

**MINUTES OF THE
SENATE COMMITTEE ON EDUCATION**

**Seventy-Eighth Session
March 10, 2015**

The Senate Committee on Education was called to order by Chair Becky Harris at 3:30 p.m. on Tuesday, March 10, 2015, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Becky Harris, Chair
Senator Scott Hammond, Vice Chair
Senator Don Gustavson
Senator Mark Lipparelli
Senator Joyce Woodhouse
Senator Moises (Mo) Denis

COMMITTEE MEMBERS ABSENT:

Senator Tick Segerblom (Excused)

STAFF MEMBERS PRESENT:

Todd Butterworth, Policy Analyst
Risa Lang, Counsel
Jan Brase, Committee Secretary

OTHERS PRESENT:

Nancy Saitta, Associate Justice, Supreme Court
Brian Luther
Charlie Luther
Nicole Rourke, Clark County School District
Carlos McDade, General Counsel, Clark County School District
Joseph Legat, Coordinator, Office of Student Adjudication, Clark County School District

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Susan Roske, Chief Deputy Public Defender, Juvenile Division, Public Defender,
Clark County
Brigid Duffy, Deputy District Attorney, Juvenile Division, Family Court and
Services Center, District Attorney, Clark County
Vanessa Spinazola, American Civil Liberties Union of Nevada
Mary Pierczynski, Ed.D., Nevada Association of School Superintendents
Regan Comis, M + R Strategic Services
Katie Hoops
Stephen Augspurger, Executive Director, Clark County Association of School
Administrators and Professional-Technical Employees
Ruben Murillo, Jr., President, Nevada State Education Association

Chair Harris:

I will open the hearing on Senate Bill (S.B.) 212.

SENATE BILL 212: Revises provisions governing discipline of pupils and prohibited acts at public schools. (BDR 34-177)

Senator Scott Hammond (Senatorial District No. 18):

As a teacher and a charter school board member, I support this bill. It gives some autonomy and discretion to principals and superintendents.

Nancy Saitta (Associate Justice, Supreme Court):

The bill originated with a subcommittee of the Commission on Statewide Juvenile Justice Reform. Convened by the Nevada Supreme Court, the School Attendance and Disturbance Subcommittee mission was to work to promote a safe, respectful and supportive environment for all students by advocating for appropriately timed services, to identify and apply best practice models that encourage student engagement and prevent school suspensions and expulsions. A number of the subcommittee members are attending today and will be speaking in support of S.B. 212.

The Subcommittee evaluated current national best practices on school discipline policies and looked at relevant school disturbance, statutory and regulatory requirements. They examined zero tolerance and school discipline policies and practices in both urban and rural settings.

The suggested amendments were the result of the Subcommittee's evaluation of national practices and their practical applications in Nevada. One of the most

profound policy comments relates to research findings. It is clear there is a direct correlation between exclusory discipline, such as suspensions and expulsions, and poor outcomes for juvenile delinquents. The Subcommittee made recommendations to the full Juvenile Justice Committee, which unanimously approved the recommendations. The Juvenile Justice Committee is comprised of probation officers, district attorneys, representatives from the Nevada Attorney General's office and numerous judges. There was significant input from experts across the Country. The recommendations were presented to the Legislative Committee on Child Welfare and Juvenile Justice in June 2014.

Section 2 of S.B. 212 seeks to amend *Nevada Revised Statute* (NRS) 392.466 to allow the superintendent of the school district, for good cause, the discretion to allow a modification to suspension or expulsion as currently required by statute for battery, possession of a firearm or dangerous weapon, or for a pupil who is deemed a habitual disciplinary problem. Current statute does allow discretion for possession of a firearm or dangerous weapon. The current statute does not allow discretion if a pupil commits battery or is deemed a habitual disciplinary problem. The amendment would allow that discretion in all three categories. Please be aware, nothing in the proposed amendments limits superintendents' authority to suspend or expel a pupil who is in violation of these, or other, juvenile statutes.

Section 3 amends NRS 392.910. The use of vile or indecent language within the building or grounds of a school is punishable as a misdemeanor. Though this is unacceptable behavior, it should not be criminalized. The amendment removes language from section 3, subsection 1, which designates the offense a misdemeanor.

Other language in the amended legislation clearly defines the term "school employee," and adds definitions for "assault" as defined in NRS 200.471 and for "maliciously" as defined in NRS 193.0175.

Assembly Bill (A.B.) 178 is a concurrent bill related to discipline in schools, and may be heard by this Committee. While A.B. 178 and S.B. 212 are closely related, there are some differences. The intent of the proposed amendments is to place responsibility for discipline with those who are closest to our students in the school setting, teachers, principals and superintendents.

ASSEMBLY BILL 178: Revises provisions governing the discipline of pupils.
(BDR 34-248).

