

Assembly Bill No. 319—Assemblymen Segerblom, Munford, Anderson, Kihuen, Smith; Aizley, Arberry, Atkinson, Bobzien, Claborn, Denis, Dondero Loop, Goedhart, Hogan, Horne, Kirkpatrick, Koivisto, Leslie, Manendo, McClain, Mortenson, Ohrenschall and Stewart

CHAPTER.....

AN ACT relating to education; prescribing certain rights for school employees; revising provisions relating to certain licensed employees who are reinstated after dismissal from employment; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 7 and 8 of this bill provide specified rights for a school employee in a meeting with an administrator or representative of a school district which may result in disciplinary action against the school employee, or which involves a complaint made by the school employee concerning his working conditions or the manner in which he is treated. **Section 8.5** of this bill provides that an unlicensed employee may be suspended with loss of pay at any time after a due process hearing has been held and requires an unlicensed employee who is dismissed from employment to be reinstated with full compensation, plus interest, for all missed days of work if sufficient grounds for dismissal do not exist. **Section 11** of this bill requires the board of trustees of each school district to adopt a written policy prohibiting acts or statements that are intended to convince school employees to waive the rights provided by **sections 2-11** of this bill.

Under existing law, a licensed employee of a school district who is dismissed from employment must be reinstated with full compensation, plus interest, if sufficient grounds for dismissal do not exist. (NRS 391.314) **Section 15** of this bill requires full compensation for all missed days of work and provides 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:

Section 1. Chapter 391 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

Sec. 2. *As used in sections 2 to 11, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Administrator” has the meaning ascribed to it in NRS 391.311.*

Sec. 4. *“Representative of a school district” means any person employed, appointed or retained by the board of trustees of a school district to investigate or otherwise act on behalf of the*



school district in any matter that may result in disciplinary action against a school employee, or any complaint made by a school employee concerning his working conditions or the manner in which he is treated at work.

Sec. 5. *“School employee” means any licensed or unlicensed person employed by the board of trustees of a school district. The term does not include a person who is employed on a temporary basis or a person who is employed as an independent contractor.*

Sec. 6. *1. The provisions of sections 2 to 11, inclusive, of this act do not apply to any school employee who is governed by a collective bargaining agreement negotiated pursuant to chapter 288 of NRS, to the extent of any conflict between the provisions of the agreement and the provisions of sections 2 to 11, inclusive, of this act.*

2. The provisions of sections 2 to 11, inclusive, of this act apply to an administrator if the matter may result in disciplinary action against the administrator or if the administrator makes a complaint concerning his working conditions or the manner in which he is treated at work.

Sec. 6.5. *The provisions of sections 2 to 11, inclusive, of this act do not apply to action taken by an administrator or representative of a school district which is verbal or written and which is not investigatory in nature and is not intended to result in the admonition, suspension, demotion, transfer or dismissal of a school employee.*

Sec. 7. *1. Except as otherwise provided in subsection 1 of section 6 of this act, section 6.5 of this act or other specific statute, any meeting between a school employee and an administrator or representative of a school district that may result in disciplinary action against the school employee is subject to the provisions of this section.*

2. If a meeting is governed by this section, the administrator or representative of the school district shall, not less than 48 hours before the meeting, provide written notice of the meeting to the school employee and, if the employee is governed by a collective bargaining agreement negotiated pursuant to chapter 288 of NRS, to the recognized bargaining agent of the employee.

3. The notice required by subsection 2 must include, without limitation:

- (a) The date, time and place of the meeting;*
- (b) The purpose of the meeting; and*



(c) The name and title of each representative of the school district that will be present at the meeting on behalf of the school district.

4. If a meeting governed by this section is convened to consider an allegation of improper conduct or performance by an employee, the notice required by subsection 2 must provide the employee with notice of the specific concern to be discussed.

5. If a meeting that is not otherwise subject to the provisions of this section is held between a school employee and an administrator or representative of a school district and, during the meeting, the administrator or representative raises an issue which subjects the meeting to the provisions of this section, the school employee must, upon request, be granted an immediate continuance of the meeting for not less than 48 hours. If a continuance is requested, the administrator or representative shall comply with the requirements of this section before reconvening the meeting.

Sec. 8. *1. A school employee who wishes to request a meeting concerning his working conditions or the manner in which he is treated at work may, in writing, notify the administrator or representative of the school district of the complaint and request such a meeting.*

2. If a meeting is requested pursuant to subsection 1, the administrator or representative of the school district shall, not less than 48 hours before the meeting, provide written notice of the meeting to the school employee and, if the employee is governed by a collective bargaining agreement negotiated pursuant to chapter 288 of NRS, to the recognized bargaining agent of the employee.

3. The notice required pursuant to subsection 2 must include, without limitation:

(a) The date, time and place of the meeting;

(b) The purpose of the meeting; and

(c) The name and title of each representative of the school district that will be present at the meeting on behalf of the school district.

Sec. 8.5. *1. Except as otherwise provided in subsection 2, if sufficient grounds for dismissal of an unlicensed employee do not exist, the unlicensed employee must be reinstated with, and is entitled to, full compensation, plus interest at the rate established pursuant to NRS 99.040, for all missed days of work. The unlicensed employee is not required to mitigate his damages.*

2. An unlicensed employee may be suspended with loss of pay at any time after a hearing has been held which affords due



process. An employee may be suspended more than once in a year, but the total number of days of suspension must not exceed 20 in 1 year. Unless circumstances otherwise require, the suspensions must be progressively longer.

3. Any decision of a hearing officer that is inconsistent with this section is invalid to the extent of the inconsistency.

Secs. 9 and 10. (Deleted by amendment.)

Sec. 11. *1. The board of trustees of each school district shall adopt and enforce a written policy prohibiting administrators or agents of the school district from committing an act or making a statement which is intended to convince school employees to waive their rights pursuant to sections 2 to 11, inclusive, of this act.*

2. The policy must include penalties for violation of the policy.

3. The school district shall ensure that a copy of the policy is provided to each employee 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.

Secs. 12-14. (Deleted by amendment.)

Sec. 15. 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 suspension of the employee is necessary in the best interests of the pupils in the district, the superintendent may suspend the employee without notice and without a hearing. Notwithstanding the provisions of NRS 391.312, a superintendent may suspend a licensed employee who has been officially charged but not yet convicted of a felony or a crime involving moral turpitude or immorality. If the charge is dismissed or if the employee is found not guilty, he must be reinstated with back pay, plus interest, and normal seniority. The superintendent shall notify the employee in writing of the suspension.

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



3. If sufficient grounds for dismissal do not exist, the employee must be reinstated with , *and is entitled to*, full compensation, plus interest ~~[]~~ *at the rate established pursuant to NRS 99.040, for all missed days of work.*

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

5. A licensed employee who is convicted of a crime which requires registration pursuant to NRS 179D.010 to 179D.550, inclusive, or is convicted of an act forbidden by NRS 200.508, 201.190, 201.265, 201.540, 201.560 or 207.260 forfeits all rights of employment from the date of his arrest.

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

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

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

Sec. 16. This act becomes effective on July 1, 2009.

