

ASSEMBLY BILL NO. 459—ASSEMBLYMEN SEGERBLOM, KIHUEN,
PARKS, ALLEN, BEERS, CLABORN, KOIVISTO, LESLIE,
MANENDO, MORTENSON, MUNFORD, OHRENSCHALL,
PIERCE AND WOMACK

MARCH 19, 2007

JOINT SPONSORS: SENATORS TOWNSEND, TITUS,
HARDY, HORSFORD AND WIENER

Referred to Committee on Education

SUMMARY—Makes various changes relating to teachers.
(BDR 34-787)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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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 education; making various changes relating to teachers; requiring the board of trustees of larger school districts to create an office of teacher advocacy and school climate; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill provides specified rights for a teacher in a meeting with an administrator or representative of a school district which involves the performance, employment status, discipline or transfer of the teacher, or any complaint made by the teacher concerning his working conditions or the manner in which he has been treated. **Section 3** of this bill regulates investigations of administrators of school districts which are requested by teachers. **Section 4** of this bill specifies the written notice which must be provided to a teacher against whom an allegation of improper conduct or performance is made. **Section 6** of this bill imposes restrictions on the involuntary transfer or reassignment of a teacher. **Section 7** of this bill requires each school district to adopt a written policy prohibiting the intimidation, humiliation, abuse or mistreatment of teachers.

Section 8 of this bill requires the board of trustees of a school district in a county whose population is 400,000 or more to create an office of teacher advocacy and school climate.

Under existing law, a licensed employee of a school district who is suspended from employment must be reinstated with full compensation, plus interest, if



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17 sufficient grounds for dismissal from employment do not exist. (NRS 391.314)
18 **Section 12** of this bill provides that the reinstated employee is entitled to full
19 compensation, plus interest, for all missed days of work and that the employee is
20 not required to mitigate damages.

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

1 **Section 1.** Chapter 391 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 8, inclusive, of this
3 act.

4 **Sec. 2. 1.** *Except as otherwise provided by NRS 391.3116 or*
5 *other specific statute, any meeting between a teacher and an*
6 *administrator or representative of a school district which involves*
7 *the performance, employment status, discipline or transfer of the*
8 *teacher, or any complaint made by the teacher concerning his*
9 *working conditions or the manner in which he has been treated, is*
10 *subject to the provisions of this section.*

11 **2.** *If the administrator or representative of the school district*
12 *knows that a meeting which is scheduled with a teacher is subject*
13 *to the provisions of this section, the administrator or*
14 *representative shall inform the teacher of that fact in writing not*
15 *less than 24 hours before the meeting.*

16 **3.** *The teacher may select any person to represent him at the*
17 *meeting and may, at his own expense, record the meeting by use of*
18 *a recording device or a court reporter.*

19 **4.** *If a meeting which is not subject to the provisions of this*
20 *section is held between a teacher and an administrator or*
21 *representative of a school district and, during the meeting, the*
22 *administrator or representative raises an issue which subjects the*
23 *meeting to the provisions of this section, the teacher must, upon*
24 *request, be granted an immediate continuance of the meeting for*
25 *not less than 24 hours to arrange for a person to represent him at*
26 *the meeting and to arrange for the recording of the meeting.*

27 **5.** *If an administrator or representative of a school district*
28 *determines in good faith that the circumstances require that a*
29 *meeting which is subject to the provisions of this section be held*
30 *on an emergency basis, the meeting must address only such*
31 *circumstances and the teacher may select any other teacher to*
32 *attend the meeting with him.*

33 **6.** *A teacher who wishes to request a meeting which is subject*
34 *to the provisions of this section concerning a complaint about his*
35 *working conditions or the manner in which he has been treated*
36 *shall, in writing, notify the school district of the complaint and*
37 *request such a meeting.*



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1 **Sec. 3. 1.** *If a teacher or his representative requests in*
2 *writing the investigation of an administrator and provides facts*
3 *which justify the investigation, the school district may not appoint*
4 *another administrator or the superintendent to conduct the*
5 *investigation unless the teacher agrees in writing. If the teacher*
6 *does not so agree, the school district shall, at its own expense,*
7 *appoint a disinterested person to conduct the investigation.*

8 2. *An investigation conducted pursuant to subsection 1 must*
9 *be conducted with reasonable timeliness.*

10 3. *Upon the conclusion of the investigation, the school*
11 *district shall ensure that the teacher is provided with:*

12 (a) *The detailed written results of the investigation; and*

13 (b) *A written report detailing all investigative efforts, including*
14 *the names and addresses of all persons interviewed, written*
15 *statements of each administrator who is the subject of the*
16 *complaint and identification of all documents examined.*

17 **Sec. 4. 1.** *Before a school district may require a teacher to*
18 *respond to an allegation of improper conduct or performance, the*
19 *school district must provide the teacher with a detailed written*
20 *notice of the allegation, including the names of all accusers and*
21 *the date, time, place of, and a detailed explanation concerning, the*
22 *alleged improper conduct or performance. If such written notice is*
23 *not provided before an investigative interview, the teacher may*
24 *refuse to answer questions and may not be disciplined for that*
25 *refusal.*

26 2. *A teacher against whom an allegation of improper conduct*
27 *or performance is made may submit to the school district a list of*
28 *witnesses who will testify on his behalf. If a teacher submits such*
29 *a list, the witnesses must be interviewed in full before the teacher*
30 *may be disciplined with respect to the allegation.*

31 **Sec. 5.** (Deleted by amendment.)