The Subcommittee has received specialized technical support from the Supportive School Discipline Community of Practice. We have had the opportunity to compare Nevada practices and to determine practices which work and those that do not. Senate Bill 212 will better prepare our students to behave appropriately and to remain in school and out of the juvenile justice system. I urge your support.

Chair Harris:

Based on your experience, can you outline typical behaviors and disciplinary problems encountered in schools? What constitutes a "habitual offender"?

Justice Saitta:

Statute provides for five behaviors, and "good cause" allows for discretion. If a teacher or principal identifies a student who fits the statutory definition of a habitual disciplinary problem, it is important to allow discretion. Examples of discretionary actions might be placing the student in an alternative setting or constructing a behavioral modification program.

Chair Harris:

Can you provide examples of the types of behavior addressed by this legislation?

Justice Saitta:

Subject to definition, some examples are disturbance in the classroom, disrespect, failure to follow rules and bullying. Behaviors can be corrected and redirected to provide for improved educational progress for both the offenders and for other students.

Senator Gustavson:

Please provide examples of the types of disciplinary action that could be taken in place of charging a misdemeanor offense for vile or abusive language. I agree with removing the provision for a misdemeanor, but need to be certain that some type of action is taken.

Justice Saitta:

This penalty applies to any person on school property, and rightfully so. However, criminalizing the act of using vile or indecent language will not correct the problem. A school official will be empowered to call out the behavior. Again, I would emphasize, nothing in the proposed legislation would remove or diminish school authorities' discretion to discipline offenders.

Senator Hammond:

Hearing foul language in schools is, unfortunately, a daily occurrence. Teachers are generally able to mitigate the situation by immediately addressing the behavior in a caring and constructive way. The response to this type of intervention is preferable to issuing a misdemeanor citation.

Justice Saitta:

Overcrowding in the juvenile justice courts is a secondary concern. The courts are full of cases related to serious offenses. The court system should not be overburdened with matters best handled at the schools.

Senator Woodhouse:

Following Senator Hammond's response, teachers may view this behavior as a "teachable moment." In my experience in elementary schools, I have found that discipline problems can be effectively addressed by speaking to the student, explaining and redirecting.

Chair Harris:

I would like to recognize two young men in the audience today and ask them to speak to the Committee. Brian and Charlie Luther are visiting as guests of their grandmother, Justice Nancy Saitta. Can you share with us the things you like best about school?

Charlie Luther:

I like recess.

Brian Luther:

I like my teachers.

Nicole Rourke (Clark County School District):

The Clark County School District (CCSD) supports S.B. 212.

Carlos McDade (General Counsel, Clark County School District):

Senate Bill 212 provides more discretion to administrators and superintendents and removes the zero tolerance approach in school discipline. Every child should have an opportunity to succeed, including students who find themselves in trouble. Our goal is to retain troubled students in the school system, and to work to mold their behavior.

Joseph Legat (Coordinator, Office of Student Adjudication, Clark County School District):

Concerning Senator Gustavson's question regarding vile language, every school should have a progressive discipline plan in place. An individual student's behavior would be addressed by the school's plan. There would be school-level consequences. Incidences of vile and offensive language would be addressed; however, they would not have a criminal component.

School districts in other states have taken a more complex approach to student discipline. For example, when a student is recommended for expulsion for an offense which is both disciplinary and criminal, such as possession of a controlled substance, the school and the juvenile justice system have discretion to delay action on the criminal offense until the offense reaches a determined threshold. The rationale is an attempt to plug the "school-to-prison pipeline."

Senate Bill 212 provides administrative disciplinary discretion in several areas. In the case of a student causing bodily injury to a school employee, the most serious offense in our opinion, we are committed to supporting teachers and taking steps to assure they are able to work in a safe environment. It is not uncommon for a student to be expelled, even in cases that do not result in bodily injury. However, in some situations, the superintendent may be inclined to moderate the disciplinary action. For example, an elementary student might pull a chair out from under a teacher who falls and breaks a hip, or a physical fight between students might injure an employee who intervenes. In instances such as these, the principal should be able to consider the student's disciplinary history or details of the circumstances leading to the incident.

In the case of the sale or distribution of controlled substances, S.B. 212 allows a superintendent to use discretion. This would be useful because there is inconsistency in the definition of "distribution."

Situations of students with habitual disciplinary problems are not common in the CCSD. Current law does not allow the option of assigning a student with habitual disciplinary problems to another school. Instead, the student is expelled and returned to the original school where the problem may not have been resolved. There are three categories under which a student can be placed for disciplinary problems: extorting or threatening to extort a student or staff member, inciting two fights in a school year and being suspended five times in a school year. A suspension is defined as removal from school for 3 days or more.

