



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB0216

by Rep. Jay Hoffman

SYNOPSIS AS INTRODUCED:

105 ILCS 5/10-22.6	from Ch. 122, par. 10-22.6
105 ILCS 5/27A-5	
105 ILCS 5/34-19	from Ch. 122, par. 34-19

Amends the School Code. Allows a school board to suspend or authorize the superintendent of the school district or the principal, assistant principal, or dean of students of a school to suspend a student for a period not to exceed 10 school days or to expel a student for a definite period of time not to exceed 2 calendar years, as determined on a case-by-case basis, if (i) the student has been convicted of a violent felony and (ii) the board or, as authorized by board policy, the superintendent of the district or the principal, assistant principal, or dean of students of the school determines that the student's continued presence in school would have a substantial detrimental effect on the general welfare of the school. Provides that the board may also authorize the district superintendent to immediately refer or transfer the student to another attendance center or alternative school if the student has been charged with a violent felony. Defines "violent felony". Effective immediately.

LRB099 03881 NHT 23897 b

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The School Code is amended by changing Sections
5 10-22.6, 27A-5, and 34-19 as follows:

6 (105 ILCS 5/10-22.6) (from Ch. 122, par. 10-22.6)

7 Sec. 10-22.6. Suspension or expulsion of pupils; school
8 searches.

9 (a) To expel pupils guilty of gross disobedience or
10 misconduct, including gross disobedience or misconduct
11 perpetuated by electronic means, or to expel pupils as provided
12 in subsection (d-10) of this Section, and no action shall lie
13 against them for such expulsion. Expulsion shall take place
14 only after the parents have been requested to appear at a
15 meeting of the board, or with a hearing officer appointed by
16 it, to discuss their child's behavior. Such request shall be
17 made by registered or certified mail and shall state the time,
18 place and purpose of the meeting. The board, or a hearing
19 officer appointed by it, at such meeting shall state the
20 reasons for dismissal and the date on which the expulsion is to
21 become effective. If a hearing officer is appointed by the
22 board he shall report to the board a written summary of the
23 evidence heard at the meeting and the board may take such

1 action thereon as it finds appropriate. An expelled pupil may
2 be immediately transferred to an alternative program in the
3 manner provided in Article 13A or 13B of this Code. A pupil
4 must not be denied transfer because of the expulsion, except in
5 cases in which such transfer is deemed to cause a threat to the
6 safety of students or staff in the alternative program.

7 (b) To suspend or by policy to authorize the superintendent
8 of the district or the principal, assistant principal, or dean
9 of students of any school to suspend pupils guilty of gross
10 disobedience or misconduct, ~~or~~ to suspend pupils guilty of
11 gross disobedience or misconduct on the school bus from riding
12 the school bus, or to suspend pupils as provided in subsection
13 (d-10) of this Section, and no action shall lie against them
14 for such suspension. The board may by policy authorize the
15 superintendent of the district or the principal, assistant
16 principal, or dean of students of any school to suspend pupils
17 guilty of such acts for a period not to exceed 10 school days.
18 If a pupil is suspended due to gross disobedience or misconduct
19 on a school bus, the board may suspend the pupil in excess of
20 10 school days for safety reasons. Any suspension shall be
21 reported immediately to the parents or guardian of such pupil
22 along with a full statement of the reasons for such suspension
23 and a notice of their right to a review. The school board must
24 be given a summary of the notice, including the reason for the
25 suspension and the suspension length. Upon request of the
26 parents or guardian the school board or a hearing officer

1 appointed by it shall review such action of the superintendent
2 or principal, assistant principal, or dean of students. At such
3 review the parents or guardian of the pupil may appear and
4 discuss the suspension with the board or its hearing officer.
5 If a hearing officer is appointed by the board he shall report
6 to the board a written summary of the evidence heard at the
7 meeting. After its hearing or upon receipt of the written
8 report of its hearing officer, the board may take such action
9 as it finds appropriate. A pupil who is suspended in excess of
10 20 school days may be immediately transferred to an alternative
11 program in the manner provided in Article 13A or 13B of this
12 Code. A pupil must not be denied transfer because of the
13 suspension, except in cases in which such transfer is deemed to
14 cause a threat to the safety of students or staff in the
15 alternative program.

16 (c) The Department of Human Services shall be invited to
17 send a representative to consult with the board at such meeting
18 whenever there is evidence that mental illness may be the cause
19 for expulsion or suspension.

