

SENATE BILL NO. 367—COMMITTEE ON
HUMAN RESOURCES AND EDUCATION

MARCH 28, 2005

Referred to Committee on Human Resources and Education

SUMMARY—Revises provisions governing education of suspended and expelled pupils. (BDR 34-617)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: 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 pupils; revising provisions governing the formation of charter schools designed exclusively for pupils with disciplinary problems; providing that a pupil who is suspended or expelled from a public school may enroll in a program of independent study, in a program of distance education or in a charter school under certain circumstances; 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 386.580 is hereby amended to read as follows:
2 386.580 1. An application for enrollment in a charter school
3 may be submitted to the governing body of the charter school by the
4 parent or legal guardian of any child who resides in this State.
5 Except as otherwise provided in this subsection, a charter school
6 shall enroll pupils who are eligible for enrollment in the order in
7 which the applications are received. If the board of trustees of the
8 school district in which the charter school is located has established
9 zones of attendance pursuant to NRS 388.040, the charter school
10 shall, if practicable, ensure that the racial composition of pupils
11 enrolled in the charter school does not differ by more than 10
12 percent from the racial composition of pupils who attend public
13 schools in the zone in which the charter school is located. If more
14 pupils who are eligible for enrollment apply for enrollment in the



1 charter school than the number of spaces which are available, the
2 charter school shall determine which applicants to enroll on the
3 basis of a lottery system.

4 2. Except as otherwise provided in subsection 6, a charter
5 school shall not accept applications for enrollment in the charter
6 school or otherwise discriminate based on the:

- 7 (a) Race;
- 8 (b) Gender;
- 9 (c) Religion;
- 10 (d) Ethnicity; or
- 11 (e) Disability,

12 ↳ of a pupil.

13 3. If the governing body of a charter school determines that the
14 charter school is unable to provide an appropriate special education
15 program and related services for a particular disability of a pupil
16 who is enrolled in the charter school, the governing body may
17 request that the board of trustees of the school district of the county
18 in which the pupil resides transfer that pupil to an appropriate
19 school.

20 4. Except as otherwise provided in this subsection, upon the
21 request of a parent or legal guardian of a child who is enrolled in a
22 public school of a school district or a private school, or a parent or
23 legal guardian of a homeschooled child, the governing body of the
24 charter school shall authorize the child to participate in a class that
25 is not otherwise available to the child at his school or home school
26 or participate in an extracurricular activity at the charter school if:

27 (a) Space for the child in the class or extracurricular activity is
28 available; and

29 (b) The parent or legal guardian demonstrates to the satisfaction
30 of the governing body that the child is qualified to participate in the
31 class or extracurricular activity.

32 ↳ If the governing body of a charter school authorizes a child to
33 participate in a class or extracurricular activity pursuant to this
34 subsection, the governing body is not required to provide
35 transportation for the child to attend the class or activity. A charter
36 school shall not authorize such a child to participate in a class or
37 activity through a program of distance education provided by the
38 charter school pursuant to NRS 388.820 to 388.874, inclusive.

39 5. The governing body of a charter school may revoke its
40 approval for a child to participate in a class or extracurricular
41 activity at a charter school pursuant to subsection 4 if the governing
42 body determines that the child has failed to comply with applicable
43 statutes, or applicable rules and regulations. If the governing body
44 so revokes its approval, neither the governing body nor the charter



1 school is liable for any damages relating to the denial of services to
2 the child.

3 6. This section does not preclude the formation of a charter
4 school that is dedicated to provide educational services exclusively
5 to pupils:

6 (a) With disabilities;

7 (b) Who pose such severe disciplinary problems that they
8 warrant ~~an~~ *a specific* educational program , *including, without*
9 *limitation, a charter school* specifically designed to serve a single
10 gender ~~and emphasize~~ *that emphasizes* personal responsibility and
11 rehabilitation; or

12 (c) Who are at risk.

