

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 869 Session of 2009

INTRODUCED BY O'NEILL, CARROLL, CLYMER, CUTLER, EVERETT, FLECK,
GOODMAN, GROVE, GRUCELA, HARRIS, HENNESSEY, HESS, KORTZ,
LONGIETTI, MILLER, MOUL, MUSTIO, PASHINSKI, REICHLEY,
SCAVELLO, SIPTROTH, VULAKOVICH, BOYD, CREIGHTON AND GINGRICH,
MARCH 11, 2009

REFERRED TO COMMITTEE ON EDUCATION, MARCH 11, 2009

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," further providing for rules and
6 regulations and safety patrols, for possession of weapons
7 prohibited and for suspension and expulsion of pupils.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Section 510 of the act of March 10, 1949 (P.L.30,
11 No.14), known as the Public School Code of 1949, amended June
12 29, 1976 (P.L.450, No.110), is amended to read:

13 Section 510. Rules and Regulations; Safety Patrols.--(a)
14 The board of school directors in any school district may adopt
15 and enforce such reasonable rules and regulations as it may deem
16 necessary and proper, regarding the management of its school
17 affairs and the conduct and deportment of all superintendents,
18 teachers, and other appointees or employees during the time they
19 are engaged in their duties to the district, as well as

1 regarding the conduct and deportment of all [pupils] students
2 attending the public schools in the district, during such time
3 as they are attending school or school-related activities, are
4 present on school property or in buses or other vehicles
5 provided by the district, or otherwise are under the supervision
6 of the board of school directors and teachers, including the
7 time necessarily spent in coming to and returning from
8 school[.], and pertaining to activities of students regardless
9 of time or place likely to cause or causing substantial
10 disruption of or material interference with school activities or
11 the orderly and safe administration of the schools.

12 (b) In the exercise of this authority the board of school
13 directors is empowered to organize school safety patrols and,
14 with the permission of the parents, to appoint [pupils] students
15 as members thereof, for the purpose of influencing and
16 encouraging the other [pupils] students to refrain from crossing
17 public highways at points other than at regular crossings, and
18 for the purpose of directing [pupils] students not to cross
19 highways at times when the presence of traffic would render such
20 crossing unsafe. Nothing herein contained shall be construed to
21 authorize or permit the use of any safety patrol member for the
22 purpose of directing vehicular traffic, nor shall any safety
23 patrol member be stationed in that portion of the highway
24 intended for the use of vehicular traffic. No liability shall
25 attach either to the school district, or any individual
26 director, student, superintendent, teacher, or other school
27 employe, by virtue of the organization, maintenance, or
28 operation of a school safety patrol organized, maintained, and
29 operated under authority of this section.

30 All flags, belts, apparel and devices issued, supplied or

1 furnished to persons acting in the capacity of special school
2 police, or special police appointed to control and direct
3 traffic at or near schools, in order to enhance the conspicuity
4 of such persons, shall be made from retro-reflective and
5 fluorescent materials visible both day and night at three
6 hundred (300) feet to approaching motorists using lawful low
7 beam headlights and shall conform to standards, specifications,
8 or regulations issued by the State Board of Education. All belts
9 supplied or furnished to [pupils] students active in the
10 capacity of school safety patrol members shall be fluorescent.

11 Section 2. Section 1317.2(e.1) of the act, amended June 25,
12 1997 (P.L.297, No.30), is amended to read:

13 Section 1317.2. Possession of Weapons Prohibited.--* * *

14 [(e.1) A school district receiving a student who transfers
15 from a public or private school during a period of expulsion for
16 an act or offense involving a weapon may assign that student to
17 an alternative assignment or provide alternative education
18 services, provided that the assignment may not exceed the period
19 of expulsion.]

20 * * *

21 Section 3. Section 1318 of the act, amended February 8, 1980
22 (P.L.3, No.2), is amended to read:

23 Section 1318. Suspension and Expulsion of [Pupils.--]
24 Students.--(a) Every principal or teacher in charge of a public
25 school may temporarily suspend any [pupil] student on account of
26 disobedience or misconduct, and any principal or teacher
27 suspending any [pupil] student shall promptly notify the
28 district superintendent or secretary of the board of school
29 directors. The board may, after a proper hearing, suspend such
30 [child] student for such time as it may determine, or may

1 permanently expel [him] the student. Such hearings, suspension,
2 or expulsion may be delegated to a duly authorized committee of
3 the board, or to a duly qualified hearing examiner, who need not
4 be a member of the board, but whose adjudication must be
5 approved by the board. The board and designated committees or
6 hearing examiners acting pursuant to this section shall have the
7 power to administer oaths to witnesses and the power to issue
8 subpoenas as provided in section 1128.

