

HB

28

(9)

Date Referred: January 16, 1995

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: 2/21/95

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 28

HOUSE BILL NO. 28

POSSESSION OF GUNS ON SCHOOL PROPERTY

"An Act relating to the possession of weapons within the grounds of or on the parking lot of preschools, elementary, junior high, and secondary schools or while participating in a school-sponsored event; requiring the expulsion or suspension of students possessing deadly weapons on school grounds; and relating to school lockers and other containers provided in a public or private school by the school or the school district."

recommends it be replaced with the following committee substitute CS HB 28 (HES) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) _____ fiscal note(s) _____

2 zero fiscal note(s) Public Safety zero fiscal note(s) _____
Education

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>Caren Robinson</i>			✓	
<i>[Signature]</i>			✓	

CHAIR'S SIGNATURE *[Signature]*

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 28

Revision Date: _____

Department Affected: Education

Title: Possession of Guns on School Property

BRU: K-12 Support and Education Program Support

Component: Foundation Program and Special and Supplemental Services

Sponsor: Representative Bunde

Requester: Representative Bunde

COMPONENT SERIAL NO. 141 and 166

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE FUND SOURCE:						
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FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY95) impact: \$ 0.0

ANALYSIS: (Attach a separate page if necessary.)

Federal legislation, *Gun Free Schools Act*, requires that each state, in order to receive funds under the Elementary and Secondary Education Act (ESEA), must enact a law by October 20, 1995 which mandates a one-year expulsion of a student who brings a weapon to school. Section 6 of HB 28 address this needed provision. In FY 95, the State of Alaska received over \$ 90 million, most of which went directly to local school districts, under ESEA. Please see the attached sheet for a break down on the funds received in FY 95.

Prepared by: Sheila Peterson *Sheila Peterson*

Phone: 465-2803

Division: Commissioner's Office

Date: _____

Approved by Commissioner: *Mike Maher*

Mike Maher, Acting Commissioner

Agency: Education

Date: _____

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Elementary and Secondary Education Act
FY 95 Program Funding
(Thousands of Dollars)

Chapter I	\$ 12,475.5
Chapter II	1,833.1
Migrant	6,983.1
Evenstart	250.0
Neglected and Delinquent	149.4
Eisenhower Grants	1,241.6
Drug Free Schools	1,371.2
Governor's Drug Free Schools	441.8
Equity	110.8
Bilingual	75.0
Impact Aid	66,000.0
TOTAL	\$ 90,930.5

FISCAL NOTE

STATE OF ALASKA

BILL NC

HB 28

1995 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Public Safety
 Title: Possession of guns on school property BRU: Alaska State Troopers
 Component: Detachments
 Sponsor: Representative Bunde
 Requestor: (H) HESS COMPONENT SERIAL NO. 0799

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES () <small>Revenue Code</small>	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 95) impact: \$ -0-

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)
 No fiscal impact is anticipated.

Prepared By: Francis C. Allan Phone: 269-5691
 Division: Alaska State Troopers Date: 02/10/95
 Approved by Commissioner: *Ronald L. Otte* Date: 2/12/95
 Agency: Ronald L. Otte, Dept. of Public Safety

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9-LS0151VF ✓
Luckhaupt
2/13/95

CS FOR HOUSE BILL NO. 28()

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES BUNDE, Rokeberg, Green, Toohey, Kott, Elton

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the possession of weapons within the grounds of or on the
2 parking lot of preschools, elementary, junior high, and secondary schools or while
3 participating in a school-sponsored event; requiring the expulsion or suspension of
4 students possessing deadly weapons on school grounds; requiring reports to the
5 Department of Education concerning those expulsions or suspensions; and relating to
6 school lockers and other containers provided in a public or private school by the
7 school or the school district."