20 (d) The board may expel a student for a definite period of
21 time not to exceed 2 calendar years, as determined on a
22 case-by-case ~~case by case~~ basis. A student who is determined to
23 have brought one of the following objects to school, any
24 school-sponsored activity or event, or any activity or event
25 that bears a reasonable relationship to school shall be
26 expelled for a period of not less than one year:

1 (1) A firearm. For the purposes of this Section,
2 "firearm" means any gun, rifle, shotgun, weapon as defined
3 by Section 921 of Title 18 of the United States Code,
4 firearm as defined in Section 1.1 of the Firearm Owners
5 Identification Card Act, or firearm as defined in Section
6 24-1 of the Criminal Code of 2012. The expulsion period
7 under this subdivision (1) may be modified by the
8 superintendent, and the superintendent's determination may
9 be modified by the board on a case-by-case basis.

10 (2) A knife, brass knuckles or other knuckle weapon
11 regardless of its composition, a billy club, or any other
12 object if used or attempted to be used to cause bodily
13 harm, including "look alike" of any firearm as defined in
14 subdivision (1) of this subsection (d). The expulsion
15 requirement under this subdivision (2) may be modified by
16 the superintendent, and the superintendent's determination
17 may be modified by the board on a case-by-case basis.

18 Expulsion or suspension shall be construed in a manner
19 consistent with the Federal Individuals with Disabilities
20 Education Act. A student who is subject to suspension or
21 expulsion as provided in this Section may be eligible for a
22 transfer to an alternative school program in accordance with
23 Article 13A of the School Code. The provisions of this
24 subsection (d) apply in all school districts, including special
25 charter districts and districts organized under Article 34.

26 (d-5) The board may suspend or by regulation authorize the

1 superintendent of the district or the principal, assistant
2 principal, or dean of students of any school to suspend a
3 student for a period not to exceed 10 school days or may expel
4 a student for a definite period of time not to exceed 2
5 calendar years, as determined on a case-by-case ~~case-by-case~~
6 basis, if (i) that student has been determined to have made an
7 explicit threat on an Internet website against a school
8 employee, a student, or any school-related personnel, (ii) the
9 Internet website through which the threat was made is a site
10 that was accessible within the school at the time the threat
11 was made or was available to third parties who worked or
12 studied within the school grounds at the time the threat was
13 made, and (iii) the threat could be reasonably interpreted as
14 threatening to the safety and security of the threatened
15 individual because of his or her duties or employment status or
16 status as a student inside the school. The provisions of this
17 subsection (d-5) apply in all school districts, including
18 special charter districts and districts organized under
19 Article 34 of this Code.

20 (d-10) In this subsection (d-10), "violent felony" means a
21 violent felony as defined in Section 5 of the Medical School
22 Matriculant Criminal History Records Check Act.

23 Subject to subsections (a) and (b) of this Section, the
24 board may suspend or, by policy, authorize the superintendent
25 of the district or the principal, assistant principal, or dean
26 of students of a school to suspend a student for a period not

1 to exceed 10 school days or may expel a student for a definite
2 period of time not to exceed 2 calendar years, as determined on
3 a case-by-case basis, if (i) the student has been convicted of
4 a violent felony and (ii) the board or, as authorized by board
5 policy, the superintendent of the district or the principal,
6 assistant principal, or dean of students of the school
7 determines that the student's continued presence in school
8 would have a substantial detrimental effect on the general
9 welfare of the school. The board may also authorize the
10 superintendent of the district to immediately refer or transfer
11 the student to another attendance center or alternative school,
12 as specified in Article 13A of this Code, if the student has
13 been charged with a violent felony.

14 The provisions of this subsection (d-10) apply in all
15 school districts, including special charter districts and
16 districts organized under Article 34 of this Code.

17 (e) To maintain order and security in the schools, school
18 authorities may inspect and search places and areas such as
19 lockers, desks, parking lots, and other school property and
20 equipment owned or controlled by the school, as well as
21 personal effects left in those places and areas by students,
22 without notice to or the consent of the student, and without a
23 search warrant. As a matter of public policy, the General
24 Assembly finds that students have no reasonable expectation of
25 privacy in these places and areas or in their personal effects
26 left in these places and areas. School authorities may request

1 the assistance of law enforcement officials for the purpose of
2 conducting inspections and searches of lockers, desks, parking
3 lots, and other school property and equipment owned or
4 controlled by the school for illegal drugs, weapons, or other
5 illegal or dangerous substances or materials, including
6 searches conducted through the use of specially trained dogs.
7 If a search conducted in accordance with this Section produces
8 evidence that the student has violated or is violating either
9 the law, local ordinance, or the school's policies or rules,
10 such evidence may be seized by school authorities, and
11 disciplinary action may be taken. School authorities may also
12 turn over such evidence to law enforcement authorities. The
13 provisions of this subsection (e) apply in all school
14 districts, including special charter districts and districts
15 organized under Article 34.

