

AMENDMENTS TO LB147

Introduced by Walz, 15.

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 3 and 4 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 intervention, 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. (1) Unless prohibited by the federal Individuals with
22 Disabilities Education Act, 20 U.S.C. 1400 et seq., or a plan developed
23 pursuant to section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794,
24 as such acts existed on January 1, 2020, after every reasonable effort
25 has been made to de-escalate a potentially harmful situation, teachers
26 and other school personnel may use reasonable physical intervention to
27 safely manage the behavior of a student to:

1 (a) Protect such student, another student, a teacher or other school
2 personnel, or another person from physical injury; or

3 (b) Secure property in the possession of such student if the
4 possession of such property by such student poses a threat of physical
5 injury to such student, another student, a teacher or other school
6 personnel, or another person.

7 (2) Prone restraint as a form of physical intervention shall only be
8 used as a last resort. In the event that prone restraint is used, every
9 reasonable effort shall be made to change to a different restraint
10 position in a timely manner. Prone restraint means any manual method,
11 physical or mechanical device, material, or equipment that immobilizes or
12 reduces the ability of an individual to move freely in either a face-up
13 or face-down position.

14 (3) Any physical intervention used by a teacher or other school
15 personnel pursuant to this section shall not be used for the purpose of
16 inflicting bodily pain as a penalty for disapproved behavior.

17 (4) Following the use of physical intervention pursuant to this
18 section, a teacher or other school personnel shall contact and notify the
19 parent or guardian of the use of physical intervention. The school
20 district shall submit a written report to the State Department of
21 Education describing the incident, the events leading up to the incident,
22 steps that were taken to de-escalate the situation, and how the incident
23 was resolved.

24 (5) No teacher or other school personnel shall be subject to
25 professional or administrative discipline and no teacher, other school
26 personnel, or school district shall be criminally or civilly liable for
27 the use of physical intervention pursuant to subdivision (1)(a) or (b) of
28 this section if such physical intervention was reasonable. Nothing in
29 this section shall be construed to limit any defense that may be
30 available under any provision of law, including, but not limited to, any
31 defense relating to self-protection or the protection of others.

1 Sec. 4. (1) Each school district shall have a policy that describes
2 the process of removing a student from a class and returning a student to
3 a class. Such policy shall: (a) Describe how and when a student may be
4 removed from a class and returned to a class; (b) use a discipline
5 process that is proactive, instructive, and restorative; (c) require
6 appropriate communication between administrators, teachers or other
7 school personnel, students, and parents or guardians. Such policy shall
8 be made available to the public.

9 (2) Unless prohibited by the federal Individuals with Disabilities
10 Education Act, 20 U.S.C. 1400 et seq., or a plan developed pursuant to
11 section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, as such
12 acts existed on January 1, 2020, an administrator or administrator's
13 designee shall immediately remove a student from a class upon request by
14 a teacher or other school personnel if such teacher or other school
15 personnel has followed school policy in requesting the removal of such
16 student.

17 (3) When a student is removed from a class, the goal must be to
18 return the student to the class as soon as possible after appropriate
19 instructional or behavioral interventions or supports have been
20 implemented to increase the likelihood the student will be successful.
21 For a student with a pattern of disruptive behavior, the school shall
22 provide additional interventions or supports.

23 (4) No teacher or other school personnel shall be subject to
24 professional or administrative discipline, and no teacher, other school
25 personnel, or school district shall be criminally or civilly liable for
26 the removal of a student from a class pursuant to this section if such
27 teacher or other school personnel acted in a reasonable manner and in
28 accordance with school policy.

29 Sec. 5. The State Board of Education may adopt and promulgate rules
30 and regulations to carry out sections 3 and 4 of this act.

31 Sec. 6. Section 4 of this act becomes operative on August 1, 2020.

1 The other sections of this act become operative on their effective date.
2 Sec. 7. Original section 79-254, Reissue Revised Statutes of
3 Nebraska, and section 79-258, Revised Statutes Supplement, 2019, are
4 repealed.