
SENATE BILL NO. 21—COMMITTEE ON HUMAN RESOURCES AND FACILITIES

PREFILED JANUARY 20, 1999

(ON BEHALF OF LEGISLATIVE COMMITTEE ON EDUCATION)

Referred to Committee on Human Resources and Facilities

SUMMARY—Makes various changes regarding administration and security of achievement and proficiency examinations in public schools. (BDR 34-246)

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 ~~for omitted material~~ is material to be omitted.

AN ACT relating to education; making various changes regarding the administration, required reporting and security of the achievement and proficiency examinations administered to pupils in public schools; providing administrative penalties for breaches of the security or confidentiality of the achievement and proficiency examinations; 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 389.015 is hereby amended to read as follows:
2 389.015 1. The board of trustees of each school district shall
3 administer examinations in all public schools of the school district. The
4 governing body of a charter school shall administer the same examinations
5 in the charter school. The examinations administered by the board of
6 trustees and governing body must determine the achievement and
7 proficiency of pupils in:
8 (a) Reading;
9 (b) Writing;
10 (c) Mathematics; and
11 (d) Science.
12 2. The examinations required by subsection 1 must be:
13 (a) Administered before the completion of grades 4, 8, 10 and 11.

1 (b) Administered in each school district and each charter school at the
2 same time. The time for the administration of the examinations must be
3 prescribed by the state board.

4 (c) Administered in each school in accordance with uniform procedures
5 adopted by the state board. The department shall monitor the compliance of
6 school districts and individual schools with the uniform procedures.

7 (d) Scored by the department or a single private entity that has
8 contracted with the state board to score the examinations. If a private entity
9 scores the examinations, it shall report the results of the examinations in the
10 form and by the date required by the department.

11 3. Not more than 14 working days after the results of the examinations
12 are reported to the department by a private entity that scored the
13 examinations or the department completes the scoring of the examinations,
14 the superintendent of public instruction shall certify that the results of the
15 examinations have been transmitted to each school district and each charter
16 school. Not more than 10 working days after a school district receives the
17 results of the examinations, the superintendent of ~~public instruction~~
18 *schools of the school district* shall certify that the results of the
19 examinations have been transmitted to each school within the school
20 district. Not more than ~~10~~ 15 working days after each school receives the
21 results of the examinations, the principal of each school and the governing
22 body of each charter school shall certify that the results for each pupil have
23 been provided to the parent or legal guardian of the pupil:

24 (a) During a conference between the teacher of the pupil or administrator
25 of the school and the parent or legal guardian of the pupil; or

26 (b) By mailing the results of the examinations to the last known address
27 of the parent or legal guardian of the pupil.

28 4. Different standards of proficiency may be adopted for pupils with
29 diagnosed learning disabilities. *If a pupil with a disability is unable to take*
30 *an examination under regular testing conditions or with modifications*
31 *and accommodations that are approved by the publisher of the*
32 *examination, the pupil may take the examination with modifications and*
33 *accommodations approved by the state board pursuant to subsection 8.*
34 *The results of such an examination must not be reported pursuant to*
35 *subsection 2 of NRS 389.017.* If different standards of proficiency are

36 adopted or other modifications or accommodations are made in the
37 administration of the examinations for a pupil who is enrolled in a program
38 of special education pursuant to NRS 388.440 to 388.520, inclusive, other
39 than a gifted and talented pupil, the different standards adopted or other
40 modifications or accommodations must be set forth in the pupil's program
41 of special education developed in accordance with the Individuals with
42 Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and the standards
43 prescribed by the state board.

1 5. If a pupil fails to demonstrate at least adequate achievement on the
2 examination administered before the completion of grade 4, 8 or 10, he may
3 be promoted to the next higher grade, but the results of his examination
4 must be evaluated to determine what remedial study is appropriate. If such a
5 pupil is enrolled at a school that has been designated as demonstrating
6 inadequate achievement pursuant to NRS 385.367 the pupil must, in
7 accordance with the requirements set forth in this subsection, complete a
8 program of remedial study pursuant to NRS 385.389.

9 6. If a pupil fails to pass the proficiency examination administered
10 before the completion of grade 11, he must not be graduated until he is able,
11 through remedial study, to pass the proficiency examination, but he may be
12 given a certificate of attendance, in place of a diploma, if he has reached the
13 age of 17 years.

