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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 3396

02/17/2020 Authored by Her, Youakim, Richardson and Kunesh-Podein
The bill was read for the first time and referred to the Committee on Education Policy

1.1 A bill for an act
1.2 relating to education; modifying student discipline and nonexclusionary disciplinary
1.3 policies and practices; amending Minnesota Statutes 2018, sections 120A.22,
1.4 subdivision 7; 121A.41, subdivision 10, by adding subdivisions; 121A.45,
1.5 subdivision 1; 121A.46, subdivision 4, by adding a subdivision; 121A.47,
1.6 subdivision 2; 121A.53, subdivision 1; 121A.55.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2018, section 120A.22, subdivision 7, is amended to read:

1.9 Subd. 7. Education records. (a) A district, a charter school, or a nonpublic school that
1.10 receives services or aid under sections 123B.40 to 123B.48 from which a student is
1.11 transferring must transmit the student's educational records, within ten business days of a
1.12 request, to the district, the charter school, or the nonpublic school in which the student is
1.13 enrolling. Districts, charter schools, and nonpublic schools that receive services or aid under
1.14 sections 123B.40 to 123B.48 must make reasonable efforts to determine the district, the
1.15 charter school, or the nonpublic school in which a transferring student is next enrolling in
1.16 order to comply with this subdivision.

1.17 (b) A closed charter school must transfer the student's educational records, within ten
1.18 business days of the school's closure, to the student's school district of residence where the
1.19 records must be retained unless the records are otherwise transferred under this subdivision.

1.20 (c) A school district, a charter school, or a nonpublic school that receives services or aid
1.21 under sections 123B.40 to 123B.48 that transmits a student's educational records to another
1.22 school district or other educational entity, charter school, or nonpublic school to which the
1.23 student is transferring must include in the transmitted records information about any formal
1.24 suspension, expulsion, and exclusion disciplinary action as well as pupil withdrawals under

2.1 sections 121A.40 to 121A.56. Transmitted records must document any service a pupil  
 2.2 requires to prevent the inappropriate behavior from recurring. The district, the charter school,  
 2.3 or the nonpublic school that receives services or aid under sections 123B.40 to 123B.48  
 2.4 must provide notice to a student and the student's parent or guardian that formal disciplinary  
 2.5 records will be transferred as part of the student's educational record, in accordance with  
 2.6 data practices under chapter 13 and the Family Educational Rights and Privacy Act of 1974,  
 2.7 United States Code, title 20, section 1232(g).

2.8 (d) Notwithstanding section 138.17, a principal or chief administrative officer must  
 2.9 remove from a student's educational record and destroy a probable cause notice received  
 2.10 under section 260B.171, subdivision 5, or paragraph (e), if one year has elapsed since the  
 2.11 date of the notice and the principal or chief administrative officer has not received a  
 2.12 disposition or court order related to the offense described in the notice. This paragraph does  
 2.13 not apply if the student no longer attends the school when this one-year period expires.

2.14 (e) A principal or chief administrative officer who receives a probable cause notice under  
 2.15 section 260B.171, subdivision 5, or a disposition or court order, must include a copy of that  
 2.16 data in the student's educational records if they are transmitted to another school, unless the  
 2.17 data are required to be destroyed under paragraph (d) or section 121A.75.

2.18 Sec. 2. Minnesota Statutes 2018, section 121A.41, subdivision 10, is amended to read:

2.19 Subd. 10. **Suspension.** (a) "In-school suspension" means an instance in which a pupil  
 2.20 is temporarily removed from the pupil's regular classroom for at least half a day for  
 2.21 disciplinary purposes, but remains under the direct supervision of school personnel.

2.22 (b) "Direct supervision" means school personnel are physically present in the same  
 2.23 location as the student under supervision.

2.24 (c) "Out-of-school suspension" means an action by the school administration, under  
 2.25 rules promulgated by the school board, prohibiting a pupil from attending school for a period  
 2.26 of no more than ten school days. If a suspension is longer than five days, the suspending  
 2.27 administrator must provide the superintendent with a reason for the longer suspension. This  
 2.28 definition does not apply to dismissal from school for less than one school day ~~or less,~~  
 2.29 except as provided in federal law for a student with a disability. Each suspension action  
 2.30 may include a readmission plan. The readmission plan shall include, where appropriate, a  
 2.31 provision for implementing alternative educational services upon readmission and may not  
 2.32 be used to extend the current suspension. Consistent with section 125A.091, subdivision 5,  
 2.33 the readmission plan must not obligate a parent to provide a sympathomimetic medication  
 2.34 for the parent's child as a condition of readmission. The school administration may not

3.1 impose consecutive suspensions against the same pupil for the same course of conduct, or  
 3.2 incident of misconduct, except where the pupil will create an immediate and substantial  
 3.3 danger to self or to surrounding persons or property, or where the district is in the process  
 3.4 of initiating an expulsion, in which case the school administration may extend the suspension  
 3.5 to a total of 15 school days.

