



Illinois State Board of Education

August 22, 2012

Non-Regulatory Guidance 12-03

Public Act 97-0495: Transfer of Students to Regional Safe School and Alternative Learning Opportunity Programs

Applicable Public Act

Public Act 97-0495

Applicable School Code References

105 ILCS 5/13A (et seq.)
105 ILCS 5/10-22.6 (b)

105 ILCS 5/13B (et seq.)
105 ILCS 5/10-22.6 (g)

105 ILCS 5/10-22.6 (a)
105 ILCS 5/34-19

This document is intended to provide non-regulatory guidance on the subject matter listed above. For specific questions, please contact the person(s) identified in the document.

Dr. Christopher Koch, State Superintendent

**Public Act 97-0495: Transfer of Students to Regional Safe School and
Alternative Learning Opportunity Programs**

Effective January 1, 2012, Public Act 97-0495 (P.A. 97-0495) made changes to the requirements for administratively transferring students to Regional Safe School Programs (RSSPs) and Alternative Learning Opportunities Programs (ALOPs). The purpose of this guidance is to answer questions posed as a result of P.A. 97-0495. What follows is a non-exhaustive list of questions and answers with respect to the new provisions in Sections 10-22.6, 13B-20.25, and 34-19 of the School Code.

A. Administrative Transfers

A-1. Is a district required to administratively transfer a student who has been expelled or suspended to a RSSP or ALOP?

No. P.A. 97-0495 allows, but does not require, a district to immediately administratively transfer a student who has been expelled or suspended in excess of twenty (20) days to a RSSP or ALOP.

A-2. What does “immediately transfer” [of an expelled or suspended student] mean?

The law does not provide a definition of “immediate transfer”. Therefore, such determinations must be made on a case-by-case basis by the referring district. Consideration may be given to when in the school year the expulsion/suspension occurred and whether or not there were intervening school holidays, weekends or other delays in processing such a transfer.

A-3. If a district chooses not to immediately transfer a student who has been expelled or suspended in excess of twenty (20) days to a RSSP or ALOP, may the student enroll in a RSSP or ALOP independently of the district?

No. P.A. 97-0495 only speaks to transfers of students from the home district to a RSSP or ALOP. Provisions do not exist for direct enrollment of students in such alternative programs.

A-4. What information may or must the expelling/suspending district share with the RSSP or ALOP that is receiving the student?

When attempting to enroll a student into a RSSP or ALOP, the administration of such a program should receive the same information about the transferring student as they would in any other transfer situation. The provisions of 23 Ill Adm. Code 375.75, the administrative rules governing student records, will be applicable and the receiving program should receive a certified copy of the student’s permanent and temporary record upon request.

B. Denial of Transfer

B-1. Under what circumstances can a RSSP or ALOP deny the transfer of a student who has been expelled or suspended in excess of twenty (20) days?

If a district chooses to transfer a student who has been expelled or suspended in excess of twenty (20) days to a RSSP or ALOP, such transfer may be denied by the RSSP or ALOP only if it “is deemed to cause a threat to the safety of students or staff in the alternative program” [105 ILCS 5/10-22.6 (a)]. No other factor may be used by the RSSP or ALOP to deny the transfer of a student who has been expelled or suspended in excess of twenty (20) days. In making such a determination, the RSSP or ALOP, as the case may be, may consult with the home district of enrollment to obtain information necessary to inform the decision making process. However, the RSSP or ALOP, in its sole discretion,

**Public Act 97-0495: Transfer of Students to Regional Safe School and
Alternative Learning Opportunity Programs**

shall make the final determination as to whether or not the transfer of a particular student will cause a threat to the safety of students or staff.

B-2. Can the RSSP or ALOP deny enrollment to a student who has been expelled or suspended in excess of twenty (20) days due to enrollment capacity?

If, in the opinion of the RSSP or ALOP, exceeding the enrollment capacity for the program and/or its facilities will cause a threat to the safety of students or staff in the alternative program [see 105 ILCS 5/10-22.6 (a)], the RSSP or ALOP may deny the transfer sought by the district.

B-3. Does a district have the ability to deny enrollment in its schools to students who have been expelled or suspended from another school in Illinois or another state?

P.A. 97-0495 amended 105 ILCS 5/10-22.6 (g) so that

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.” (amended language underlined).

Accordingly, districts have the option to implement policies that require incoming resident students to complete terms of expulsion or suspension in the district’s RSSP or ALOP. If the district chooses not to implement such a policy, then the district may require the student to complete the term of the expulsion or suspension prior to gaining access to any district educational programs.

C. Student Services

C-1. Does a district have an obligation to provide transportation to a student who has been expelled or suspended and is enrolled in a RSSP or ALOP?

Expelled or suspended students who are administratively transferred to a RSSP or ALOP must be given the same access to transportation services that expulsion or suspension eligible students are afforded. If a district provides transportation services to expulsion or suspension eligible students, then expelled and suspended students must be provided the same services. If a district does not provide transportation services to expulsion or suspension eligible students, then it is under no obligation to provide such services to expelled or suspended students.