14 7. The state board shall prescribe standard examinations of achievement
15 and proficiency to be administered pursuant to subsection 1. The
16 examinations on reading, mathematics and science prescribed for grades 4,
17 8 and 10 must be selected from examinations created by private entities and
18 administered to a national reference group, and must allow for a comparison
19 of the achievement and proficiency of pupils in grades 4, 8 and 10 in this
20 state to that of a national reference group of pupils in grades 4, 8 and 10.
21 The questions contained in the examinations and the approved answers used
22 for grading them are confidential, and disclosure is unlawful except:

23 (a) To the extent necessary for administering and evaluating the
24 examinations.

25 (b) That a disclosure may be made to a ~~{state}~~ :

26 *(1) State officer who is a member of the executive or legislative*
27 *branch to the extent that it is related to the performance of ~~{that officer's~~*
28 *~~duties.}~~ his duties;*

29 *(2) Superintendent of schools of a school district to the extent that it*
30 *is related to the performance of his duties;*

31 *(3) Director of curriculum of a school district to the extent that it is*
32 *related to the performance of his duties; and*

33 *(4) Director of testing of a school district to the extent that it is*
34 *related to the performance of his duties.*

35 (c) That specific questions and answers may be disclosed if the
36 superintendent of public instruction determines that the content of the
37 questions and answers is not being used in a current examination and
38 making the content available to the public poses no threat to the security of
39 the current examination process.

40 *8. The state board shall prescribe, in accordance with the Individuals*
41 *with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., the*
42 *modifications and accommodations that may be used in the*
43 *administration of an examination to a pupil with a disability who is*

1 *unable to take the examination under regular testing conditions or with*
2 *the modifications and accommodations approved by the publisher of the*
3 *examination.*

4 **Sec. 2.** NRS 389.017 is hereby amended to read as follows:

5 389.017 1. The state board shall prescribe regulations requiring that
6 each board of trustees of a school district and each governing body of a
7 charter school submit to the superintendent of public instruction and the
8 department, in the form and manner prescribed by the superintendent, the
9 results of achievement and proficiency examinations given in the 4th, 8th,
10 10th and 11th grades to public school pupils of the district and charter
11 schools. The state board shall not include in the regulations any provision
12 which would violate the confidentiality of the test scores of any individual
13 pupil.

14 2. The results of examinations administered to all pupils must be
15 reported for each school, including, without limitation, each charter school,
16 school district and this state as follows:

17 (a) The average score of pupils with disabilities for whom different
18 standards of achievement are adopted or other modifications or
19 accommodations are made if ~~such~~ :

20 *(1) The modifications or accommodations are approved by the*
21 *publisher of the examination; and*

22 *(2) Such* reporting does not violate the confidentiality of the test
23 scores of any individual pupil;

24 (b) The average score of pupils for whom different standards of
25 achievement were not adopted or other modifications or accommodations
26 were not made; and

27 (c) The average score of all pupils who were tested ~~H~~, *except for pupils*
28 *with disabilities who took an examination pursuant to subsection 4 of*
29 *NRS 389.015 with modifications or accommodations that are not*
30 *approved by the publisher of the examination.*

31 3. On or before November 1 of each year, each school district and each
32 charter school shall report to the department the following information for
33 each examination administered in the public schools in the school district or
34 charter school:

35 (a) The examination administered;

36 (b) The grade level or levels of pupils to whom the examination was
37 administered;

38 (c) The costs incurred by the school district or charter school in
39 administering each examination; and

40 (d) The purpose, if any, for which the results of the examination are used
41 by the school district or charter school.

42 On or before December 1 of each year, the department shall transmit to the
43 budget division of the department of administration and the fiscal analysis

1 division of the legislative counsel bureau the information submitted to the
2 department pursuant to this subsection.

