

ASSEMBLY BILL NO. 313—ASSEMBLYMEN GIUNCHIGLIANI, CHOWNING, PARKS, EVANS, BUCKLEY, ANDERSON, BACHE, FREEMAN, KOIVISTO, MCCLAIN, DE BRAGA, WILLIAMS, SEGERBLOM, COLLINS, MANENDO, LEE, OHRENSCHALL, GOLDWATER, THOMAS, NEIGHBORS, BERMAN, GIBBONS AND PRICE

FEBRUARY 24, 1999

Referred to Committee on Education

SUMMARY—Revises provisions governing education and employment of teachers. (BDR 34-1331)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

AN ACT relating to education; clarifying the provisions governing the discipline of pupils with disabilities; extending the length of the school year; prohibiting the placement of a child in a program for pupils with disabilities solely because the child has a disciplinary problem or social maladjustment; requiring schools to provide certain courses of study; requiring employment contracts for teachers to include certain provisions; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 386.585 is hereby amended to read as follows:
2 386.585 1. A governing body of a charter school shall adopt:
3 (a) Written rules of behavior required of and prohibited for pupils
4 attending the charter school; and
5 (b) Appropriate punishments for violations of the rules.
6 2. Except as otherwise provided in subsection 3, if suspension or
7 expulsion of a pupil is used as a punishment for a violation of the rules, the
8 charter school shall ensure that, before the suspension or expulsion, the
9 pupil has been given notice of the charges against him, an explanation of
10 the evidence and an opportunity for a hearing. The provisions of chapter
11 241 of NRS do not apply to any hearing conducted pursuant to this section.
12 Such a hearing must be closed to the public.

3. A pupil who poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process or who is selling or distributing any controlled substance or who is found to be in possession of a dangerous weapon as provided in NRS 392.466 may be removed from the charter school immediately upon being given an explanation of the reasons for his removal and pending proceedings, which must be conducted as soon as practicable after removal, for his suspension or expulsion.

4. A pupil who is enrolled in a charter school and participating in a program of special education pursuant to NRS 388.520, other than a pupil who is gifted and talented, may, in accordance with the procedural policy adopted by the governing body of the charter school for such matters, be:

(a) Suspended from the charter school pursuant to this section for not more than 10 days.

(b) Suspended from the charter school for more than 10 days or permanently expelled from school pursuant to this section only after the ~~governing~~:

(1) Pupil's individualized education program team has conducted a review in accordance with 20 U.S.C. § 1415(k) and determined that the behavior of the pupil is not a manifestation of his disability. In conducting the review, the individualized education program team shall not presume that the behavior of the pupil is a manifestation of his disability.

(2) Governing body has reviewed the circumstances and determined that the action is in compliance with the Individuals with Disabilities Education Act, ~~§~~ 20 U.S.C. §§ 1400 et seq. ~~§~~

5. A copy of the rules of behavior, prescribed punishments and procedures to be followed in imposing punishments must be:

(a) Distributed to each pupil at the beginning of the school year and to each new pupil who enters school during the year.

(b) Available for public inspection at the charter school.

6. The governing body of a charter school may adopt rules relating to the truancy of pupils who are enrolled in the charter school if the rules are at least as restrictive as the provisions governing truancy set forth in NRS 392.130 to 392.220, inclusive. If a governing body adopts rules governing truancy, it shall include the rules in the written rules adopted by the governing body pursuant to subsection 1.

7. As used in this section, "individualized education program team" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(B).

Sec. 2. NRS 388.090 is hereby amended to read as follows:

388.090 1. Except as otherwise permitted pursuant to this section, boards of trustees of school districts shall schedule and provide a minimum of ~~180~~ 185 days of free school in the districts under their charge.

2. The superintendent of public instruction may, upon application by a board of trustees, authorize a reduction of not more than 15 school days in a particular district to establish or maintain a 12-month school program or a program involving alternative scheduling, if the board of trustees demonstrates that the proposed schedule for the program provides for a greater number of minutes of instruction than would be provided under a program consisting of ~~180~~ 185 school days. Before authorizing a reduction in the number of required school days pursuant to this subsection, the superintendent of public instruction must find that the proposed schedule will be used to alleviate problems associated with a growth in enrollment or overcrowding, or to establish and maintain a program of alternative schooling.