13 ➔ If more eligible pupils apply for enrollment in such a charter
14 school than the number of spaces which are available, the charter
15 school shall determine which applicants to enroll on the basis of a
16 lottery system.

17 **Sec. 2.** NRS 389.155 is hereby amended to read as follows:

18 389.155 1. The State Board shall, by regulation, establish a
19 program pursuant to which a pupil enrolled full time in high school
20 *or a pupil who has been suspended or expelled from a public*
21 *school* may complete any required or elective course by independent
22 study outside of the normal classroom setting. A program of
23 independent study provided pursuant to this section may be offered
24 through a program of distance education pursuant to NRS 388.820
25 to 388.874, inclusive.

26 2. The regulations must require that:

27 (a) The teacher of the course assign to the pupil the work
28 assignments necessary to complete the course; and

29 (b) The pupil and teacher meet or otherwise communicate with
30 each other at least once each week during the course to discuss the
31 pupil's progress.

32 3. ~~The~~ *Except as otherwise provided in this subsection, the*
33 board of trustees ~~in each~~ *of a* school district may, in accordance
34 with the regulations adopted pursuant to subsections 1 and 2,
35 provide for independent study by pupils ~~enrolled~~ :

36 (a) *Enrolled* full time in high schools in its district. A board of
37 trustees that chooses to allow such study may provide that:

38 ~~(a)~~ (1) The pupils participating in the independent study be
39 given instruction individually or in a group.

40 ~~(b)~~ (2) The independent study be offered during the regular
41 school day.

42 (b) *Who have been suspended or expelled from a public*
43 *school. A program of independent study offered pursuant to this*
44 *paragraph must not allow a pupil to attend that public school*
45 *during the period of his suspension or expulsion.*



Sec. 3. 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 or who sells or distributes any controlled substance 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 ~~be~~:

~~(a) Be~~ *be* permanently expelled from that school ~~and~~

~~(b)}~~ *and:*

(a) Receive equivalent instruction authorized by the State Board pursuant to subsection 1 of NRS 392.070 ~~and~~; *or*

(b) *Enroll in a program of independent study provided pursuant to paragraph (b) of subsection 3 of NRS 389.155 or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if he qualifies for enrollment and is accepted for enrollment in accordance with the applicable requirements.*

2. Except as otherwise provided in this section, any pupil who is found in possession of a firearm or 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 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 ~~be~~:

~~(a) Be~~ *be* permanently expelled from the school ~~and~~

~~(b)}~~ *and:*

(a) Receive equivalent instruction authorized by the State Board pursuant to subsection 1 of NRS 392.070 ~~and~~; *or*

(b) *Enroll in a program of independent study provided pursuant to paragraph (b) of subsection 3 of NRS 389.155 or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if he qualifies for enrollment and is accepted for enrollment in accordance with the applicable requirements.*

➤ The superintendent of schools of a school district may, for good cause shown in a particular case in that school district, allow a modification to the expulsion requirement of this subsection if such modification is set forth in writing.

3. Except as otherwise provided in this section, if a pupil is deemed a habitual disciplinary problem pursuant to NRS 392.4655, the pupil 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~~:



1 (a) *Receive* equivalent instruction authorized by the State Board
2 pursuant to subsection 1 of NRS 392.070 ~~§~~; or

3 (b) *Enroll in a program of independent study provided*
4 *pursuant to paragraph (b) of subsection 3 of NRS 389.155 or a*
5 *program of distance education provided pursuant to NRS 388.820*
6 *to 388.874, inclusive, if he qualifies for enrollment and is accepted*
7 *for enrollment in accordance with the applicable requirements.*

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

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

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

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

28 (b) Suspended from school for more than 10 days or
29 permanently expelled from school pursuant to this section only after
30 the board of trustees of the school district has reviewed the
31 circumstances and determined that the action is in compliance with
32 the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400
33 et seq.