3.6 Sec. 3. Minnesota Statutes 2018, section 121A.41, is amended by adding a subdivision to  
 3.7 read:

3.8 **Subd. 12. Nonexclusionary disciplinary policies and practices; alternatives to pupil**  
 3.9 **removal and dismissal.** "Nonexclusionary disciplinary policies and practices" means  
 3.10 policies and practices that are alternatives to removing a pupil from class or dismissing a  
 3.11 pupil from school. Nonexclusionary disciplinary policies and practices include but are not  
 3.12 limited to evidence-based positive behavior interventions and supports, social and emotional  
 3.13 services, school-linked mental health services, counseling services, social work services,  
 3.14 referrals for special education or 504 evaluations, academic screening for title one services  
 3.15 or reading interventions, and alternative educational services. Nonexclusionary disciplinary  
 3.16 policies and practices require school officials to intervene in, redirect, and support a pupil's  
 3.17 behavior before removing a pupil from class or beginning dismissal proceedings.  
 3.18 Nonexclusionary disciplinary policies and practices also include but are not limited to the  
 3.19 policies and practices under sections 120B.12; 121A.031, subdivision 4, paragraph (a),  
 3.20 clause (1); 121A.575, clauses (1) and (2); 121A.61, subdivision 3, paragraph (q); 122A.627,  
 3.21 clause (3); and 123A.56.

3.22 Sec. 4. Minnesota Statutes 2018, section 121A.41, is amended by adding a subdivision to  
 3.23 read:

3.24 **Subd. 13. Pupil withdrawal agreement.** "Pupil withdrawal agreement" means a verbal  
 3.25 or written agreement between a school or district administrator and a pupil's parent or  
 3.26 guardian to withdraw a student from the school district to avoid expulsion or exclusion  
 3.27 dismissal proceedings. The duration of the withdrawal agreement cannot be for more than  
 3.28 a 12-month period.

3.29 **EFFECTIVE DATE.** This section is effective for the 2020-2021 school year and later.

3.30 Sec. 5. Minnesota Statutes 2018, section 121A.45, subdivision 1, is amended to read:

3.31 Subdivision 1. **Provision of alternative programs.** No school shall dismiss any pupil  
 3.32 without attempting to ~~provide alternative educational services~~ use nonexclusionary

4.1 disciplinary policies and practices before dismissal proceedings or pupil withdrawal  
 4.2 proceedings, except where it appears that the pupil will create an immediate and substantial  
 4.3 danger to self or to surrounding persons or property.

4.4 **EFFECTIVE DATE.** This section is effective for the 2020-2021 school year and later.

4.5 Sec. 6. Minnesota Statutes 2018, section 121A.46, subdivision 4, is amended to read:

4.6 Subd. 4. **Suspension pending expulsion or exclusion hearing.** (a) Notwithstanding  
 4.7 the provisions of subdivisions 1 and 3, the pupil may be suspended pending the school  
 4.8 board's decision in the expulsion or exclusion hearing; provided that alternative educational  
 4.9 services are implemented to the extent that suspension exceeds five days.

4.10 (b) A school administrator must ensure that alternative educational services are provided  
 4.11 when a pupil is suspended for more than five consecutive school days.

4.12 Sec. 7. Minnesota Statutes 2018, section 121A.46, is amended by adding a subdivision to  
 4.13 read:

4.14 Subd. 5. **Minimum education services.** A suspended pupil must have the opportunity  
 4.15 to complete all school work assigned during the period of the pupil's suspension and to  
 4.16 receive full credit for satisfactorily completing the assignments. When a class assignment  
 4.17 is modified due to the pupil not being physically present in the classroom setting, the modified  
 4.18 assignment must address the same standards as the original assignment and provide the  
 4.19 pupil with the same amount of credit when completed. A school principal or other person  
 4.20 with administrative control of the school building or program is encouraged to designate a  
 4.21 district or school employee as a liaison to work with the pupil's teacher to allow the suspended  
 4.22 pupil to (1) receive timely course materials and other information, and (2) complete daily  
 4.23 and weekly assignments and receive feedback from the teacher.

4.24 **EFFECTIVE DATE.** This section is effective for the 2020-2021 school year and later.