13 3. The superintendent of public instruction may, upon application by a
14 board of trustees, authorize the addition of minutes of instruction to any
15 scheduled day of free school if days of free school are lost because of any
16 interscholastic activity. Not more than 5 days of free school so lost may be
17 rescheduled in this manner.

18 4. Each school district shall schedule at least 3 contingent days of
19 school in addition to the number of days required by this section, which
20 must be used if a natural disaster, inclement weather or an accident
21 necessitates the closing of a majority of the facilities within the district.

22 5. If more than 3 days of free school are lost because a natural disaster,
23 inclement weather or an accident necessitates the closing of a majority of
24 the facilities within a school district, the superintendent of public
25 instruction, upon application by the school district, may permit the
26 additional days lost to be counted as school days in session. The
27 application must be submitted in the manner prescribed by the
28 superintendent of public instruction.

29 6. The state board ~~[of education]~~ shall adopt regulations providing
30 procedures for changing schedules of instruction to be used if a natural
31 disaster, inclement weather or an accident necessitates the closing of a
32 particular school within a school district.

33 **Sec. 3.** NRS 388.450 is hereby amended to read as follows:

34 388.450 1. The legislature declares that the basic support guarantee
35 for each special education program unit established by law for each school
36 year establishes financial resources sufficient to ensure a reasonably equal
37 educational opportunity to pupils with disabilities and gifted and talented
38 pupils residing in Nevada.

39 2. Subject to the provisions of NRS 388.440 to 388.520, inclusive, the
40 board of trustees of each school district shall make such special provisions
41 as may be necessary for the education of pupils with disabilities and gifted
42 and talented

pupils.

3. The board of trustees of a school district shall establish uniform criteria governing eligibility for instruction under the special education programs provided for by NRS 388.440 to 388.520, inclusive. *The criteria must prohibit the placement of a pupil in a program for pupils with disabilities solely because the pupil has a disciplinary problem in school or the pupil has a social maladjustment that is not a serious emotional disturbance.* The criteria are subject to such standards as may be prescribed by the state board . ~~{of education.}~~

Sec. 4. NRS 388.470 is hereby amended to read as follows:

388.470 1. Before any child is placed in a special program for pupils with disabilities or gifted and talented pupils:

(a) A consultation must be held with his parents or guardian.

(b) An examination must be conducted for the purpose of finding the extent to which the child deviates from normal growth and development patterns. The examination must be conducted in accordance with standards prescribed by the state board . ~~{of education.}~~

2. A psychiatrist may be consulted in any specific case when the board of trustees of a school district deems it necessary.

3. The board of trustees of a school district or the governing body of a charter school shall not place a child or authorize the placement of a child in a program for pupils with disabilities solely because the child has a disciplinary problem in school or the pupil has a social maladjustment that is not a serious emotional disturbance.

Sec. 5. NRS 388.520 is hereby amended to read as follows:

388.520 1. The state board shall prescribe minimum standards for the special education of pupils with disabilities and gifted and talented pupils.

2. The minimum standards prescribed by the state board must include standards for programs of instruction or special services maintained for the purpose of serving pupils with:

(a) Hearing impairments, including, but not limited to, deafness.

(b) Visual impairments, including, but not limited to, blindness.

(c) Orthopedic impairments.

(d) Speech and language impairments.

(e) Mental retardation.

(f) Multiple impairments.

(g) Serious emotional disturbances.

(h) Other health impairments.

(i) Specific learning disabilities.

(j) Autism.

(k) Traumatic brain injuries.

1 (l) Developmental delays.

2 (m) Gifted and talented abilities.

3 3. No apportionment of state money may be made to any school
4 district or charter school for the instruction of pupils with disabilities and
5 gifted and talented pupils until the program of instruction maintained
6 therein for such pupils is approved by the superintendent of public
7 instruction as meeting the minimum standards prescribed by the state
8 board. *The superintendent of public instruction shall not approve, or
9 shall revoke his approval of, the program of instruction of a:*

10 *(a) School district if the board of trustees of the school district places a*
11 *pupil or authorizes the placement of a pupil in a program for pupils with*
12 *disabilities solely because the pupil has a disciplinary problem in school*
13 *or the pupil has a social maladjustment that is not a serious emotional*
14 *disturbance.*

15 *(b) Charter school if the governing body of the charter school places a*
16 *pupil or authorizes the placement of a pupil in a program for pupils with*
17 *disabilities solely because the pupil has a disciplinary problem in school*
18 *or the pupil has a social maladjustment that is not a serious emotional*
19 *disturbance.*

20 **Sec. 6.** NRS 389.010 is hereby amended to read as follows:

21 389.010 **1.** Except as otherwise provided in NRS ~~389.170 and~~
22 389.180, boards of trustees of school districts shall enforce in schools the
23 courses of study prescribed and adopted by the state board.

