

Amendment No. 373

Assembly Amendment to Assembly Bill No. 459

(BDR 34-787)

Proposed by: Assembly Committee on Education**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold* is newly added transitory language.

KCR



Date: 4/17/2007

A.B. No. 459—Makes various changes relating to teachers. (BDR 34-787)



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 5 of this bill provides that if the termination of the employment of a teacher is subsequently overturned by an arbitrator, the teacher is entitled to full back pay for all missed days of work and is not required to mitigate his damages.]~~ **Section 6** of this bill imposes restrictions on the involuntary transfer **or reassignment** of a teacher. ~~[within a school or between schools.]~~ **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 sufficient grounds for dismissal from employment do not exist. (NRS 391.314) Section 12 of this bill provides that the reinstated employee is entitled to full compensation, plus interest, for all missed days of work and that the employee is 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 thereto the
2 provisions set forth as sections 2 to ~~7~~ 8, inclusive, of this act.

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

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

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

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

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

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

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

38 2. *An investigation conducted pursuant to subsection 1 must be conducted*
39 *with reasonable timeliness.*

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

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

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

46 **Sec. 4. 1.** *Before a school district may require a teacher to respond to an*
47 *allegation of improper conduct or performance, the school district must provide*
48 *the teacher with a detailed written notice of the allegation, including the names of*
49 *all accusers and the date, time, place of, and a detailed explanation concerning,*

1 the alleged improper conduct or performance. If such written notice is not
2 provided before an investigative interview, the teacher may refuse to answer
3 questions and may not be disciplined for that refusal.

4 2. A teacher against whom an allegation of improper conduct or
5 performance is made may submit to the school district a list of witnesses who will
6 testify on his behalf. If a teacher submits such a list, the witnesses must be
7 interviewed in full before the teacher may be disciplined with respect to the
8 allegation.

9 ~~Sec. 5. [If the employment of a teacher is terminated and the termination is~~
10 ~~subsequently overturned by an arbitrator, the teacher is entitled to full back pay~~
11 ~~for all missed days of work and is not required to mitigate his damages. Any~~
12 ~~decision of an arbitrator that is inconsistent with the provisions of this section is~~
13 ~~not enforceable to the extent of the inconsistency.] (Deleted by amendment.)~~

14 ~~Sec. 6. 1. [A teacher may be involuntarily transferred within a school or~~
15 ~~between schools only if:~~

16 ~~(a) The transfer is necessary because of a budgetary emergency; and~~
17 ~~(b) The teacher does not refuse the transfer based on seniority, if applicable.]~~
18 Any involuntary transfer or reassignment of a teacher must be based upon
19 assignment and seniority and may not be made as a form of discipline.

20 2. Any transfer or reassignment of a teacher, or any attempted transfer or
21 reassignment of a teacher in violation of this section is prima facie evidence of
22 the abuse and mistreatment of the teacher.

23 ~~Sec. 7. 1. Each school district shall adopt and enforce a written policy~~
24 ~~prohibiting administrators or their agents from committing any act or making~~
25 ~~any statement which:~~

26 (a) Intimidates, humiliates, abuses or mistreats teachers;
27 (b) Constitutes a misuse of their power with respect to teachers; or
28 (c) Is intended to convince teachers to waive their rights pursuant to sections
29 2 to 7, inclusive, of this act.

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

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

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

38 1. Create an office of teacher advocacy and school climate; and
39 2. Appoint a qualified person to serve as the director of the office who has
40 experience in human resources.

41 ~~[Sec. 8.]~~ Sec. 9. NRS 391.311 is hereby amended to read as follows:

42 391.311 As used in NRS 391.311 to 391.3197, inclusive, and sections 2 to 7,
43 inclusive, of this act, unless the context otherwise requires:

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

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

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

52 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.

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

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

~~[Sec. 9.]~~ **Sec. 10.** NRS 391.3115 is hereby amended to read as follows:

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

(a) Substitute teachers; or

(b) Adult education teachers.

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

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

~~[Sec. 10.]~~ **Sec. 11.** NRS 391.3116 is hereby amended to read as follows:

391.3116 1. The provisions of NRS 391.311 to 391.3197, inclusive, ~~and sections 2 to 7, inclusive, of this act~~ 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.

2. The provisions of sections 2 to 7, inclusive, of this act 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 provisions which conflict with sections 2 to 7, inclusive, of this act.

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

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

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

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

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

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

30 5. A licensed employee who is convicted of a crime which requires
31 registration pursuant to NRS 179D.200 to 179D.290, inclusive, or 179D.350 to
32 179D.550, inclusive, or is convicted of an act forbidden by NRS 200.508, 201.190,
33 201.265, 201.540, 201.560 or 207.260 forfeits all rights of employment from the
34 date of his arrest.

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

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

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

52 ~~(Sec. 11.)~~ **Sec. 13.** This act becomes effective on July 1, 2007.