

Amendment No. 133

Senate Amendment to Senate Bill No. 62 (BDR 34-426)

Proposed by: Senate Committee on Health and Education**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold dashed underlining* is newly added transitory language.

CLP/SLP



Date: 4/3/2009

S.B. No. 62—Revises provisions governing special education. (BDR 34-426)



SENATE BILL NO. 62—COMMITTEE ON FINANCE

(ON BEHALF OF THE DEPARTMENT OF EDUCATION)

PREFILED DECEMBER 9, 2008

Referred to Committee on Health and Education

SUMMARY—Revises provisions governing special education. (BDR 34-426)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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; revising provisions governing the use of special education program units from the State Distributive School Account; authorizing the provision of early intervening services for certain pupils in certain counties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Individuals with Disabilities Education Act provides federal funds to ensure that each pupil with a disability receives a free appropriate public education. In 2004, Congress revised the federal Act to authorize local education agencies (school districts) to use not more than 15 percent of the federal funds to provide early intervening services for pupils who do not require special education services but who need additional academic or behavioral support to succeed in the general curriculum. (20 U.S.C. §§ 1400 et seq.)

Existing law requires the boards of trustees of school districts to provide special education and services to pupils with disabilities in accordance with the federal Act. (NRS 388.440-388.520) **Section 5** of this bill authorizes the board of trustees of a school district in a county whose population is less than 400,000 (currently counties other than Clark County) to offer early intervening services. (NRS 388.450)

Existing law provides for the establishment of a basic support guarantee for special education program units for purposes of allocating money from the State Distributive School Account. (NRS 387.122, 387.1221) **Section 3** of this bill provides that a school district ~~in a county whose population is less than 400,000~~, charter school or university school for profoundly gifted pupils that receives an allocation for a special education program unit ~~shall not~~ **may use not** more than 15 percent of the allocation to provide early intervening services. (NRS 387.1221)

Section 6 of this bill authorizes the State Board of Education to prescribe the minimum standards for the provision of early intervening services. (NRS 388.520)

The remaining sections of this bill revise the applicable provisions governing school districts, charter schools and university schools for profoundly gifted pupils to include early intervening services.

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

Section 1. NRS 386.585 is hereby amended to read as follows:

386.585 1. A governing body of a charter school shall adopt:

(a) Written rules of behavior required of and prohibited for pupils attending the charter school; and

(b) Appropriate punishments for violations of the rules.

2. Except as otherwise provided in subsection 3, if suspension or expulsion of a pupil is used as a punishment for a violation of the rules, the charter school shall ensure that, before the suspension or expulsion, the pupil has been given notice of the charges against him, an explanation of the evidence and an opportunity for a hearing. The provisions of chapter 241 of NRS do not apply to any hearing conducted pursuant to this section. 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 ~~and~~ *or who receives early intervening services*, 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 body has reviewed the circumstances and determined that the action is in compliance with the Individuals with Disabilities Education Act, ~~20~~ 20 U.S.C. §§ 1400 et seq. ~~and~~

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.

Sec. 2. NRS 387.047 is hereby amended to read as follows:

387.047 1. Except as otherwise provided in this section, each school district and charter school shall separately account for all money received for the instruction of and the provision of related services to pupils with disabilities, ~~and~~ *gifted and talented pupils and pupils who receive early intervening services* described by NRS 388.520.

2. The separate accounting must include:

(a) The amount of money provided to the school district or charter school for special education for basic support;

(b) Transfers of money from the general fund of the school district or charter school needed to balance the special revenue fund; ~~and~~

(c) The cost of:

(1) Instruction provided by licensed special education teachers and supporting staff;

(2) Related services, including, but not limited to, services provided by psychologists, therapists and health-related personnel;

(3) Transportation of the pupils with disabilities and gifted and talented pupils to and from school;

(4) The direct supervision of educational and supporting programs; and

(5) The supplies and equipment needed for providing special education ~~and~~;

and
(d) The amount of money, if any, expended by the school district or charter school for early intervening services provided pursuant to subsection 3 of NRS 388.450.

3. Money received from federal sources must be:

(a) Accounted for separately; and

(b) Excluded from the accounting required pursuant to this section.

Sec. 3. NRS 387.1221 is hereby amended to read as follows:

387.1221 1. The basic support guarantee for any special education program unit maintained and operated during a period of less than 9 school months is in the same proportion to the amount established by law for that school year as the period during which the program unit actually was maintained and operated is to 9 school months.

2. Any unused allocations for special education program units may be reallocated to other school districts, charter schools or university schools for profoundly gifted pupils by the Superintendent of Public Instruction. In such a reallocation, first priority must be given to special education programs with statewide implications, and second priority must be given to special education programs maintained and operated within counties whose allocation is less than or equal to the amount provided by law. If there are more unused allocations than necessary to cover programs of first and second priority but not enough to cover all remaining special education programs eligible for payment from reallocations, then payment for the remaining programs must be prorated. If there are more unused allocations than necessary to cover programs of first priority but not enough to cover all programs of second priority, then payment for programs of second priority must be prorated. If unused allocations are not enough to cover all programs of first priority, then payment for programs of first priority must be prorated.

3. A school district, a charter school or a university school for profoundly gifted pupils may, after receiving the approval of the Superintendent of Public Instruction, contract with any person, state agency or legal entity to provide a special education program unit for pupils of the district pursuant to NRS 388.440 to 388.520, inclusive.

4. A school district ~~is~~ in a county whose population is less than 400,000, charter school or university school for profoundly gifted pupils that receives an allocation for special education program units ~~shall not~~ may use not more than 15 percent of its allocation to provide early intervening services.

