

# STUDENT SUSPENSION UNDER THE ILLINOIS SCHOOL CODE

105 ILCS 5/10-22.6

Last Revised: November 2024

This ISBE-published document is provided as a resource and does not constitute legal advice. You should consult with an attorney for legal advice specific to your situation.



## How long can a student be suspended?

- General Rule: “For a period **not to exceed 10 school days.**”
  - School bus exception: “If a student is suspended due to gross disobedience or misconduct on a school bus, the board may suspend the student in excess of 10 school days for safety reasons.”

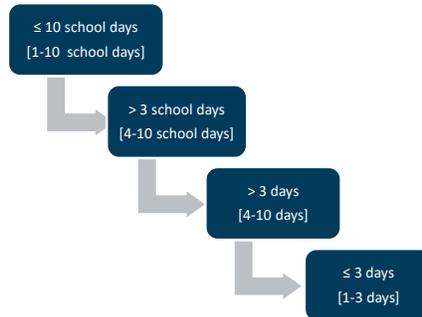


2

- 5/10-22.6(b)
- Note, language previously in 10-22.6(b) contemplating student suspensions “in excess of 20 school days” deleted per P.A. 103-0896.

## How long can a student be suspended?

- Within general 10 school day maximum rule, School Code attaches additional required standards and obligations for suspensions of specified lengths.



## How long can a student be suspended?

- Suspensions **not exceeding 10 school days** [1-10 school days]
  - Standard: Student is “guilty of gross disobedience or misconduct” or “guilty of gross disobedience or misconduct on the school bus.”

- 5/10-22.6(b)

## How long can a student be suspended?

- Suspensions of **3 days or fewer** [1-3 days]
  - Standard: “Only if the student's continuing presence in school would pose a threat to school safety or a disruption to other students' learning opportunities.”
    - Determined on a case-by-case basis by the school board or designee.
  - School Obligation: “School officials shall make all reasonable efforts to resolve such threats, address such disruptions, and minimize the length of suspensions to the greatest extent practicable.”

- 5/10-22.6(b-15)

## How long can a student be suspended?

- Suspensions of **longer than 3 days** [4-10 days]
  - Standard: “Only if other appropriate and available behavioral and disciplinary interventions have been exhausted **and** the student's continuing presence in school would either:
    - (i) pose a threat to the safety of other students, staff, or members of the school community or
    - (ii) substantially disrupt, impede, or interfere with the operation of the school.”



6

- 5/10-22.6(b-20)
- “[T]hreat to the safety of other students, staff, or members of the school community” & “substantially disrupt, impede, or interfere with the operation of the school” determined on a case-by-case basis by school officials.
- Whether “appropriate and available behavioral and disciplinary interventions have been exhausted” determined by school officials.
- Note, this section also applies to “expulsions, and disciplinary removals to alternative schools[.]”

## How long can a student be suspended?

- Suspensions of **longer than 3 days** [4-10 days]
  - School Obligation: “School officials shall make all reasonable efforts to:
    - resolve such threats,
    - address such disruptions, and
    - minimize the length of student exclusions to the greatest extent practicable.”

- 5/10-22.6(b-20)
- Note, section also applies to “expulsions, and disciplinary removals to alternative schools[.]”

## How long can a student be suspended?

- Suspensions of **longer than 3 school days**[4-10 school days]
  - School Obligation: Such students “shall be provided appropriate and available support services during the period of their suspension.”
    - “Appropriate and available support services” shall be determined by school authorities.

- 5/10-22.6(b-25)
- Note, amended per P.A. 103-0896 from “longer than **4** school days” to “longer than 3 school days”.

## What other behavior can get a student suspended?

- Internet threats meeting the following criteria:
  - (i) student made an *explicit threat on an Internet website against a school employee, a student, or any school-related personnel,*
  - (ii) the website *was accessible within the school at the time the threat was made or was available to third parties who worked or studied within the school grounds at the time the threat was made,* and
  - (iii) the *threat could be reasonably interpreted as threatening to the safety and security of the threatened individual because of the individual's duties or employment status or status as a student* inside the school.

