



General Assembly

February Session, 2010

Amendment

LCO No. 5159

HB0533605159SR0

Offered by:
SEN. WITKOS, 8th Dist.

To: Subst. House Bill No. 5336 File No. 680 Cal. No. 520

**"AN ACT ENCOURAGING SHARED SERVICE AGREEMENTS
BETWEEN BOARDS OF EDUCATION."**

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Section 10-233d of the 2010 supplement to the general
4 statutes is repealed and the following is substituted in lieu thereof
5 (*Effective July 1, 2010*):

6 (a) (1) Any local or regional board of education, at a meeting at
7 which three or more members of such board are present, or the
8 impartial hearing board established pursuant to subsection (b) of this
9 section, may expel, subject to the provisions of this subsection, any
10 pupil whose conduct on school grounds or at a school-sponsored
11 activity is violative of a publicized policy of such board or is seriously
12 disruptive of the educational process or endangers persons or property
13 or whose conduct off school grounds is violative of such policy and is
14 seriously disruptive of the educational process, provided a majority of
15 the board members sitting in the expulsion hearing vote to expel and

16 that at least three affirmative votes for expulsion are cast. In making a
17 determination as to whether conduct is seriously disruptive of the
18 educational process, the board of education or impartial hearing board
19 may consider, but such consideration shall not be limited to: (A)
20 Whether the incident occurred within close proximity of a school; (B)
21 whether other students from the school were involved or whether
22 there was any gang involvement; (C) whether the conduct involved
23 violence, threats of violence or the unlawful use of a weapon, as
24 defined in section 29-38, and whether any injuries occurred; and (D)
25 whether the conduct involved the use of alcohol.

26 (2) Expulsion proceedings pursuant to this section, except as
27 provided in subsection (i) of this section, shall be required whenever
28 there is reason to believe that any pupil (A) on school grounds or at a
29 school-sponsored activity, was in possession of a firearm, as defined in
30 18 USC 921, as amended from time to time, or deadly weapon,
31 dangerous instrument or martial arts weapon, as defined in section
32 53a-3, (B) off school grounds, did possess such a firearm in violation of
33 section 29-35 or did possess and use such a firearm, instrument or
34 weapon in the commission of a crime under chapter 952, or (C) on or
35 off school grounds, offered for sale or distribution a controlled
36 substance, as defined in subdivision (9) of section 21a-240, whose
37 manufacture, distribution, sale, prescription, dispensing, transporting
38 or possessing with intent to sell or dispense, offering, or administering
39 is subject to criminal penalties under sections 21a-277 and 21a-278.
40 Such a pupil shall be expelled for one calendar year if the local or
41 regional board of education or impartial hearing board finds that the
42 pupil did so possess or so possess and use, as appropriate, such a
43 firearm, instrument or weapon or did so offer for sale or distribution
44 such a controlled substance, provided the board of education or the
45 hearing board may modify the period of expulsion for a pupil on a
46 case by case basis, and as provided for in subdivision (2) of subsection
47 (c) of this section.

48 (3) Unless an emergency exists, no pupil shall be expelled without a
49 formal hearing held pursuant to sections 4-176e to 4-180a, inclusive,

50 and section 4-181a, provided whenever such pupil is a minor, the
51 notice required by section 4-177 and section 4-180 shall also be given to
52 the parents or guardian of the pupil. If an emergency exists, such
53 hearing shall be held as soon after the expulsion as possible. The notice
54 shall include information concerning legal services provided free of
55 charge or at a reduced rate that are available locally and how to access
56 such services.

57 (4) The local or regional board of education or the hearing board
58 established pursuant to subsection (b) of this section, may conduct
59 expulsion proceedings pursuant to this section, except as provided in
60 subsection (i) of this section, whenever the board of education or the
61 hearing board obtains information that a pupil has been convicted of a
62 crime involving a violation of section 53a-70, 53a-70a, 53a-72b, 53a-92
63 or 53a-92a. Such a pupil may be expelled for one calendar year if the
64 local or regional board of education or impartial hearing board finds
65 that the pupil was convicted of such a crime, provided the board of
66 education or the hearing board may modify the period of expulsion for
67 a pupil on a case by case basis, and as provided in subdivision (2) of
68 subsection (c) of this section.

