

Vote Record

Senate Committee on Education

Date: _____
 Moved by: 447 Darling Seconded by: Robson
 AB: _____ Clearinghouse Rule: _____
 AB: _____ SB: _____ Appointment: _____
 AJR: _____ SJR: _____ Other: _____
 A: _____ SR: _____

A/S Amdt: _____
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 A/S Amdt: _____ to A/S Amdt: _____ to A/S Sub Amdt: _____

- Be recommended for:
- | | |
|---------------------------------------|--|
| <input type="checkbox"/> Passage | <input type="checkbox"/> Indefinite Postponement |
| <input type="checkbox"/> Introduction | <input type="checkbox"/> Tabling |
| <input type="checkbox"/> Adoption | <input checked="" type="checkbox"/> Concurrence |
| <input type="checkbox"/> Rejection | <input type="checkbox"/> Nonconcurrence |
| | <input type="checkbox"/> Confirmation |

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Sen. Richard Grobschmidt, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Robert Jauch	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Kevin Shibilski	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Jim Baumgart	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Judy Robson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Jon Erpenbach	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Alberta Darling	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Carol Roessler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Joanne Huelsman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Mary Lazich	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Margaret Farrow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: _____



WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

One East Main Street, Suite 401; P.O. Box 2536; Madison, WI 53701-2536
Telephone: (608) 266-1304
Fax: (608) 266-3830
Email: leg.council@legis.state.wi.us

DATE: September 2, 1999
TO: REPRESENTATIVE LUTHER S. OLSEN
FROM: Jane R. Henkel, Deputy Director
SUBJECT: 1999 Assembly Bill __ (LRB-3490/1), Relating to the Conditional Early Reinstatement to School of a Pupil Who Has Been Expelled From School

This memorandum describes 1999 Assembly Bill __ (LRB-3490/1), relating to the conditional early reinstatement to school of a pupil who has been expelled from school. LRB-3490/1 was prepared at your request.

A. BACKGROUND

In a recent decision on an appeal of an expulsion, State Superintendent John T. Benson reviewed the procedures followed by the Hayward Community School District to reinstate the expulsion of a pupil who had been allowed to return to school prior to the end of the term of his expulsion, subject to certain conditions. [*In the Matter of the Expulsion of Jeremy S. by the Hayward Community School District Board of Education*, Decision and Order 98/99-EX-10 (May 20, 1999).]

The expulsion order reviewed in *Jeremy S.* specified that the pupil was expelled from school through the end of the 1998-99 academic school year. However, the order also provided that the order would be stayed as a means of permitting the pupil to re-enroll as of Monday, November 30, 1998 (i.e., before the end of the term of expulsion) if, by that date, the pupil had undergone alcohol and other drug abuse assessment, was actively participating in any ongoing counseling or treatment recommended as a result of the assessment and had submitted a letter of apology for his actions leading to the expulsion. In addition, the expulsion order provided that in the event the pupil was readmitted to school after complying with those conditions, his *continued attendance* would be subject to the requirement that he engage in no further misconduct bringing him to "Level Two of the Code of Conduct." Under the order if the pupil engaged in such conduct, his *original expulsion would be reinstated* for the remainder of the original expulsion term (i.e., until the end of the 1998-99 academic year).

Following his early readmittance to school, the pupil, apparently, was involved in a fight at school resulting in the reinstatement of his expulsion. The reinstatement of the expulsion was accomplished by a telephone call from the high school principal to the pupil's mother informing her of the incident and of the reinstatement of the expulsion. The assistant high school principal signed a "Disciplinary Referral to the Office" form confirming the telephone conversation and wrote a letter to the school district superintendent summarizing the events.

On appeal, State Superintendent Benson concluded that, currently, there are no laws prohibiting school boards from allowing expelled pupils to conditionally return to school prior to the expiration of the period of expulsion stated in their order. However, Superintendent Benson concluded that, in order to remove a pupil from school after he or she has been conditionally reinstated but before the end of the term of the original expulsion, the usual and complete school board expulsion process under s. 120.13 (1) (c), Stats., must be followed.* Superintendent Benson based his conclusion on an interpretation of existing statutes which do not specifically authorize a procedure less than the full expulsion procedures for this circumstance. He suggested, however, that the Legislature could consider enacting a less rigorous procedure than the full expulsion procedure for this circumstance. Superintendent Benson also noted that such legislation would be consistent with a proposal made by the Department of Public Instruction in 1996. [See LRBs0564/1, an Assembly substitute amendment to 1995 Assembly Bill 980.]

B. 1999 ASSEMBLY BILL — (LRB-3490/1)

1999 Assembly Bill __ (LRB-3490/1) creates specific authorization for the inclusion, in an expulsion order, of conditions under which a pupil who has been expelled from school may be reinstated to school prior to the end of the term of his or her expulsion. In addition, the bill creates specific procedures to be followed in such circumstances. The remainder of this memorandum describes the bill in detail.

