

SENATE BILL NO. 39—COMMITTEE ON EDUCATION

(ON BEHALF OF THE WASHOE COUNTY SCHOOL DISTRICT)

PREFILED DECEMBER 14, 2010

Referred to Committee on Education

SUMMARY—Revises provisions governing educational personnel.
(BDR 34-257)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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 educational personnel; removing probationary teachers and probationary administrators from the applicability of certain provisions governing certain disciplinary measures by school districts; revising provisions governing the demotion, suspension, dismissal and nonreemployment of certain employees; expanding the grounds for immediate dismissal and refusal to reemploy; revising provisions governing the probationary periods of teachers and administrators; providing that probationary teachers and probationary administrators are at-will employees; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth certain rights and responsibilities relating to disciplinary measures taken by school districts with respect to probationary and postprobationary teachers and administrators. (NRS 391.311-391.3197) **Section 1** of this bill removes probationary teachers and new employees hired as probationary administrators from the applicability of the provisions governing admonition, demotion, suspension, dismissal and nonreemployment. A postprobationary teacher who is employed as a probationary administrator is removed from the admonition, demotion and suspension provisions only with respect to his or her administrative position.

Section 2 of this bill revises the grounds for which a teacher may be suspended, dismissed or not reemployed or for which an administrator may be demoted, suspended, dismissed or not reemployed to include gross misconduct.



Section 4 of this bill expands the grounds for which a licensed employee is subject to immediate dismissal or a refusal to reemploy without first receiving a written admonition.

Under existing law, a probationary teacher and a probationary administrator serve two 1-year periods as a probationary employee. If the employee receives satisfactory evaluations in the first probationary year, the second probationary year must be waived and the person is entitled to postprobationary employment with the school district. (NRS 391.3197) **Section 6** of this bill revises the probationary period from two 1-year periods to three 1-year periods, without a waiver of any of the probationary years. **Section 6** also provides that a probationary teacher and a new employee who is employed as a probationary administrator are at-will employees and may be admonished, demoted, suspended, dismissed or not reemployed without cause, without notice and without a hearing. **Section 6** further provides that a postprobationary teacher who is employed as a probationary administrator is an at-will employee with respect to his or her administrative position and may be admonished, demoted or suspended with respect to his or her administrative position without cause, without notice and without a hearing.

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

Section 1. 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, do not apply to:

- (a) Substitute teachers; or
- (b) Adult education teachers.

2. *The admonition, demotion, suspension, dismissal and nonreemployment provisions of NRS 391.311 to 391.3194, inclusive, do not apply to:*

(a) A probationary teacher. The policy for evaluations prescribed by NRS 391.3125 applies to a probationary teacher.

(b) A new employee who is employed as a probationary administrator. The policy for evaluations prescribed by NRS 391.3127 applies to a probationary administrator.

3. *The admonition, demotion and suspension provisions of NRS 391.311 to 391.3194, inclusive, do not apply to a postprobationary teacher who is employed as a probationary administrator with respect to his or her employment in the administrative position. The policy for evaluations prescribed by NRS 391.3127 applies to a probationary administrator.*

4. The provisions of NRS 391.311 to 391.3194, inclusive, 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.



~~3.1~~ 5. 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, for demotion, suspension or dismissal apply to them.

Sec. 2. NRS 391.312 is hereby amended to read as follows:

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

- (a) Inefficiency;
- (b) Immorality;
- (c) Unprofessional conduct;
- (d) Insubordination;
- (e) Neglect of duty;
- (f) Physical or mental incapacity;
- (g) A justifiable decrease in the number of positions due to decreased enrollment or district reorganization;
- (h) Conviction of a felony or of a crime involving moral turpitude;
- (i) Inadequate performance;
- (j) Evident unfitness for service;
- (k) Failure to comply with such reasonable requirements as a board may prescribe;
- (l) Failure to show normal improvement and evidence of professional training and growth;
- (m) Advocating overthrow of the Government of the United States or of the State of Nevada by force, violence or other unlawful means, or the advocating or teaching of communism with the intent to indoctrinate pupils to subscribe to communistic philosophy;
- (n) Any cause which constitutes grounds for the revocation of a teacher's license;
- (o) Willful neglect or failure to observe and carry out the requirements of this title;
- (p) Dishonesty;
- (q) Breaches in the security or confidentiality of the questions and answers of the achievement and proficiency examinations that are administered pursuant to NRS 389.015;



(r) Intentional failure to observe and carry out the requirements of a plan to ensure the security of examinations adopted pursuant to NRS 389.616 or 389.620; ~~for~~

(s) An intentional violation of NRS 388.5265 or 388.527 ~~for~~; *or*

(t) Gross misconduct.