8 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

9 * Section 1. AS 11.61.210(a) is amended to read:

10 (a) A person commits the crime of misconduct involving weapons in the fourth
11 degree if the person

12 (1) possesses on the person, or in the interior of a vehicle in which the

1 person is present, a firearm when the person's physical or mental condition is impaired
2 as a result of the introduction of an intoxicating liquor or a controlled substance into the
3 person's body in circumstances other than described in AS 11.61.200(a)(7);

4 (2) discharges a firearm from, on, or across a highway;

5 (3) discharges a firearm with reckless disregard for a risk of damage to
6 property or a risk of physical injury to a person;

7 (4) manufactures, possesses, transports, sells, or transfers metal knuckles;

8 (5) manufactures, sells, or transfers a switchblade or a gravity knife; [OR]

9 (6) knowingly sells a firearm or a defensive weapon to a person under 18
10 years of age;

11 (7) other than a preschool, elementary, junior high, or secondary
12 school student, knowingly possesses a deadly weapon or a defensive weapon, without
13 the permission of the chief administrative officer of the school or district or the
14 designee of the chief administrative officer, within the grounds of or on the parking
15 lot immediately adjacent to a public or private preschool, elementary, junior high,
16 or secondary school or while participating in a school-sponsored event, except that
17 a person 21 years of age or older may possess

18 (A) a deadly weapon other than a loaded firearm in the trunk
19 of a motor vehicle or encased in a closed container in a motor vehicle;

20 (B) a defensive weapon;

21 (C) an unloaded firearm if the person is traversing school
22 premises in a rural area for the purpose of entering public or private land
23 that is open to hunting and the school board with jurisdiction over the school
24 premises has elected to have this exemption apply to the school premises; in
25 this subparagraph, "rural" means a community with a population of 5,500
26 or less that is not connected by road or rail to Anchorage or Fairbanks or
27 with a population of 1,500 or less that is connected by road or rail to
28 Anchorage or Fairbanks; or

29 (8) being a preschool, elementary, junior high, or secondary school
30 student, knowingly possesses a deadly weapon or a defensive weapon, within the

1 grounds of or on the parking lot immediately adjacent to a public or private
2 preschool, elementary, junior high, or secondary school or while participating in a
3 school-sponsored event, except that a student may possess a deadly weapon, other
4 than a firearm as defined under 18 U.S.C. 921, or a defensive weapon if the student
5 has obtained the prior permission of the chief administrative officer of the school
6 or district or the designee of the chief administrative officer for the possession.

7 * Sec. 2. AS 11.61.210 is amended by adding a new subsection to read:

8 (d) The provisions of (a)(7) of this section do not apply to a peace officer acting
9 within the scope and authority of the officer's employment.

10 * Sec. 3. AS 11.61.220(a) is amended to read:

11 (a) A person commits the crime of misconduct involving weapons in the fifth
12 degree if the person

13 (1) knowingly possesses a deadly weapon, other than an ordinary pocket
14 knife or a defensive weapon, that is concealed on the person;

15 (2) knowingly possesses a loaded firearm on the person in any place
16 where intoxicating liquor is sold for consumption on the premises;

17 (3) being an unemancipated minor under 16 years of age, possesses a
18 firearm without the consent of a parent or guardian of the minor;

19 (4) knowingly possesses a firearm

20 [(A) OR A DEFENSIVE WEAPON WITHIN THE GROUNDS
21 OF OR ON A PARKING LOT IMMEDIATELY ADJACENT TO A PUBLIC
22 OR PRIVATE PRESCHOOL, ELEMENTARY, JUNIOR HIGH, OR
23 SECONDARY SCHOOL WITHOUT THE PERMISSION OF THE CHIEF
24 ADMINISTRATIVE OFFICER OF THE SCHOOL OR DISTRICT OR THE
25 DESIGNEE OF THE CHIEF ADMINISTRATIVE OFFICER, EXCEPT THAT
26 A PERSON 21 YEARS OF AGE OR OLDER MAY POSSESS

27 (i) AN UNLOADED FIREARM IN THE TRUNK OF A
28 MOTOR VEHICLE OR ENCASED IN A CLOSED CONTAINER IN A
29 MOTOR VEHICLE;

30 (ii) A DEFENSIVE WEAPON; OR

31 (B)] within the grounds of or on a parking lot immediately

1 adjacent to a center, other than a private residence, licensed under AS 47.33 or
2 AS 47.35 or recognized by the federal government for the care of children; or
3 (5) possesses or transports a switchblade or a gravity knife.