24 **2.** *In addition to the courses of study required by statute or by*
25 *regulation of the state board, each high school shall offer the following*
26 *courses of study:*

27 *(a) Arts;*

28 *(b) Communication;*

29 *(c) Automobile driver education, in accordance with NRS 389.090;*

30 *(d) Foreign language;*

31 *(e) Social studies; and*

32 *(f) Music.*

33 **3.** *In addition to the courses of study required by statute or by*
34 *regulation of the state board, each junior high school and middle school*
35 *shall offer the following courses of study:*

36 *(a) Arts and humanities;*

37 *(b) Music;*

38 *(c) Computer education; and*

39 *(d) Technology, in accordance with NRS 389.170.*

40 **4.** *The state board may adopt regulations to carry out the provisions*
41 *of this section.*

Sec. 7. NRS 389.085 is hereby amended to read as follows:

389.085 1. The automobile driver education program is hereby established to assist school districts and charter schools in this state ~~{which}~~ **to** establish and maintain automobile driver education classes. Money for the automobile driver education program must be provided by direct legislative appropriation.

2. The state board may direct the superintendent of public instruction to make semiannual apportionments, payable on or before February 1 and July 1 of each year, to the several school districts and charter schools. The semiannual apportionment made on or before February 1 must be made on the basis of \$15 times the number of estimated pupil completions in the district and charter schools during the current school year, which must be estimated by the superintendent. The semiannual apportionment made on or before July 1 must be made on the basis of \$35 times the actual number of pupil completions in the district and charter schools during the current year, less any amount previously apportioned to the district or charter school for estimated pupil completions during the current school year.

3. If the money available for the automobile driver education program is not sufficient to make full current school year apportionments, as determined pursuant to subsection 2, apportionment payments to the various school districts and charter schools must be prorated so that each school district and charter school is apportioned the same amount per pupil completion, such amount to be derived by dividing the total money available by the total number of completions during the current school year.

4. Money received by school districts and charter schools for the automobile driver education program must not be expended for the purchase or repair of motor vehicles or the purchase or repair of automobile driver education training equipment.

Sec. 8. NRS 389.090 is hereby amended to read as follows:

389.090 1. The state board shall adopt regulations governing the establishment, conduct and scope of automobile driver education in the public schools of this state.

2. The aims and purposes of automobile driver education are to develop the knowledge, attitudes, habits and skills necessary for the safe operation of motor vehicles.

3. The board of trustees of a school district ~~{may}~~ **shall** establish and maintain automobile driver education classes during regular semesters and summer sessions and during the regular school day and at times other than during the regular school day for:

(a) Pupils enrolled in the regular full-time day high schools in the school district.

(b) Pupils enrolled in summer classes conducted in high schools in the school district.

A board of trustees maintaining courses in automobile driver education shall insure against any liability arising out of the use of motor vehicles in connection with those courses. The cost of the insurance must be paid from available school district funds.

4. A governing body of a charter school may establish and maintain automobile driver education classes if the governing body insures against any liability arising out of the use of motor vehicles in connection with those courses.

5. Automobile driver education must be provided by boards of trustees of school districts and governing bodies of charter schools in accordance with the regulations of the state board and may not be duplicated by any other agency, department, commission or officer of the State of Nevada.

6. Each course in automobile driver education provided by a board of trustees of a school district or a governing body of a charter school must include, without limitation, instruction in:

(a) Motor vehicle insurance.

(b) The effect of drugs and alcohol on an operator of a motor vehicle.

7. Each course in automobile driver education provided by a board of trustees of a school district or a governing body of a charter school must be restricted to pupils who are sophomores, juniors or seniors in high school.

Sec. 9. NRS 389.170 is hereby amended to read as follows:

389.170 1. The state board shall, by regulation, establish a course of study in technology.

