.

**SECTION 10.** 120.13 (1) (e) 2. b. of the statutes, as created by 1995 Wisconsin Act 75, is amended to read:

120.13 (1) (e) 2. b. Shall commence proceedings under subd. 3. and expel a pupil from school for not less than one year whenever that hearing officer or panel finds that the pupil engaged in conduct that constitutes grounds for expulsion under par. (c) 2. 2m.

**SECTION 11.** 120.13 (1) (e) 3. of the statutes, as affected by 1995 Wisconsin Act 75, is amended to read:

120.13 (1) (e) 3. Prior to expelling a pupil, the hearing officer or panel shall hold a hearing. ~~Not less than 5 days' written notice of the hearing shall be sent to the pupil and, if the pupil is a minor, to the pupil's parent or guardian, specifying the particulars of the alleged conduct, stating the time and place of the hearing and stating that the hearing may result in the pupil's expulsion. This paragraph shall be printed in full on the face or back of the notice.~~ Upon request of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the hearing shall be closed. The pupil and, if the pupil is a minor, the pupil's parent or guardian, may be represented at the hearing by counsel. The hearing officer or panel shall keep a full record of the hearing. The hearing officer or panel shall inform each party of the right to a complete record of the proceeding. Upon request, the hearing officer or panel shall

direct that a transcript of the record be prepared and that a copy of the transcript be given to the pupil and, if the pupil is a minor, the pupil's parent or guardian. Upon the ordering by the hearing officer or panel of the expulsion of a pupil, the school district shall mail a copy of the order to the school board, the pupil and, if the pupil is a minor, the pupil's parent or guardian. Within 30 days after the date on which the order is issued, the school board shall review the expulsion order and shall, upon review, approve, reverse or modify the order. The order of the hearing officer or panel shall be enforced while the school board reviews the order. The expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the school board's decision to the department. If the school board's decision is appealed to the department, within 60 days after the date on which the department receives the appeal, the department shall review the decision and shall, upon review, approve, reverse or modify the decision. The decision of the school board shall be enforced while the department reviews the decision. An appeal from the decision of the department may be taken within 30 days to the circuit court of the county in which the school is located. This paragraph does not apply to a school district operating under ch. 119.

**SECTION 12.** 120.13 (1) (e) 4. of the statutes is created to read:

120.13 (1) (e) 4. Not less than 5 days' written notice of the hearing under subd. 3. shall be sent to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The notice shall state all of the following:

a. The specific grounds, under par. (c) 1., 2. or 2m., and the particulars of the pupil's alleged conduct upon which the expulsion proceeding is based.

b. The time and place of the hearing.

c. That the hearing may result in the pupil's expulsion.

d. That, upon request of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the hearing shall be closed.

e. That the pupil and, if the pupil is a minor, the pupil's parent or guardian may be represented at the hearing by counsel.

f. That the hearing officer or panel shall keep a full record of the hearing and, upon request, the hearing officer or panel shall direct that a transcript of the record be prepared and that a copy of the transcript be given to the pupil and, if the pupil is a minor, the pupil's parent or guardian.

g. That if the hearing officer or panel orders the expulsion of the pupil the school district shall mail a copy of the order to the school board, the pupil and, if the pupil is a minor, to the pupil's parent or guardian.

h. That within 30 days of the issuance of an expulsion order the school board shall review the order and shall, upon review, approve, reverse or modify the order.

i. That, if the pupil is expelled by the hearing officer or panel, the order of the hearing officer or panel shall be enforced while the school board reviews the order.

j. That, if the pupil's expulsion is approved by the school board, the expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the school board's decision to the department.

k. That if the school board's decision is appealed to the department, within 60 days after the date on which the department receives the appeal, the department shall review the decision and shall, upon review, approve, reverse or modify the decision.

L. That the decision of the school board shall be enforced while the department reviews the school board's decision.

m. That an appeal from the decision of the department may be taken within 30 days to the circuit court for the county in which the school is located.

n. That the state statutes related to pupil expulsion are ss. 119.25 and 120.13 (1).

**SECTION 13.** 120.13 (1) (f) of the statutes, as created by [1995 Wisconsin Act 75](#), is renumbered 120.13 (1) (g) and amended to read:

120.13 (1) (g) The school board may modify the requirement under pars. (c) ~~2.~~ 2m. and (e) 2. b. on a case-by-case basis.

**SECTION 14. Initial applicability.**

(1) This act first applies to notices sent under sections 119.25 (2) (c) and 120.13 (1) (c) 4. and (e) 4. of the statutes, as affected by this act, on the effective date of this subsection.

**SECTION 15. Effective date.**

(1) This act takes effect on July 1, 1996.

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