4 * Sec. 4. AS 14.03.080 is amended by adding a new subsection to read:

5 (f) This section does not require a school district to admit a child or person
6 currently under suspension or expulsion under AS 14.03.160 in that or another school
7 district.

8 * Sec. 5. AS 14.03 is amended by adding a new section to read:

9 Sec. 14.03.105. SCHOOL LOCKERS. (a) Subject to (b) of this section, a locker
10 or other container provided in a school by the school or the school district may be
11 searched and examined with the permission of the chief administrative officer of the
12 school or the school district or the designee of the chief administrative officer to
13 determine compliance with school regulations, school district regulations, and local, state,
14 and federal laws.

15 (b) Notices in letters at least two inches high stating the right and the intention
16 of school and school district officers to permit searches and examinations under (a) of
17 this section shall be posted in prominent locations throughout a school.

18 (c) Nothing in this section limits the ability of a peace officer, chief
19 administrative officer, or other appropriate person, acting in compliance with local, state,
20 or federal laws, to search a locker or other container provided in a public or private
21 school by the school district.

22 * Sec. 6. AS 14.03 is amended by adding a new section to read:

23 Sec. 14.03.160. SUSPENSION OR EXPULSION OF STUDENTS FOR
24 POSSESSING WEAPONS. (a) Notwithstanding any other provision of law, a school
25 district shall

26 (1) expel for at least one year a student who violates AS 11.61.210(a)(8)
27 while possessing a firearm, as that term is defined under 18 U.S.C. 921;

28 (2) suspend for a least 30 days, or expel for the school year or
29 permanently, a student who violates AS 11.61.210(a)(8) while possessing a deadly
30 weapon, other than a firearm as that term is defined under 18 U.S.C. 921.

31 (b) The administrative officer of a school district may on a case-by-case basis

1 reduce or otherwise modify the expulsion or suspension of a student under (a) of this
2 section.

3 (c) A prior conviction, or adjudication of delinquency or child in need of aid, for
4 violation of AS 11.61.210(a)(8) is not necessary for a school board to suspend or expel
5 a student under this section.

6 (d) Each school district shall adopt a policy providing for the referral to law
7 enforcement authorities of students who violate AS 11.61.210(a)(8).

8 (e) Annually on a date set by the department, each school district shall report to
9 the department the number of students expelled under this section and the types of
10 weapons involved.

11 (f) In this section,

12 (1) "deadly weapon" has the meaning given in AS 11.81.900;

13 (2) "district" has the meaning given in AS 14.17.250.

14 * Sec. 7. AS 14.45 is amended by adding a new section to article 3 to read:

15 Sec. 14.45.190. SCHOOL LOCKERS. A private school may search school
16 lockers and other containers as provided in AS 14.03.105.



REPRESENTATIVE CON BUNDE
CO-CHAIR HEALTH, EDUCATION
& SOCIAL SERVICES
VICE-CHAIR RULES

Alaska State Legislature
House of Representatives

DURING SESSION:
STATE CAPITOL, ROOM 108
JUNEAU, ALASKA 99801-1182
1 (907) 465-4843

SPONSOR STATEMENT
HB 28

DURING INTERIM:
716 WEST 4th AVENUE
ANCHORAGE, ALASKA 99501-2133
1 (907) 258-8168

The increasing trend towards violence and guns in schools across the nation is the reason the Federal Gun Free Schools Act was passed by Congress. This act requires a school system, as a condition of receiving federal education funds, to implement a program for the control of guns and weapons in schools. HB 28 will put Alaska into compliance with the mandates of the Federal Gun Free Schools Act.

The possession of deadly weapons and defensive weapons on school grounds, in parking lots adjacent to public or private schools, and while participating in school events is prohibited within HB 28. However, a person can obtain permission from the chief administrative officer of a school to carry a prohibited weapon into a school. This provision will allow a school to use an existing gun range or continue functions within a school that require the legal use of a deadly or defensive weapon.