I. Content of Expulsion Order; Reinstatement Conditions

The bill authorizes a school board, or an independent hearing panel or independent hearing officer authorized by the school board to make expulsion decisions, to impose one or more early reinstatement conditions under which a pupil who is expelled from school may be reinstated to school prior to the end of the term of his or her expulsion. An early reinstatement condition may be either:

a. A condition that a pupil is required to meet before he or she will be granted early reinstatement;

b. A condition that a pupil is required to meet after his or her early reinstatement but before the end of the term of the expulsion specified in the pupil's expulsion order.

*Among other provisions, s. 120.13 (1) (c), Stats., requires the school board to provide notice and to hold a hearing on the expulsion. The pupil may be represented by counsel and may appeal the school board's decision to the Department of Public Instruction.

The early reinstatement conditions must be related to the reasons for the pupil's expulsion and specified in the expulsion order.

2. Reasonableness of Condition; Finality of School Board's Decision

If the expulsion order is issued by an independent hearing panel or independent hearing officer, within 15 days after issuance of the order, the expelled pupil, or if the pupil is a minor, his or her parent or guardian, may appeal the determination regarding *whether a reinstatement condition is related to the reasons* for the pupil's expulsion to the school board.

The school board's decision regarding that determination is final.

3. Procedure for Readmitting a Pupil Who Must Meet Conditions Before Early Reinstatement

If the school district administrator or his or her designee, who must be someone other than a principal, administrator or teacher in the pupil's school, determines that a pupil has met the early reinstatement conditions that he or she must meet *before* being granted early reinstatement, the school district administrator or designee may grant the pupil early reinstatement. The determination of the school district administrator or designee is final.

4. Procedure for Reinstating an Expulsion if a Condition is Violated After Early Reinstatement

a. Revocation

If a pupil violates an early reinstatement condition applicable after his or her early reinstatement but before the end of the term of expulsion, the school district administrator or a principal or teacher designated by the school district administrator may revoke the pupil's early reinstatement. Before revoking the early reinstatement, the school district administrator or his or her designee must: (1) advise the pupil of the reason for the proposed revocation, including the early reinstatement condition alleged to have been violated; (2) provide the pupil an opportunity to present his or her explanation of the alleged violation; and (3) make a determination that the pupil violated the early reinstatement condition and that revocation of the early reinstatement is appropriate.

If the school district administrator or designee determines to revoke the early reinstatement, the school district administrator or designee must give prompt written notice of the revocation and the reason for the revocation, including the early reinstatement condition violated, to the pupil and, if the pupil is a minor, to the pupil's parent or guardian.

If the pupil's early reinstatement is revoked, the pupil's expulsion shall continue to the end of the expulsion term specified in the expulsion order, unless the pupil or, if the pupil is a minor, the pupil's parent or guardian and the school board, independent hearing panel or independent hearing officer agree, in writing, to modify the expulsion order.

b. Review of Revocation

Within five school days after the revocation, the pupil or, if the pupil is a minor, the pupil's parent or guardian, may request a conference with the school district administrator or his or her designee, who shall be someone other than a principal, administrator or teacher in the pupil's school. If a conference is requested, it shall be held within five school days following the request.

If, after the conference, the school district administrator or his or her designee finds that the pupil did not violate an early reinstatement condition or that the revocation was inappropriate, the pupil shall be reinstated to school under the same reinstatement conditions as in the expulsion order and the early reinstatement revocation shall be expunged from the pupil's record.

If the school district administrator or his or her designee finds that the pupil violated an early reinstatement condition and that the revocation was appropriate, he or she must mail separate copies of the decision to the pupil and, if the pupil is a minor, to the pupil's parent or guardian.

The decision of the school district administrator or designee on the revocation is final.

5. Applicability to Pupils Serving Expulsions on the Effective Date of the Bill

The bill applies to expulsion orders issued on or after the effective date of the bill except as follows:

a. If a pupil is serving a term of expulsion on the effective date of the bill, the pupil or, if the pupil is a minor, the pupil's parent or guardian and the school board, independent hearing panel or independent hearing officer may agree, in writing, to modify the applicable expulsion order to incorporate one or more early reinstatement conditions which meets the requirements of this bill. If such modification is made, the provisions of the bill relating to early reinstatement and revocation of early reinstatements apply to the modified order.

b. If a pupil is serving a term of expulsion on the effective date of the bill and the applicable expulsion order contains early reinstatement conditions which meet the requirements of the bill, the provisions of the bill relating to early reinstatement and revocation of early reinstatements apply to the order.

JRH:ksm:wu:rv:jal;rv