4.25 Sec. 8. Minnesota Statutes 2018, section 121A.47, subdivision 2, is amended to read:

4.26 Subd. 2. **Written notice.** Written notice of intent to take action shall:

4.27 (a) be served upon the pupil and the pupil's parent or guardian personally or by mail;

4.28 (b) contain a complete statement of the facts, a list of the witnesses and a description of  
 4.29 their testimony;

4.30 (c) state the date, time, and place of the hearing;

5.1 (d) be accompanied by a copy of sections 121A.40 to 121A.56;

5.2 (e) describe ~~alternative educational services~~ the nonexclusionary disciplinary practices  
5.3 accorded the pupil in an attempt to avoid the expulsion proceedings; and

5.4 (f) inform the pupil and parent or guardian of the right to:

5.5 (1) have a representative of the pupil's own choosing, including legal counsel, at the  
5.6 hearing. The district ~~shall~~ must advise the pupil's parent or guardian that free or low-cost  
5.7 legal assistance may be available and that a legal assistance resource list is available from  
5.8 the Department of Education and is posted on the department's website;

5.9 (2) examine the pupil's records before the hearing;

5.10 (3) present evidence; and

5.11 (4) confront and cross-examine witnesses.

5.12 Sec. 9. Minnesota Statutes 2018, section 121A.53, subdivision 1, is amended to read:

5.13 Subdivision 1. **Exclusions and expulsions; pupil withdrawals and physical**  
5.14 **assaults.** Consistent with subdivision 2, the school board must report through the department  
5.15 electronic reporting system each exclusion or expulsion ~~and,~~ each physical assault of a  
5.16 district employee by a ~~student~~ pupil, and each pupil withdrawal agreement within 30 days  
5.17 of the effective date of the dismissal action, pupil withdrawal, or assault to the commissioner  
5.18 of education. This report must include a statement of ~~alternative educational services~~  
5.19 nonexclusionary disciplinary practices, or other sanction, intervention, or resolution in  
5.20 response to the assault given the pupil and the reason for, the effective date, and the duration  
5.21 of the exclusion or expulsion or other sanction, intervention, or resolution. The report must  
5.22 also include the ~~student's~~ pupil's age, grade, gender, race, and special education status.

5.23 **EFFECTIVE DATE.** This section is effective for the 2020-2021 school year and later.

5.24 Sec. 10. Minnesota Statutes 2018, section 121A.55, is amended to read:

5.25 **121A.55 POLICIES TO BE ESTABLISHED.**

5.26 (a) The commissioner of education shall promulgate guidelines to assist each school  
5.27 board. Each school board ~~shall~~ must establish uniform criteria for dismissal and adopt written  
5.28 policies and rules to effectuate the purposes of sections 121A.40 to 121A.56. The policies  
5.29 ~~shall~~ must include nonexclusionary disciplinary policies and practices consistent with section  
5.30 121A.41, subdivision 12, and must emphasize preventing dismissals through early detection

6.1 of problems ~~and shall~~. The policies must be designed to address students' inappropriate  
6.2 behavior from recurring.

6.3 (b) The policies shall must recognize the continuing responsibility of the school for the  
6.4 education of the pupil during the dismissal period.

6.5 (c) The school is responsible for ensuring that the alternative educational services, if the  
6.6 pupil wishes to take advantage of them, provided to the pupil must be adequate to allow the  
6.7 pupil to make progress ~~towards~~ toward meeting the graduation standards adopted under  
6.8 section 120B.02 and help prepare the pupil for readmission, and is in accordance with section  
6.9 121A.46, subdivision 5.

6.10 (d) For an expulsion, exclusion, or pupil withdrawal agreement as defined in section  
6.11 121A.41, subdivision 13:

6.12 (1) the school district must review the pupil's school work and grades on a quarterly  
6.13 basis to ensure the pupil is making progress toward readmission. A school district must  
6.14 communicate on a regular basis with the pupil's parent or guardian to ensure the pupil is  
6.15 completing the work assigned through the alternative educational services. If the pupil  
6.16 enrolls and is admitted into a new school district during the dismissal period, this obligation  
6.17 ends;

6.18 (2) if school-based mental health services are provided in the district under section  
6.19 245.4889, a pupil remains eligible for those services until the pupil is enrolled in a new  
6.20 district; and

6.21 (3) the district must provide to the pupil's parent or guardian a list of mental health and  
6.22 counseling services available to the pupil after expulsion. The list must also be posted on  
6.23 the district or charter school website.

6.24 ~~(b)~~ (e) An area learning center under section 123A.05 may not prohibit an expelled or  
6.25 excluded pupil from enrolling solely because a district expelled or excluded the pupil. The  
6.26 board of the area learning center may use the provisions of the Pupil Fair Dismissal Act to  
6.27 exclude a pupil or to require an admission plan.

6.28 ~~(e)~~ (f) Each school district shall develop a policy and report it to the commissioner on  
6.29 the appropriate use of peace officers and crisis teams to remove students who have an  
6.30 individualized education program from school grounds.