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September 18, 2023

TO: The Honorable Elissa Cadish, Co-Chair
The Honorable Nancy Saitta, Co-Chair
Nevada Children's Commission

FROM: Janice Wolf, Chair
Education Committee

RE: Report of the Education Committee to the Nevada Children's Commission

This year, the Nevada State Legislature enacted two education measures – A.B. 285 and A.B. 330, both of which are expected to have a dramatic and likely negative impact on children in foster care and children with behavioral and mental health disabilities. A summary of the legislation, prepared by Dr. Leslie Congrove, educational liaison for the Clark County Department of Family Services, is attached.

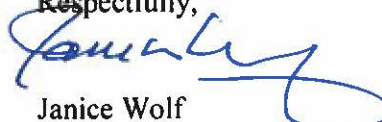
Dr. Congrove and Attorney Gillian Barjon, chief of the Education Advocacy Team and Legal Aid Center of Southern Nevada, presented an overview of A.B. 285 and A.B. 330 at the September 14, 2023 meeting of the Education Committee. Among other things, the presenters focused on how the new legislation would potentially impact the suspensions and expulsions of very young students as well as ambiguous terminology that without clarification may result in arbitrary administrative decision making.

Following the presentation, the Education Committee approved a motion to make school discipline and the impact the new legislation will have on children in foster care and children with disabilities a top priority for 2023. One action step will be to collect and analyze suspension and expulsion data for the 2023-2024 school year. A second will be to collaborate with school officials, child welfare agencies child legal advocates to clarify ambiguities in terms, such as what is a "threat."

Because A.B. 285 and A.B. 330 stand to have such a significant impact on the very children served by this Commission, the Education Committee recommends at they be part of a larger presentation and discussion at a future Commission meeting.

Finally, the Education Committee saw legislative success on a goal from 2022-2023: the statewide expansion of DAAY Court. DAAY Court, under the direction of Judge "Sunny" Bailey, addresses the special needs of children with autism that find their way into the delinquency system.

Respectfully,


Janice Wolf
Chair, Education Committee

Suspension/Expulsion Procedures Based on 2023 Legislative Session

Discipline Rules for Children in Foster Care

- Students in Foster Care may be suspended for 5 days without special protections but may use regular appeal process if suspension is longer than 3 days and if a conference is required
- A pupil in foster care may be suspended from school for more than 5 days if, following a review of all available information, the principal determines that:
 - the conduct of the pupil poses an ongoing threat to the pupil or other persons at the school and
 - if a determination is made, in consultation with an advocate for pupils in foster care at the school in which the pupil is enrolled or the school counselor of the pupil, that being in foster care was not a factor in the behavior that led to the consideration for suspension
 - The person responsible for making a determination of whether or not being in foster care was a factor in the behavior shall presume that being in foster care was not a factor in the behavior unless the person determines otherwise

Removal

- Notice is given at time of removal, not before
- A pupil may be temporarily removed from a classroom or other premises of a public school if, in the judgment of the teacher or other staff member responsible for the classroom or other premises, the pupil has engaged in behavior that seriously interferes with the ability of the teacher to teach, of the other pupils to learn, or of the staff member to discharge his or her duties
 - Upon the removal of a pupil, the principal of the school shall provide a written explanation of the reason for the removal of the pupil to the pupil and offer the pupil an opportunity to respond to the explanation.
 - Within 24 hours after the removal of a pupil pursuant to this section, the principal of the school shall notify the parent or legal guardian of the pupil of the removal
- A pupil must not return to the classroom or other premises of the public school from which the pupil was removed before a conference is held. If the conference is not held within 3 school days, the pupil must be allowed to return to the classroom or other premises unless: (1) In the judgment of the principal, there is a reasonable expectation that the pupil poses a threat to employees of the school or other pupils enrolled at the school; and (2) The principal has received written authorization from the superintendent of the school district or the administrative head of the school to extend the period for which the pupil is removed from the classroom or other premises of the public school

Discipline Procedure Plan

- Restorative Justice plan now part of Progressive Discipline Plan including Restorative Justice Practices
 - Progressive discipline includes (1) disciplinary practices based on restorative justice; (2) methods of alternative conflict resolution and interventions based on social and emotional learning; and (3) provisions for the placement of a pupil in a more restrictive educational environment at the school or at a different school.
 - Restorative Justice Programs must include: (1) Holding a pupil accountable for his or her behavior; (2) Restoration or remedies related to the behavior of the pupil; (3) Relief for any

- victim of the pupil; and (4) Changing the behavior of the pupil; and (b) Be in accordance with the statewide framework for restorative justice developed
 - Restorative Justice Plan must be developed by September 30th each year and posted at school no more than 14 days late
 - Only provided for a student removed for more than 5 days and within 2 days of removal
- A student who is being considered for suspension more than 3 days with an RPC, expulsion, or permanent expulsion continues to attend school and receives an appropriate education in the least restrictive environment possible as required by NRS 392.4673
 - Student can be placed at a temporary alternative location if student does not pose threat to the school and it is the least restrictive environment for the child
 - Student must be provided education services to prevent the pupil from losing academic credit or becoming disengaged from school during the period of suspension or expulsion.
- A public school must offer a pupil, including, without limitation, a pupil who is less than 11 years of age, who is removed from a classroom or any other premises of the public school pursuant for more than 2 school days:
 - (a) Education services to prevent the pupil from losing academic credit or becoming disengaged from school during the period the pupil is removed from a classroom or any other premises of the public school; and
 - (b) Appropriate positive behavioral interventions and support, trauma-informed support and a referral to a school social worker or school counselor.
 - Educational Services must include: (a) An option to provide such education and support services to a pupil in an in-person setting; (b) The location where such services will be provided to the pupil; and (c) A plan for the pupil to complete any assignments or course work missed during his or her removal.
 - School plan must be provided by August 1st

Age Related Exceptions/Other Exceptions for Discipline

- A pupil enrolled in kindergarten through 8th grade may not be disciplined for: (a) Simulating a firearm or dangerous weapon while playing; or (b) Wearing clothing or accessories that depict a firearm or dangerous weapon or express an opinion regarding a constitutional right to keep and bear arms, *unless it substantially disrupts the educational environment, creates a risk of harm to another person, or places another person in reasonable fear of harm (removed bodily from harm definition and adds creates a risk of harm)*
- Kids under 11 may not be expelled for distribution of illegal or controlled substance
- Kids under 8 may not be expelled for Battery of an Employee
- Kids under 6 may be suspended for controlled substance with permission of superintendent and only may be suspended for battery of an employee with Superintendent's permission
- Restorative Justice Plan put into place along with consequences for Battery of an Employee
 - Pupils under 8 may not be expelled
 - Pupils under 6 may be suspended with Superintendent's permission

Appeals

- Appeals only for Significant Suspensions, Expulsion, or Permanent Expulsions
 - “Significant suspension” means the school in which the pupil is enrolled:
 - (1) Prohibits the pupil from attending school for 3 or more consecutive days and
 - (2) Requires a conference or some other form of communication with the parent or legal guardian of the pupil before the pupil is allowed to return to school.
 - Parent must appeal no later than 5 days and no later than 5 days after that, the Board of Trustees must schedule a hearing
- Appeal must take place 5 days after notice of appeal

Data

- Data is now presented to Superintendent, not school board
 - If DOE finds disproportionality, Superintendent must submit corrective plan of action
 - Data collected quarterly