

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; 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 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, charter school or university school for profoundly gifted pupils that receives an allocation for a special education program unit shall not use 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 ~~or~~ *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, ~~42~~ 20 U.S.C. §§ 1400 et seq. ~~D-1~~

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.



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(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



1 the program unit actually was maintained and operated is to 9 school
2 months.

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

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

27 *4. A school district, charter school or university school for*
28 *profoundly gifted pupils that receives an allocation for special*
29 *education program units shall not use more than 15 percent of its*
30 *allocation to provide early intervening services.*

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

32 388.440 As used in NRS 388.440 to 388.5315, inclusive:

33 1. "Gifted and talented pupil" means a person under the age of
34 18 years who demonstrates such outstanding academic skills or
35 aptitudes that he cannot progress effectively in a regular school
36 program and therefore needs special instruction or special services.

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

41 3. "Pupil with a disability" means a person under the age of 22
42 years who deviates either educationally, physically, socially or
43 emotionally so markedly from normal patterns that he cannot
44 progress effectively in a regular school program and therefore needs
45 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 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



1 enrollment and is accepted for enrollment in accordance with the
2 requirements of the applicable program.

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

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

13 (b) Enroll in a program of independent study provided pursuant
14 NRS 389.155 for pupils who have been suspended or expelled from
15 public school or a program of distance education provided pursuant
16 to NRS 388.820 to 388.874, inclusive, if he qualifies for enrollment
17 and is accepted for enrollment in accordance with the requirements
18 of the applicable program.

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

23 3. Except as otherwise provided in this section, if a pupil is
24 deemed a habitual disciplinary problem pursuant to NRS 392.4655,
25 the pupil must be suspended or expelled from the school for a period
26 equal to at least one semester for that school. For the period of his
27 suspension or expulsion, the pupil must:

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

30 (b) Enroll in a program of independent study provided pursuant
31 to NRS 389.155 for pupils who have been suspended or expelled
32 from public school or a program of distance education provided
33 pursuant to NRS 388.820 to 388.874, inclusive, if he qualifies for
34 enrollment and is accepted for enrollment in accordance with the
35 requirements of the applicable program.

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

41 5. Any pupil in grades 1 to 6, inclusive, except a pupil who has
42 been found to have possessed a firearm in violation of subsection 2,
43 may be suspended from school or permanently expelled from school
44 pursuant to this section only after the board of trustees of the school
45 district has reviewed the circumstances and approved this action in



1 accordance with the procedural policy adopted by the board for such
2 issues.

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

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

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

18 7. As used in this section:

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

21 (b) "Dangerous weapon" includes, without limitation, a
22 blackjack, slungshot, billy, sand-club, sandbag, metal knuckles, dirk
23 or dagger, a nunchaku, switchblade knife or trefoil, as defined in
24 NRS 202.350, a butterfly knife or any other knife described in NRS
25 202.350, or any other object which is used, or threatened to be used,
26 in such a manner and under such circumstances as to pose a threat
27 of, or cause, bodily injury to a person.

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

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

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

42 392.467 1. Except as otherwise provided in subsections 4 and
43 5, the board of trustees of a school district may authorize the
44 suspension or expulsion of any pupil from any public school within
45 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~~ 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 ~~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.

(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 , ~~and~~ 20 U.S.C. §§ 1400 et seq. ~~and~~

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

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

(a) Written rules of behavior for pupils enrolled in the university school, including, without limitation, prohibited acts; 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 university school for profoundly gifted pupils 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.



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

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

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

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

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

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

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

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

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