HB 28 provides for a one year expulsion or suspension of a student that possesses a weapon on school grounds. However, in instances of disabled or special education students the school administrator is granted the ability to modify the mandatory expulsion or suspension. Additionally, this legislation requires an annual statistical report to the Department of Education regarding the number of students expelled and the types of weapons involved. This provision will improve the way many school districts keep weapons reports. Both of these provisions are for compliance with the Gun Free Schools Act.

This legislation allows school locker searches in order to determine compliance with school regulations and state laws. The policy of locker searches must be posted in prominent locations throughout the school.

Alaska must comply with the Federal Gun Free Schools Act by passing this legislation, or our schools will lose needed federal dollars. However, the most important reason for passing this legislation is, schools cannot work well when students and teachers are concerned about their safety. The educational process stops when people are afraid. Although a wide range of underlying social ills contribute to violent incidents, children with guns and weapons in our schools is a strong catalyst for governmental action. I urge your favorable consideration of HB 28.

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 14, 1995

SUBJECT: Sectional Summary of CSHB 28 (HES), draft, dated 2/13/95
(Work Order No. 9-LS0151\F)

TO: Representative Con Bunde
Attn: Patty

FROM: Jerry Luckhaupt *JL*
Legislative Counsel

You have asked for a sectional summary of the above-described bill. Please be advised that a sectional summary is not an authoritative statement of the contents of a bill - the bill itself is the best statement of its contents.

Section 1 of the bill amends AS 11.61.210(a) by providing that a person other than a student commits the crime of misconduct involving weapons in the fourth degree if the person possesses a deadly weapon^{1/} or a defensive weapon,^{2/} on school grounds or the parking lot of a preschool, elementary, junior high, or secondary school, in certain situations or while participating in a school sponsored event. This section also provides that a student commits the crime of misconduct involving weapons in the third degree if the student possesses a deadly weapon or a defensive weapon on school grounds or at a school-sponsored event, except that a student may possess a deadly weapon, other than a firearm as defined under federal law, or a defensive weapon with the permission of school authorities. Violation of this section is a class A misdemeanor.^{3/} AS 11.61.220(g). The possession of firearms and defensive weapons is currently prohibited at schools and their grounds under AS 11.61.220-(a)(4) which is being repealed in sec. 3 of this bill.

^{1/} "Deadly weapon" is defined at AS 11.81.900(b)(13) as:

firearm, or anything designed for and capable of causing death or serious physical injury, including a knife, an axe, a club, metal knuckles, or an explosive . . .

^{2/} "Defensive weapon" is defined at AS 11.81.900(b)(16).

^{3/} A class A misdemeanor is punishable as provided in AS 12.55.135 (imprisonment) and 12.55.035 (fine).

Representative Con Bunde

February 14, 1995

Page 2

Section 2 of the bill provides that a peace officer may possess a deadly weapon on school grounds.

Section 3 of the bill amends AS 11.61.220(a) to correspond with the change made in sec. 1 of the bill.

Section 4 of the bill amends AS 14.03.080 by adding a new subsection that provides that school officials do not have to admit a child under suspension or expulsion under AS 14.03.160, added in sec. 6 of the bill.

Section 5 of the bill amends AS 14.03 by adding a new section that provides for the search and examination of school lockers by school officials. Subsection (c) of that section, provides that this grant of authority does not diminish any separate authority to search that might exist.

Section 6 of the bill amends AS 14.03 by adding a new section that mandates expulsion or suspension for students that possess weapons on school grounds and requires reports from school districts concerning these suspensions and expulsions.

Section 7 of the bill amends AS 14.45 by adding a new section that permits private schools to search school lockers as provided in AS 14.03.105 (added by sec. 5 of the bill).

GPL:lmb:glc

95-121.lmb

GUIDANCE CONCERNING STATE AND LOCAL
RESPONSIBILITIES UNDER THE
GUN-FREE SCHOOLS ACT OF 1994

This guidance is to provide information concerning State and local responsibilities under the Gun-Free Schools Act (GFSA), which was enacted on October 20, 1994 as part of the Improving America's Schools Act of 1994 [the reauthorization of the Elementary and Secondary Education Act of 1965 (ESEA)], Public Law 103-382. Preliminary information, including a copy of this new legislation, was mailed to Governors and Chief State School Officers in a letter dated November 28, 1994.

