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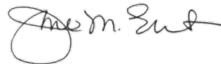


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GUIDANCE MEMORANDUM # 22-04

TO: Local Education Agencies

FROM: Jhone M. Ebert, Superintendent of Public Instruction 

DATE: March 3, 2022

SUBJECT: Updates to Disciplinary Sanctions Laws Under Assembly Bill (AB) 67 (2021)

Introduction

During the 2021 legislative session, Assembly Bill (AB) 67 was passed to provide clarification about several provisions of the current statutes regarding school disciplinary sanctions. The current statutes (pre-AB 67) were extensively revised during the 2019 legislative session, and descriptions of the changes to state law in 2019 were described in GUIDANCE MEMORANDUM #19-08. This guidance memo highlights changes to state law under AB 67 (2021).

Background

The provisions of AB 67 continue to support Nevada’s commitment to maintaining safe learning environments and implementing positive approaches to addressing pupil behavior. AB 67 provided an opportunity to identify areas of the existing statutes where revisions to provide clarification and consistency would be useful to local education agencies as they implement Nevada’s discipline statutes. A summary changes to disciplinary sanctions and processes as enacted by the passage of AB 67 (2021) follows.

Summary of AB 67 Revisions

Following is a summary of the significant revisions to state law regarding disciplinary sanctions under AB 67 (2021):

- The following definitions for “suspend/suspension,” “expel/expulsion,” and “permanently expelled” have been added:
 - “Suspend” or “suspension” means the disciplinary removal of a pupil from the school in which the pupil is currently enrolled for not more than one school semester.
 - “Expel” or “expulsion” means the disciplinary removal of a pupil from the school in which the pupil is currently enrolled for more than one school semester with the possibility of:

1. Except as otherwise provided in subsection 2, returning to the school in which the pupil is currently enrolled or another public school within the school district after the expulsion; and
 2. Enrolling in a program or public school for alternative education for pupils who are expelled or permanently expelled during the period of expulsion.
- “Permanently expelled” means the disciplinary removal of a pupil from the school in which the pupil is currently enrolled:
 - (1) Except as otherwise provided in subparagraph (2), without the possibility of returning to the school in which the pupil is currently enrolled or another public school within the school district; and
 - (2) With the possibility of enrolling in a program or public school for alternative education for pupils who are expelled or permanently expelled after being permanently expelled.
- In most situations where Board action was previously required, including a review to determine if a proposed disciplinary action is in compliance with the Individuals with Disabilities Education Act (IDEA), those actions may now be taken by a Board designee.
 - Board action is still required if a school requests an exception from the Board in extraordinary circumstances to permanently expel a pupil under age 11.
 - For pupils with disabilities, previous law only authorized suspensions of 1-5 days per occurrence, or permanent expulsion. There was no option for an expulsion short of a permanent expulsion. Now, pupils with disabilities may be suspended for 1-5 days per occurrence of proscribed conduct, expelled, or permanently expelled if the discipline action is in compliance with the IDEA.
 - As with general education pupils, pupils with disabilities may be disciplined at any age for possession of a firearm or dangerous weapon, and the mandatory discipline under state law applies if the discipline action is in compliance with the IDEA.
 - Under previous law, a pupil could be deemed a habitual disciplinary problem if the pupil in one school year had a record of five suspensions. AB 67 (2021) makes clear that each of the five suspensions over the course of the one school year must be a “significant suspension.” A “significant suspension” occurs if the pupil is prohibited from attending school for 3 or more consecutive days, including a requirement for a conference or some other form of communication with the parent/guardian before the pupil is allowed to return to school.
 - Under previous law, the Open Meeting Law did not apply to discipline “hearings” under NRS 392.467, and discipline “hearings” were closed to the public. It is now clear that the provisions of Chapter 241 of NRS (Open Meeting Law) do not apply to any hearing **or proceeding** conducted under 392.466 or 392.467 regarding pupil discipline. Such a hearing **or proceeding** must be closed to the public.
 - Previous law contained a provision that authorized a school to place a pupil in “another school” including a school in another school district. The provision allowing a school to place a pupil in a school **in another district** has been eliminated.

Attached is a “Quick Reference Guide to Student-Level Disciplinary Sanctions Laws” (effective July 1, 2021).