

ASSEMBLY BILL NO. 168—ASSEMBLYMEN
THOMPSON AND TORRES

FEBRUARY 15, 2019

Referred to Committee on Education

SUMMARY—Revises provisions governing the discipline of pupils. (BDR 34-539)

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 education; requiring a school to provide a plan of action based on restorative justice before suspending or expelling a pupil; prohibiting certain pupils from being suspended or expelled in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law excepts certain classes of persons from criminal liability, including: (1) children under the age of 8 years; (2) children between the ages of 8 years and 10 years unless the child is charged with certain serious crimes; and (3) children between the ages of 8 years and 14 years in the absence of clear proof that the child knew at the time of committing an act that it was wrong. (NRS 194.010)

Under existing law, a pupil is required to be expelled or suspended from a public school if he or she commits a battery which results in the bodily injury of an employee of the school or sells or distributes any controlled substance in certain circumstances. (NRS 392.466) Existing law authorizes the expulsion or suspension of a pupil who: (1) is deemed a habitual disciplinary problem; or (2) participates in a program of special education in certain circumstances upon review of the board of trustees of the school district in which the pupil is enrolled. (NRS 392.466, 392.467) Existing law also authorizes the board of trustees of a school district to expel or suspend a pupil from a public school in the school district, but prohibits the board of trustees from expelling, suspending or removing a pupil solely because the pupil is deemed a truant. (NRS 392.467)

Section 3 of this bill, with certain exceptions, requires a school to provide a plan of action based on restorative justice to a pupil before suspending or expelling the pupil. **Sections 7 and 8** of this bill prohibit the expulsion or suspension of a pupil who is excepted from criminal liability except in certain limited circumstances. **Section 7** requires a public school to provide a plan of action based on restorative justice to a pupil who engages in certain actions and is not excepted from criminal liability before expelling or suspending the pupil. **Section 7** also



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requires a public school that removes a pupil from school and places the pupil in another school of the same kind to explain what services will be provided to address the specific needs and behaviors of the pupil at the new school that the current school is unable to provide. **Section 7** requires the school district of the current school of the pupil to coordinate with the new school or the school district of the new school to ensure the new school has the resources necessary to accommodate the pupil. **Section 8** prohibits the board of trustees of a school district from expelling, suspending or removing a pupil solely for offenses related to attendance. **Sections 4 and 5** of this bill make conforming changes.

Existing law requires the principal of each public school to establish a plan for the discipline of pupils. (NRS 392.4644) **Section 5.5** of this bill instead requires the board of trustees of each school district to establish such a plan. Existing law authorizes the school in which a pupil who is suspended is enrolled to develop a plan of behavior for the pupil. (NRS 392.4655) **Section 6** of this bill instead requires such a school to develop a plan of behavior.

Existing law prohibits a pupil who is participating in a program of special education from being suspended from school for more than 10 days or permanently expelled unless the board of trustees of the school district in which the pupil is enrolled has reviewed the circumstances and determined that the action complies with federal law relating to pupils with disabilities. (NRS 392.466, 392.467) **Sections 7 and 8** reduce the number of days that such a pupil can be suspended from 10 to 5.

Existing law authorizes the expulsion, suspension or removal of a pupil of a charter school or university school for profoundly gifted pupils in certain circumstances. (NRS 388A.495, 388C.150) **Sections 1 and 2** of this bill apply similar provisions relating to the discipline of such pupils as are applied to pupils in other public schools by **sections 3, 7 and 8**.

