

AMENDMENTS TO LB653

(Amendments to Standing Committee amendments, AM995)

Introduced by Murman, 38.

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

3 **Sec. 1.** Section 79-238, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 79-238 (1)(a) Except as provided in this section and sections
6 79-235.01 and 79-240, the school board of the option school district
7 shall adopt by resolution specific capacity standards for acceptance and
8 rejection of applications.

9 (b) Capacity for special education services operated by an option
10 school district shall be determined on a case-by-case basis. If an
11 application for option enrollment received by a school district indicates
12 that the student has an individualized education program under the
13 federal Individuals with Disabilities Education Act, 20 U.S.C. 1400 et
14 seq., or has been diagnosed with a disability as defined in section
15 79-1118.01, such application shall be evaluated by the director of
16 special education services of the school district or the director's
17 designee who shall determine if the school district and the appropriate
18 class, grade level, or school building in such school district has the
19 capacity to provide the applicant the appropriate services and
20 accommodations.

21 (c) For all other students, standards may include the capacity of a
22 program, class, grade level, or school building. Capacity shall be
23 determined by setting a maximum number of option students that a district
24 will accept in any program, class, grade level, or school building, based
25 upon available staff, facilities, projected enrollment of resident
26 students, and projected number of students with which the option school

1 district will contract based on existing contractual arrangements.

2 (d) To facilitate option enrollment, school districts shall annually
3 establish, publish, and report the capacity for each school building
4 under such district's control pursuant to procedures, criteria, and
5 deadlines established by the State Board of Education. Except as
6 otherwise provided in this section, a school board may by resolution,
7 prior to October 15 of each school year, declare a program, a class, or a
8 school unavailable to option students for the next school year due to
9 lack of capacity. Standards shall not include previous academic
10 achievement, athletic or other extracurricular ability, disabilities,
11 proficiency in the English language, or previous disciplinary proceedings
12 except as provided in section 79-266.01. False or substantively
13 misleading information submitted by a parent or guardian on an
14 application to an option school district may be cause for the option
15 school district to reject a previously accepted application if the
16 rejection occurs prior to the student's attendance as an option student.

17 (2) The school board of every school district shall also adopt
18 specific standards and conditions for acceptance or rejection of a
19 request for release of a resident or option student submitting an
20 application to an option school district after March 15 under subsection
21 (1) of section 79-237. Standards shall not include that a request
22 occurred after the deadline set forth in this subsection.

23 (3) Any option school district that is not a member of a learning
24 community shall automatically accept applications for ~~give first priority~~
25 ~~for enrollment to~~ siblings of option students enrolled in the option
26 school district without regard to capacity limitations ~~, except that the~~
27 ~~option school district shall not be required to accept the sibling of an~~
28 ~~option student if the district is at capacity except as provided in~~
29 ~~subsection (1) of section 79-240.~~

30 (4) Any option school district that is in a learning community shall
31 automatically accept applications for ~~give first priority for enrollment~~

1 ~~to~~ siblings of option students enrolled in the option school district
2 without regard to capacity limitations, then give first ~~second~~ priority
3 for enrollment to students who have previously been enrolled in the
4 option school district as an open enrollment student, second ~~third~~
5 priority for enrollment to students who reside in the learning community
6 and who contribute to the socioeconomic diversity of enrollment at the
7 school building to which the student will be assigned pursuant to section
8 79-235, and final priority for enrollment to other students who reside in
9 the learning community. The option school district shall not be required
10 to accept a student meeting the priority criteria in this section if the
11 district is at capacity as determined pursuant to subsection (1) of this
12 section except for siblings of option students or as provided in section
13 79-235.01 or 79-240. For purposes of the enrollment option program, a
14 student who contributes to the socioeconomic diversity of enrollment at a
15 school building within a learning community means (a) a student who does
16 not qualify for free or reduced-price lunches when, based upon the
17 certification pursuant to section 79-2120, the school building the
18 student will be assigned to attend either has more students qualifying
19 for free or reduced-price lunches than the average percentage of such
20 students in all school buildings in the learning community or provides
21 free meals to all students pursuant to the community eligibility
22 provision or (b) a student who qualifies for free or reduced-price
23 lunches based on information collected voluntarily from parents and
24 guardians pursuant to section 79-237 when, based upon the certification
25 pursuant to section 79-2120, the school building the student will be
26 assigned to attend has fewer students qualifying for free or reduced-
27 price lunches than the average percentage of such students in all school
28 buildings in the learning community and does not provide free meals to
29 all students pursuant to the community eligibility provision.

30 **Sec. 2.** Section 79-265, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 79-265 (1) Except as provided in section 79-265.01, the principal
2 may deny any student the right to attend school or to take part in any
3 school function for a period of up to five school days on the following
4 grounds:

5 (a) Conduct constituting grounds for expulsion as set out in the
6 Student Discipline Act; or

7 (b) Any other violation of rules and standards of behavior adopted
8 under the act.

9 (2) Such short-term suspension shall be made only after the
10 principal has made an investigation of the alleged conduct or violation
11 and has determined that such suspension is necessary to help any student,
12 to further school purposes, or to prevent an interference with school
13 purposes.

14 (3) Before such short-term suspension takes effect, the student
15 shall be given oral or written notice of the charges against him or her,
16 an explanation of the evidence the authorities have, and an opportunity
17 to present his or her version.

