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SPRINGFIELD

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FILE NO. S-709

**SCHOOLS AND SCHOOL DISTRICTS:
Maximum Period of Expulsion**

Honorable Dallas C. Ingemunson
State's Attorney
Kendall County
Yorkville, Illinois 60560

Dear Mr. Ingemunson:

I have your letter of recent date wherein you state:

"The County Superintendent of Schools of Kendall County has received numerous requests for interpretation of Section 10-22.6, Chapter 122, Illinois Revised Statutes so far as it relates to the term of expulsion of a student. The statute does not specify whether a school board has the authority to expel permanently or for instance whether that same student may re-enter in the particular period such as the regular school year. I would appreciate your advice in this matter. Thank you."

Section 10-22.6 of the Illinois School Code (Ill. Rev. Stat. 1972 Supp., ch. 122, par. 10-22.6), is the sole express

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provision in the Illinois statutes relating to suspension and expulsion of public school pupils. It provides in pertinent part that a school board has powers as follows:

"(a) To expel pupils guilty of gross disobedience or misconduct, and no action shall lie against them for such expulsion.
* * *

(b) * * * The board may by regulation authorize the superintendent of the district or the principal of any school to suspend pupils guilty of such acts for a period not to exceed 10 school days. * * * After its hearing or upon receipt of the written report of its hearing officer, the board may take such action as it finds appropriate."

While this section provides that a principal may not be authorized to suspend pupils for more than ten school days, it sets no maximum for which a board may expel a pupil but only that it may take such action as it finds appropriate.

In Board of Education v. Helston, 32 Ill. App. 300, the Illinois Appellate Court upheld the suspension of a pupil for the refusal of the pupil to inform the board of the name of a party who had been guilty of a gross breach of rules. In interpreting a similar provision of the Illinois statutes it stated:

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"* * * It appears from the record that the relator was suspended from the school November 9, 1888, until he would comply with the requirements of the board. This suspension would not be construed to continue beyond the school year then current, and as that year has now expired the relator presumably is not now debarred of school privileges. * * * "

I, therefore, am of the opinion that a school board is not authorized to expel a pupil for more than the remainder of the school year. This, however, does not mean that a school board is authorized in every case to expel a pupil for the remainder of the school year. The school board may not act arbitrarily in determining the appropriate length of an expulsion and whether such length is arbitrary, depends upon the facts in each case.

Very truly yours,

A T T O R N E Y G E N E R A L