2. In determining whether the professional performance of a licensed employee is inadequate, consideration must be given to the regular and special evaluation reports prepared in accordance with the policy of the employing school district and to any written standards of performance which may have been adopted by the board.

Sec. 3. NRS 391.3125 is hereby amended to read as follows:

391.3125 1. It is the intent of the Legislature that a uniform system be developed for objective evaluation of teachers and other licensed personnel in each school district.

2. Each board, following consultation with and involvement of elected representatives of the teachers or their designees, shall develop a policy for objective evaluations in narrative form. The policy must set forth a means according to which an employee's overall performance may be determined to be satisfactory or unsatisfactory. The policy may include an evaluation by the teacher, pupils, administrators or other teachers or any combination thereof. In a similar manner, counselors, librarians and other licensed personnel must be evaluated on forms developed specifically for their respective specialties. A copy of the policy adopted by the board must be filed with the Department. The primary purpose of an evaluation is to provide a format for constructive assistance. Evaluations, while not the sole criterion, must be used in the dismissal process.

3. A conference and a written evaluation for a probationary employee must be concluded not later than:

(a) December 1;

(b) February 1; and

(c) April 1,

➤ of each school year of the probationary period, except that a probationary employee assigned to a school that operates all year must be evaluated at least three times during each 12 months of employment on a schedule determined by the board. An administrator charged with the evaluation of a probationary teacher shall personally observe the performance of the teacher in the classroom for not less than a cumulative total of 60 minutes during each evaluation period, with at least one observation during that 60-minute evaluation period consisting of at least 45 consecutive minutes.



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4. Whenever an administrator charged with the evaluation of a probationary employee believes the employee will not be reemployed for the ~~second year of the probationary period or the~~ school year following the *third year of the* probationary period, the administrator shall bring the matter to the employee's attention in a written document which is separate from the evaluation not later than March 1 of the ~~current school year.~~ *third year of the probationary period.* The notice must include the reasons for the potential decision not to reemploy or refer to the evaluation in which the reasons are stated. ~~[Such a notice is not required if the probationary employee has received a letter of admonition during the current school year.]~~

5. Each postprobationary teacher must be evaluated at least once each year. An administrator charged with the evaluation of a postprobationary teacher shall personally observe the performance of the teacher in the classroom for not less than a cumulative total of 60 minutes during each evaluation period, with at least one observation during that 60-minute evaluation period consisting of at least 30 consecutive minutes.

6. The evaluation of a probationary teacher or a postprobationary teacher must include, without limitation:

(a) An evaluation of the classroom management skills of the teacher;

(b) A review of the lesson plans and the work log or grade book of pupils prepared by the teacher;

(c) An evaluation of whether the curriculum taught by the teacher is aligned with the standards of content and performance established pursuant to NRS 389.520, as applicable for the grade level taught by the teacher;

(d) An evaluation of whether the teacher is appropriately addressing the needs of the pupils in the classroom, including, without limitation, special educational needs, cultural and ethnic diversity, the needs of pupils enrolled in advanced courses of study and the needs of pupils who are limited English proficient;

(e) If necessary, recommendations for improvements in the performance of the teacher;

(f) A description of the action that will be taken to assist the teacher in correcting any deficiencies reported in the evaluation; and

(g) A statement by the administrator who evaluated the teacher indicating the amount of time that the administrator personally observed the performance of the teacher in the classroom.

7. The teacher must receive a copy of each evaluation not later than 15 days after the evaluation. A copy of the evaluation and the teacher's response must be permanently attached to the teacher's personnel file. Upon the request of a teacher, a reasonable effort



1 must be made to assist the teacher to correct those deficiencies
2 reported in the evaluation of the teacher for which the teacher
3 requests assistance.