Susan Roske (Chief Deputy Public Defender, Juvenile Division, Public Defender, Clark County):

As a member of the School Attendance and Disturbance Subcommittee of the Juvenile Justice Commission, I support S.B. 212. Superintendent discretion was important in at least two recent cases. An 8-year-old boy brought his grandfather's gun to school because he wanted to show it to his friends. He was arrested and expelled from school. The superintendent had the ability to mitigate the expulsion because current law allows discretion in the case of possession of firearms or dangerous weapons. This is not the case for distribution of controlled substances. In one situation, a mentally challenged student was pressured by other students into sharing her medication. Administrators had no choice but to expel her for distribution.

Brigid Duffy (Deputy District Attorney, Juvenile Division, Family Court and Services Center, District Attorney, Clark County):

From a law enforcement perspective, it is important that children remain in schools. I oversee child welfare and foster care offices. These children are beginning at a disadvantage. They are behind in school and rarely have supportive home environments. Most have experienced some type of brain trauma. We support giving schools discretion to consider a child's past and circumstances. Children are given a chance for a better future, and schools are made safer.

Vanessa Spinazola (American Civil Liberties Union of Nevada):

The American Civil Liberties Union (ACLU) supports S.B. 212. Children of color, students in the lesbian, bisexual, gay and transgender community and children with disabilities are disproportionately affected by school suspensions and expulsions. Any measure that might help them succeed is welcomed. The National Council on Crime and Delinquency reports that nine of ten children in the juvenile justice system have been suspended or expelled from school. The

opportunity to work with students while they are in school and before they enter the juvenile justice system is extremely important. Statistics demonstrate a single expulsion doubles the risk a child will have to repeat a grade.

Mary Pierczynski, Ed.D. (Nevada Association of School Superintendents):

The Nevada Association of School Superintendents supports S.B. 212.

Regan Comis (M + R Strategic Services):

A national study found, of students who have been suspended, 68 percent are more likely to drop out of school than are other students. They are more often in the juvenile justice system. We support S.B. 212.

Katie Hoops:

I am a graduate student at the University of Nevada, Reno studying social work and an intern with the ACLU. In reviewing the juvenile justice issues, a recurring theme is obvious. Some policies and practices push children out of the classroom into the juvenile justice system. One example is the zero tolerance policy, which imposes penalties on students without considering individual circumstances. Students who are suspended or expelled are sometimes left unsupervised and without constructive activities. They often fall behind and are at greater risk of dropping out of school. All of these factors increase the likelihood of court involvement. A law encouraging superintendent discretion can curb the impact of the school-to-prison pipeline. I support S.B. 212.

Steve Augspurger (Clark County Association of School Administrators and Professional-Technical Employees):

The Clark County Association of School Administrators and Professional-Technical Employees supports S.B. 212.

Ruben Murillo, Jr. (President, Nevada State Education Association):

The Nevada State Education Association supports the concept of S.B. 212 that would allow for greater discretion as it relates to the suspension and expulsion of students with discipline issues. We have submitted a letter outlining our position ([Exhibit C](#)).

However, we would like to see amendments that address instances when a determination has been made by a superintendent or a principal not to suspend or expel. Specifically, we would like to see amendments that would require a superintendent and/or a principal to work with the relevant teacher(s) to develop

a behavior plan for the student and a support plan for the teacher(s) before the student is readmitted into the classroom.

Lastly, we are fine with not treating vile and indecent language as a misdemeanor, but we would like to see amendments qualifying threatening and abusive language as a misdemeanor.

Justice Saitta:

Senate Bill 212 provides discretion and already authorizes superintendents to allow modifications to the requirements that a student be suspended or expelled. The bill addresses the ability of schools to develop behavior plans, as requested by Mr. Murillo. We agree with the importance of behavior plans.

Senator Hammond:

I have had personal experience with instances when superintendent discretion would have been useful. In one case, a student was pulled into a fight and struck a teacher while trying to defend herself against another student. In another case, a student, who thought he had permission from his teacher, brought a paint gun to school. The superintendent and school board did have discretion in the case of the student with the weapon, but not for the young girl who hurt her teacher. The best approach in school discipline is to rely on the discretion of the education professionals who are closest to the situation and the students.

Ms. Rourke:

Hyde Park Middle School and Silvestri Junior High School received the National Title I Distinguished School Award at a recent National Title I Conference. Hyde Park was selected because they exhibited exceptional student performance for 2 or more consecutive years. Silvestri was selected because the school closed the achievement gap between special education subgroups. Only 53 schools were identified across the United States for these distinctions, and we are proud of our schools.

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Chair Harris:

There being no further comment or business before the Committee, the meeting is adjourned at 4:16 p.m.

RESPECTFULLY SUBMITTED:

Jan Brase,
Committee Secretary

APPROVED BY:

Senator Becky Harris, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit		Witness or Agency	Description
	A	1		Agenda
	B	4		Attendance Roster
S.B. 212	C	2	Ruben Murillo, Jr.	Written Testimony and support