69 (b) For purposes of conducting expulsion hearings as required by
70 subsection (a) of this section, any local or regional board of education
71 or any two or more of such boards in cooperation may establish an
72 impartial hearing board of one or more persons. No member of any
73 such board or boards shall be a member of the hearing board. The
74 hearing board shall have the authority to conduct the expulsion
75 hearing and render a final decision in accordance with the provisions
76 of sections 4-176e to 4-180a, inclusive, and section 4-181a.

77 (c) (1) In determining the length of an expulsion and the nature of
78 the alternative educational opportunity to be offered under subsection
79 (d) of this section, the local or regional board of education, or the
80 impartial hearing board established pursuant to subsection (b) of this
81 section, may receive and consider evidence of past disciplinary
82 problems which have led to removal from a classroom, suspension or

83 expulsion of such pupil.

84 (2) For any pupil expelled for the first time pursuant to this section
85 and who has never been suspended pursuant to section 10-233c, the
86 local or regional board of education may shorten the length of or waive
87 the expulsion period if the pupil successfully completes a board-
88 specified program and meets any other conditions required by the
89 board. Such board-specified program shall not require the pupil or the
90 parent or guardian of the pupil to pay for participation in the program.

91 (d) Notwithstanding the provisions of subsection (a) of section 10-
92 220, local and regional boards of education shall only be required to
93 offer an alternative educational opportunity in accordance with this
94 section. Any pupil under sixteen years of age who is expelled shall be
95 offered an alternative educational opportunity during the period of
96 expulsion, provided any parent or guardian of such pupil who does
97 not choose to have his or her child enrolled in an alternative program
98 shall not be subject to the provisions of section 10-184. Any pupil
99 expelled for the first time who is between the ages of sixteen and
100 eighteen and who wishes to continue his or her education shall be
101 offered an alternative educational opportunity if he or she complies
102 with conditions established by his or her local or regional board of
103 education. Such alternative may include, but shall not be limited to, the
104 placement of a pupil who is at least sixteen years of age in an adult
105 education program pursuant to section 10-69. A local or regional board
106 of education shall count the expulsion of a pupil when he was under
107 sixteen years of age for purposes of determining whether an
108 alternative educational opportunity is required for such pupil when he
109 is between the ages of sixteen and eighteen. A local or regional board
110 of education may offer an alternative educational opportunity to a
111 pupil for whom such alternative educational opportunity is not
112 required pursuant to this section.

113 (e) Notwithstanding the provisions of subsection (d) of this section
114 concerning the provision of an alternative educational opportunity for
115 pupils between the ages of sixteen and eighteen, local and regional

116 boards of education shall not be required to offer such alternative to
117 any pupil between the ages of sixteen and eighteen who is expelled
118 because of conduct which endangers persons if it is determined at the
119 expulsion hearing that the conduct for which the pupil is expelled
120 involved (1) possession of a firearm, as defined in 18 USC 921, as
121 amended from time to time, or deadly weapon, dangerous instrument
122 or martial arts weapon, as defined in section 53a-3, on school property
123 or at a school-sponsored activity, or (2) offering for sale or distribution
124 on school property or at a school-sponsored activity a controlled
125 substance, as defined in subdivision (9) of section 21a-240, whose
126 manufacture, distribution, sale, prescription, dispensing, transporting
127 or possessing with the intent to sell or dispense, offering, or
128 administration is subject to criminal penalties under sections 21a-277
129 and 21a-278. If a pupil is expelled pursuant to this section for
130 possession of a firearm or deadly weapon the board of education shall
131 report the violation to the local police department or in the case of a
132 student enrolled in a regional vocational-technical school to the state
133 police. If a pupil is expelled pursuant to this section for the sale or
134 distribution of such a controlled substance, the board of education
135 shall refer the pupil to an appropriate state or local agency for
136 rehabilitation, intervention or job training, or any combination thereof,
137 and inform the agency of its action. Whenever a local or regional board
138 of education notifies a pupil between the ages of sixteen and eighteen
139 or the parents or guardian of such pupil that an expulsion hearing will
140 be held, the notification shall include a statement that the board of
141 education is not required to offer an alternative educational
142 opportunity to any pupil who is found to have engaged in the conduct
143 described in this subsection.