- 5/10-22.6(d-5) (see below for full statutory language as amended per P.A. 103-0896)
  - “(i) that student has been determined to have made an explicit threat on an Internet website against a school employee, a student, or any school-related personnel,
  - (ii) the Internet website through which the threat was made is a site that was accessible within the school at the time the threat was made or was available to third parties who worked or studied within the school grounds at the time the threat was made, and
  - (iii) the threat could be reasonably interpreted as threatening to the safety and security of the threatened individual because of the individual’s duties or employment status or status as a student inside the school.”
- Suspension may “not to exceed 10 school days” for behavior above.
- Note, students may also be expelled for this behavior for a period not to exceed 2 calendar years.

## What “notice” must a school provide?

- Parent/Guardian notification
  - Suspensions must be *reported immediately* to parents/guardians with:
    - full statement of reasons for suspension, and
    - notice of their right to a review.
- School board notification
  - School board “must be given a summary of the notice, including the reason for the suspension and the suspension length.”

- 5/10-22.6(b)

## What happens at a suspension review hearing?

- ***Occurs upon request of parents/guardians.***
- Conducted by school board or appointed hearing officer.
  - Review “such action of the superintendent or principal, assistant principal, or dean of students.”
- Provides opportunity for “the parents or guardians of the student [to] appear and discuss the suspension with the board or its hearing officer.”

- 5/10-22.6(b)

## What happens at a suspension review hearing?

- If a hearing officer is appointed by the board, hearing officer “shall report to the board a written summary of the evidence heard at the meeting.”
- After hearing (or upon receipt of written report from hearing officer), “board may take such action as it finds appropriate.”

- 5/10-22.6(b)

## What happens at a suspension review hearing?

- Invite a representative from local mental health agency when evidence of mental illness causing suspension.
  - “A school board must invite a representative from a local mental health agency to consult with the board at the meeting whenever there is evidence that mental illness may be the cause of a student's expulsion or suspension.”



13

- 5/10-22.6(c) (as amended per P.A. 102-0539, eff. 8/20/2021)

## What happens at a suspension review hearing?

- Currently in Illinois School Code, no express student rights.
- Il. Courts have nonetheless found students to have certain due process rights in such hearings.
  - *Maldonado v. Ill. State Bd. of Educ.*, No. 01 C 7757, 2003 U.S. Dist. LEXIS 4923 (N.D. Ill. Mar. 27, 2003)
    - “In the context of suspensions of ten days or less, this means that a student must be given **oral or written notice** of the charges against him and, if he denies them, **an explanation of the evidence the authorities have** and an **opportunity to present his side** of the story.”



14

- Note, as with all case law, example *Maldonado* case above should always be checked to ensure it is still valid law in this jurisdiction.

## What happens at a suspension review hearing?

- Per P.A. 102-0466 [NOT EFFECTIVE UNTIL JULY 1, 2025]
  - Present mitigating factors
    - “A student may disclose any factor to be considered in mitigation, including his or her status as a parent, expectant parent, or victim of domestic or sexual violence, as defined in Article 26A.”



15

- P.A. 102-0466 (eff. 7/1/2025), creating 5/10-22.6(b-35) [NOT EFFECTIVE UNTIL JULY 1, 2025]

## What happens at a suspension review hearing?

- Representation
  - “A representative of the parent's or guardian's choice, or of the student's choice if emancipated, must be permitted to represent the student throughout the proceedings and to address the school board or its appointed hearing officer.”



16

- P.A. 102-0466 (eff. 7/1/2025), creating 5/10-22.6(b-35) [NOT EFFECTIVE UNTIL JULY 1, 2025]
- Note, the “representative or support person must comply with any rules of the school district's hearing process. If the representative or support person violates the rules or engages in behavior or advocacy that harasses, abuses, or intimidates either party, a witness, or anyone else in attendance at the hearing, the representative or support person may be prohibited from further participation in the hearing or proceeding.”

## What happens at a suspension review hearing?

- Support Person
  - “With the approval of the student's parent or guardian, or of the student if emancipated, a support person must be permitted to accompany the student to any disciplinary hearings or proceedings.”



17

- P.A. 102-0466 (eff. 7/1/2025), creating 5/10-22.6(b-35) [NOT EFFECTIVE UNTIL JULY 1, 2025]
- Note, the “representative or support person must comply with any rules of the school district's hearing process. If the representative or support person violates the rules or engages in behavior or advocacy that harasses, abuses, or intimidates either party, a witness, or anyone else in attendance at the hearing, the representative or support person may be prohibited from further participation in the hearing or proceeding.”