34 7. As used in this section:

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

37 (b) "Dangerous weapon" includes, without limitation, a
38 blackjack, slungshot, billy, sand-club, sandbag, metal knuckles, dirk
39 or dagger, a nunchaku, switchblade knife or trefoil, as defined in
40 NRS 202.350, a butterfly knife or any other knife described in NRS
41 202.350, or any other object which is used, or threatened to be used,
42 in such a manner and under such circumstances as to pose a threat
43 of, or cause, bodily injury to a person.

44 (c) "Firearm" includes, without limitation, any pistol, revolver,
45 shotgun, explosive substance or device, and any other item included



1 within the definition of a "firearm" in 18 U.S.C. § 921, as that
2 section existed on July 1, 1995.

3 *8. The provisions of this section do not prohibit a pupil who is*
4 *suspended or expelled from enrolling in a charter school that is*
5 *designed exclusively for the enrollment of pupils with disciplinary*
6 *problems if he is accepted for enrollment by the charter school*
7 *pursuant to NRS 386.580. Upon request, the governing body of a*
8 *charter school must be provided with access to the records of the*
9 *pupil relating to his suspension or expulsion in accordance with*
10 *applicable federal and state law before the governing body makes*
11 *a decision concerning the enrollment of the pupil.*

12 **Sec. 4.** NRS 392.4675 is hereby amended to read as follows:

13 392.4675 1. Except as otherwise provided in this section, a
14 pupil who is suspended or expelled from:

15 (a) Any public school in this State pursuant to NRS 392.466; or

16 (b) Any school outside of this State for the commission of any
17 act which, if committed within this State, would be a ground
18 for suspension or expulsion from public school pursuant to
19 NRS 392.466,

20 ➤ is ineligible to attend any public school in this State during the
21 period of that suspension or expulsion.

22 2. ~~{Except as otherwise provided in subsection 3, a}~~ A school
23 district *or a charter school, if the charter school offers the*
24 *applicable program,* may allow a pupil who is ineligible to attend a
25 public school pursuant to this section to enroll in:

26 (a) An alternative program for the education of pupils at risk of
27 dropping out of high school; ~~{or}~~

28 (b) *A program of independent study provided pursuant to*
29 *paragraph (b) of subsection 3 of NRS 389.155, if he qualifies for*
30 *enrollment and is accepted for enrollment in accordance with the*
31 *applicable requirements;*

32 (c) *A program of distance education provided pursuant to NRS*
33 *388.820 to 388.874, inclusive, if he qualifies for enrollment and is*
34 *accepted for enrollment in accordance with the applicable*
35 *requirements; or*

36 (d) Any program of instruction offered pursuant to the
37 provisions of NRS 388.550.

38 ➤ A school district *or charter school* may conduct an investigation
39 of the background of any such pupil to determine if the educational
40 needs of the pupil may be satisfied without undue disruption to the
41 program. If an investigation is conducted, the board of trustees of
42 the school district *or the governing body of the charter school*
43 shall, based on the results of the investigation, determine if the pupil
44 will be allowed to enroll in such a program.



1 3. The provisions of ~~[subsection 2 do not authorize the~~
2 ~~enrollment in such a program of a pupil who is:~~

3 ~~—(a) Expelled for a second occurrence of a violation pursuant to~~
4 ~~subsections 1 or 2 of NRS 392.466; or~~

5 ~~—(b) Suspended or expelled pursuant to subsection 3 of NRS~~
6 ~~392.466.] subsections 1 and 2 do not prohibit a pupil from~~

7 *enrolling in a charter school that is designed exclusively for the*
8 *enrollment of pupils with disciplinary problems if he is accepted*
9 *for enrollment by the charter school pursuant to NRS 386.580.*

10 *Upon request, the governing body of a charter school must be*
11 *provided with access to the records of the pupil relating to his*
12 *suspension or expulsion in accordance with applicable federal and*
13 *state law before the governing body makes a decision concerning*
14 *the enrollment of the pupil.*

15 **Sec. 5.** This act becomes effective on July 1, 2005.