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

Section 1. NRS 388A.495 is hereby amended to read as follows:

388A.495 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~~ 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 and, if the pupil is under 18 years of age, the parent or guardian of the pupil, has been given notice of the charges against him or her, 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 is not excepted from criminal liability pursuant to NRS 194.010 and* who poses a continuing danger to



persons or property or an ongoing threat of disrupting the academic process, ~~for~~ 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 or her removal and pending proceedings, which must be conducted as soon as practicable after removal, for suspension or expulsion of the pupil.] only after the charter school has made a reasonable effort to complete a plan of action based on restorative justice with the pupil in accordance with the provisions of NRS 392.466 and 392.467.~~

4. A pupil *who is not excepted from criminal liability pursuant to NRS 194.010 and* who is enrolled in a charter school and participating in a program of special education pursuant to NRS 388.419 ~~[, other than a pupil who receives early intervening services.]~~ may, in accordance with the procedural policy adopted by the governing body of the charter school for such matters ~~[.] and 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 U.S.C. §§ 1400 et seq.,~~ be:

(a) Suspended from the charter school pursuant to this section for not more than ~~[10]~~ 5 days ~~[.] for each occurrence.~~

(b) ~~[Suspended from the charter school for more than 10 days or permanently.] 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 U.S.C. §§ 1400 et seq.]~~

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 388C.150 is hereby amended to read as follows:

388C.150 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]~~ 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 or her, 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 is not excepted from criminal liability pursuant to NRS 194.010 and* 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 university school for profoundly gifted pupils immediately upon being given an explanation of the reasons for the removal of the pupil and pending proceedings, which must be conducted as soon as practicable after removal, for his or her suspension or expulsion.]~~ *only after the university school for profoundly gifted pupils has made a reasonable effort to complete a plan of action based on restorative justice with the pupil in accordance with the provisions of NRS 392.466 and 392.467.*

4. A pupil *who is not excepted from criminal liability pursuant to NRS 194.010 and* who is enrolled in a university school for profoundly gifted pupils and participating in a program of special education pursuant to NRS 388.419 ~~[, other than a pupil who receives early intervening services,]~~ may, in accordance with the procedural policy adopted by the governing body of the university school for such matters ~~[.]~~ *and 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 U.S.C. §§ 1400 et seq.,* be:

(a) Suspended from the university school pursuant to this section for not more than ~~[10]~~ 5 days ~~[.]~~ *for each occurrence.*

(b) ~~[Suspended from the university school for more than 10 days or permanently]~~ *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 U.S.C. §§ 1400 et seq.]~~

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 the university school for profoundly gifted pupils during the year.

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

6. The governing body of a university school for profoundly gifted pupils may adopt rules relating to the truancy of pupils who are enrolled in the university 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 the 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. 3. Chapter 392 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in NRS 392.466 and to the extent practicable, a public school shall provide a plan of action based on restorative justice before suspending or expelling a pupil from school. Such a plan of action may include, without limitation:

- (a) Positive behavioral interventions and support;*
- (b) A plan for behavioral intervention;*
- (c) A referral to a team of student support;*
- (d) A referral to an individualized education program team;*
- (e) A referral to appropriate community-based services; and*
- (f) A conference with the principal of the school and any other appropriate personnel.*

2. The Department shall adopt regulations necessary to carry out the provisions of this section.

3. As used in this section:

(a) "Individualized education program team" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(B).

(b) "Restorative justice" means nonpunitive intervention and support provided by the school to a pupil to improve the behavior of the pupil and remedy any harm caused by the pupil.

Sec. 4. NRS 392.4634 is hereby amended to read as follows:

392.4634 1. Except as otherwise provided in subsection 3, a pupil enrolled in kindergarten or grades 1 to 8, inclusive, may not be disciplined, including, without limitation, pursuant to NRS 392.466, for:

- (a) Simulating a firearm or dangerous weapon while playing; or
- (b) Wearing clothing or accessories that depict a firearm or dangerous weapon or express an opinion regarding a constitutional right to keep and bear arms, unless it substantially disrupts the educational environment.

2. Simulating a firearm or dangerous weapon includes, without limitation:



(a) Brandishing a partially consumed pastry or other food item to simulate a firearm or dangerous weapon;

(b) Possessing a toy firearm or toy dangerous weapon that is 2 inches or less in length;

(c) Possessing a toy firearm or toy dangerous weapon made of plastic building blocks which snap together;

(d) Using a finger or hand to simulate a firearm or dangerous weapon;

(e) Drawing a picture or possessing an image of a firearm or dangerous weapon; and

(f) Using a pencil, pen or other writing or drawing implement to simulate a firearm or dangerous weapon.

