

ASSEMBLY BILL NO. 43—ASSEMBLYWOMAN SEGERBLOM

PREFILED JANUARY 21, 1999

Referred to Committee on Education

SUMMARY—Revises provisions governing rights of licensed educational personnel regarding certain disciplinary procedures. (BDR 34-225)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~{omitted material}~~ is material to be omitted.

AN ACT relating to educational personnel; removing the exemption from certain disciplinary procedures that is provided for licensed educational personnel who have negotiated their employment contracts pursuant to the Local Government Employee-Management Relations Act; revising certain procedures regarding the admonishment of licensed educational personnel; revising the provisions governing the immediate suspension of licensed educational personnel under certain circumstances; providing that certain employees who have been suspended, dismissed or not reemployed are entitled to compensation and reinstatement; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 386.365 is hereby amended to read as follows:
2 386.365 1. Except as ***otherwise*** provided in subsection 3, each board
3 of trustees in ~~{any county having a population of}~~ ***a county whose***
4 ***population is*** 100,000 or more shall ~~{give 15 days'}~~ ***provide*** notice of its
5 intention to adopt, repeal or amend a policy or regulation of the board
6 concerning any of the subjects set forth in subsection 4 ~~{.}~~ ***at least 15 days***
7 ***before the date of the meeting during which the matter will be considered.***
8 The notice must:
9 (a) Include a description of the ~~{subject or subjects involved and must~~
10 ~~state}~~ ***subjects that are scheduled to be considered by the board of trustees***
11 ***during the meeting;***
12 (b) ***Include*** the time and place of the meeting ~~{at which the matter will be~~
13 ~~considered by the board; and~~
14 ~~—(b)}~~ ; ***and***

(c) Be mailed to the following persons ~~{from each of the schools affected:}~~ *who are employed by or affiliated with a school that may be affected by the adoption, repeal or amendment of a policy or regulation of the board of trustees:*

- (1) The principal;
- (2) The president of the parent-teacher association or similar body;
- and
- (3) The president of the classroom teachers' organization or other collective bargaining agent.

A copy of the notice and of the terms of each proposed policy or regulation, or change in a policy or regulation, must be made available for inspection by the public in the office of the superintendent of schools of the school district at least 15 days before ~~{its adoption.}~~ *the adoption of the policy or regulation.*

2. All persons interested in a proposed policy or regulation or change in a policy or regulation must be afforded a reasonable opportunity to submit data, views or arguments, orally or in writing. The board of trustees shall consider all written and oral submissions respecting the proposal or change before taking final action.

3. Emergency policies or regulations may be adopted by ~~{the}~~ *a* board of trustees upon ~~{its own}~~ *a* finding *by the board* that an emergency exists.

4. This section applies to policies and regulations concerning:

- (a) Attendance rules;
- (b) Zoning;
- (c) Grading;
- (d) District staffing patterns;
- (e) Curriculum and program;
- (f) Pupil discipline; and
- (g) Personnel, ~~{except with respect to dismissals and refusals to reemploy covered by contracts entered into as a result of the Local Government Employee-Management Relations Act, as provided in NRS 391.3116.}~~ *including, without limitation, policies and regulations concerning dismissals of licensed personnel pursuant to the provisions of NRS 391.314.*

Sec. 2. NRS 391.3116 is hereby amended to read as follows:

391.3116 ~~{The}~~ *Except as otherwise provided in NRS 391.314, the* provisions of NRS 391.311 to 391.3197, inclusive, do not apply to a teacher, administrator ~~{}~~ or other licensed employee who has entered into a contract with the board negotiated pursuant to chapter 288 of NRS if the contract contains separate provisions relating to the board's right to dismiss or refuse to reemploy the employee or demote an administrator.