## What happens at a suspension review hearing?

- Conducted independent of any ongoing criminal investigation or proceeding.
  - “A suspension or expulsion proceeding under this subsection (b-35) must be conducted independently from any ongoing criminal investigation or proceeding, and an absence of pending or possible criminal charges, criminal investigations, or proceedings may not be a factor in school disciplinary decisions.”



18

- P.A. 102-0466 (eff. 7/1/2025), creating 5/10-22.6(b-35) [NOT EFFECTIVE UNTIL JULY 1, 2025]

## What happens at a suspension review hearing?

- No direct questioning of victims alleging sexual violence.
  - “During a suspension review hearing [] or an expulsion hearing [] that involves allegations of sexual violence by the student who is subject to discipline, neither the student nor his or her representative shall directly question nor have direct contact with the alleged victim. The student who is subject to discipline or his or her representative may, at the discretion and direction of the school board or its appointed hearing officer, suggest questions to be posed by the school board or its appointed hearing officer to the alleged victim.”



19

- P.A. 102-0466 (eff. 7/1/2025), creating 5/10-22.6(b-40) [NOT EFFECTIVE UNTIL JULY 1, 2025]

## What must occur after a student is suspended?

- Written suspension decision required, which must:
  - Detail “the specific act of gross disobedience or misconduct resulting in the decision to suspend.”
  - Include “a rationale as to the specific duration of the suspension.”
  - Document “whether other interventions were attempted or whether it was determined that there were no other appropriate and available interventions.” [suspensions > 3 days]
  - Document “whether [appropriate and available support services] are to be provided or whether it was determined that there are no such appropriate and available services.” [suspensions > 3 school days]

- 5/10-22.6(b), (b-20), & (b-25)

## What must occur after a student is suspended?

- Opportunity to make up work:
  - “A school district shall create a policy by which **suspended students**, including those students suspended from the school bus who do not have alternate transportation to school, **shall have the opportunity to make up work for equivalent academic credit.**”
  - “It shall be the responsibility of a student’s parents or guardians to notify school officials that a student suspended from the school bus does not have alternate transportation to school.”

- 5/10-22.6(b-30)

## What may occur if a student is subject to suspension?

- Transfer to alternative school program:
  - “A student who is subject to suspension or expulsion as provided in this Section may be eligible for a transfer to an alternative school program in accordance with Article 13A of the School Code.”

- 5/10-22.6(d)

## **Legislative Update Re. Administrative Transfers**

- P.A. 103-0473 (Eff. Jan. 1, 2024)
  - Before the effective date of the transfer, parents/guardians shall receive information about the alternative school program (e.g., specific nature of curriculum, typical daily schedule, etc.).
  - At the earliest time following the effective date of the transfer, sending school district and alternative school program must meet (and invite student & parents/guardians) to develop an alternative educational plan.



23

- P.A. 103-0473 (eff. 1/1/2024), amending 105 ILCS 5/13A-4
- “information about the alternative school program” includes “the specific nature of the curriculum, the number of students in the program, any available services, the program's disciplinary policies, a typical daily schedule, and any extracurricular activities that may be offered at the alternative school program.” 105 ILCS 5/13A-4(b).
- “alternative educational plan” includes, but is not limited to, the following:
  - “(1) The duration of the plan, including a date after which the student will be returned to the regular educational program in the public schools of the transferring district.
  - (2) The specific academic and behavioral components of the plan.
  - (3) A method and time frame for reviewing the student's progress and for transitioning the student back to the regular educational program in the public schools of the transferring district on the date set forth in paragraph (1), including a transition meeting between the sending school district, the alternative school program, and the student's parent or guardian at least 30 days prior to the date after which the student will be returned to the regular educational program in the public schools of the transferring district.” 105 ILCS 5/13A-4(c)(1)-(3).
- “If the student or the student's parents or guardians are unable to attend the meeting required under this subsection (c), the appropriate personnel from the alternative

school program shall offer a meeting within 30 days after the effective date of the transfer to the student and the student's parents or guardians to discuss and provide input on the student's alternative educational plan and shall provide a copy of the alternative educational plan to the student and the student's parents or guardians prior to the meeting.” 105 ILCS 5/13A-4(c).

## ***Legislative Update Re. Administrative Transfers***

- P.A. 103-0473 (Eff. Jan. 1, 2024)
  - Return date to regular educational program shall not be extended over objection of parent/guardian, but may be extended upon written agreement between transferring school district, alternative school program, and parent/guardian.
  - If transferred student has an IEP developed under Article 14, IEP continues to apply to student after transfer (unless modified).