18 ~~(4)(a) (4)~~ Within twenty-four hours or such additional time as is
19 reasonably necessary, not to exceed an additional forty-eight hours,
20 following such suspension, the principal shall send a written statement
21 to the student and his or her parent or guardian describing:

22 (i) The student's conduct, misconduct, or violation of the rule
23 or standard; and

24 (ii) The reasons for the action taken; -

25 (iii) The actions made by the school to try to discontinue or
26 alleviate the behavior of the student prior to considering suspension;

27 (iv) Resources the school is able to provide or recommend to assist
28 the student; and

29 (v) How the school plans to handle such behavior in the future,
30 including an actionable plan aimed at maximizing strategies to keep the
31 student in school.

1 (b) The principal shall make a reasonable effort to hold a
2 conference with the parent or guardian before or at the time the student
3 returns to school and shall document such effort in writing.

4 **Sec. 3.** Section 79-265.01, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 79-265.01 (1) Except as provided in subsection (2) of this section,
7 an elementary school shall not suspend a student in pre-kindergarten
8 through second grade. Each school district shall develop a policy to
9 implement this section which shall include disciplinary measures inside
10 the school as an alternative to suspension.

11 (2) An elementary school may suspend a student in pre-kindergarten
12 through second grade if such student:

13 (a) Brings ~~brings~~ a deadly weapon as defined in section 28-109 onto
14 ~~on~~ school grounds, into ~~in~~ a vehicle owned, leased, or contracted by a
15 school being used for a school purpose or into ~~in~~ a vehicle being driven
16 for a school purpose by a school employee or his or her designee, or to
17 ~~at~~ a school-sponsored activity or athletic event; or -

18 (b) Engages in violent behavior capable of causing physical harm to
19 another student or school employee.

20 **Sec. 4.** Section 79-268, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 79-268 If a principal makes a decision to discipline a student by
23 long-term suspension, expulsion, or mandatory reassignment, the following
24 procedures shall be followed:

25 (1) The decision as to recommend discipline shall be made within two
26 school days after learning of the alleged student misconduct. On the date
27 of the decision, a written charge and a summary of the evidence
28 supporting such charge shall be filed with the superintendent. The school
29 shall, within two school days after the decision, send written notice by
30 registered or certified mail to the student and his or her parent or
31 guardian informing them of the rights established under the Student

1 Discipline Act;

2 (2) Such written notice shall include the following:

3 (a) The rule or standard of conduct allegedly violated and the acts
4 of the student alleged to constitute a cause for long-term suspension,
5 expulsion, or mandatory reassignment, including a summary of the evidence
6 to be presented against the student;

7 (b) The penalty, if any, which the principal has recommended in the
8 charge and any other penalty to which the student may be subject;

9 (c) Resources the school is able to provide or recommend to assist
10 the student;

11 (d) How the school plans to handle such behavior in the future,
12 including an actionable plan aimed at maximizing strategies to keep the
13 student in school;

14 (e) ~~(e)~~ A statement that, before long-term suspension, expulsion, or
15 mandatory reassignment can be invoked, the student has a right to a
16 hearing, upon request, and that if the student is suspended pending the
17 outcome of the hearing, the student may complete classwork and homework,
18 including, but not limited to, examinations, missed during the period of
19 suspension pursuant to district guidelines which shall not require the
20 student to attend the school district's alternative programs for expelled
21 students in order to complete classwork or homework;

22 (f) ~~(d)~~ A description of the hearing procedures provided by the act,
23 along with procedures for appealing any decision rendered at the hearing;

24 (g) ~~(e)~~ A statement that the principal, legal counsel for the
25 school, the student, the student's parent, or the student's
26 representative or guardian has the right (i) to examine the student's
27 academic and disciplinary records and any affidavits to be used at the
28 hearing concerning the alleged misconduct and (ii) to know the identity
29 of the witnesses to appear at the hearing and the substance of their
30 testimony; and

31 (h) ~~(f)~~ A form on which the student, the student's parent, or the

1 student's guardian may request a hearing, to be signed by such parties
2 and delivered to the principal or superintendent in person or by
3 registered or certified mail to the address provided on such form, as
4 prescribed in sections 79-271 and 79-272;

5 (3) When a notice of intent to discipline a student by long-term
6 suspension, expulsion, or mandatory reassignment is filed with the
7 superintendent, the student may be suspended by the principal until the
8 date the long-term suspension, expulsion, or mandatory reassignment takes
9 effect, if the principal determines that the student must be suspended
10 immediately to prevent or substantially reduce the risk of (a)
11 interference with an educational function or school purpose or (b) a
12 personal injury to the student himself or herself, other students, school
13 employees, or school volunteers; and

14 (4) For purposes of this section, mandatory reassignment, regardless
15 of its implementation date, shall be subject to the procedures of this
16 section.

17 The Student Discipline Act does not preclude the student or the
18 student's parent, guardian, or representative from discussing and
19 settling the matter with appropriate school personnel prior to the time
20 the long-term suspension, expulsion, or mandatory reassignment takes
21 effect.

22 **Sec. 5.** Original sections 79-238, 79-265, 79-265.01, and 79-268,
23 Reissue Revised Statutes of Nebraska, are repealed.