

STUDENT EXPULSION 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 expelled?

- “The board may expel a student for a definite period of time **not to exceed 2 calendar years**, as determined on a case-by-case basis.”
- Expulsion for **at least one year is mandatory** (*unless modified*) for bringing a weapon (detailed in statute) “to school, any school-sponsored activity or event, or any activity or event that bears a reasonable relationship to school[.]”



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- 5/10-22.6(d)
- 5/10-22.6(d)(1) & (2) details a weapon as follows:
 - “(1) A firearm. For the purposes of this Section, "firearm" means any gun, rifle, shotgun, weapon as defined by Section 921 of Title 18 of the United States Code, firearm as defined in Section 1.1 of the Firearm Owners Identification Card Act, or firearm as defined in Section 24-1 of the Criminal Code of 2012. The expulsion period under this subdivision (1) may be modified by the superintendent, and the superintendent's determination may be modified by the board on a case-by-case basis.
 - (2) A knife, brass knuckles or other knuckle weapon regardless of its composition, a billy club, or any other object if used or attempted to be used to cause bodily harm, including "look alike" of any firearm as defined in subdivision (1) of this subsection (d). The expulsion requirement under this subdivision (2) may be modified by the superintendent, and the superintendent's determination may be modified by the board on a case-by-case basis.”

What behavior can get a student expelled?

- When a student is found to be “guilty of ***gross disobedience or misconduct, including gross disobedience or misconduct perpetuated by electronic means***, pursuant to subsection (b-20) of this Section[.]”

- 5/10-22.6(a)

What behavior can get a student expelled?

- 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.”
- Note, students may also be suspended for this behavior for a period not to exceed 10 school days.

Legislative Update Re. Early Childhood Expulsions

- P.A. 103-0594 (Dept. of Early Childhood Act-Eff. June 25, 2024, w/ some provisions July 1, 2026)
 - Sunsets 10-22.6(k) (early childhood expulsions) after June 30, 2026.
 - New 10-22.6(k-5) providing on and after July 1, 2026, expulsion of children enrolled in programs funded under §15-25 of the Dept. of Early Childhood Act (Block Grants) are subject to provisions of §15-30(a)(7) (prohibiting expulsions).

- 5/10-22.6(k) & (k-5)

What must occur prior to student expulsion?

- Schools must exhaust other interventions.
 - “[O]nly if other appropriate and available behavioral and disciplinary interventions have been exhausted[.]”
 - Determination of whether "appropriate and available behavioral and disciplinary interventions have been exhausted" shall be made by school officials.

- 5/10-22.6(b-20)

What must occur prior to student expulsion?

- Determination that “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.”
- Determined on a case-by-case basis by school officials.

- 5/10-22.6(b-20)

What must occur prior to student expulsion?

- “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)

What must occur prior to student expulsion?

- Request [“notice”] re. expulsion hearing and conduct expulsion hearing.
 - “Expulsion shall take place only after the *parents or guardians have been requested to appear at a meeting of the board, or with a hearing officer* appointed by it, to discuss their child's behavior.”
 - Request [“notice”] must: (1) be made by registered or certified mail, and (2) state the time, place and purpose of the meeting.

- 5/10-22.6(a)

What happens at a student expulsion hearing?

- At the meeting/hearing, board or hearing officer must “state the reasons for dismissal and the date on which the expulsion is to become effective.”
- If hearing officer conducts meeting/hearing, hearing officer must “report to the board a written summary of the evidence heard at the meeting and the board may take such action thereon as it finds appropriate.”

- 5/10-22.6(a)

What happens at a student expulsion hearing?

- Invite a representative from local mental health agency when evidence of mental illness causing expulsion.
 - “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.”



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

What happens at a student expulsion hearing?

- Currently in Illinois School Code, no express student rights.
- Illinois courts have nonetheless found students to have certain due process rights in such hearings.
 - *Brown v. Plainfield Cmty. Consol. Dist. 202*, 522 F. Supp. 2d 1068 (N.D. Ill. 2007)
 - “A student facing an expulsion has a due process right to ‘notice of the charges against him, notice of the time of the hearing and a full opportunity to be heard.’ A student must be given a meaningful opportunity to be heard, but expulsion hearings need not ‘take the form of a judicial or quasi-judicial trial.’”



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

What happens at a student expulsion 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.”



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- 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 student expulsion 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.”



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- 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 student expulsion 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.”



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- 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 student expulsion 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.”



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- 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 student expulsion 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.”



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

What must a student receive if they are expelled?

- Written expulsion decision from the board which must contain:
 - “the *specific reasons why removing the student from the learning environment is in the best interest of the school*”;
 - “a *rationale as to the specific duration* of the expulsion[]”; and
 - “whether *other interventions* were attempted or whether it was determined that there were no other appropriate and available interventions.”

