

AMENDMENTS TO LB147

Introduced by Pansing Brooks, 28.

1           1. Strike the original sections and insert the following new  
2 sections:

3           Section 1. Section 79-254, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5           79-254 Sections 79-254 to 79-294 and sections 4 and 5 of this act  
6 shall be known and may be cited as the Student Discipline Act.

7           Sec. 2. Section 79-258, Revised Statutes Supplement, 2019, is  
8 amended to read:

9           79-258 Administrative and teaching personnel may take actions  
10 regarding student behavior, other than those specifically provided in the  
11 Student Discipline Act, which are reasonably necessary to aid the  
12 student, further school purposes, or prevent interference with the  
13 educational process. Such actions may include, but need not be limited  
14 to, physical contact, counseling of students, parent conferences,  
15 referral to restorative justice practices or services, rearrangement of  
16 schedules, requirements that a student remain in school after regular  
17 hours to do additional work, restriction of extracurricular activity, or  
18 requirements that a student receive counseling, psychological evaluation,  
19 or psychiatric evaluation upon the written consent of a parent or  
20 guardian to such counseling or evaluation.

21           Sec. 3. Section 79-259, Reissue Revised Statutes of Nebraska, is  
22 amended to read:

23           79-259 If a student is removed, suspended, expelled, or excluded  
24 from school or from any educational function pursuant to the Student  
25 Discipline Act, such absence from school shall not be deemed a violation  
26 on the part of any person under any compulsory school attendance  
27 statutes. Any suspension or expulsion under the act shall comply with the

1 requirements of the Special Education Act and the requirements of the  
2 federal Individuals with Disabilities Education Act, 20 U.S.C. 1400 ~~1401~~  
3 et seq.

4 Sec. 4. (1) Administrative, teaching, and other school personnel  
5 may use reasonable physical contact to protect a student, school  
6 personnel, or another person from imminent physical injury.

7 (2) Reasonable physical contact shall only be used for as long as  
8 necessary to protect the student, school personnel, or other person from  
9 imminent physical injury. Reasonable physical contact does not include  
10 physical contact that:

11 (a) Is intended to cause pain;

12 (b) Places a student in a prone restraint, which means restraint in  
13 which a student is placed on the ground in a face-down position; or

14 (c) Involves any mechanical restraint.

15 (3) Each school district shall adopt a policy regarding the use of  
16 physical contact pursuant to this section, including training  
17 requirements relating to the use of reasonable physical contact.

18 (4) Within twenty-four hours following the use of any physical  
19 contact pursuant to this section, school personnel shall contact the  
20 parent or guardian of the student and notify the parent or guardian of  
21 the use of such physical contact.

22 (5)(a) No administrative, teaching, or other school personnel shall  
23 be subject to professional or administrative discipline or be held liable  
24 for harm caused by an act or omission of any administrative, teaching, or  
25 other school personnel relating to the use of reasonable physical contact  
26 pursuant to this section unless the harm was caused by (i) gross  
27 negligence, (ii) a conscious, flagrant indifference to the rights or  
28 safety of the individual who was harmed, or (iii) willful, criminal, or  
29 reckless misconduct, including misconduct (A) that constitutes a crime of  
30 violence, as defined by 18 U.S.C. 16, as such section existed on January  
31 1, 2020, (B) that involves a sexual offense listed in subdivision (1)(a)

1 (i) of section 29-4003, (C) for which the defendant has been found to  
2 have violated a federal or state civil rights law, or (D) that occurred  
3 while the defendant was under the influence of alcoholic liquor or drugs.

4 (b) Nothing in this section shall be construed to limit any defense  
5 that may be available under any other provision of law, including, but  
6 not limited to, any defense relating to self-protection or the protection  
7 of others.

8 Sec. 5. (1) An administrator or administrator's designee shall  
9 immediately remove a student from a class upon request by a teacher or  
10 other school personnel if such teacher or other school personnel has (a)  
11 followed school policy in requesting the removal of such student and (b)  
12 such student's behavior is so unruly, disruptive, or abusive that it  
13 seriously interferes with the learning environment and the opportunity  
14 for other students in the class to learn.

15 (2) Removal shall mean the exclusion of a student from a class for a  
16 period not to extend beyond the end of the school day during which such  
17 exclusion occurred, unless such student is otherwise suspended, expelled,  
18 or excluded from school or any educational function pursuant to the  
19 Student Discipline Act.

20 (3) Any removal pursuant to this section shall comply with the  
21 requirements of the federal Individuals with Disabilities Education Act,  
22 20 U.S.C. 1400 et seq., any applicable Individualized Education Plan  
23 established pursuant to the Individuals with Disabilities Education Act,  
24 and section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, as such  
25 acts existed on January 1, 2020, and any other applicable state or  
26 federal law.

27 (4) When a student is removed from a class, the goal shall be to  
28 return the student to the class as soon as possible after appropriate  
29 instructional or behavioral interventions or supports have been  
30 implemented to increase the likelihood the student will be successful.  
31 For students with patterns of disruptive behavior, schools shall provide

1 additional interventions or supports. After a student has been removed  
2 for a cumulative amount of time equivalent to five school days in a  
3 school year, the due process protections for long-term suspensions shall  
4 apply.

5 (5) Each school district shall adopt a policy that describes the  
6 process for removing a student from a class and for returning a student  
7 to a class. Such policy shall: (a) Describe how and when a student may be  
8 removed from a class and returned to a class; (b) use a discipline  
9 process that is proactive, instructive, and restorative; (c) require  
10 appropriate communication between administrators, teachers, students, and  
11 parents or guardians, including notification of a parent or guardian  
12 following the removal of a student from a class; and (d) allow a teacher  
13 to have, upon request, a conference with the principal and a parent or  
14 guardian of a student who was removed from class at the request of such  
15 teacher. Such policy shall be made available to the public.

16 (6) Administrative, teaching, and other school personnel shall not  
17 be subject to professional or administrative discipline for having a  
18 student removed from a class pursuant to this section if such  
19 administrative, teaching, or other school personnel acted in accordance  
20 with the policy adopted pursuant to subsection (5) of this section.

21 Sec. 6. This act becomes operative on January 1, 2021.

22 Sec. 7. Original sections 79-254 and 79-259, Reissue Revised  
23 Statutes of Nebraska, and section 79-258, Revised Statutes Supplement,  
24 2019, are repealed.