

Amendment No. 333

Assembly Amendment to Assembly Bill No. 319

(BDR 34-50)

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 dashed underlining* is newly added transitory language.

CLP/KCR



Date: 4/14/2009

A.B. No. 319—Makes various changes relating to school employees. (BDR 34-50)



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

MARCH 13, 2009

Referred to Committee on Education

SUMMARY—Makes various changes relating to school employees. (BDR 34-50)

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; prescribing certain rights for school employees; ~~requiring full compensation for all missed days of work for an unlicensed employee if sufficient grounds for his dismissal do not exist;~~ 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:

~~Section~~ **Sections 7 and 8** of this bill ~~provides~~ **provide** specified rights for a school employee in a meeting with an administrator or representative of a school district which ~~involves the conduct, performance, employment status, discipline or transfer of~~ **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 of this bill authorizes a school employee to submit a list of persons who are believed to have knowledge of the facts relevant to an allegation of improper conduct or performance by the employee and requires the school district to interview each person identified on the list. Section 9 of this bill 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.

Section 12 of this bill imposes restrictions on the involuntary transfer ~~for reassignment~~ of a licensed employee.

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:

1 **Section 1.** Chapter 391 of NRS is hereby amended by adding thereto the
2 provisions set forth as sections 2 to ~~11,~~ 12, inclusive, of this act.

3 **Sec. 2.** *As used in sections 2 to ~~10,~~ 11, inclusive, of this act, unless the*
4 *context otherwise requires, the words and terms defined in sections 3, 4 and 5 of*
5 *this act have the meanings ascribed to them in those sections.*

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

7 **Sec. 4.** *“Representative of a school district” means any person employed,*
8 *appointed or retained by the board of trustees of a school district to investigate or*
9 *otherwise act on behalf of the school district in any matter ~~involving the conduct,~~*
10 *~~performance, employment status, discipline or transfer of a~~ that may result in*
11 *disciplinary action against a school employee, or any complaint made by a school*
12 *employee concerning his working conditions or the manner in which he is treated*
13 *at work.*

14 **Sec. 5.** *“School employee” means any licensed or unlicensed person*
15 *employed by the board of trustees of a school district.*

16 **Sec. 6.** 1. *The provisions of sections 2 to ~~10,~~ 11, inclusive, of this act do*
17 *not apply to any school employee who is governed by a collective bargaining*
18 *agreement negotiated pursuant to chapter 288 of NRS, to the extent of any*
19 *conflict between the provisions of the agreement and the provisions of sections 2*
20 *to ~~10,~~ 11, inclusive, of this act.*

21 2. *The provisions of sections 2 to ~~10,~~ 11, inclusive, of this act apply to an*
22 *administrator if the matter ~~involves the conduct, performance, employment~~*
23 *~~status, discipline or transfer of the~~ may result in disciplinary action against the*
24 *administrator or if the administrator makes a complaint concerning his working*
25 *conditions or the manner in which he is treated at work.*

26 **Sec. 7.** 1. *Except as otherwise provided in subsection 1 of section 6 of this*
27 *act or other specific statute, any meeting between a school employee and an*
28 *administrator or representative of a school district ~~which involves the conduct,~~*
29 *~~performance, employment status, discipline or transfer of the school employee, or~~*
30 *~~which involves a complaint made by the school employee concerning his working~~*
31 *~~conditions or the manner in which he is treated,~~ that may result in disciplinary*
32 *action against the school employee is subject to the provisions of this section.*

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

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

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

40 (b) *The purpose of the meeting; and*

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

43 4. *If a meeting governed by this section is convened to consider an*
44 *allegation of improper conduct or performance by an employee, the notice*
45 *required by subsection 2 must ~~be accompanied by a detailed description of the~~*
46 *~~allegation of improper conduct or performance, including, without limitation:~~*

47 ~~(a) The name of each accuser;~~

48 ~~(b) The date, time and place of the alleged improper conduct or~~
49 ~~performance; and~~

~~(c) A detailed explanation concerning the alleged improper conduct or performance.~~

~~If a notice is required to include the provisions of this subsection and the notice provided to the employee and his bargaining agent, if applicable, does not include these provisions, the school employee may refuse to answer questions about the alleged conduct or performance and must not be subject to discipline for such refusal.~~ 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.

