

LEGISLATIVE BILL 893

Approved by the Governor February 12, 1996

Introduced by Executive Board: Vrtiska, 1, Acting Chairperson

AN ACT relating to schools; to amend section 79-4,196, Revised Statutes Supplement, 1995; to harmonize provisions; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 79-4,196, Revised Statutes Supplement, 1995, is amended to read:

79-4,196. (1) Written notice of the findings and recommendations of the hearing examiner and the determination of the superintendent under section 79-4,195 shall be made by certified or registered mail or by personal delivery to the student or the student's parent or guardian. Upon receipt of such written notice by the student, parent, or guardian, the determination of the superintendent shall take immediate effect.

(2) Except as provided in subsections (3) and (4) of this section, the expulsion of a student shall be for a period not to exceed the remainder of the semester in which it took effect unless the misconduct occurred (a) within ten school days prior to the end of the first semester, in which case the expulsion shall remain in effect through the second semester, or (b) within ten school days prior to the end of the second semester, in which case the expulsion shall remain in effect for summer school and the first semester of the following school year subject to the provisions of subsection (5) of this section. Such action may be modified or terminated by the school district at any time during the expulsion period.

(3) The expulsion of a student for (a) the knowing and intentional use of force in causing or attempting to cause personal injury to a school employee, school volunteer, or student except as provided in subdivision (3) of section 79-4,180 or (b) the knowing and intentional possession, use, or transmission of a dangerous weapon, other than a firearm, shall be for a period not to exceed the remainder of the school year in which it took effect if the misconduct occurs during the first semester. If the expulsion takes place during the second semester, the expulsion shall remain in effect for summer school and may remain in effect for the first semester of the following school year. Such action may be modified or terminated by the school district at any time during the expulsion period.

(4) The expulsion of a student for the knowing and intentional possession, use, or transmission of a firearm, which for purposes of this section means a firearm as defined in 18 U.S.C. 921 as of January 1, 1995, shall be for a period as provided by the school district policy adopted pursuant to section 79-4,176.01. This subsection shall not apply to (a) the issuance of firearms to or possession of firearms by members of the Reserve Officers Training Corps when training or (b) firearms which may lawfully be possessed by the person receiving instruction under the immediate supervision of an adult instructor who may lawfully possess firearms.

(5) Any expulsion that will remain in effect during the first semester of the following school year shall be automatically scheduled for review before the beginning of the school year. The review shall be conducted by the hearing examiner after the hearing examiner has given notice of the review to the student and the student's parent or guardian. This review shall be limited to newly discovered evidence or evidence of changes in the student's circumstances occurring since the original hearing. This review may lead to a recommendation by the hearing examiner that the student be readmitted for the upcoming school year. If the school board or board of education or a committee of such board took the final action to expel the student, the student may be readmitted only by action of the board. Otherwise the student may be readmitted by action of the superintendent.

Sec. 2. Original section 79-4,196, Revised Statutes Supplement, 1995, is repealed.