1 **Sec. 3.** NRS 391.313 is hereby amended to read as follows:

2 391.313 1. ~~[Whenever]~~ *Except as otherwise provided in subsections*
3 *3 and 4, if* an administrator *who is* charged with *the* supervision of a
4 licensed employee believes *that* it is necessary to admonish the employee
5 for a reason ~~[that he believes]~~ *which* may lead to *the* demotion ~~[.]~~ *or*
6 dismissal *of the employee* or cause the employee not to be reemployed
7 ~~[under]~~ *pursuant to* the provisions of NRS 391.312, ~~[he]~~ *the administrator*
8 shall:

9 (a) ~~[Except as otherwise provided in subsection 2, bring the matter to the~~
10 ~~attention of]~~ *Provide written notice to* the employee, ~~[involved, in writing,]~~
11 stating the reasons for the admonition and that it may lead to ~~[his demotion,]~~
12 *the employee's demotion or* dismissal or a refusal to reemploy him ~~[, and~~
13 ~~make]~~ ;

14 (b) *Make* a reasonable effort to assist the employee ~~[to correct whatever~~
15 ~~appears to be]~~ *in correcting* the *probable* cause for his potential demotion
16 ~~[.]~~ *or* dismissal or a potential recommendation not to reemploy him; and

17 ~~[(b)]~~ (c) Except as otherwise provided in NRS 391.314, allow reasonable
18 time for improvement, which must not exceed 3 months for the first
19 admonition.

20 2. An admonition issued to a licensed employee who, within the time
21 granted for improvement, has met the standards set for him by the
22 administrator who issued the admonition must be removed *immediately*
23 from the records of the employee together with all notations and indications
24 of its having been issued. ~~[The admonition must be removed from the~~
25 ~~records of the employee not later than 3 years after it is issued.~~

26 ~~—2.— An administrator need not admonish an employee pursuant to~~
27 ~~paragraph (a) of subsection 1 if his employment]~~

28 3. *Except as otherwise provided in this subsection, an administrator is*
29 *not required to admonish a probationary employee if the employee* will be
30 terminated pursuant to NRS 391.3197. If, by February 15 of the first or
31 second year of his probationary period, a probationary employee does not
32 receive a written notice pursuant to subsection 4 of NRS 391.3125 of a
33 potential decision not to reemploy him, he must receive an admonition
34 before any such decision is made.

35 ~~[3.]~~ 4. A licensed employee is subject to immediate dismissal or a
36 refusal to reemploy according to the procedures ~~[provided]~~ *set forth* in NRS
37 391.311 to 391.3197, inclusive, without the admonition required by this
38 section, on *the* grounds ~~[contained]~~ *set forth* in paragraphs (b), (f), (g), (h)
39 and (p) of subsection 1 of NRS 391.312. *If after such a dismissal or*
40 *refusal occurs, it is determined that sufficient grounds for the dismissal or*
41 *nonreemployment did not exist, the employee must be reinstated to the*

1 *position that he held before the dismissal or nonreemployment and, if*
2 *feasible and the employee does not object, to the school in which he held*
3 *that position.*

4 **Sec. 4.** NRS 391.314 is hereby amended to read as follows:

5 391.314 1. If a superintendent has reason to believe that cause exists
6 for the dismissal of a licensed employee and ~~he~~ *the superintendent* is of
7 the opinion that the immediate suspension of the employee is necessary ~~in~~
8 ~~the best interests of~~ *to protect* the pupils in the *school* district ~~or the~~
9 *employees of the school district from harm*, the superintendent may
10 suspend the employee without *prior* notice and without a hearing. *The*
11 *superintendent shall notify the employee in writing of the suspension.*
12 *The notice must set forth the factual basis for the superintendent's*
13 *determination that the immediate suspension of the employee is*
14 *necessary to protect the pupils or employees from harm. If the dismissal*
15 *of the employee is upheld but the hearing officer determines that*
16 *sufficient grounds for the immediate suspension of the employee did not*
17 *exist at the time of the suspension, the employee is entitled to back pay*
18 *and benefits, plus interest, for the period during which he would have*
19 *been employed if the superintendent had not caused his immediate*
20 *suspension.*

21 2. Notwithstanding the provisions of NRS 391.312, a superintendent
22 may suspend a licensed employee who has been officially charged but not
23 yet convicted of a felony or a crime involving moral turpitude or
24 immorality. If the charge is dismissed or if the employee is found not
25 guilty, he must be reinstated with back pay, plus interest, and normal
26 seniority. The superintendent shall notify the employee in writing of the
27 suspension.