9 (b) (1) A public school entity may suspend, expel or deny
10 admission to a student suspended or expelled from another public
11 school entity or nonpublic school, until the period of
12 suspension or expulsion has expired, if such suspension or
13 expulsion was imposed due to misconduct of a nature that would
14 subject students in the receiving entity to possible suspension
15 or expulsion.

16 (2) Denial of admission to a transferring student based on
17 suspension or expulsion from or misconduct in a prior school
18 entity shall be treated as suspension or expulsion for purposes
19 of this section. A student returning to the program of the
20 school district of residence after withdrawing from or being
21 expelled or suspended from an area vocational-technical school
22 is a transferring student for purposes of this section.

23 (3) No hearing otherwise required under subsection (a) shall
24 be necessary if suspension, expulsion or denial of admission
25 under subsection (b) (1) is based upon an adjudication issued in
26 accordance with this section by the board or joint operating
27 committee of the prior entity of enrollment, as evidenced by a
28 certified copy of such adjudication.

29 (4) A school entity may, after hearing in accordance with
30 subsection (a), suspend, expel or deny admission to a

1 transferring student who has committed misconduct while enrolled
2 in another public or nonpublic school of a nature that would
3 subject students in the receiving entity to possible suspension
4 or expulsion, but who withdrew from the prior school entity
5 before disciplinary proceedings based on the misconduct were
6 initiated or completed.

7 (5) A receiving school entity may enroll a student
8 transferring from another public or nonpublic school entity in
9 its regular program on a provisional basis pending receipt of a
10 certified copy of the student's disciplinary record and sworn
11 statement as required under section 1304-A. If the disciplinary
12 record or sworn statement reveals a history of misconduct while
13 enrolled in the prior entity, in addition to other disposition
14 authorized under this section and to the extent consistent with
15 the disciplinary standards, policies and procedures of the
16 receiving entity, the student may be reassigned to an
17 alternative education program and may be deemed ineligible to
18 participate in extracurricular activities.

19 (6) A receiving school entity may, consistent with its
20 disciplinary standards, policies and procedures, impose other
21 forms of discipline or disciplinary assignment or impose
22 conditions of admission or continued enrollment based on a
23 transferring student's expulsion or suspension from or
24 misconduct while enrolled in a prior school entity, in lieu of
25 or in combination with denial of admission, suspension or
26 expulsion.

27 (c) The board of school directors may, in connection with
28 any expulsion, suspension, denial of admission or disciplinary
29 reassignment of a student, impose conditions for admission or
30 readmission to or continuation in the school entity's regular or

alternative education programs. Violation of or failure to meet such conditions may become the basis for denial of admission, readmission or subsequent disciplinary action, including exclusion from or reassignment within the school entity's regular or alternative education programs. The board may designate a person or persons to determine whether such conditions have been met or violated. The hearing requirements of subsection (a) are not applicable to a determination that a student is not eligible for readmission or to remain in probationary continued enrollment because of violation of or failure to meet such conditions.

(d) Notwithstanding any other provision of this section, a hearing otherwise required under subsection (a) may be waived in a written agreement providing for the student's disciplinary exclusion from school programs for a specified period of time, entered into by the board of school directors and the student and in the case of a student under eighteen (18) years of age, also by the parent or guardian having primary custody of the student. Any such agreement shall be filed permanently in the student's disciplinary records and shall be treated in the same way as an adjudication of expulsion for purposes of subsections (b) and (c), this subsection and Article XIII-A. Consideration by the board of a proposed agreement in lieu of hearing shall not constitute grounds for disqualifying the board or members thereof from participating in a hearing or taking other action pursuant to this section in the event the agreement is not approved by the board. The agreements shall set forth:

(1) A summary of the reason for the exclusion.

(2) The effective date and expiration date of the period of exclusion.

1 (3) The date when the student may be considered for earlier
2 readmission.

3 (4) A summary of the procedural rights the student would
4 have been afforded at a hearing.

5 (5) Agreed conditions of readmission or of probationary
6 continued enrollment, if any.

7 (6) Any other terms and conditions of the agreed
8 disciplinary disposition.

9 (e) Nothing in this section shall be construed to alter the
10 obligations of school entities pursuant to the Individuals with
11 Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1400
12 et seq.) and Federal regulations thereunder relating to the
13 discipline of students with disabilities.

14 (f) Nothing in this section shall be construed to exempt an
15 expelled student or the student's parents or legal guardians
16 from compulsory education requirements or the penalties
17 contained in sections 1333, 1338 and 1338.1 if they fail to
18 provide the student with a sufficient alternate placement
19 program.

20 Section 4. This act shall take effect immediately.