3. A pupil who simulates a firearm or dangerous weapon may be disciplined when disciplinary action is consistent with a policy adopted by the board of trustees of the school district and such simulation:

(a) Substantially disrupts learning by pupils or substantially disrupts the educational environment at the school;

(b) Causes bodily harm to another person; or

(c) Places another person in reasonable fear of bodily harm.

4. Except as otherwise provided in subsection 5, a school, school district, board of trustees of a school district or other entity shall not adopt any policy, ordinance or regulation which conflicts with this section.

5. The provisions of this section shall not be construed to prohibit a school from establishing and enforcing a policy requiring pupils to wear a school uniform as authorized pursuant to NRS 386.855.

6. As used in this section:

(a) "Dangerous weapon" has the meaning ascribed to it in paragraph (b) of subsection ~~99~~ **11** of NRS 392.466.

(b) "Firearm" has the meaning ascribed to it in paragraph (c) of subsection ~~99~~ **11** of NRS 392.466.

Sec. 5. NRS 392.4635 is hereby amended to read as follows:

392.4635 1. The board of trustees of each school district shall establish a policy that prohibits the activities of criminal gangs on school property.

2. The policy established pursuant to subsection 1 may include, without limitation:

(a) The provision of training for the prevention of the activities of criminal gangs on school property.

(b) If the policy includes training:

(1) A designation of the grade levels of the pupils who must receive the training.



(2) A designation of the personnel who must receive the training, including, without limitation, personnel who are employed in schools at the grade levels designated pursuant to subparagraph (1).

➤ The board of trustees of each school district shall ensure that the training is provided to the pupils and personnel designated in the policy.

(c) Provisions which prohibit:

(1) A pupil from wearing any clothing or carrying any symbol on school property that denotes membership in or an affiliation with a criminal gang; and

(2) Any activity that encourages participation in a criminal gang or facilitates illegal acts of a criminal gang.

(d) Provisions which provide for the suspension or expulsion pursuant to NRS 392.466 and 392.467 of pupils who violate the policy.

3. The board of trustees of each school district may develop the policy required pursuant to subsection 1 in consultation with:

(a) Local law enforcement agencies;

(b) School police officers, if any;

(c) Persons who have experience regarding the actions and activities of criminal gangs;

(d) Organizations which are dedicated to alleviating criminal gangs or assisting members of criminal gangs who wish to disassociate from the gang; and

(e) Any other person deemed necessary by the board of trustees.

4. As used in this section, "criminal gang" has the meaning ascribed to it in NRS 213.1263.

Sec. 5.5. NRS 392.4644 is hereby amended to read as follows:

392.4644 1. The ~~{principal}~~ *board of trustees* of each ~~{public}~~ school *district* shall establish a plan to provide for the progressive discipline of pupils and on-site review of disciplinary decisions. The plan must:

(a) Be developed with the input and participation of teachers and other educational personnel and support personnel who are employed ~~{at}~~ *by* the school ~~{,}~~ *district*, and the parents and guardians of pupils who are enrolled in ~~{the school,}~~ *schools within the school district.*

(b) Be consistent with the written rules of behavior prescribed in accordance with NRS 392.463.

(c) Include, without limitation, provisions designed to address the specific disciplinary needs and concerns of ~~{the}~~ *each* school ~~{,}~~ *within the school district.*



(d) Provide for the temporary removal of a pupil from a classroom or other premises of a public school in accordance with NRS 392.4645.

(e) *Provide for the placement of a pupil in a different school within the school district in accordance with NRS 392.466.*

(f) Include the names of any members of a committee to review the temporary alternative placement of pupils required by NRS 392.4647.