- P.A. 103-0473 (eff. 1/1/2024), amending 105 ILCS 5/13A-4

## Are there any other provisions I should be aware of regarding student suspension?

- Out-of-school suspensions and expulsions are most serious disciplinary interventions.
  - *“School officials shall limit the number and duration of expulsions and suspensions to the greatest extent practicable, and it is recommended that they use them only for legitimate educational purposes.”*
  - *“To ensure that students are not excluded from school unnecessarily, it is recommended that school officials consider forms of non-exclusionary discipline prior to using out-of-school suspensions or expulsions.”*

- 5/10-22.6(b-5)

## Are there any other provisions I should be aware of regarding student suspension?

- Zero tolerance policies are prohibited.
  - “Unless otherwise required by federal law or this Code, school boards may not institute zero-tolerance policies by which school administrators are required to suspend or expel students for particular behaviors.”
- Re-engagement policies
  - “A school district shall create a policy to facilitate the re-engagement of students who are suspended out-of-school, expelled, or returning from an alternative school setting.”

- 5/10-22.6(b-10) & (b-25)

## Are there any other provisions I should be aware of regarding student suspension?

- Professional development re. school exclusion
  - “School districts shall make reasonable efforts to provide ongoing professional development to teachers, administrators, school board members, school resource officers, and staff on the adverse consequences of school exclusion and justice-system involvement, effective classroom management strategies, culturally responsive discipline, the appropriate and available supportive services for the promotion of student attendance and engagement, and developmentally appropriate disciplinary methods that promote positive and healthy school climates.”

- 5/10-22.6(c-5) (language above is prior to revisions of P.A. 103-0896; ***see next slide for such legislative changes to above***)

## ***Legislative Update Re. Professional Development (P.D.) & Guidance***

- P.A. 103-0896(Eff. Aug. 9, 2024)
  - Districts required to make reasonable efforts to provide ongoing P.D. to all school personnel.
  - Additional P.D. topics include:
    - the requirements of Sections 10-22.6 & 10-20.14; and
    - trauma-responsive learning environments, as defined in subsection (b) of Section 3-11.



28

- 5/10-22.6(c-5)
- 105 ILCS 5/3-11(b): “Trauma-responsive learning environments’ means learning environments developed during an ongoing, multiyear-long process that typically progresses across the following 3 stages:
  - (1) A school or district is ‘trauma aware’ when it:
    - (A) has personnel that demonstrate a foundational understanding of a broad definition of trauma that is developmentally and culturally based; includes students, personnel, and communities; and recognizes the potential effect on biological, cognitive, academic, and social-emotional functioning; and
    - (B) recognizes that traumatic exposure can impact behavior and learning and should be acknowledged in policies, strategies, and systems of support for students, families, and personnel.
  - (2) A school or district is ‘trauma responsive’ when it progresses from awareness to action in the areas of policy, practice, and structural changes within a multi-tiered system of support to promote safety, positive relationships, and self-regulation while underscoring the importance of personal well-being and cultural responsiveness. Such progress may:
    - (A) be aligned with the Illinois Quality Framework and integrated into a

- school or district's continuous improvement process as evidence to support allocation of financial resources;
- (B) be assessed and monitored by a multidisciplinary leadership team on an ongoing basis; and
- (C) involve the engagement and capacity building of personnel at all levels to ensure that adults in the learning environment are prepared to recognize and respond to those impacted by trauma.
- (3) A school or district is healing centered when it acknowledges its role and responsibility to the community, fully responds to trauma, and promotes resilience and healing through genuine, trusting, and creative relationships. Such school or district may:
  - (A) promote holistic and collaborative approaches that are grounded in culture, spirituality, civic engagement, and equity; and
  - (B) support agency within individuals, families, and communities while engaging people in collective action that moves from transactional to transformational.”

## ***Legislative Update Re. Professional Development (P.D.) & Guidance***

- P.A. 103-0896(Eff. Aug. 9, 2024)
  - Requires ISBE to publish guidance on:
    - the development of reciprocal reporting systems [between a school district and local law enforcement agencies];
    - school bus safety procedures;
    - evidence-based intervention procedures, including examples; and
    - the re-engagement of students who are suspended out-of-school, expelled, or returning from an alternative school setting in accordance with Section 10-22.6 and Section 13A-4.