3 4. The superintendent of schools of each school district and the
4 governing body of each charter school shall certify that the number of pupils
5 who took the examinations required pursuant to NRS 389.015 is equal to
6 the number of pupils who are enrolled in each school in the school district
7 or in the charter school who are required to take the examinations except for
8 those pupils who are exempt from taking the examinations. A pupil may be
9 exempt from taking the examinations if:

10 (a) His *primary language is not English and his* proficiency in the
11 English language is below the average proficiency of pupils at the same
12 grade level ~~as~~ *as measured by an assessment of proficiency in the English*
13 *language prescribed by the state board;* or

14 (b) He is enrolled in a program of special education pursuant to NRS
15 388.440 to 388.520, inclusive, and his program of special education
16 specifies that he is exempt from taking the examinations.

17 5. In addition to the information required by subsection 3, the
18 superintendent of public instruction shall:

19 (a) Report the number of pupils who were not exempt from taking the
20 examinations but were absent from school on the day that the examinations
21 were administered; and

22 (b) Reconcile the number of pupils who were required to take the
23 examinations with the number of pupils who were exempt from taking the
24 examinations or absent from school on the day that the examinations were
25 administered.

26 *6. The state board shall prescribe an assessment of proficiency in the*
27 *English language for pupils whose primary language is not English to*
28 *determine which pupils are exempt from the examinations pursuant to*
29 *paragraph (a) of subsection 4.*

30 **Sec. 3.** NRS 391.312 is hereby amended to read as follows:

31 391.312 1. A teacher may be suspended, dismissed or not reemployed
32 and an administrator may be demoted, suspended, dismissed or not
33 reemployed for the following reasons:

34 (a) Inefficiency;

35 (b) Immorality;

36 (c) Unprofessional conduct;

37 (d) Insubordination;

38 (e) Neglect of duty;

39 (f) Physical or mental incapacity;

40 (g) A justifiable decrease in the number of positions due to decreased
41 enrollment or district reorganization;

42 (h) Conviction of a felony or of a crime involving moral turpitude;

43 (i) Inadequate

performance;

- 1 (j) Evident unfitness for service;
- 2 (k) Failure to comply with such reasonable requirements as a board may
- 3 prescribe;
- 4 (l) Failure to show normal improvement and evidence of professional
- 5 training and growth;
- 6 (m) Advocating overthrow of the Government of the United States or of
- 7 the State of Nevada by force, violence or other unlawful means, or the
- 8 advocating or teaching of communism with the intent to indoctrinate pupils
- 9 to subscribe to communistic philosophy;
- 10 (n) Any cause which constitutes grounds for the revocation of a teacher's
- 11 license;
- 12 (o) Willful neglect or failure to observe and carry out the requirements of
- 13 this Title; ~~for~~
- 14 (p) Dishonesty ~~H~~; or
- 15 *(q) Breaches in the security or confidentiality of the questions and*
- 16 *answers of the achievement and proficiency examinations that are*
- 17 *administered pursuant to NRS 389.015.*
- 18 2. In determining whether the professional performance of a licensed
- 19 employee is inadequate, consideration must be given to the regular and
- 20 special evaluation reports prepared in accordance with the policy of the
- 21 employing school district and to any written standards of performance
- 22 which may have been adopted by the board.
- 23 **Sec. 4.** NRS 391.330 is hereby amended to read as follows:
- 24 391.330 The state board may suspend or revoke the license of any
- 25 teacher, administrator or other licensed employee, after notice and an
- 26 opportunity for hearing have been provided pursuant to NRS 391.322 and
- 27 391.323, for:
- 28 1. Immoral or unprofessional conduct.
- 29 2. Evident unfitness for service.
- 30 3. Physical or mental incapacity which renders the teacher,
- 31 administrator or other licensed employee unfit for service.
- 32 4. Conviction of a felony or crime involving moral turpitude.
- 33 5. Conviction of a sex offense under NRS 200.366, 200.368, 201.190,
- 34 201.220, 201.230 or 207.260 in which a pupil enrolled in a school of a
- 35 county school district was the victim.
- 36 6. Knowingly advocating the overthrow of the Federal Government or
- 37 of the State of Nevada by force, violence or unlawful means.
- 38 7. Persistent defiance of or refusal to obey the regulations of the state
- 39 board, the commission or the superintendent of public instruction, defining
- 40 and governing the duties of teachers, administrators and other licensed
- 41 employees.

1 **8. Breaches in the security or confidentiality of the questions and**
2 **answers of the achievement and proficiency examinations that are**
3 **administered pursuant to NRS 389.015.**

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

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