

LEGISLATIVE BILL 209

Approved by the Governor May 10, 1983

Introduced by Goodrich, 20; Fowler, 27

AN ACT to amend sections 79-4,176, 79-4,180, 79-4,198, and 79-4,203, Reissue Revised Statutes of Nebraska, 1943, relating to schools; to authorize certain rules; to provide criteria for imposing a certain sanction; to provide an additional act which constitutes grounds for suspension, reassignment, or expulsion of students; to change provisions relating to the appeal of a decision; to change a provision relating to judicial review as prescribed; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 79-4,176, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-4,176. (1) The school board or board of education shall establish and promulgate rules and standards concerning student conduct which are reasonably necessary to carry out, or to prevent interference with carrying out, any educational function, if such rules and standards are clear and definite so as to provide clear notice to students as to the conduct prescribed or required thereunder. Notwithstanding any other provisions contained in sections 79-4,170 to 79-4,205, the school board or board of education may by rule specify a particular action as a sanction for particular conduct. Any such action must be otherwise authorized by sections 79-4,172, 79-4,178, or 79-4,180. Any such rule shall be binding on all students, school officials, board members, and hearing examiners. Expulsion may be specified as a sanction for particular conduct only if the school board or board of education finds that the type of conduct for which expulsion is specified has the potential to seriously affect the health, safety, or welfare of the student, other students, staff members, or any other person or to otherwise seriously interfere with the educational process.

(2) All rules and standards established by

school officials, other than the board, applicable to students shall not conflict with rules and standards adopted by the board. The board may change any rule or standard in accordance with policies which it may from time to time adopt.

(3) Rules or standards which form the basis for discipline shall be distributed to students and their parents at the beginning of each school year, or at the time of enrollment, if during the school year, and shall be posted in conspicuous places in each school during the school year. Changes in rules and standards shall not take effect until reasonable effort has been made to distribute such changes to all students and parents.

Sec. 2. That section 79-4,180, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-4,180. The following student conduct shall constitute grounds for long-term suspension, expulsion, or mandatory reassignment, subject to the procedural provisions of sections 79-4,170 to 79-4,205, when such activity occurs on school grounds or during an educational function or event off school grounds:

(1) Use of violence, force, coercion, threat, intimidation, or similar conduct in a manner that constitutes a substantial interference with school purposes;

(2) Willfully causing or attempting to cause substantial damage to private or school property, stealing or attempting to steal private or school property of substantial value, or repeated damage or theft involving private or school property of small value;

(3) Causing or attempting to cause physical injury to a school employee or to any student. Physical injury caused by accident, self-defense, or other action undertaken on the reasonable belief that it was necessary to protect some other person shall not constitute a violation of this subdivision;

(4) Threatening or intimidating any student for the purpose of, or with the intent of, obtaining money or anything of value from such student;

(5) Knowingly possessing, handling, or transmitting any object or material that is ordinarily or generally considered a weapon;

(6) Engaging in the unlawful possession, selling, dispensing, or use of a controlled substance or alcoholic liquor;

(7) Public indecency, as defined in section 28-806, except that this subdivision shall apply only to students at least twelve years of age but less than nineteen years of age;

(8) ~~(7)~~ Engaging in any other activity

forbidden by the laws of the State of Nebraska which activity constitutes a danger to other students or interferes with school purposes; or

(9) ~~(8)~~ A repeated violation of any rules validly established pursuant to section 79-4,176 if such violations constitute a substantial interference with school purposes.

Sec. 3. That section 79-4,198, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-4,198. (1) The student, parents, or guardian may, within seven fifteen school days following a hearing receipt of the written notice of the determination of the superintendent, appeal the superintendent's determination to the school board or board of education by a written request, which shall be filed with the secretary of the board or with the superintendent.

(2) A hearing shall be held before the school board or the board of education, or the designated committee thereof, consisting of not less than three board members, at or before the next regularly scheduled meeting of such board within a period of ten school days after it is requested and such time for a hearing may be changed by mutual agreement of the student and superintendent, except that the hearing may be held before a committee of the school board or board of education of not less than three members. Such appeal shall be made on the record, except that new evidence may be admitted to avoid a substantial threat of unfairness and such new evidence shall be recorded as provided in section 79-4,193.

Sec. 4. That section 79-4,203, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-4,203. Within fifteen days after service of the petition or within such further time as the court for good cause shown may allow, the school board or board of education shall prepare and transmit to the court a certified transcript of the record, which shall include the rules and regulations of the school board relied upon by the school district in its determination to suspend, reassign, or expel the student, and the proceedings conducted before it, including the final decision sought to be reversed, vacated, or modified. The school board need not file any responsive pleading.

Sec. 5. That original sections 79-4,176, 79-4,180, 79-4,198, and 79-4,203, Reissue Revised Statutes of Nebraska, 1943, are repealed.