

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 653

FINAL READING

Introduced by Murman, 38; Conrad, 46; Fredrickson, 20; Lippincott, 34;
Lonowski, 33; Sanders, 45.

Read first time January 22, 2025

Committee: Education

- 1 A BILL FOR AN ACT relating to education; to amend sections 79-238,
2 79-265, 79-265.01, and 79-268, Reissue Revised Statutes of Nebraska;
3 to change provisions relating to acceptance of students under the
4 enrollment option program; to change provisions relating to
5 requirements for disciplining students under the Student Discipline
6 Act; and to repeal the original sections.
7 Be it enacted by the people of the State of Nebraska,

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

3 79-238 (1)(a) Except as provided in this section and sections
4 79-235.01 and 79-240, the school board of the option school district
5 shall adopt by resolution specific capacity standards for acceptance and
6 rejection of applications.

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

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

26 (d) To facilitate option enrollment, school districts shall annually
27 establish, publish, and report the capacity for each school building
28 under such district's control pursuant to procedures, criteria, and
29 deadlines established by the State Board of Education. Except as
30 otherwise provided in this section, a school board may by resolution,
31 prior to October 15 of each school year, declare a program, a class, or a

1 school unavailable to option students for the next school year due to
2 lack of capacity. Standards shall not include previous academic
3 achievement, athletic or other extracurricular ability, disabilities,
4 proficiency in the English language, or previous disciplinary proceedings
5 except as provided in section 79-266.01. False or substantively
6 misleading information submitted by a parent or guardian on an
7 application to an option school district may be cause for the option
8 school district to reject a previously accepted application if the
9 rejection occurs prior to the student's attendance as an option student.

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

16 (3) Any option school district that is not a member of a learning
17 community shall automatically accept applications for ~~give first priority~~
18 ~~for enrollment to~~ siblings of option students enrolled in the option
19 school district without regard to capacity limitations , ~~except that the~~
20 ~~option school district shall not be required to accept the sibling of an~~
21 ~~option student if the district is at capacity except as provided in~~
22 ~~subsection (1) of section 79-240.~~

23 (4) Any option school district that is in a learning community shall
24 automatically accept applications for ~~give first priority for enrollment~~
25 ~~to~~ siblings of option students enrolled in the option school district
26 without regard to capacity limitations, then give first ~~second~~ priority
27 for enrollment to students who have previously been enrolled in the
28 option school district as an open enrollment student, second ~~third~~
29 priority for enrollment to students who reside in the learning community
30 and who contribute to the socioeconomic diversity of enrollment at the
31 school building to which the student will be assigned pursuant to section

1 79-235, and final priority for enrollment to other students who reside in
2 the learning community. The option school district shall not be required
3 to accept a student meeting the priority criteria in this section if the
4 district is at capacity as determined pursuant to subsection (1) of this
5 section except for siblings of option students or as provided in section
6 79-235.01 or 79-240. For purposes of the enrollment option program, a
7 student who contributes to the socioeconomic diversity of enrollment at a
8 school building within a learning community means (a) a student who does
9 not qualify for free or reduced-price lunches when, based upon the
10 certification pursuant to section 79-2120, the school building the
11 student will be assigned to attend either has more students qualifying
12 for free or reduced-price lunches than the average percentage of such
13 students in all school buildings in the learning community or provides
14 free meals to all students pursuant to the community eligibility
15 provision or (b) a student who qualifies for free or reduced-price
16 lunches based on information collected voluntarily from parents and
17 guardians pursuant to section 79-237 when, based upon the certification
18 pursuant to section 79-2120, the school building the student will be
19 assigned to attend has fewer students qualifying for free or reduced-
20 price lunches than the average percentage of such students in all school
21 buildings in the learning community and does not provide free meals to
22 all students pursuant to the community eligibility provision.

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

25 79-265 (1) Except as provided in section 79-265.01, the principal
26 may deny any student the right to attend school or to take part in any
27 school function for a period of up to five school days on the following
28 grounds:

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

31 (b) Any other violation of rules and standards of behavior adopted

1 under the act.

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

7 (3) Before such short-term suspension takes effect, the student and
8 the parent, guardian, or educational decisionmaker as defined in section
9 79-530 of the student shall be given oral and written notice of the
10 charges against the student or written notice of the charges against him
11 or her, an explanation of the evidence the authorities have, and an
12 opportunity to present the student's his or her version of the events
13 leading to the alleged conduct or violation the principal has determined
14 necessitates a short-term suspension and evidence to support the
15 student's version of such events.

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

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

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

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

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

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

30 (b) The principal shall make a reasonable effort to hold a
31 conference with the parent or guardian before or at the time the student

1 returns to school and shall document such effort in writing. If such
2 conference has not been held, a parent, guardian, or educational
3 decisionmaker as defined in section 79-530 may submit a written request
4 to the school for a conference with the principal relating to the short-
5 term suspension of such parent's, guardian's, or educational
6 decisionmaker's child pursuant to this section and the written statement
7 received pursuant to subdivision (4)(a) of this section.

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

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

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

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

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

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

26 79-268 If a principal makes a decision to discipline a student by
27 long-term suspension, expulsion, or mandatory reassignment, the following
28 procedures shall be followed:

29 (1) The decision as to recommend discipline shall be made within two
30 school days after learning of the alleged student misconduct. On the date
31 of the decision, a written charge and a summary of the evidence

1 supporting such charge shall be filed with the superintendent. The school
2 shall, within two school days after the decision, send written notice by
3 registered or certified mail to the student and his or her parent or
4 guardian informing them of the rights established under the Student
5 Discipline Act;

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

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

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

13 (c) Resources the school is able to provide or recommend to assist
14 the student;

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

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

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

28 (g) ~~(e)~~ A statement that the principal, legal counsel for the
29 school, the student, the student's parent, or the student's
30 representative or guardian has the right (i) to examine the student's
31 academic and disciplinary records and any affidavits to be used at the

1 hearing concerning the alleged misconduct and (ii) to know the identity
2 of the witnesses to appear at the hearing and the substance of their
3 testimony; and

4 (h) ~~(f)~~ A form on which the student, the student's parent, or the
5 student's guardian may request a hearing, to be signed by such parties
6 and delivered to the principal or superintendent in person or by
7 registered or certified mail to the address provided on such form, as
8 prescribed in sections 79-271 and 79-272;

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

18 (4) For purposes of this section, mandatory reassignment, regardless
19 of its implementation date, shall be subject to the procedures of this
20 section.

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

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