28 ~~2-3~~ 3. Within 5 days after a suspension becomes effective, the
29 superintendent shall begin proceedings pursuant to the provisions of NRS
30 391.312 to ~~391.3196,~~ *391.3197*, inclusive, to effect the employee's
31 dismissal. The employee is entitled to continue to receive his salary and
32 other benefits after the suspension becomes effective until the date on
33 which the dismissal proceedings are commenced. The superintendent may
34 recommend that an employee who has been charged with a felony or a
35 crime involving immorality be dismissed for another ground set forth in
36 NRS 391.312.

37 ~~3-4~~ 4. If sufficient grounds for dismissal do not exist, the employee
38 must be reinstated ~~with~~ :

39 (a) *With* full compensation, plus interest ~~+~~
40 ~~4-1~~ ;

41 (b) *To the position he held before his suspension; and*

42 (c) *If feasible and the employee does not object, to the school in which*
43 *he held that position.*

1 **5.** A licensed employee who furnishes to the school district a bond or
2 other security which is acceptable to the board as a guarantee that he will
3 repay any amounts paid to him pursuant to this subsection as salary during
4 a period of suspension is entitled to continue to receive his salary from the
5 date on which the dismissal proceedings are commenced until the decision
6 of the board or the report of the hearing officer, if the report is final and
7 binding. The board shall not unreasonably refuse to accept security other
8 than a bond. An employee who receives salary pursuant to this subsection
9 shall repay it if he is dismissed or not reemployed as a result of a decision
10 of the board or a report of a hearing officer.

11 ~~15-1~~ **6.** A licensed employee who is convicted of a crime which requires
12 registration pursuant to NRS 179D.200 to 179D.290, inclusive, or
13 179D.350 to 179D.550, inclusive, or is convicted of an act forbidden by
14 NRS 200.508, 201.190 or 201.265 forfeits all rights of employment from
15 the date of his arrest.

16 ~~16-1~~ **7.** A licensed employee who is convicted of any crime and who is
17 sentenced to and serves any sentence of imprisonment forfeits all rights of
18 employment from the date of his arrest or the date on which his employment
19 terminated, whichever is later.

20 ~~17-1~~ **8.** A licensed employee who is charged with a felony or a crime
21 involving immorality or moral turpitude and who waives his right to a
22 speedy trial while suspended may receive no more than 12 months of back
23 pay and seniority upon reinstatement if he is found not guilty or the charges
24 are dismissed, unless proceedings have been begun to dismiss the employee
25 upon one of the other grounds set forth in NRS 391.312.

26 ~~18-1~~ **9.** A superintendent may discipline a licensed employee by
27 suspending the employee with loss of pay at any time after a hearing has
28 been held which affords the due process provided for in this chapter. The
29 grounds for suspension are the same as the grounds contained in NRS
30 391.312. An employee may be suspended more than once during the
31 employee's contract year, but the total number of days of suspension may
32 not exceed 20 ~~in 1~~ *during the employee's* contract year. Unless
33 circumstances require otherwise, the suspensions must be progressively
34 longer.

35 **10.** *The provisions of this section apply to a licensed employee*
36 *regardless of whether he has entered into a contract with the board that*
37 *was negotiated pursuant to chapter 288 of NRS.*

38 **Sec. 5.** This act becomes effective on July 1, 1999.