~~6. A teacher who wishes to request a meeting which is subject to the provisions of this section concerning a complaint about his working conditions or the manner in which he is treated shall, in writing, notify the school district of the complaint and request such a 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.] Sec. 9. [A school employee against whom an allegation of improper conduct or performance is made may submit to the school district a list of persons who are believed to have knowledge of facts relevant to the allegation. Except as otherwise provided in NRS 391.314, if the school employee submits such a list, the board of trustees of the school district shall ensure that each person identified on the list is interviewed in full before the school employee may be suspended without pay or otherwise disciplined with respect to the allegation.]~~
~~(Deleted by amendment.)~~

~~[Sec. 9.] Sec. 10. [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. Any decision of a hearing officer that is inconsistent with this section is invalid to the extent of the inconsistency.]~~
~~(Deleted by amendment.)~~

~~[Sec. 10.]~~ 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

1 *convince school employees to waive their rights pursuant to sections 2 to ~~10~~ 11,*
2 *inclusive, of this act.*

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

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

8 ~~Sec. 11.~~ Sec. 12. 1. ~~Except as otherwise provided in subsection 2, an~~
9 *An involuntary transfer for reassignment of a licensed employee must be based*
10 *upon licensure and seniority and may not be made as a form of discipline.*

11 2. ~~A licensed employee may be reassigned for less than 30 days in response~~
12 ~~to temporary requirements for work.~~

13 ~~3.~~ If a licensed employee believes an involuntary transfer ~~for~~
14 ~~reassignment~~ was made as a form of discipline, he is entitled to a hearing on that
15 issue pursuant to the provisions of this section and NRS 391.311 to 391.3197,
16 inclusive.

17 ~~Sec. 12.~~ Sec. 13. NRS 391.311 is hereby amended to read as follows:

18 391.311 As used in NRS 391.311 to 391.3197, inclusive, *and section ~~11~~ 12*
19 *of this act*, unless the context otherwise requires:

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

22 2. "Board" means the board of trustees of the school district in which a
23 licensed employee affected by NRS 391.311 to 391.3197, inclusive, *and section*
24 *~~11~~ 12 of this act* is employed.

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

28 4. "Immorality" means:

29 (a) An act forbidden by NRS 200.366, 200.368, 200.400, 200.508, 201.180,
30 201.190, 201.210, 201.220, 201.230, 201.265, 201.540, 201.560, 207.260, 453.316
31 to 453.336, inclusive, 453.337, 453.338, 453.3385 to 453.3405, inclusive, 453.560
32 or 453.562; or

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

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

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

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

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

47 ~~Sec. 13.~~ Sec. 14. NRS 391.3115 is hereby amended to read as follows:

48 391.3115 1. The demotion, suspension, dismissal and nonreemployment
49 provisions of NRS 391.311 to 391.3197, inclusive, *and section ~~11~~ 12 of this act*
50 do not apply to:

51 (a) Substitute teachers; or

52 (b) Adult education teachers.

2. The provisions of NRS 391.311 to 391.3194, inclusive, *and section ~~111~~ 12 of this act* do not apply to a teacher whose employment is suspended or terminated pursuant to subsection 3 of NRS 391.120 or NRS 391.3015 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 section ~~111~~ 12 of this act* for demotion, suspension or dismissal apply to them.

~~Sec. 14.~~ *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. (The employee is not required to mitigate his damages. Any decision of a hearing officer that is inconsistent with this subsection is invalid to the extent of the inconsistency.)~~

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

1 the date of his arrest or the date on which his employment terminated, whichever is
2 later.

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

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

16 ~~[Sec. 15.]~~ **Sec. 16.** This act becomes effective on July 1, 2009.