32 **Sec. 6. 1.** *Any involuntary transfer or reassignment of a*
33 *teacher must be based upon assignment and seniority and may not*
34 *be made as a form of discipline.*

35 2. *Any transfer or reassignment of a teacher, or any*
36 *attempted transfer or reassignment of a teacher, in violation of*
37 *this section is prima facie evidence of the abuse and mistreatment*
38 *of the teacher.*

39 **Sec. 7. 1.** *Each school district shall adopt and enforce a*
40 *written policy prohibiting administrators or their agents from*
41 *committing any act or making any statement which:*

42 (a) *Intimidates, humiliates, abuses or mistreats teachers;*

43 (b) *Constitutes a misuse of their power with respect to*
44 *teachers; or*



(c) *Is intended to convince teachers to waive their rights pursuant to sections 2 to 7, inclusive, of this act.*

2. *The policy must include penalties for its violation, including suspension and loss of pay.*

3. *The school district shall ensure that a copy of the policy is provided to each teacher who is employed by the school district. The principal of each school within the school district shall ensure that the policy is reviewed during a staff meeting at the school at least annually.*

Sec. 8. *The board of trustees of each school district in a county whose population is 400,000 or more shall:*

1. *Create an office of teacher advocacy and school climate; and*

2. *Appoint a qualified person to serve as the director of the office who has experience in human resources.*

Sec. 9. NRS 391.311 is hereby amended to read as follows:

391.311 As used in NRS 391.311 to 391.3197, inclusive, *and sections 2 to 7, inclusive, of this act*, unless the context otherwise requires:

1. “Administrator” means any employee who holds a license as an administrator and who is employed in that capacity by a school district.

2. “Board” means the board of trustees of the school district in which a licensed employee affected by NRS 391.311 to 391.3197, inclusive, *and sections 2 to 7, inclusive, of this act* is employed.

3. “Demotion” means demotion of an administrator to a position of lesser rank, responsibility or pay and does not include transfer or reassignment for purposes of an administrative reorganization.

4. “Immorality” means:

(a) An act forbidden by NRS 200.366, 200.368, 200.400, 200.508, 201.180, 201.190, 201.210, 201.220, 201.230, 201.265, 201.540, 201.560, 207.260, 453.316 to 453.336, inclusive, 453.337, 453.338, 453.3385 to 453.3405, inclusive, 453.560 or 453.562; or

(b) An act forbidden by NRS 201.540 or any other sexual conduct or attempted sexual conduct with a pupil enrolled in an elementary or secondary school. As used in this paragraph, “sexual conduct” has the meaning ascribed to it in NRS 201.520.

5. “Postprobationary employee” means an administrator or a teacher who has completed the probationary period as provided in NRS 391.3197 and has been given notice of reemployment.

6. “Probationary employee” means an administrator or a teacher who is employed for the period set forth in NRS 391.3197.



1 7. "Superintendent" means the superintendent of a school
2 district or a person designated by the board or superintendent to act
3 as superintendent during the absence of the superintendent.

4 8. "Teacher" means a licensed employee the majority of whose
5 working time is devoted to the rendering of direct educational
6 service to pupils of a school district.

7 **Sec. 10.** NRS 391.3115 is hereby amended to read as follows:

8 391.3115 1. The demotion, suspension, dismissal and
9 nonreemployment provisions of NRS 391.311 to 391.3197,
10 inclusive, *and sections 2 to 7, inclusive, of this act* do not apply to:

11 (a) Substitute teachers; or

12 (b) Adult education teachers.

13 2. The provisions of NRS 391.311 to 391.3194, inclusive, *and*
14 *sections 2 to 7, inclusive, of this act* do not apply to a teacher whose
15 employment is suspended or terminated pursuant to subsection 3 of
16 NRS 391.120 for failure to maintain a license in force.

17 3. A licensed employee who is employed in a position fully
18 funded by a federal or private categorical grant or to replace another
19 licensed employee during that employee's leave of absence is
20 employed only for the duration of the grant or leave. Such a licensed
21 employee and licensed employees who are employed on temporary
22 contracts for 90 school days or less, or its equivalent in a school
23 district operating under an alternative schedule authorized pursuant
24 to NRS 388.090, to replace licensed employees whose employment
25 has terminated after the beginning of the school year are entitled to
26 credit for that time in fulfilling any period of probation and during
27 that time the provisions of NRS 391.311 to 391.3197, inclusive, *and*
28 *sections 2 to 7, inclusive, of this act* for demotion, suspension or
29 dismissal apply to them.

