

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 165

Introduced by Hunt, 8; Morfeld, 46; Pansing Brooks, 28.

Read first time January 11, 2019

Committee: Education

- 1 A BILL FOR AN ACT relating to schools; to amend section 79-265, Reissue
- 2 Revised Statutes of Nebraska; to adopt the Too Young to Suspend Act;
- 3 to harmonize provisions; and to repeal the original section.
- 4 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 6 of this act shall be known and may be
2 cited as the Too Young to Suspend Act.

3 Sec. 2. The purpose of the Too Young to Suspend Act is to prohibit
4 early childhood education and kindergarten students from being suspended
5 or expelled from school except in limited circumstances. The intent is to
6 prevent suspensions or expulsions of difficult young students who may
7 disrupt school activities or willfully defy school authorities, but who
8 are not a danger to other students.

9 Sec. 3. For purposes of the Too Young to Suspend Act:

10 (1) Expulsion shall have the same meaning as in section 79-256;

11 (2) Mandatory reassignment shall have the same meaning as in section
12 79-256;

13 (3) Serious bodily injury shall have the same meaning as provided in
14 the federal Individuals with Disabilities Education Act, 20 U.S.C.
15 1415(k)(7)(D), as such subdivision existed on January 1, 2019; and

16 (4) Suspension shall have the same meaning as short-term suspension
17 in section 79-256.

18 Sec. 4. (1) Each school board shall adopt and promulgate a policy
19 prohibiting the suspension or expulsion of any early childhood education
20 or kindergarten student unless the school principal determines that such
21 student has committed one of the following acts:

22 (a) The student willfully caused, attempted to cause, or threatened
23 serious bodily injury to another student or person while in a school
24 building, on school grounds, in a school-owned vehicle, or at a school-
25 sponsored activity or athletic event and such action was not an act of
26 self-defense; or

27 (b) The student possessed or furnished to another person a firearm,
28 knife, explosive, or other dangerous weapon, substance, or object while
29 in a school building, on school grounds, in a school-owned vehicle, or at
30 a school-sponsored activity or athletic event.

31 (2) Notwithstanding subsection (1) of this section, the

1 superintendent of a school district may:

2 (a) Use a mandatory reassignment to transfer an early childhood
3 education or kindergarten student to another school within the school
4 district, if such transfer would result in a more appropriate placement
5 due to any disability or special need of such student; or

6 (b) Suspend an early childhood education or kindergarten student
7 during the pendency of an investigation into whether a student can be
8 lawfully suspended or expelled pursuant to this section.

9 (3) Except as otherwise provided in the Too Young to Suspend Act,
10 any suspension, expulsion, or mandatory reassignment of an early
11 childhood education or kindergarten student shall also comply with the
12 requirements of the Student Discipline Act.

13 Sec. 5. On or before March 1, 2020, the Commissioner of Education
14 shall issue guidelines for the implementation of the Too Young to Suspend
15 Act, including recommendations on the length of a suspension for acts
16 described in subsection (1) of section 4 of this act.

17 Sec. 6. On or before July 15, 2021, and on or before each July 15
18 thereafter, each school district shall submit a report to the State
19 Department of Education detailing any suspension or expulsion of an early
20 childhood education or kindergarten student.

21 Sec. 7. Section 79-265, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 79-265 (1) Except as otherwise provided in the Too Young to Suspend
24 Act, a The principal may deny any student the right to attend school or
25 to take part in any school function for a period of up to five school
26 days on the following grounds:

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

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

31 (2) Such short-term suspension shall be made only after the

1 principal has made an investigation of the alleged conduct or violation
2 and has determined that such suspension is necessary to help any student,
3 to further school purposes, or to prevent an interference with school
4 purposes.

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

9 (4) Within twenty-four hours or such additional time as is
10 reasonably necessary following such suspension, the principal shall send
11 a written statement to the student and his or her parent or guardian
12 describing the student's conduct, misconduct, or violation of the rule or
13 standard and the reasons for the action taken. The principal shall make a
14 reasonable effort to hold a conference with the parent or guardian before
15 or at the time the student returns to school.

16 (5) Any student who is suspended pursuant to this section may be
17 given an opportunity to complete any classwork, including, but not
18 limited to, examinations, missed during the period of suspension. Each
19 public school district shall develop and adopt guidelines stating the
20 criteria school officials shall use in determining whether and to what
21 extent such opportunity for completion will be granted to suspended
22 students. The guidelines shall be provided to the student and parent or
23 guardian at the time of suspension.

24 Sec. 8. Original section 79-265, Reissue Revised Statutes of
25 Nebraska, is repealed.