C-2. Are students who are expelled and enrolled in a RSSP or ALOP subject to taking state assessments (ISAT and PSAE)?

Yes. Students who have been expelled and are enrolled in a RSSP or ALOP are subject to taking state assessments. Such test scores will be reported with the district that administratively transferred the student.

C-3. Are students who are suspended in excess of twenty (20) days and enrolled in a RSSP or ALOP subject to taking state assessments?

**Public Act 97-0495: Transfer of Students to Regional Safe School and
Alternative Learning Opportunity Programs**

Yes. All district students, including those who have been suspended, must take state assessments. Such test scores will be reported with the district that administratively transferred the student.

C-4. If a student with an IEP is expelled or suspended in excess of twenty (20) days, is the home district of record still obligated to provide educational services (special education, general education and otherwise) to the student?

Yes. The district is still obligated to provide the student with a free appropriate public education and is required to fulfill all provisions of the student's IEP.

C-5. If a student that has been expelled or suspended in excess of twenty (20) days completes a program at a RSSP or ALOP, will he/she receive a diploma and, if so, what entity will issue the diploma?

A student that has been expelled or suspended in excess of twenty (20) days who completes a program at a RSSP or ALOP will receive the same diploma or credential that a student who was administratively transferred in lieu of expulsion or suspension would receive.

D. RSSP (105 ILCS 5/13A) and ALOP (105 ILCS 5/13B) Provisions

D-1. Does the law make any changes with respect to the transfer of “disruptive students” to RSSP programs?

No. The law defines „disruptive student“ as “suspension or expulsion eligible students in any of grades 6 through 12. Suspension or expulsion eligible students are those students that have been found to be eligible for suspension or expulsion through the discipline process established by a school district” [105 ILCS 5/13A-2.5]. Students may continue to be administratively transferred to RSSP programs in lieu of expulsion or suspension as detailed in 105 ILCS 5/13A.

D-2. Does the law make any changes with respect to the transfer of a “student at risk for academic failure” to an ALOP?

No. The law defines „student at risk of academic failure“ as “a student at risk of not meeting the Illinois Learning Standards or not graduating from elementary or high school and who demonstrates a need for educational support or social services beyond that provided by the regular school program” [105 ILCS 5/13B-15.10]. Students at risk of academic failure may continue to be administratively transferred to ALOP programs as detailed in 105 ILCS 5/13B.

D-3. RSSPs may serve students in 6th through 12th grade. Must a RSSP serving eligible students in 5th grade and below be offered?

No. The law does not require that programs be created where none currently exist.

D-4. ALOP programs serve students in 4th through 12th grade. Must ALOP programs serving eligible students in 3rd grade or below be offered?

No. The law does not require that programs be created where none currently exist.

**Public Act 97-0495: Transfer of Students to Regional Safe School and
Alternative Learning Opportunity Programs**

E. General Provisions

E-1. Per the language of the law, P.A. 97-0495 applies to students who have been suspended in excess of twenty (20) school days. Can a student be suspended in excess of twenty (20) school days for an incident or is this meant to be read as twenty (20) cumulative days?

Per 105 ILCS 5/10-22.6 (b), a student may be suspended for up to ten (10) school days (a student may, however, be suspended from riding the school bus in excess of 10 days pursuant to 105 ILCS 5/10-22.6 (b)). Hence, there is no scenario in which a student will be suspended in excess of twenty (20) days for a particular incident or violation. As no definite time periods are detailed in statute (i.e. per school year, per semester, etc.), ISBE does not interpret the statute to mean twenty (20) cumulative days. Therefore, it appears that the language of the law applies only to expelled students.

E-2. When is the effective date of the legislation and do students who were expelled or suspended prior the effective date qualify for transfers to alternative programs?

The effective date of P.A. 97-0495 is January 1, 2012. While a district may transfer a student who has been expelled or suspended in excess of twenty (20) days before the law's effective date, there is no obligation to do so.

Please note that the full text of Public Act 97-0495 has been provided at the end of this document. For additional information, please contact the following individuals with respect to the identified programs:

Regional Safe School Programs

Illinois State Board of Education
Division of Special Education Services
Attention: Sally Veach
100 N. First Street
Springfield, Illinois 62777
Phone: (217) 782-5589
Email: sveach@isbe.net

Alternative Learning Opportunity Programs

Illinois State Board of Education
Division of Special Education Services
Attention: Sue Taylor
100 N. First Street
Springfield, Illinois 62777
Phone: (217) 782-5589
Email: vtaylor@isbe.net

Compliance Inquiries

Illinois State Board of Education
Division of Public School Recognition
Attention: Jeff Aranowski
100 W. Randolph Street, Suite 14-300
Chicago, Illinois 60601
Phone: (312) 814-2223
Email: jaranows@isbe.net