

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 147

Introduced by Groene, 42.

Read first time January 11, 2019

Committee:

- 1 A BILL FOR AN ACT relating to the Student Discipline Act; to amend
- 2 section 79-254, Reissue Revised Statutes of Nebraska; to provide for
- 3 use of physical contact or physical restraint or removal from a
- 4 class in response to student behavior; to harmonize provisions; and
- 5 to repeal the original section.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-254, Reissue Revised Statutes of Nebraska, is
2 amended to read:

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

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

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

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

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

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

29 Sec. 3. (1) A teacher has the authority to have a student removed
30 from the classroom by an administrator, administrator's designee, or
31 school resource officer if the teacher:

1 (a) Has documented that such student has repeatedly interfered with
2 such teacher's ability to communicate effectively with the students in
3 such class or with the ability of students in such class to learn;

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

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

10 (2) If a teacher has a student removed from a classroom pursuant to
11 this section, the principal of the school may place such student into
12 another appropriate classroom or into in-school suspension or suspend the
13 student pursuant to section 79-265 or 79-267. The principal may not
14 return such student to a class taught by such teacher without the
15 teacher's consent unless such return is required pursuant to the Special
16 Education Act or the federal Individuals with Disabilities Education Act,
17 20 U.S.C. 1400 et seq., as such act existed on January 1, 2019. If the
18 teacher does not consent to the student's return to the teacher's
19 classroom, within two school days following the student's removal a
20 conference shall be held with the teacher and the parent or legal
21 guardian of such student in the presence of the principal or the
22 principal's designee for the purpose of determining the causes of the
23 problem and developing a plan to implement possible student behavior
24 improvement mechanisms. Following the conference, the principal may
25 readmit such student to the teacher's class. A principal or other
26 administrator shall not coerce a teacher to consent to the return of a
27 student to a class from which such student was removed pursuant to this
28 section.

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

1 manner.

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