

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; 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; authorizing employment contracts of special education 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.

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

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

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

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

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

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

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

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

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

31 6. The governing body of a charter school may adopt rules relating to
32 the truancy of pupils who are enrolled in the charter school if the rules are
33 at least as restrictive as the provisions governing truancy set forth in NRS
34 392.130 to 392.220, inclusive. If a governing body adopts rules governing
35 truancy, it shall include the rules in the written rules adopted by the
36 governing body pursuant to subsection 1.

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

39 **Sec. 2.** (Deleted by amendment.)

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

41 388.450 1. The legislature declares that the basic support guarantee
42 for each special education program unit established by law for each school
43 year establishes financial resources sufficient to ensure a reasonably equal

1 educational opportunity to pupils with disabilities and gifted and talented
2 pupils residing in Nevada.

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

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

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

16 388.470 1. Before any child is placed in a special program for pupils
17 with disabilities or gifted and talented pupils:

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

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

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

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

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

31 388.520 1. The state board shall prescribe minimum standards for the
32 special education of pupils with disabilities and gifted and talented pupils.

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

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

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

38 (c) Orthopedic impairments.

39 (d) Speech and language impairments.

40 (e) Mental retardation.

41 (f) Multiple impairments.

42 (g) Serious emotional disturbances.

43 (h) Other health impairments.

- (i) Specific learning disabilities.
- (j) Autism.
- (k) Traumatic brain injuries.
- (l) Developmental delays.
- (m) Gifted and talented abilities.

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

(a) School district if the board of trustees of the school district places a pupil or authorizes 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.

(b) Charter school if the governing body of the charter school places a pupil or authorizes 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.

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

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

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

(a) Arts;

(b) Communication;

(c) If the high school has at least 200 pupils enrolled in the school, automobile driver education, in accordance with NRS 389.090;

(d) Foreign language;

(e) Social studies; and

(f) Music.

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

(a) Arts and humanities;

(b) Music;

(c) Computer education; and

(d) Technology, in accordance with NRS 389.170.

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

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

4 389.085 1. The automobile driver education program is hereby
5 established to assist school districts and charter schools in this state ~~{which}~~
6 **to** establish and maintain automobile driver education classes. Money for
7 the automobile driver education program must be provided by direct
8 legislative appropriation.

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

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

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

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

32 389.090 1. The state board shall adopt regulations governing the
33 establishment, conduct and scope of automobile driver education in the
34 public schools of this state.

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

38 3. The board of trustees of a school district ~~{may}~~ **that includes at least**
39 **one high school which has at least 200 pupils enrolled in the school shall**

40 establish and maintain automobile driver education classes during regular
41 semesters and summer sessions and during the regular school day and at
42 times other than during the regular school day

for:

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

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

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

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

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

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

20 (a) Motor vehicle insurance.

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

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

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

26 389.170 1. The state board shall, by regulation, establish a course of
27 study in technology.

28 2. The course of study may:

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

31 (1) Agriculture;

32 (2) Medicine;

33 (3) Processing and preserving food;

34 (4) Processing information;

35 (5) Photography;

36 (6) Graphic and electronic communications;

37 (7) Construction;

38 (8) Energy; and

39 (9) Manufacturing and transportation; and

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

42 3. The instruction required by this section must be made available to
43 each pupil before his completion of the 8th grade. The board of trustees of

1 a school district may direct that the course of study be given over a 3-year
2 period during the 6th, 7th and 8th grades.

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

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

9 *1. A school district may include in a written contract or notice of*
10 *reemployment of a special education teacher a provision that the teacher*
11 *will be granted two class periods per day, or the equivalent, to prepare for*
12 *the instruction of pupils and develop individualized education programs.*
13 *If two such class periods are provided, one class period must be used by*
14 *the teacher to develop, review and revise the individualized educational*
15 *programs for pupils with disabilities that the teacher is responsible for*
16 *developing. If a school district has entered into a collective bargaining*
17 *agreement pursuant to chapter 288 of NRS that governs the employment*
18 *of the licensed teachers of the school district, the periods of time for*
19 *preparation and development authorized by this subsection may be*
20 *prescribed by the collective bargaining agreement.*

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

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

24 392.466 1. Except as otherwise provided in this section, any pupil
25 who commits a battery which results in the bodily injury of an employee of
26 the school, sells or distributes any controlled substance or is found in
27 possession of a dangerous weapon, while on the premises of any public
28 school, at an activity sponsored by a public school or on any school bus
29 must, for the first occurrence, be suspended or expelled from that school,
30 although he may be placed in another kind of school, for at least a period
31 equal to one semester for that school. For a second occurrence, the pupil
32 must:

33 (a) Be permanently expelled from that school; and

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

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

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

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

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

5. 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.

(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

1 *behavior of the pupil is not a manifestation of his disability. In*
2 *conducting the review, the individualized education program team shall*
3 *not presume that the behavior of the pupil is a manifestation of his*
4 *disability.*

5 (2) *Board* of trustees of the school district has reviewed the
6 circumstances and determined that the action is in compliance with the
7 Individuals with Disabilities Education Act , ~~14~~ 20 U.S.C. §§ 1400 et seq.

8 ~~D-1~~
9 6. *As used in this section, “individualized education program team”*
10 *has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(B).*

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

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