The GFSA states that each State receiving Federal funds under ESEA must have in effect, by October 20, 1995, a State law requiring local educational agencies to expel from school for a period of not less than one year a student who is determined to have brought a weapon to school. Each State's law also must allow the chief administering officer of the local educational agency (LEA) to modify the expulsion requirement on a case-by-case basis.

The legislation explicitly states that the GFSA must be construed to be consistent with the Individuals with Disabilities Education Act (IDEA). Therefore, by using the case-by-case exception, LEAs will be able to discipline students with disabilities in accordance with the requirements of Part B of the IDEA and Section 504 of the Rehabilitation Act (Section 504), and thereby maintain eligibility for Federal financial assistance. The Department intends to issue separate, more detailed guidance on discipline of students with disabilities, which will include clarification of the implementation of the GFSA consistent with IDEA and Section 504.

The following questions and answers have been prepared to assist States, State educational agencies (SEAs), and LEAs in implementing these new requirements.

- Q1. What entities are affected by the provisions of the Gun-Free Schools Act?
- A. Each State, as well as its State educational agency and local educational agencies, has responsibilities under the GFSA.
- Q2. Are private schools subject to the requirements of the Gun-Free Schools Act?
- A. Private schools are not subject to the provisions of the GFSA, but private school students who participate in LEA programs or activities are subject to the one-year expulsion.

requirement to the extent that such students are under the supervision and control of the LEA as part of their participation in the LEA's programs. For example, a private school student who is enrolled in a Federal program, such as Title I, is subject to a one-year expulsion, but only from Federal program participation, not a one-year expulsion from the private school. Of course, nothing prohibits a private school from imposing a similar expulsion from the private school on a student who brings a weapon to school.

- Q3. Will SEAs and LEAs have a period of time to comply with the requirements of the Gun-Free Schools Act?
- A. States must take prompt action to implement the requirements of the GFSA, including prompt action to initiate the legislative process. States have until October 20, 1995 to enact and make effective the one-year expulsion legislation required by Section 14601. States that have not enacted and made effective legislation by this date risk losing ESEA funds.

In order to be eligible to receive ESEA funds, LEAs must have an expulsion policy consistent with the required State law.

LEAs must take immediate action to implement the referral policy required by Section 14602, because the GFSA directs that no ESEA funds shall be made available to an LEA unless that LEA has the required referral policy.

- Q4. Is compliance with the requirements of the Gun-Free Schools Act a condition for the receipt of Federal financial assistance under the ESEA?
- A. Yes, compliance with the requirements of the GFSA is a condition for the receipt of funds made available to the State under the ESEA.
- Q5. Will failure to comply with the requirements of the Gun-Free Schools Act result in the termination or withholding of funds made available to the State under the ESEA?
- A. Failure to comply with the requirements of the GFSA could result in the withholding, under the provisions of the General Education Provisions Act, of funds made available to the State under the ESEA; however, it is anticipated that technical assistance provided to States will result in timely compliance and make withholding of funds unnecessary.

Q6. May a State request a waiver of the requirements of the Gun-Free Schools Act?

A. Yes. The ESEA authorizes the Secretary to waive the requirements of the GFSA if that action will increase the quality of instruction for students or will improve the academic performance of students. However, it is not anticipated that the requirements of the GFSA will be waived except in unusual circumstances.

Q7. Does the Gun-Free Schools Act's one-year expulsion requirement preclude any due process proceedings?

A. No. Students facing expulsion from school are entitled under the U.S. Constitution and most State constitutions to the due process protection of notice and an opportunity to be heard. If, after due process has been accorded, a student is found to have brought a weapon to school, the GFSA requires an expulsion for a period of not less than one year (subject to the case-by-case exception discussed below).

Q8. What does the Gun-Free Schools Act require of States?