16 (f) Suspension or expulsion may include suspension or
17 expulsion from school and all school activities and a
18 prohibition from being present on school grounds.

19 (g) A school district may adopt a policy providing that if
20 a student is suspended or expelled for any reason from any
21 public or private school in this or any other state, the
22 student must complete the entire term of the suspension or
23 expulsion in an alternative school program under Article 13A of
24 this Code or an alternative learning opportunities program
25 under Article 13B of this Code before being admitted into the
26 school district if there is no threat to the safety of students

1 or staff in the alternative program. This subsection (g)
2 applies to all school districts, including special charter
3 districts and districts organized under Article 34 of this
4 Code.

5 (Source: P.A. 96-633, eff. 8-24-09; 96-998, eff. 7-2-10;
6 97-340, eff. 1-1-12; 97-495, eff. 1-1-12; 97-813, eff. 7-13-12;
7 97-1150, eff. 1-25-13.)

8 (105 ILCS 5/27A-5)

9 Sec. 27A-5. Charter school; legal entity; requirements.

10 (a) A charter school shall be a public, nonsectarian,
11 nonreligious, non-home based, and non-profit school. A charter
12 school shall be organized and operated as a nonprofit
13 corporation or other discrete, legal, nonprofit entity
14 authorized under the laws of the State of Illinois.

15 (b) A charter school may be established under this Article
16 by creating a new school or by converting an existing public
17 school or attendance center to charter school status. Beginning
18 on the effective date of this amendatory Act of the 93rd
19 General Assembly, in all new applications to establish a
20 charter school in a city having a population exceeding 500,000,
21 operation of the charter school shall be limited to one campus.
22 The changes made to this Section by this amendatory Act of the
23 93rd General Assembly do not apply to charter schools existing
24 or approved on or before the effective date of this amendatory
25 Act.

1 (b-5) In this subsection (b-5), "virtual-schooling" means
2 a cyber school where students engage in online curriculum and
3 instruction via the Internet and electronic communication with
4 their teachers at remote locations and with students
5 participating at different times.

6 From April 1, 2013 through December 31, 2016, there is a
7 moratorium on the establishment of charter schools with
8 virtual-schooling components in school districts other than a
9 school district organized under Article 34 of this Code. This
10 moratorium does not apply to a charter school with
11 virtual-schooling components existing or approved prior to
12 April 1, 2013 or to the renewal of the charter of a charter
13 school with virtual-schooling components already approved
14 prior to April 1, 2013.

15 On or before March 1, 2014, the Commission shall submit to
16 the General Assembly a report on the effect of
17 virtual-schooling, including without limitation the effect on
18 student performance, the costs associated with
19 virtual-schooling, and issues with oversight. The report shall
20 include policy recommendations for virtual-schooling.

21 (c) A charter school shall be administered and governed by
22 its board of directors or other governing body in the manner
23 provided in its charter. The governing body of a charter school
24 shall be subject to the Freedom of Information Act and the Open
25 Meetings Act.

26 (d) A charter school shall comply with all applicable

1 health and safety requirements applicable to public schools
2 under the laws of the State of Illinois.

3 (e) Except as otherwise provided in the School Code, a
4 charter school shall not charge tuition; provided that a
5 charter school may charge reasonable fees for textbooks,
6 instructional materials, and student activities.

7 (f) A charter school shall be responsible for the
8 management and operation of its fiscal affairs including, but
9 not limited to, the preparation of its budget. An audit of each
10 charter school's finances shall be conducted annually by an
11 outside, independent contractor retained by the charter
12 school. To ensure financial accountability for the use of
13 public funds, on or before December 1 of every year of
14 operation, each charter school shall submit to its authorizer
15 and the State Board a copy of its audit and a copy of the Form
16 990 the charter school filed that year with the federal
17 Internal Revenue Service. In addition, if deemed necessary for
18 proper financial oversight of the charter school, an authorizer
19 may require quarterly financial statements from each charter
20 school.