4 **Sec. 4.** NRS 391.313 is hereby amended to read as follows:

5 391.313 1. Whenever an administrator charged with
6 supervision of a licensed employee believes it is necessary to
7 admonish the employee for a reason that the administrator believes
8 may lead to demotion or dismissal or may cause the employee not to
9 be reemployed under the provisions of NRS 391.312, the
10 administrator shall:

11 (a) Except as otherwise provided in subsection 3, bring the
12 matter to the attention of the employee involved, in writing, stating
13 the reasons for the admonition and that it may lead to the
14 employee's demotion, dismissal or a refusal to reemploy him or her,
15 and make a reasonable effort to assist the employee to correct
16 whatever appears to be the cause for the employee's potential
17 demotion, dismissal or a potential recommendation not to reemploy
18 him or her; and

19 (b) Except as otherwise provided in NRS 391.314, allow
20 reasonable time for improvement, which must not exceed 3 months
21 for the first admonition.

22 ➤ The admonition must include a description of the deficiencies of
23 the teacher and the action that is necessary to correct those
24 deficiencies.

25 2. An admonition issued to a licensed employee who, within
26 the time granted for improvement, has met the standards set for the
27 employee by the administrator who issued the admonition must be
28 removed from the records of the employee together with all
29 notations and indications of its having been issued. The admonition
30 must be removed from the records of the employee not later than 3
31 years after it is issued.

32 3. An administrator need not admonish an employee pursuant
33 to paragraph (a) of subsection 1 if his or her employment will be
34 terminated pursuant to NRS 391.3197. ~~[If by March 1 of the first or~~
35 ~~second year of the employee's probationary period a probationary~~
36 ~~employee does not receive a written notice pursuant to subsection 4~~
37 ~~of NRS 391.3125 of a potential decision not to reemploy him or her,~~
38 ~~the employee must receive an admonition before any such decision~~
39 ~~is made.]~~

40 4. A licensed employee is subject to immediate dismissal or a
41 refusal to reemploy according to the procedures provided in NRS
42 391.311 to 391.3197, inclusive, without the admonition required
43 by this section, on grounds contained in paragraphs (b), (d), (e), (f),
44 (g), (h) ~~[and]~~, (j), (n), (o), (p), (r) and (t) of subsection 1 of
45 NRS 391.312.



Sec. 5. NRS 391.317 is hereby amended to read as follows:

391.317 1. At least 15 days before recommending to a board that it demote, dismiss or not reemploy a postprobationary employee, ~~for dismiss or demote a probationary employee,~~ the superintendent shall give written notice to the employee, by registered or certified mail, of the superintendent's intention to make the recommendation.

2. The notice must:

(a) Inform the licensed employee of the grounds for the recommendation.

(b) Inform the employee that, if a written request therefor is directed to the superintendent within 10 days after receipt of the notice, the employee is entitled to a hearing before a hearing officer.

(c) Refer to chapter 391 of NRS.

Sec. 6. NRS 391.3197 is hereby amended to read as follows:

391.3197 1. A probationary employee is employed on a contract basis for ~~two~~ **three** 1-year periods and has no right to employment after ~~either~~ **any** of the ~~two~~ **three** probationary contract years. *Except as otherwise provided in subsection 6, a probationary employee is an at-will employee and may be admonished, demoted, suspended, dismissed or not reemployed without cause, without notice and without a hearing.*

2. The board shall notify each probationary employee in writing on or before May 1 of the first , ~~and~~ **and third** school years of the employee's probationary period, as appropriate, whether the employee is to be reemployed for the second **or third** year of the probationary period or for the ~~next~~ **fourth** school year as a postprobationary employee. *Failure of the board to notify the probationary employee in writing on or before May 1 in the first or second year of the probationary period does not entitle the employee to postprobationary status.* The employee must advise the board in writing on or before May 10 of the first , ~~or~~ **second or third** year of the employee's probationary period, as appropriate, of the employee's acceptance of reemployment. If a probationary employee is assigned to a school that operates all year, the board shall notify the employee in writing, in ~~both~~ **and** the first , ~~and~~ **second and third** years of the employee's probationary period, no later than 45 days before his or her last day of work for the year under his or her contract whether the employee is to be reemployed for the second **or third** year of the probationary period or for the ~~next~~ **fourth** school year as a postprobationary employee. *Failure of the board to notify a probationary employee in writing within the prescribed period in the first or second year of the probationary period does not entitle the employee to postprobationary status.* The employee must advise the board in writing within 10 days after



1 the date of notification of his or her acceptance or rejection of
2 reemployment for another year. Failure to advise the board of the
3 employee's acceptance of reemployment *pursuant to this*
4 *subsection* constitutes rejection of the contract.