144 (f) (1) Whenever a pupil is expelled pursuant to the provisions of
145 this section, notice of the expulsion and the conduct for which the
146 pupil was expelled shall be included on the pupil's cumulative
147 educational record. Such notice, except for notice of an expulsion
148 based on possession of a firearm or deadly weapon as described in
149 subsection (a) of this section, shall be expunged from the cumulative

150 educational record by the local or regional board of education if a
151 pupil graduates from high school, except as provided for in
152 subdivision (2) of this subsection.

153 (2) In the case of a pupil for which the length of the expulsion
154 period is shortened or the expulsion period is waived pursuant to
155 subdivision (2) of subsection (c) of this section, such notice shall be
156 expunged from the cumulative educational record by the local or
157 regional board of education (A) if the pupil graduates from high
158 school, or (B) if the board so chooses, at the time the pupil completes
159 the board-specified program and meets any other conditions required
160 by the board pursuant to subdivision (2) of subsection (c) of this
161 section, whichever is earlier.

162 (g) A local or regional board of education may adopt the decision of
163 a pupil expulsion hearing conducted by another school district
164 provided such local or regional board of education or impartial
165 hearing board shall hold a hearing pursuant to the provisions of
166 subsection (a) of this section which shall be limited to a determination
167 of whether the conduct which was the basis for the expulsion would
168 also warrant expulsion under the policies of such board. The pupil
169 shall be excluded from school pending such hearing. The excluded
170 student shall be offered an alternative educational opportunity in
171 accordance with the provisions of subsections (d) and (e) of this
172 section.

173 (h) Whenever a pupil against whom an expulsion hearing is
174 pending withdraws from school after notification of such hearing but
175 before the hearing is completed and a decision rendered pursuant to
176 this section, (1) notice of the pending expulsion hearing shall be
177 included on the pupil's cumulative educational record, and (2) the
178 local or regional board of education or impartial hearing board shall
179 complete the expulsion hearing and render a decision. If such pupil
180 enrolls in school in another school district, such pupil shall not be
181 excluded from school in the other district pending completion of the
182 expulsion hearing pursuant to this subsection unless an emergency

183 exists, provided nothing in this subsection shall limit the authority of
184 the local or regional board of education for such district to suspend the
185 pupil or to conduct its own expulsion hearing in accordance with this
186 section.

187 (i) Prior to conducting an expulsion hearing for a child requiring
188 special education and related services described in subparagraph (A)
189 of subdivision (5) of section 10-76a, a planning and placement team
190 shall convene to determine whether the misconduct was caused by the
191 child's disability. If it is determined that the misconduct was caused by
192 the child's disability, the child shall not be expelled. The planning and
193 placement team shall reevaluate the child for the purpose of modifying
194 the child's individualized education program to address the
195 misconduct and to ensure the safety of other children and staff in the
196 school. If it is determined that the misconduct was not caused by the
197 child's disability, the child may be expelled in accordance with the
198 provisions of this section applicable to children who do not require
199 special education and related services. Notwithstanding the provisions
200 of subsections (d) and (e) of this section, whenever a child requiring
201 such special education and related services is expelled, an alternative
202 educational opportunity, consistent with such child's educational
203 needs shall be provided during the period of expulsion.

204 (j) An expelled pupil may apply for early readmission to school.
205 Except as provided in this subsection, such readmission shall be at the
206 discretion of the local or regional board of education. The board of
207 education may delegate authority for readmission decisions to the
208 superintendent of schools for the school district. If the board delegates
209 such authority, readmission shall be at the discretion of the
210 superintendent. Readmission decisions shall not be subject to appeal to
211 Superior Court. The board or superintendent, as appropriate, may
212 condition such readmission on specified criteria.

213 (k) Local and regional boards of education shall submit to the
214 Commissioner of Education such information on expulsions for the
215 possession of weapons as required for purposes of the Gun-Free

216 Schools Act of 1994, 20 USC 8921 et seq., as amended from time to
217 time.

218 (l) If a student who committed an expellable offense seeks to return
219 to a school district after having been in a juvenile detention center, the
220 Connecticut Juvenile Training School or any other residential
221 placement for one year or more, the district to which the student is
222 returning shall allow such student to return and may not expel the
223 student for additional time for such offense."