- 5/10-22.6(a) & (b-20)

What may a student receive if they are expelled?

- Support services:
 - “A school district may refer students who are expelled to appropriate and available support services.”
- Transfer to alternative program:
 - Transfer may occur immediately in the manner provided in Article 13A or 13B of this Code.
 - A student “must not be denied transfer because of the expulsion, except in cases in which such transfer is deemed to cause a threat to the safety of students or staff in the alternative program.”



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

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.



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- 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 expulsion?

- 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 expulsion?

- 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 expulsion?

- 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.”



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- 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.



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- 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.



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- 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 expulsion?

- 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 expulsion?

- Policies requiring completion of expulsion 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 expulsion?

- 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 expulsions?

- §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 expulsions.

EXPULSION 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 expelled?

<u>Provision</u>	<u>Statutory Reference</u>
Generally, for a period not to exceed 2 calendar years.	105 ILCS 5/10-22.6(d)
1 year expulsion is <i>mandatory</i> (unless modified) for bringing a weapon (detailed in statute) “to school, any school-sponsored activity or event, or any activity or event that bears a reasonable relationship to school[.]”	105 ILCS 5/10-22.6(d)



What behavior can get a student expelled?

<u>Provision</u>	<u>Statutory Reference</u>
Guilty of gross disobedience or misconduct, including gross disobedience or misconduct perpetuated by electronic means.	105 ILCS 5/10-22.6(a)
Making internet threats meeting certain criteria.	105 ILCS 5/10-22.6(d-5)



What must occur prior to student expulsion?

<u>Provision</u>	<u>Statutory Reference</u>
Schools must exhaust other behavioral and disciplinary interventions & determine student's presence would pose a threat to safety or substantially disrupt school operation.	105 ILCS 5/10-22.6(b-20)
Schools must make all reasonable efforts to: (1) resolve such threats, (2) address such disruptions, and (3) minimize the length of student exclusions to greatest extent practicable.	105 ILCS 5/10-22.6(b-20)



What must occur prior to student expulsion?

<u>Provision</u>	<u>Statutory Reference</u>
<p>Request ["Notice"] re. Expulsion Hearing & Conduct Expulsion Hearing</p> <ul style="list-style-type: none">• "Expulsion shall take place only after the <i>parents or guardians have been requested to appear at a meeting of the board, or with a hearing officer</i> appointed by it, to discuss their child's behavior."• Notice must be: (1) made by registered or certified mail, and (2) state the time, place and purpose of the meeting.	105 ILCS 5/10-22.6(a)



What happens at a student expulsion hearing?

<u>Provision</u>	<u>Statutory Reference</u>
Board/ hearing officer must “state the reasons for dismissal and the date on which the expulsion is to become effective.”	105 ILCS 5/10-22.6(a)
If hearing officer → must “report to the board a written summary of the evidence heard at the meeting and the board may take such action thereon as it finds appropriate.”	105 ILCS 5/10-22.6(a)



What happens at a student expulsion hearing?

<u>Provision</u>	<u>Statutory Reference</u>
Invite a representative from local mental health agency (if evidence of mental illness causing expulsion).	105 ILCS 5/10-22.6(c)
II. courts have found students to have certain rights at expulsion hearings (e.g., right to notice of charges, notice of the time of the hearing, full and meaningful opportunity to be heard).	<i>Brown v. Plainfield Cmty. Consol. Dist.</i> 202, 522 F. Supp. 2d 1068 (N.D. Ill. 2007)



What happens at a student expulsion 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 a student receive if they are expelled?

<u>Provision</u>	<u>Statutory Reference</u>
<p><u>Mandatory</u> Written expulsion decision from the board containing:</p> <ul style="list-style-type: none">• (1) specific reasons why removing student is in the best interest of the school;• (2) rationale as to specific duration; &• (3) whether other interventions were attempted or whether it was determined there were no other appropriate and available interventions.	<p>105 ILCS 5/10-22.6(a) & (b-20)</p>



What may a student receive if they are expelled?	
Provision	Statutory Reference
<p>**Discretionary</p> <p>Transfer to Alternative Program (note, must not be denied transfer b/c of expulsion, except where transfer is deemed to cause a threat to the safety of students or staff in alternative program).</p>	<p>105 ILCS 5/10-22.6(a)</p> <p>**See also P.A. 103-0473 (eff. 1/1/24) (providing for <u>requirement</u> to send information about alternative school program, development of alternative educational plan, etc.)</p>
<p>Provision of appropriate and available support services.</p>	<p>105 ILCS 5/10-22.6(b-25)</p>



- Note, though immediate transfer of an expelled student to an alternative program is discretionary, abiding by the requirements of P.A. 103-0473 if/when such transfer occurs is **mandatory**.