(g) *Be posted on the Internet website maintained by the school district.*

2. On or before September 15 of each year, the principal of each public school shall:

(a) Review the plan *established by subsection 1* in consultation with the teachers and other educational personnel and support personnel who are employed at the school;

(b) Based upon the review, ~~make~~ *recommend to the board of trustees of the school district* revisions to the plan, as recommended by the teachers and other educational personnel and support personnel, if necessary;

(c) Post a copy of the plan or the revised plan, ~~as applicable,~~ *as provided by the school district,* on the Internet website maintained by the school ~~for school district;~~ *; and*

(d) Distribute to each teacher and all educational support personnel who are employed at or assigned to the school a written or electronic copy of the plan or the revised plan, ~~as applicable; and~~

~~—(e) Submit a copy of the plan or the revised plan, as applicable, to the superintendent of schools of the school district.~~ *as provided by the school district.*

3. ~~On or before October 15 of each year, the superintendent of schools of each school district shall submit a report to the board of trustees of the school district that includes:~~

~~—(a) A compilation of the plans submitted pursuant to this subsection by each school within the school district.~~

~~—(b) The name of each principal, if any, who has not complied with the requirements of this section.~~

~~—4.]~~ On or before November 15 of each year, the board of trustees of each school district shall:

(a) Submit a written report to the Superintendent of Public Instruction ~~based upon the compilation submitted pursuant to subsection 3]~~ that reports the progress of each school within the district in complying with the requirements of this section; and

(b) Post a copy of the report on the Internet website maintained by the school district.



Sec. 6. NRS 392.4655 is hereby amended to read as follows:

392.4655 1. Except as otherwise provided in this section, a principal of a school shall deem a pupil enrolled in the school a habitual disciplinary problem if the school has written evidence which documents that in 1 school year:

(a) The pupil has threatened or extorted, or attempted to threaten or extort, another pupil or a teacher or other personnel employed by the school two or more times or the pupil has a record of five suspensions from the school for any reason; and

(b) The pupil has not entered into and participated in a plan of behavior pursuant to subsection 5.

2. At least one teacher of a pupil who is enrolled in elementary school and at least two teachers of a pupil who is enrolled in junior high, middle school or high school may request that the principal of the school deem a pupil a habitual disciplinary problem. Upon such a request, the principal of the school shall meet with each teacher who made the request to review the pupil's record of discipline. If, after the review, the principal of the school determines that the provisions of subsection 1 do not apply to the pupil, a teacher who submitted a request pursuant to this subsection may appeal that determination to the board of trustees of the school district. Upon receipt of such a request, the board of trustees shall review the initial request and determination pursuant to the procedure established by the board of trustees for such matters.

3. If a pupil is suspended, the school in which the pupil is enrolled shall provide written notice to the parent or legal guardian of the pupil that contains:

(a) A description of the act committed by the pupil and the date on which the act was committed;

(b) An explanation that if the pupil receives five suspensions on his or her record during the current school year and has not entered into and participated in a plan of behavior pursuant to subsection 5, the pupil will be deemed a habitual disciplinary problem;

(c) An explanation that, pursuant to subsection ~~8~~ 5 of NRS 392.466, a pupil who is deemed a habitual disciplinary problem may be:

(1) Suspended from school for a period not to exceed one school semester as determined by the seriousness of the acts which were the basis for the discipline; or

(2) Expelled from school under extraordinary circumstances as determined by the principal of the school;

(d) If the pupil has a disability and is participating in a program of special education pursuant to NRS 388.419, an explanation of the effect of subsection ~~8~~ 10 of NRS 392.466, including, without limitation, that if it is determined in accordance with 20 U.S.C. §



1 1415 that the pupil's behavior is not a manifestation of the pupil's
2 disability, he or she may be suspended or expelled from school in
3 the same manner as a pupil without a disability; and

4 (e) A summary of the provisions of subsection 5.

5 4. A school shall provide the notice required by subsection 3
6 for each suspension on the record of a pupil during a school year.
7 Such notice must be provided at least 7 days before the school
8 deems the pupil a habitual disciplinary problem.