5 3. A probationary employee who completes a ~~[2-year]~~ *3-year*
6 probationary period and receives a notice of reemployment from the
7 school district in the ~~[second]~~ *third* year of the employee's
8 probationary period is entitled to be a postprobationary employee in
9 the ensuing year of employment.

10 4. If a probationary employee receives notice pursuant to
11 subsection 4 of NRS 391.3125 not later than March 1 of a potential
12 decision not to reemploy him or her, the employee may request a
13 supplemental evaluation by another administrator in the school
14 district selected by the employee and the superintendent. If a school
15 district has five or fewer administrators, the supplemental evaluator
16 may be an administrator from another school district in this State. ~~If~~
17 ~~a probationary employee has received during the first school year of~~
18 ~~the employee's probationary period three evaluations which state~~
19 ~~that the employee's overall performance has been satisfactory,~~
20 ~~the superintendent of schools of the school district or the~~
21 ~~superintendent's designee shall waive the second year of the~~
22 ~~employee's probationary period by expressly providing in writing~~
23 ~~on the final evaluation of the employee for the first probationary~~
24 ~~year that the second year of the employee's probationary period is~~
25 ~~waived. Such an employee is entitled to be a postprobationary~~
26 ~~employee in the ensuing year of employment.]~~

27 5. If a probationary employee is notified that the employee will
28 not be reemployed for the ~~[second year of the employee's~~
29 ~~probationary period or the ensuing]~~ school year ~~[.]~~ *following the*
30 *three-year probationary period*, his or her employment ends on the
31 last day of the current school year. The notice that the employee will
32 not be reemployed must include a statement of the reasons for that
33 decision.

34 6. A new employee *who is employed as an administrator* or a
35 postprobationary teacher who is employed as an administrator shall
36 be deemed to be a probationary employee for the purposes of this
37 section and must serve a ~~[2-year]~~ *3-year* probationary period as an
38 administrator in accordance with the provisions of this section. ~~If~~
39 ~~the administrator does not receive an unsatisfactory evaluation~~
40 ~~during the first year of probation, the superintendent or the~~
41 ~~superintendent's designee shall waive the second year of the~~
42 ~~administrator's probationary period. Such an administrator is~~
43 ~~entitled to be a postprobationary employee in the ensuing year of~~
44 ~~employment.] A postprobationary teacher who is employed as a~~
45 *probationary administrator is an at-will employee with respect to*



1 *his or her administrative position and may be admonished,*
2 *demoted or suspended with respect to his or her administrative*
3 *position without cause, without notice and without a hearing.* If:

4 (a) A postprobationary teacher who is an administrator is not
5 reemployed as an administrator after ~~either~~ any year of his or her
6 probationary period; and

7 (b) There is a position as a teacher available for the ensuing
8 school year in the school district in which the person is employed,
9 ➔ the board of trustees of the school district shall, on or before
10 May 1, offer the person a contract as a teacher for the ensuing
11 school year. The person may accept the contract in writing on or
12 before May 10. If the person fails to accept the contract as a teacher,
13 the person shall be deemed to have rejected the offer of a contract as
14 a teacher.

15 7. An administrator who has completed his or her probationary
16 period pursuant to subsection 6 and is thereafter promoted to the
17 position of principal must serve an additional probationary period of
18 1 year in the position of principal. If the administrator serving the
19 additional probationary period is not reemployed as a principal after
20 the expiration of the additional probationary period, the board of
21 trustees of the school district in which the person is employed shall,
22 on or before May 1, offer the person a contract for the ensuing
23 school year for the administrative position in which the person
24 attained postprobationary status. The person may accept the contract
25 in writing on or before May 10. If the person fails to accept such a
26 contract, the person shall be deemed to have rejected the offer of
27 employment.

28 ~~[8. — Before dismissal, the probationary employee is entitled to a~~
29 ~~hearing before a hearing officer which affords due process as set out~~
30 ~~in NRS 391.311 to 391.3196, inclusive.]~~

31 **Sec. 7.** This act becomes effective on July 1, 2011.