30 **Sec. 11.** NRS 391.3116 is hereby amended to read as follows:

31 391.3116 1. The provisions of NRS 391.311 to 391.3197,
32 inclusive, do not apply to a teacher, administrator, or other licensed
33 employee who has entered into a contract with the board negotiated
34 pursuant to chapter 288 of NRS if the contract contains separate
35 provisions relating to the board's right to dismiss or refuse to
36 reemploy the employee or demote an administrator.

37 2. *The provisions of sections 2 to 7, inclusive, of this act do*
38 *not apply to a teacher, administrator or other licensed employee*
39 *who has entered into a contract with the board negotiated*
40 *pursuant to chapter 288 of NRS if the contract contains provisions*
41 *which conflict with sections 2 to 7, inclusive, of this act.*

42 **Sec. 12.** NRS 391.314 is hereby amended to read as follows:


43 391.314 1. If a superintendent has reason to believe that
44 cause exists for the dismissal of a licensed employee and he is of the
45 opinion that the immediate suspension of the employee is necessary



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1 in the best interests of the pupils in the district, the superintendent
2 may suspend the employee without notice and without a hearing.
3 Notwithstanding the provisions of NRS 391.312, a superintendent
4 may suspend a licensed employee who has been officially charged
5 but not yet convicted of a felony or a crime involving moral
6 turpitude or immorality. If the charge is dismissed or if the
7 employee is found not guilty, he must be reinstated with back pay,
8 plus interest, and normal seniority. The superintendent shall notify
9 the employee in writing of the suspension.

10 2. Within 5 days after a suspension becomes effective, the
11 superintendent shall begin proceedings pursuant to the provisions of
12 NRS 391.312 to 391.3196, inclusive, to effect the employee's
13 dismissal. The employee is entitled to continue to receive his salary
14 and other benefits after the suspension becomes effective until the
15 date on which the dismissal proceedings are commenced. The
16 superintendent may recommend that an employee who has been
17 charged with a felony or a crime involving immorality be dismissed
18 for another ground set forth in NRS 391.312.

19 3. If sufficient grounds for dismissal do not exist, the employee
20 must be reinstated with , *and is entitled to*, full compensation, plus
21 interest  , *for all missed days of work. The employee is not*
22 *required to mitigate his damages. Any decision of a hearing*
23 *officer that is inconsistent with this subsection is invalid to the*
24 *extent of the inconsistency.*

25 4. A licensed employee who furnishes to the school district a
26 bond or other security which is acceptable to the board as a
27 guarantee that he will repay any amounts paid to him pursuant to
28 this subsection as salary during a period of suspension is entitled to
29 continue to receive his salary from the date on which the dismissal
30 proceedings are commenced until the decision of the board or the
31 report of the hearing officer, if the report is final and binding. The
32 board shall not unreasonably refuse to accept security other than a
33 bond. An employee who receives salary pursuant to this subsection
34 shall repay it if he is dismissed or not reemployed as a result of a
35 decision of the board or a report of a hearing officer.

36 5. A licensed employee who is convicted of a crime which
37 requires registration pursuant to NRS 179D.200 to 179D.290,
38 inclusive, or 179D.350 to 179D.550, inclusive, or is convicted of an
39 act forbidden by NRS 200.508, 201.190, 201.265, 201.540, 201.560
40 or 207.260 forfeits all rights of employment from the date of his
41 arrest.

42 6. A licensed employee who is convicted of any crime and who
43 is sentenced to and serves any sentence of imprisonment forfeits all
44 rights of employment from the date of his arrest or the date on
45 which his employment terminated, whichever is later.



1 7. A licensed employee who is charged with a felony or a
2 crime involving immorality or moral turpitude and who waives his
3 right to a speedy trial while suspended may receive no more than 12
4 months of back pay and seniority upon reinstatement if he is found
5 not guilty or the charges are dismissed, unless proceedings have
6 been begun to dismiss the employee upon one of the other grounds
7 set forth in NRS 391.312.

8 8. A superintendent may discipline a licensed employee by
9 suspending the employee with loss of pay at any time after a hearing
10 has been held which affords the due process provided for in this
11 chapter. The grounds for suspension are the same as the grounds
12 contained in NRS 391.312. An employee may be suspended more
13 than once during the employee's contract year, but the total number
14 of days of suspension may not exceed 20 in 1 contract year. Unless
15 circumstances require otherwise, the suspensions must be
16 progressively longer.

17 **Sec. 13.** This act becomes effective on July 1, 2007.