9 5. If a pupil is suspended, the school in which the pupil is
10 enrolled ~~may~~ *shall* develop, in consultation with the pupil and the
11 parent or legal guardian of the pupil, a plan of behavior for the
12 pupil. Such a plan must be designed to prevent the pupil from being
13 deemed a habitual disciplinary problem and may include, without
14 limitation:

15 (a) A plan for graduating if the pupil is deficient in credits and
16 not likely to graduate according to schedule.

17 (b) Information regarding schools with a mission to serve pupils
18 who have been:

19 (1) Expelled or suspended from a public school, including,
20 without limitation, a charter school; or

21 (2) Deemed to be a habitual disciplinary problem pursuant to
22 this section.

23 (c) A voluntary agreement by the parent or legal guardian to
24 attend school with his or her child.

25 (d) A voluntary agreement by the pupil and the pupil's parent or
26 legal guardian to attend counseling, programs or services available
27 in the school district or community.

28 (e) A voluntary agreement by the pupil and the pupil's parent or
29 legal guardian that the pupil will attend summer school, intersession
30 school or school on Saturday, if any of those alternatives are offered
31 by the school district.

32 6. If a pupil commits the same act for which notice was
33 provided pursuant to subsection 3 after he or she enters into a plan
34 of behavior pursuant to subsection 5, the pupil shall be deemed to
35 have not successfully completed the plan of behavior and may be
36 deemed a habitual disciplinary problem.

37 7. A pupil may, pursuant to the provisions of this section, enter
38 into one plan of behavior per school year.

39 8. The parent or legal guardian of a pupil who has entered into
40 a plan of behavior with a school pursuant to this section may appeal
41 to the board of trustees of the school district a determination made
42 by the school concerning the contents of the plan of behavior or
43 action taken by the school pursuant to the plan of behavior. Upon
44 receipt of such a request, the board of trustees of the school district



shall review the determination in accordance with the procedure established by the board of trustees for such matters.

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 the pupil 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;~~ *and who is not excepted from criminal liability pursuant to NRS 194.010 shall meet with the school and his or her parent or legal guardian. The school shall provide a plan of action based on restorative justice to the parent or legal guardian of the pupil. The pupil may be expelled from the school, in which case the pupil shall:*

(a) Enroll in a private school pursuant to chapter 394 of NRS, become an opt-in child 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 the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.

2. *An employee who is a victim of a battery which results in the bodily injury of an employee of the school may appeal to the school the plan of action provided pursuant to subsection 1 if the employee feels any actions taken pursuant to such plan are inappropriate.*

3. 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 the pupil 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, become an opt-in child 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 the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.

~~{3-}~~ 4. *If a school is unable to retain a pupil in the school pursuant to subsection 1 for the safety of any person or because doing so would not be in the best interest of the pupil, the pupil may be suspended, expelled or placed in another school of the same kind. If a pupil is placed in another school of the same kind, the current school of the pupil shall explain what services will be provided to the pupil at the new school that the current school is unable to provide to address the specific needs and behaviors of the pupil. The school district of the current school of the pupil shall coordinate with the new school or the board of trustees of the school district of the new school to create a plan of action based on restorative justice for the pupil and to ensure that any resources required to execute the plan of action based on restorative justice are available at the new school.*

5. Except as otherwise provided in this section, if a pupil is deemed a habitual disciplinary problem pursuant to NRS 392.4655, *the pupil is not excepted from criminal liability pursuant to NRS 194.010 and the school has made a reasonable effort to complete a plan of action based on restorative justice with the pupil,* the pupil may be:

(a) Suspended from the school for a period not to exceed one school semester as determined by the seriousness of the acts which were the basis for the discipline; or

(b) Expelled from the school under extraordinary circumstances as determined by the principal of the school.

~~{4-}~~ 6. If the pupil is expelled, or the period of the pupil's suspension is for one school semester, the pupil must:

(a) Enroll in a private school pursuant to chapter 394 of NRS, become an opt-in child 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 the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.