29

- 5/10-20.14(b)-(d)
  - Note: 5/10-20.14(d) defines “evidence-based intervention” to mean an “intervention that has demonstrated a statistically significant effect on improving student outcomes as documented in peer-reviewed scholarly journals.”
- 5/10-22.6(b-25)

## Are there any other provisions I should be aware of regarding student suspension?

- May apply to school activities and being on school grounds.
  - “Suspension or expulsion may include suspension or expulsion from school and all school activities and a prohibition from being present on school grounds.”

- 5/10-22.6(f)

## Are there any other provisions I should be aware of regarding student suspension?

- Policies requiring completion of suspension in alternative learning program before student being admitted into district.
  - “A school district may adopt a policy providing that if a student is suspended or expelled for any reason from any public or private school in this or any other state, the student must complete the entire term of the suspension or expulsion in an alternative school program under Article 13A of this Code or an alternative learning opportunities program under Article 13B of this Code before being admitted into the school district if there is no threat to the safety of students or staff in the alternative program.”

- 5/10-22.6(g)
- Note, per P.A. 102-0466 (eff. 7/1/2025) this provision will be amended to further provide that if a school district adopts such a policy, their policy must also “include a provision allowing for consideration of any mitigating factors, including, but not limited to, a student's status as a parent, expectant parent, or victim of domestic or sexual violence, as defined in Article 26A.”

## Are there any other provisions I should be aware of regarding student suspension?

- Schools may not encourage students to drop out.
  - “School officials shall not advise or encourage students to drop out voluntarily due to behavioral or academic difficulties.”
- No monetary fine/fee as disciplinary consequence.
  - “A student may not be issued a monetary fine or fee as a disciplinary consequence, though this shall not preclude requiring a student to provide restitution for lost, stolen, or damaged property.”

- 5/10-22.6(h) & (i)

## What role does ISBE play in suspensions?

- §10-22.6 of School Code (“Suspension or expulsion of students; school searches”) is in Article 10, titled “School Boards” and generally relates to [local] school boards.
- Moreover, §10-22.6 doesn’t expressly provide ISBE any role in suspensions.

## SUSPENSION OVERVIEW CHARTS

Questions?

Contact ISBE's Wellness and Student Care  
Department

217-782-5270

[See next pages for charts.]



### How long can a student be suspended?

<u>Provision</u>	<u>Statutory Reference</u>
<p><b>General Rule:</b> For a period not to exceed 10 school days.</p> <ul style="list-style-type: none"><li>• <b>Exception:</b> if suspended for behavior on school bus, then suspension can be &gt; 10 school days “for safety reasons.”</li></ul>	105 ILCS 5/10-22.6(b)



What standards attach to varying suspension lengths?

<u>Suspension Length</u>	<u>Standard</u>	<u>Statutory Reference</u>
≤ 10 school days [1-10 school days]	Gross disobedience or misconduct.	105 ILCS 5/10-22.6(b)
> 3days [4-10 days]	Appropriate/available behavior & disciplinary interventions exhausted <b>and</b> presence would pose threat to safety or disrupt school operations.	105 ILCS 5/10-22.6(b-20)
≤ 3 days [1-3 days]	Presence would pose threat to safety or disrupt other students' learning opportunities.	105 ILCS 5/10-22.6(b-15)



**What school obligations attach to varying suspension lengths?**

<u>Suspension Length</u>	<u>Obligation</u>	<u>Statutory Reference</u>
> 3 school days [4-10 school days]	Provide appropriate and available support services.	105 ILCS 5/10-22.6(b-25)
> 3 days [4-10 days]	Make all reasonable efforts to resolve such threats, address such disruptions, & minimize length of exclusion.	105 ILCS 5/10-22.6(b-20)
≤ 3 days [1-3 days]	Make all reasonable efforts to resolve such threats, address such disruptions, & minimize length of exclusion.	105 ILCS 5/10-22.6(b-15)



**What behavior can get a student suspended?**

<u>Provision</u>	<u>Statutory Reference</u>
Gross disobedience or misconduct (including such behavior on school bus).	105 ILCS 5/10-22.6(b)
Internet threats meeting certain criteria.	105 ILCS 5/10-22.6(d-5)

**Note:** The above behaviors are in addition to the various “standards” attached to suspensions of varying lengths. See relevant slides for reference.