Sec. 4. NRS 388.440 is hereby amended to read as follows:

388.440 As used in NRS 388.440 to 388.5315, inclusive:

1. "Gifted and talented pupil" means a person under the age of 18 years who demonstrates such outstanding academic skills or aptitudes that he cannot progress effectively in a regular school program and therefore needs special instruction or special services.

2. *“Pupil who receives early intervening services” means a person enrolled in kindergarten or grades 1 to 12, inclusive, who is not a pupil with a disability but who needs additional academic and behavioral support to succeed in a regular school program.*

3. “Pupil with a disability” means a person under the age of 22 years who deviates either educationally, physically, socially or emotionally so markedly from normal patterns that he cannot progress effectively in a regular school program and therefore needs special instruction or special services.

Sec. 5. NRS 388.450 is hereby amended to read as follows:

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

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

3. *The board of trustees of a school district in a county whose population is less than 400,000 may provide early intervening services. Such services must be provided in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and the regulations adopted pursuant thereto.*

4. 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 is a disciplinary problem in school. The criteria are subject to such standards as may be prescribed by the State Board.

Sec. 6. NRS 388.520 is hereby amended to read as follows:

388.520 1. The Department shall:

(a) Prescribe a form that contains the basic information necessary for the uniform development, review and revision of an individualized education program for a pupil with a disability in accordance with 20 U.S.C. § 1414(d); and

(b) Make the form available on a computer disc for use by school districts and, upon request, in any other manner deemed reasonable by the Department.

2. Except as otherwise provided in this subsection, each school district shall ensure that the form prescribed by the Department is used for the development, review and revision of an individualized education program for each pupil with a disability who receives special education in the school district. A school district may use an expanded form that contains additions to the form prescribed by the Department if the basic information contained in the expanded form complies with the form prescribed by the Department.

3. The State Board ~~shall~~:

(a) *Shall* prescribe minimum standards for the special education of pupils with disabilities and gifted and talented pupils.

(b) *May prescribe minimum standards for the provision of early intervening services.*

4. 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.
- (l) Developmental delays.
- (m) Gifted and talented abilities.

5. 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.

6. The Department shall, upon the request of the board of trustees of a school district, provide information to the board of trustees concerning the identification and evaluation of pupils with disabilities in accordance with the standards prescribed by the State Board.

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

Sec. 7. 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 permanently expelled from that school and:

(a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school 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 requirements of the applicable program.

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 permanently expelled from the school and:

(a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant NRS 389.155 for pupils who have been suspended or expelled from public school 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 requirements of the applicable program.

➤ 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:

(a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school 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 requirements of the applicable program.

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 ~~and~~ *or who receives early intervening services*, 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 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, 20 U.S.C. §§ 1400 et seq.

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, slungshot, 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.

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

Sec. 8. NRS 392.467 is hereby amended to read as follows:

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

4 2. Except as otherwise provided in subsection 5, no pupil may be suspended
5 or expelled until he has been given notice of the charges against him, an
6 explanation of the evidence and an opportunity for a hearing, except that a pupil
7 who poses a continuing danger to persons or property or an ongoing threat of
8 disrupting the academic process or who is selling or distributing any controlled
9 substance or is found to be in possession of a dangerous weapon as provided in
10 NRS 392.466 may be removed from the school immediately upon being given an
11 explanation of the reasons for his removal ~~and~~ and pending proceedings, to be
12 conducted as soon as practicable after removal, for his suspension or expulsion.

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

15 4. The board of trustees of a school district shall not authorize the expulsion,
16 suspension or removal of any pupil from the public school system solely because
17 the pupil is declared a truant or habitual truant in accordance with NRS 392.130 or
18 392.140.

19 5. A pupil who is participating in a program of special education pursuant to
20 NRS 388.520, other than a pupil who is gifted and talented ~~and~~ *or who receives early*
21 *intervening services*, may, in accordance with the procedural policy adopted by the
22 board of trustees of the school district for such matters, be:

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

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

29 **Sec. 9.** NRS 392A.105 is hereby amended to read as follows:

30 392A.105 1. The governing body of a university school for profoundly
31 gifted pupils shall adopt:

32 (a) Written rules of behavior for pupils enrolled in the university school,
33 including, without limitation, prohibited acts; and

34 (b) Appropriate punishments for violations of the rules.

35 2. Except as otherwise provided in subsection 3, if suspension or expulsion of
36 a pupil is used as a punishment for a violation of the rules, the university school for
37 profoundly gifted pupils shall ensure that, before the suspension or expulsion, the
38 pupil has been given notice of the charges against him, an explanation of the
39 evidence and an opportunity for a hearing. The provisions of chapter 241 of NRS
40 do not apply to any hearing conducted pursuant to this section. Such a hearing must
41 be closed to the public.

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

49 4. A pupil who is enrolled in a university school for profoundly gifted pupils
50 and participating in a program of special education pursuant to NRS 388.520, other
51 than a pupil who is gifted and talented ~~and~~ *or who receives early intervening*
52 *services*, may, in accordance with the procedural policy adopted by the governing
53 body of the university school for such matters, be:

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

3 (b) Suspended from the university school for more than 10 days or
4 permanently expelled from school pursuant to this section only after the governing
5 body has reviewed the circumstances and determined that the action is in
6 compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400
7 et seq.

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

10 (a) Distributed to each pupil at the beginning of the school year and to each
11 new pupil who enters the university school for profoundly gifted pupils during the
12 year.

13 (b) Available for public inspection at the university school.

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

20 **Sec. 10.** This act becomes effective upon passage and approval.