21 (g) A charter school shall comply with all provisions of
22 this Article; the Illinois Educational Labor Relations Act; all
23 federal and State laws and rules applicable to public schools
24 that pertain to special education and the instruction of
25 English language learners, referred to in this Code as
26 "children of limited English-speaking ability"; and its

1 charter. A charter school is exempt from all other State laws
2 and regulations in this Code governing public schools and local
3 school board policies, except the following:

4 (1) Sections 10-21.9 and 34-18.5 of this Code regarding
5 criminal history records checks and checks of the Statewide
6 Sex Offender Database and Statewide Murderer and Violent
7 Offender Against Youth Database of applicants for
8 employment;

9 (2) Sections 24-24 and 34-84A of this Code regarding
10 discipline of students;

11 (3) the Local Governmental and Governmental Employees
12 Tort Immunity Act;

13 (4) Section 108.75 of the General Not For Profit
14 Corporation Act of 1986 regarding indemnification of
15 officers, directors, employees, and agents;

16 (5) the Abused and Neglected Child Reporting Act;

17 (6) the Illinois School Student Records Act;

18 (7) Section 10-17a of this Code regarding school report
19 cards;

20 (8) the P-20 Longitudinal Education Data System Act;

21 ~~and~~

22 (9) Section 27-23.7 of this Code regarding bullying
23 prevention;~~;~~

24 (10) ~~(9)~~ Section 2-3.162 ~~2-3.160~~ of this ~~the School~~
25 Code regarding student discipline reporting; and;

26 (11) subsection (d-10) of Section 10-22.6 of the School

1 Code regarding students charged with or convicted of a
2 violent felony.

3 The change made by Public Act 96-104 to this subsection (g)
4 is declaratory of existing law.

5 (h) A charter school may negotiate and contract with a
6 school district, the governing body of a State college or
7 university or public community college, or any other public or
8 for-profit or nonprofit private entity for: (i) the use of a
9 school building and grounds or any other real property or
10 facilities that the charter school desires to use or convert
11 for use as a charter school site, (ii) the operation and
12 maintenance thereof, and (iii) the provision of any service,
13 activity, or undertaking that the charter school is required to
14 perform in order to carry out the terms of its charter.
15 However, a charter school that is established on or after the
16 effective date of this amendatory Act of the 93rd General
17 Assembly and that operates in a city having a population
18 exceeding 500,000 may not contract with a for-profit entity to
19 manage or operate the school during the period that commences
20 on the effective date of this amendatory Act of the 93rd
21 General Assembly and concludes at the end of the 2004-2005
22 school year. Except as provided in subsection (i) of this
23 Section, a school district may charge a charter school
24 reasonable rent for the use of the district's buildings,
25 grounds, and facilities. Any services for which a charter
26 school contracts with a school district shall be provided by

1 the district at cost. Any services for which a charter school
2 contracts with a local school board or with the governing body
3 of a State college or university or public community college
4 shall be provided by the public entity at cost.

5 (i) In no event shall a charter school that is established
6 by converting an existing school or attendance center to
7 charter school status be required to pay rent for space that is
8 deemed available, as negotiated and provided in the charter
9 agreement, in school district facilities. However, all other
10 costs for the operation and maintenance of school district
11 facilities that are used by the charter school shall be subject
12 to negotiation between the charter school and the local school
13 board and shall be set forth in the charter.

14 (j) A charter school may limit student enrollment by age or
15 grade level.

16 (k) If the charter school is approved by the Commission,
17 then the Commission charter school is its own local education
18 agency.

19 (Source: P.A. 97-152, eff. 7-20-11; 97-154, eff. 1-1-12;
20 97-813, eff. 7-13-12; 98-16, eff. 5-24-13; 98-639, eff. 6-9-14;
21 98-669, eff. 6-26-14; 98-739, eff. 7-16-14; 98-783, eff.
22 1-1-15; 98-1059, eff. 8-26-14; 98-1102, eff. 8-26-14; revised
23 10-14-14.)