What “notice” must a school provide?

<u>Provision</u>	<u>Statutory Reference</u>
Immediate parent/guardian notification (full statement of reasons for suspension + notice of right to review).	105 ILCS 5/10-22.6(b)
School board notification (reason for suspension + reason for length).	105 ILCS 5/10-22.6(b)



**What happens at a suspension review hearing?**

<u>Provision</u>	<u>Statutory Reference</u>
Occurs upon parent/guardian request.	105 ILCS 5/10-22.6(b)
Conducted by school board or appointed hearing officer.	105 ILCS 5/10-22.6(b)
Opportunity for “parents or guardians of the student [to] appear and discuss the suspension with the board or its hearing officer.”	105 ILCS 5/10-22.6(b)



**What happens at a suspension review hearing?**

<u>Provision</u>	<u>Statutory Reference</u>
Board or hearing officer reviews actions of employee who suspended student.	105 ILCS 5/10-22.6(b)
If conducted by hearing officer → officer must report a written summary of evidence to the board.	105 ILCS 5/10-22.6(b)
After hearing (or upon receiving written summary) → board may act as it finds appropriate.	105 ILCS 5/10-22.6(b)



**What happens at a suspension review hearing?**

<u>Provision</u>	<u>Statutory Reference</u>
Invite a representative from local mental health agency present (if evidence of mental illness causing suspension).	105 ILCS 5/10-22.6(c)
II. courts have found students to have certain due process rights at suspension hearings (e.g., In the context of suspensions of 10 days or less → oral or written notice of the charges against him, an explanation of the evidence the authorities have and an opportunity to present his side of the story.)	<i>Maldonado v. Ill. State Bd. of Educ.</i> , No. 01 C 7757, 2003 U.S. Dist. LEXIS 4923 (N.D. Ill. Mar. 27, 2003)



**What happens at a suspension review hearing?**

<u>Provision</u>	<u>Statutory Reference</u>
Present mitigating factors	P.A. 102-0466 [NOT EFFECTIVE UNTIL JULY 1, 2025]
Representation	P.A. 102-0466 [NOT EFFECTIVE UNTIL JULY 1, 2025]
Support person	P.A. 102-0466 [NOT EFFECTIVE UNTIL JULY 1, 2025]
Conducted independent of any ongoing criminal investigation or proceeding.	P.A. 102-0466 [NOT EFFECTIVE UNTIL JULY 1, 2025]
No direct questioning of victims alleging sexual violence.	P.A. 102-0466 [NOT EFFECTIVE UNTIL JULY 1, 2025]



**What must occur after a student is suspended?**

<u>Provision</u>	<u>Statutory Reference</u>
<p>Written suspension decision which:</p> <ul style="list-style-type: none"><li>• Details specific act of gross disobedience or misconduct;</li><li>• Provides rationale as to specific suspension duration;</li><li>• Document whether other interventions were attempted or whether it was determined there were no other appropriate and available interventions [suspensions &gt; 3 days]; and</li><li>• Document whether services are to be provided or whether decided no other appropriate and available services. [suspensions of &gt; 4 school days].</li></ul>	105 ILCS 5/10-22.6(b), (b-20), & (b-25)



What must occur after a student is suspended?

<u>Provision</u>	<u>Statutory Reference</u>
Opportunity to make up work <ul style="list-style-type: none"><li>• “A <b>school district shall create a policy</b> by which <b>suspended students</b>, including those students suspended from the school bus who do not have alternate transportation to school, <b>shall have the opportunity to make up work for equivalent academic credit.</b>”</li></ul>	105 ILCS 5/10-22.6(b-30)



What may occur if a student is subject to suspension?	
<u>Provision</u>	<u>Statutory Reference</u>
Transfer to Alternative School Program <ul style="list-style-type: none"> <li>• “A student who is subject to suspension or expulsion as provided in this Section may be eligible for a transfer to an alternative school program in accordance with Article 13A of the School Code.”</li> </ul>	105 ILCS 5/10-22.6(d)  **See also P.A. 103-0473 (eff. 1/1/24) (providing for <b><u>requirement</u></b> to send information about alternative school program, development of alternative educational plan, etc.)



- Note, though a student subject to suspension *may* be transferred to an alternative school program, abiding by the requirements of P.A. 103-0473 if/when such transfer occurs is **mandatory**.