2. The course of study may:

(a) Include such subjects as the latest technological advances in the areas of:

(1) Agriculture;

(2) Medicine;

(3) Processing and preserving food;

(4) Processing information;

(5) Photography;

(6) Graphic and electronic communications;

(7) Construction;

(8) Energy; and

(9) Manufacturing and transportation; and

(b) Provide pupils with the opportunity to design, develop, maintain and operate technological systems in these areas.

3. The instruction required by this section must be made available to each pupil before his completion of the 8th grade. The board of trustees of a school district may direct that the course of study be given over a 3-year period during the 6th, 7th and 8th grades.

1 4. The board of trustees in each school district shall incorporate into
2 the curriculum the course of study ~~{within the limits of money made~~
3 ~~available to the district by the legislature for that purpose.}~~ *established by*
4 *the state board pursuant to this section.*

5 **Sec. 10.** Chapter 391 of NRS is hereby amended by adding thereto a
6 new section to read as follows:

7 **1.** *Each written contract or notice of reemployment of a teacher must*
8 *include a provision that requires all licensed teachers to work 5 days*
9 *throughout the year with pay in addition to the 185 days of free school*
10 *that is required by NRS 388.090. If a school district has entered into a*
11 *collective bargaining agreement pursuant to chapter 288 of NRS that*
12 *governs the employment of the licensed teachers of the school district, the*
13 *times and manner in which a teacher must work the additional days*
14 *required by this subsection must be prescribed by the collective*
15 *bargaining agreement. A teacher shall use the additional days required*
16 *by this subsection to:*

17 **(a)** *Develop educational plans and programs for use in the classroom;*
18 **(b)** *Conduct conferences with parents and legal guardians of pupils;*
19 *and*

20 **(c)** *Confer with other licensed educational personnel concerning*
21 *educational plans and programs.*

22 **2.** *Each written contract or notice of reemployment of a teacher must*
23 *include the number of days each school year that the schools within the*
24 *school district will provide for a shortened school day to provide time for*
25 *staff development. The number of shortened school days must not exceed*
26 *4 days in each school year. If a school district has entered into a*
27 *collective bargaining agreement pursuant to chapter 288 of NRS that*
28 *governs the employment of the licensed teachers of the school district, the*
29 *number of shortened school days must be prescribed by the collective*
30 *bargaining agreement.*

31 **3.** *Each written contract or notice of reemployment of a special*
32 *education teacher must include a provision that the teacher will be*
33 *granted two class periods per day, or the equivalent, to prepare for the*
34 *instruction of pupils and develop individualized education programs. One*
35 *class period must be used by the teacher to develop, review and revise the*
36 *individualized educational programs for pupils with disabilities that the*
37 *teacher is responsible for developing. If a school district has entered into*
38 *a collective bargaining agreement pursuant to chapter 288 of NRS that*
39 *governs the employment of the licensed teachers of the school district, the*
40 *periods of time for preparation and development required by this*
41 *subsection must be prescribed by the collective bargaining agreement.*

42 **4.** *As used in this section, "individualized education program" has*
43 *the meaning ascribed to it in 20 U.S.C. § 1401(11).*

Sec. 11. NRS 392.466 is hereby amended to read as follows:

392.466 1. Except as otherwise provided in this section, any pupil who commits a battery which results in the bodily injury of an employee of the school, sells or distributes any controlled substance or is found in possession of a dangerous weapon, while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be suspended or expelled from that school, although he may be placed in another kind of school, for at least a period equal to one semester for that school. For a second occurrence, the pupil must:

(a) Be permanently expelled from that school; and

(b) Receive equivalent instruction authorized by the state board pursuant to NRS 392.070.

2. Except as otherwise provided in this section, any pupil who is found in possession of a firearm while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be expelled from the school for a period of not less than 1 year, although he may be placed in another kind of school for a period not to exceed the period of the expulsion. For a second occurrence, the pupil must:

(a) Be permanently expelled from the school; and

(b) Receive equivalent instruction authorized by the state board pursuant to NRS 392.070.

The superintendent of schools of a school district may, in a particular case in that school district, allow an exception to the expulsion requirement of this subsection.

3. Except as otherwise provided in this section, any pupil who is a habitual disciplinary problem as set forth in NRS 392.4655 must be suspended or expelled from the school for a period equal to at least one semester for that school. For the period of his suspension or expulsion, the pupil must receive equivalent instruction authorized by the state board pursuant to NRS 392.070.