24 (105 ILCS 5/34-19) (from Ch. 122, par. 34-19)

25 Sec. 34-19. By-laws, rules and regulations; business

1 transacted at regular meetings; voting; records. The board
2 shall, subject to the limitations in this Article, establish
3 by-laws, rules and regulations, which shall have the force of
4 ordinances, for the proper maintenance of a uniform system of
5 discipline for both employees and pupils, and for the entire
6 management of the schools, and may fix the school age of
7 pupils, the minimum of which in kindergartens shall not be
8 under 4 years, except that, based upon an assessment of the
9 child's readiness, children who have attended a non-public
10 preschool and continued their education at that school through
11 kindergarten, were taught in kindergarten by an appropriately
12 certified teacher, and will attain the age of 6 years on or
13 before December 31 of the year of the 2009-2010 school term and
14 each school term thereafter may attend first grade upon
15 commencement of such term, and in grade schools shall not be
16 under 6 years. It may expel, suspend or, subject to the
17 limitations of all policies established or adopted under
18 Section 14-8.05, otherwise discipline any pupil found guilty of
19 gross disobedience, misconduct or other violation of the
20 by-laws, rules and regulations, including gross disobedience
21 or misconduct perpetuated by electronic means, and may expel,
22 suspend, or transfer pupils as provided in subsection (d-10) of
23 Section 10-22.6 of this Code. An expelled pupil may be
24 immediately transferred to an alternative program in the manner
25 provided in Article 13A or 13B of this Code. A pupil must not
26 be denied transfer because of the expulsion, except in cases in

1 which such transfer is deemed to cause a threat to the safety
2 of students or staff in the alternative program. A pupil who is
3 suspended in excess of 20 school days may be immediately
4 transferred to an alternative program in the manner provided in
5 Article 13A or 13B of this Code. A pupil must not be denied
6 transfer because of the suspension, except in cases in which
7 such transfer is deemed to cause a threat to the safety of
8 students or staff in the alternative program. The bylaws, rules
9 and regulations of the board shall be enacted, money shall be
10 appropriated or expended, salaries shall be fixed or changed,
11 and textbooks, electronic textbooks, and courses of
12 instruction shall be adopted or changed only at the regular
13 meetings of the board and by a vote of a majority of the full
14 membership of the board; provided that notwithstanding any
15 other provision of this Article or the School Code, neither the
16 board or any local school council may purchase any textbook for
17 use in any public school of the district from any textbook
18 publisher that fails to furnish any computer diskettes as
19 required under Section 28-21. Funds appropriated for textbook
20 purchases must be available for electronic textbook purchases
21 and the technological equipment necessary to gain access to and
22 use electronic textbooks at the local school council's
23 discretion. The board shall be further encouraged to provide
24 opportunities for public hearing and testimony before the
25 adoption of bylaws, rules and regulations. Upon all
26 propositions requiring for their adoption at least a majority

1 of all the members of the board the yeas and nays shall be
2 taken and reported. The by-laws, rules and regulations of the
3 board shall not be repealed, amended or added to, except by a
4 vote of 2/3 of the full membership of the board. The board
5 shall keep a record of all its proceedings. Such records and
6 all by-laws, rules and regulations, or parts thereof, may be
7 proved by a copy thereof certified to be such by the secretary
8 of the board, but if they are printed in book or pamphlet form
9 which are purported to be published by authority of the board
10 they need not be otherwise published and the book or pamphlet
11 shall be received as evidence, without further proof, of the
12 records, by-laws, rules and regulations, or any part thereof,
13 as of the dates thereof as shown in such book or pamphlet, in
14 all courts and places where judicial proceedings are had.

15 Notwithstanding any other provision in this Article or in
16 the School Code, the board may delegate to the general
17 superintendent or to the attorney the authorities granted to
18 the board in the School Code, provided such delegation and
19 appropriate oversight procedures are made pursuant to board
20 by-laws, rules and regulations, adopted as herein provided,
21 except that the board may not delegate its authorities and
22 responsibilities regarding (1) budget approval obligations;
23 (2) rule-making functions; (3) desegregation obligations; (4)
24 real estate acquisition, sale or lease in excess of 10 years as
25 provided in Section 34-21; (5) the levy of taxes; or (6) any
26 mandates imposed upon the board by "An Act in relation to

1 school reform in cities over 500,000, amending Acts herein
2 named", approved December 12, 1988 (P.A. 85-1418).

3 (Source: P.A. 96-864, eff. 1-21-10; 96-1403, eff. 7-29-10;
4 97-340, eff. 1-1-12; 97-495, eff. 1-1-12; 97-813, eff.
5 7-13-12.)

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.