A. The GFSA requires that each State receiving Federal funds under the ESEA must, by October 20, 1995: (1) have in effect a State law requiring LEAs to expel from school for a period of not less than one year a student who is determined to have brought a weapon to school; (2) have in effect a State law allowing the LEA's chief administering officer to modify the expulsion requirement on a case-by-case basis; and (3) report to the Secretary on an annual basis concerning information submitted by LEAs to SEAs. SEAs must also ensure that no ESEA funds are made available to an LEA that does not have a referral policy consistent with Section 14602.

One-Year Expulsion Requirement

Each State's law must require LEAs to comply with a one-year expulsion requirement; that is, subject to the exception discussed below, any student who brings a weapon to school must be expelled for not less than one year.

Case-by-Case Exception

Each State's law must allow the chief administering officer of an LEA to modify the one-year expulsion requirement on a case-by-case basis.

Annual Reporting

Each State must report annually on LEA compliance with the one-year expulsion requirement, and on expulsions imposed under the State law, including the number of students expelled in each LEA and the types of weapons involved.

Q9. What does the Gun-Free Schools Act require of LEAs?

- A. The GFSA requires that LEAs (1) comply with the State law requiring the one-year expulsion; (2) provide an assurance of compliance to the SEA; (3) provide descriptive information to the SEA concerning the LEA's expulsions; and (4) adopt a referral policy for students who bring weapons to school.

One-Year Expulsion Requirement

LEAs must comply with the State law requiring a one-year expulsion; that is, subject to the case-by-case exception, any student who brings a weapon to school must be expelled for not less than one year.

LEA Assurance

An LEA must include in its application to the State educational agency for ESEA assistance an assurance that the LEA is in compliance with the State law requiring the one-year expulsion.

Descriptive Report to SEA

An LEA must include in its application for ESEA assistance a description of the circumstances surrounding expulsions imposed under the one-year expulsion requirement, including:

- (A) the name of the school concerned;
- (B) the number of students expelled from the school; and
- (C) the type of weapons concerned

Referral Policy

LEAs must also implement a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a weapon to school.

Q10. When must an LEA implement its referral policy?

- A. LEAs must take immediate action to implement a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a weapon to school. The GFSA directs that no ESEA funds shall be available to an LEA unless that LEA has the required referral policy.

Q11. When must an LEA submit the required assurance?

- A. In its first application to the State educational agency for ESEA funds after the date that the State enacts and makes effective the required one-year expulsion legislation, the LEA must include an assurance that the LEA is in compliance with the State law.

Q12. What is the role of the SEA in determining whether an LEA is in compliance with the Gun-Free Schools Act?

- A. The GFSA requires States to report to the Secretary on an annual basis concerning LEA compliance. Therefore, before awarding any ESEA funds to an LEA, the SEA must ensure that the LEA has: (1) implemented a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a weapon to school; and (2) included in its application for ESEA funds the assurance and other information required by the GFSA. SEAs must ensure that the LEA application contains:

(1) an assurance that the LEA is in compliance with the State law requiring the one-year expulsion; and

(2) a description of the circumstances surrounding expulsions imposed under the one-year expulsion requirement, including:

- (A) the name of the school concerned;
- (B) the number of students expelled from the school; and
- (C) the type of weapons concerned.

Q13. Who is an LEA's "chief administering officer"?

- A. The term "chief administering officer" is not defined by the GFSA. Each LEA should determine, using its own legal framework, which chief operating officer or authority (e.g., Superintendent, Board, etc.) has the power to modify the expulsion requirement on a case-by-case basis.

Q14. Can any individual or entity other than the LEA's "chief administering officer" modify the one-year expulsion requirement on a case-by-case basis?

A. No. However, the chief administering officer may allow another individual or entity to carry out preliminary information gathering functions, and prepare a recommendation for the chief administering officer.

Q15. Is it permissible for an LEA to use the case-by-case exception to avoid compliance with the one-year expulsion requirement?

A. No, this exception may not be used to avoid overall compliance with the one-year expulsion requirement.

Q16. How is the term "weapon" defined?

A. For the purposes of the GFSA, a "weapon" means a firearm as defined in Section 921 of Title 18 of the United States Code.