4. This section does not prohibit a pupil from having in his possession a knife or firearm with the approval of the principal of the school. A principal may grant such approval only in accordance with the policies or regulations adopted by the board of trustees of the school district.

5. Any pupil in grades 1 to 6, inclusive, except a pupil who has been found to have possessed a firearm in violation of subsection 2, may be suspended from school or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and approved this action in accordance with the procedural policy adopted by the board for such issues.

6. A pupil who is participating in a program of special education pursuant to NRS 388.520, other than a pupil who is gifted and talented, may, in accordance with the procedural policy adopted by the board of trustees of the school district for such matters, be:

(a) Suspended from school pursuant to this section for not more than 10 days. Such a suspension may be imposed pursuant to this paragraph for each occurrence of conduct proscribed by subsection 1.

(b) Suspended from school for more than 10 days or permanently expelled from school pursuant to this section only after the ~~board~~ :

(1) Pupil's individualized education program team has conducted a review in accordance with 20 U.S.C. § 1415(k) and determined that the behavior of the pupil is not a manifestation of his disability. In conducting the review, the individualized education program team shall not presume that the behavior of the pupil is a manifestation of his disability.

(2) Board of trustees of the school district has reviewed the circumstances and determined that the action is in compliance with the Individuals with Disabilities Education Act , ~~the~~ 20 U.S.C. §§ 1400 et seq. ~~D-I~~

7. As used in this section:

(a) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.

(b) "Dangerous weapon" includes, without limitation, a blackjack, slung shot, billy, sand-club, sandbag, metal knuckles, dirk or dagger, a nunchaku, switchblade knife or trefoil, as defined in NRS 202.350, a butterfly knife or any other knife described in NRS 202.350, or any other object which is used, or threatened to be used, in such a manner and under such circumstances as to pose a threat of, or cause, bodily injury to a person.

(c) "Firearm" includes, without limitation, any pistol, revolver, shotgun, explosive substance or device, and any other item included within the definition of a "firearm" in 18 U.S.C. § 921, as that section existed on July 1, 1995.

(d) "Individualized education program team" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(B).

Sec. 12. NRS 392.467 is hereby amended to read as follows:

392.467 1. Except as otherwise provided in subsections 4 and 5, the board of trustees of a school district may authorize the suspension or expulsion of any pupil from any public school within the school district.

2. Except as otherwise provided in subsection 5, no pupil may be suspended or expelled until he has been given notice of the charges against him, an explanation of the evidence and an opportunity for a hearing, except that a pupil who poses a continuing danger to persons or property or

1 an ongoing threat of disrupting the academic process or who is selling or
2 distributing any controlled substance or is found to be in possession of a
3 dangerous weapon as provided in NRS 392.466 may be removed from the
4 school immediately upon being given an explanation of the reasons for his
5 removal, and pending proceedings, to be conducted as soon as practicable
6 after removal, for his suspension or expulsion.

7 3. The provisions of chapter 241 of NRS do not apply to any hearing
8 conducted pursuant to this section. Such hearings must be closed to the
9 public.

10 4. The board of trustees of a school district shall not authorize the
11 expulsion, suspension or removal of any pupil from the public school
12 system solely because the pupil is declared a truant or habitual truant in
13 accordance with NRS 392.130 or 392.140.

14 5. A pupil who is participating in a program of special education
15 pursuant to NRS 388.520, other than a pupil who is gifted and talented,
16 may, in accordance with the procedural policy adopted by the board of
17 trustees of the school district for such matters, be:

18 (a) Suspended from school pursuant to this section for not more than 10
19 days.

20 (b) Suspended from school for more than 10 days or permanently
21 expelled from school pursuant to this section only after the ~~board~~ :

22 *(1) Pupil's individualized education program team has conducted a*
23 *review in accordance with 20 U.S.C. § 1415(k) and determined that the*
24 *behavior of the pupil is not a manifestation of his disability. In*
25 *conducting the review, the individualized education program team shall*
26 *not presume that the behavior of the pupil is a manifestation of his*
27 *disability.*

28 *(2) Board* of trustees of the school district has reviewed the
29 circumstances and determined that the action is in compliance with the
30 Individuals with Disabilities Education Act , ~~the~~ 20 U.S.C. §§ 1400 et seq.
31 ~~the~~

32 *6. As used in this section, "individualized education program team"*
33 *has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(B).*

34 **Sec. 13.** This act becomes effective on July 1, 1999.