~~{5-}~~ 7. 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}~~ a suspension or expulsion ~~{requirement, as applicable, of subsection 1, 2 or 3}~~ *pursuant to subsections 1 to 5, inclusive,* if such modification is set forth in writing. *The superintendent shall allow such a modification if the*



superintendent determines that a plan of action based on restorative justice may be used successfully.

~~{6-}~~ 8. This section does not prohibit a pupil from having in his or her 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.

~~{7. 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,}~~

9. *Except as otherwise provided in this section, a pupil who is excepted from criminal liability pursuant to NRS 194.010 must not be suspended from school or permanently expelled from school. In extraordinary circumstances, a school may request an exception to this subsection from the board of trustees of the school district. A pupil who is not excepted from criminal liability pursuant to NRS 194.010* 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.

~~{8-}~~ 10. A pupil *who is not excepted from criminal liability pursuant to NRS 194.010 and* who is participating in a program of special education pursuant to NRS 388.419 ~~{, other than a pupil 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 ~~{}~~ *and 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.,* be:

(a) Suspended from school pursuant to this section for not more than ~~{10}~~ 5 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}~~ *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.}~~

~~—9-}~~ 11. 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



1 or dagger, a nunchaku or trefoil, as defined in NRS 202.350, a
2 butterfly knife or any other knife described in NRS 202.350, a
3 switchblade knife as defined in NRS 202.265, or any other object
4 which is used, or threatened to be used, in such a manner and under
5 such circumstances as to pose a threat of, or cause, bodily injury to a
6 person.

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

11 *(d) "Restorative justice" has the meaning ascribed to it in*
12 *subsection 3 of section 3 of this act.*

13 ~~H0.1~~ 12. The provisions of this section do not prohibit a pupil
14 who is suspended or expelled from enrolling in a charter school that
15 is designed exclusively for the enrollment of pupils with disciplinary
16 problems if the pupil is accepted for enrollment by the charter
17 school pursuant to NRS 388A.453 or 388A.456. Upon request, the
18 governing body of a charter school must be provided with access to
19 the records of the pupil relating to the pupil's suspension or
20 expulsion in accordance with applicable federal and state law before
21 the governing body makes a decision concerning the enrollment of
22 the pupil.

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

24 392.467 1. Except as otherwise provided in subsections 4 and
25 5 ~~H.1~~ *and NRS 392.466*, the board of trustees of a school district may
26 authorize the suspension or expulsion of any pupil *who is not*
27 *excepted from criminal liability pursuant to NRS 194.010* from any
28 public school within the school district. *Except as otherwise*
29 *provided in NRS 392.466, a pupil who is excepted from criminal*
30 *liability pursuant to NRS 194.010 must not be suspended from*
31 *school or permanently expelled from school.*

32 2. Except as otherwise provided in subsection 5, no pupil may
33 be suspended or expelled until the pupil has been given notice of the
34 charges against him or her, an explanation of the evidence and an
35 opportunity for a hearing, except that a pupil who ~~[poses a~~
36 ~~continuing danger to persons or property or an ongoing threat of~~
37 ~~disrupting the academic process or who is selling or distributing any~~
38 ~~controlled substance or]~~ is found to be in possession of a *firearm or*
39 *a* dangerous weapon as provided in NRS 392.466 may be removed
40 from the school immediately upon being given an explanation of the
41 reasons for his or her removal and pending proceedings, to be
42 conducted as soon as practicable after removal, for the pupil's
43 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 *for offenses related to attendance or* 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 388.419, other than a pupil 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 ~~[]~~ *and 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.,* be:

(a) Suspended from school pursuant to this section for not more than ~~[10]~~ 5 days ~~[]~~ *for each occurrence.*

(b) ~~[Suspended from school for more than 10 days or permanently]~~ *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.]~~

Sec. 9. This act becomes effective on July 1, 2019.