According to Section 921, the following are included within the definition:

- any weapon which will or is designed to or may readily be converted to expel a projectile by the action of an explosive
- the frame or receiver of any weapon described above
- any firearm muffler or firearm silencer
- any explosive, incendiary, or poison gas
 - (1) bomb,
 - (2) grenade,
 - (3) rocket having a propellant charge of more than four ounces,
 - (4) missile having an explosive or incendiary charge of more than one-quarter ounce,
 - (5) mine, or
 - (6) similar device
- any weapon which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter

- any combination of parts either designed or intended for use in converting any device into any destructive device described in the two immediately preceding examples, and from which a destructive device may be readily assembled

According to Section 921, the following are not included in the definition:

- an antique firearm
- a rifle which the owner intends to use solely for sporting, recreational, or cultural purposes
- any device which is neither designed nor redesigned for use as a weapon
- any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device
- surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10

In addition, we have been advised by the Bureau of Alcohol, Tobacco, and Firearms that Class-C common fireworks are not included in the definition of weapon.

Q17. Does the Gun-Free Schools Act preclude classes such as hunting or military education, or activities such as hunting clubs or rifle clubs, which may involve the handling or use of weapons?

A. No, the GFSA does not prohibit the presence at school of rifles that the owners intend to use solely for sporting, recreational, or cultural purposes.

Q18. Are knives considered weapons under the Gun-Free Schools Act?

A. No, for the purposes of the GFSA, the definition of weapon does not include knives. State legislation or an SEA or LEA may, however, decide to broaden its own definition of weapon to include knives.

Q19. What is meant by the term "expulsion"?

A. The term "expulsion" is not defined by the GFSA; however, at a minimum, expulsion means removal from the student's regular school program at the location where the violation occurred.

Q20. Is a State, SEA, or LEA required to provide alternative educational services to students who have been expelled for bringing a weapon to school?

A. The GFSA neither requires nor prohibits the provision of alternative educational services to students who have been expelled. Other Federal, State, or local laws may, however, require that students receive alternative educational services in certain circumstances.

Q21. What is an "alternative setting" for the provision of educational services to an expelled student?

A. An alternative setting is one that is clearly distinguishable from the student's regular school placement.

Q22. Is Federal funding available to provide alternative educational services?

A. Yes, formula grants awarded under the Safe and Drug-Free Schools and Communities Act may be used for alternative educational services. In addition, other Federal funds may be available for alternative educational services, consistent with each program's statutory and regulatory requirements.

Q23. Do the requirements of the Gun-Free Schools Act conflict with requirements that apply to students with disabilities?

A. No. Compliance with the GFSA may be achieved consistently with the requirements that apply to students with disabilities, as long as discipline of such students is determined on a case-by-case basis in accordance with the IDEA and Section 504. The Department intends to issue separate, more detailed guidance on discipline of students with disabilities, which will include clarification of the implementation of the GFSA consistent with IDEA and Section 504.

Q24. Is it permissible to expel a student for a "school year" rather than a year?

A. No. The statute explicitly states that expulsion shall be for a period of not less than one year.

Q25. Does the expulsion requirement apply only to violations occurring in the school building?

A. No. The one-year expulsion requirement applies to students who bring weapons to any setting that is under the control and supervision of the LEA.



Alaska State Legislature
House of Representatives
 COMMITTEE ON HEALTH, EDUCATION
 AND SOCIAL SERVICES

SUBJECT OF MEETING:
 HB 28
 HB 94.
 DOE Briefing

DATE: 2-21-95

PLACE: Capitol Room 106

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
Care Rose	AASIS ^{AK Schol} _{Parade}	316 WILKST Juneau	99801	6-1083		<input checked="" type="radio"/> Y <input type="radio"/> N	HB 94
✓ Helen Mehrkens	DOEd.	801 W. 10 th St Juneau	99801	2-8755	5-8730	<input checked="" type="radio"/> Y <input type="radio"/> N	HB 28
✓ Margot Knuth	Law				5-3428	<input checked="" type="radio"/> Y <input type="radio"/> N	HB 28
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
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