LEGISLATIVE BILL 147

Introduced by Groene, 42.

Read first time January 11, 2019

Committee: Education

A BILL FOR AN ACT relating to the Student Discipline Act; to amend section 79-254, Reissue Revised Statutes of Nebraska; to provide for use of physical contact or physical restraint or removal from a class in response to student behavior; to harmonize provisions; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,
Section 1. Section 79-254, Reissue Revised Statutes of Nebraska, is amended to read:

79-254 Sections 79-254 to 79-294 and sections 2 and 3 of this act shall be known and may be cited as the Student Discipline Act.

Sec. 2. (1) If a student becomes physically violent toward himself or herself, a teacher, an administrator, or another student, a teacher or administrator may use the necessary physical contact or physical restraint to control such student until such student no longer presents a danger to himself or herself, the teacher, the administrator, or the other student.

(2) If a student exhibits destructive behavior toward school property, a teacher or administrator may use the necessary physical contact or physical restraint to control such student until such student ceases the destructive behavior or the student is removed from the classroom.

(3) Any action by a teacher or administrator pursuant to subsection (1) or (2) of this section shall not be considered corporal punishment pursuant to section 79-295.

(4) Any teacher or administrator defending himself or herself, another teacher or administrator, or a student pursuant to subsection (1) of this section, or protecting school property pursuant to subsection (2) of this section, shall not be subject to legal action or administrative discipline if such teacher or administrator was acting in a reasonable manner.

(5) For purposes of this section, physical restraint means holding the hands, wrists, or torso of a student to control the movements of such student and shall not include the use of any mechanical device or binding a student to any object.

Sec. 3. (1) A teacher has the authority to have a student removed from the classroom by an administrator, administrator's designee, or school resource officer if the teacher:
(a) Has documented that such student has repeatedly interfered with such teacher’s ability to communicate effectively with the students in such class or with the ability of students in such class to learn;

(b) Determines such student’s behavior is so unruly, disruptive, or abusive that it seriously interferes with such teacher’s ability to communicate effectively with the students in the class or with the ability of the students in the class to learn; or

(c) Determines such student has committed other disruptive acts that merit discipline under the Student Discipline Act.

(2) If a teacher has a student removed from a classroom pursuant to this section, the principal of the school may place such student into another appropriate classroom or into in-school suspension or suspend the student pursuant to section 79-265 or 79-267. The principal may not return such student to a class taught by such teacher without the teacher’s consent unless such return is required pursuant to the Special Education Act or the federal Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., as such act existed on January 1, 2019. If the teacher does not consent to the student's return to the teacher's classroom, within two school days following the student's removal a conference shall be held with the teacher and the parent or legal guardian of such student in the presence of the principal or the principal's designee for the purpose of determining the causes of the problem and developing a plan to implement possible student behavior improvement mechanisms. Following the conference, the principal may readmit such student to the teacher's class. A principal or other administrator shall not coerce a teacher to consent to the return of a student to a class from which such student was removed pursuant to this section.

(3) A teacher shall not be subject to legal action or administrative discipline for having a student removed from a class pursuant to subsection (1) of this section if such teacher was acting in a reasonable
manner.

Sec. 4. Original section 79-254, Reissue Revised Statutes of Nebraska, is repealed.