

SENATE BILL NO. 58—COMMITTEE ON EDUCATION
(ON BEHALF OF THE CLARK COUNTY SCHOOL DISTRICT)

PREFILED DECEMBER 20, 2012

Referred to Committee on Education

SUMMARY—Revises provisions relating to distance education.
(BDR 34-396)

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 education; eliminating or modifying certain restrictions on enrollment by a pupil in a program of distance education; providing for an additional exemption from the requirement that an unlicensed employee of a school district be directly supervised by a licensed employee; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law provides for the establishment of programs of distance education,
2 in which instruction is delivered to pupils by means of electronic communication.
3 (NRS 388.820-388.874) However, existing law authorizes such instruction to be
4 provided only under specified circumstances. For example, if the board of trustees
5 of a school district operates an alternative program for the education of pupils at
6 risk of dropping out of school, it may operate that program through a program of
7 distance education. (NRS 388.537) A program of independent study for a pupil
8 may also be offered through a program of distance education. (NRS 389.155)
9 Certain pupils who are otherwise prohibited from attending public school because
10 of criminal or disruptive behavior may enroll in a program of distance education.
11 (NRS 392.264, 392.4642-392.4648, 392.466, 392.467, 392.4675) In summary, a
12 pupil may enroll in a program of distance education only if the pupil otherwise
13 qualifies for enrollment in the program under a statute of this kind and there is no
14 general entitlement to participate in distance education even where such a program
15 is available. (NRS 388.850) **Section 2** of this bill effectively reverses the existing
16 limitations on distance education to provide that a pupil is entitled to enroll in a
17 program unless the pupil: (1) is not eligible for enrollment or the pupil's enrollment
18 is otherwise prohibited by specific statute; (2) fails to satisfy the conditions for



enrollment established by the State Board of Education by regulation; or (3) fails to satisfy the requirements of the program itself.

Before a pupil may enroll full-time or part-time in a program of distance education provided by a school district other than the district in which the pupil resides, existing law requires the pupil to obtain the written permission of the board of trustees of the pupil's home district. (NRS 388.854) **Section 3** of this bill eliminates this requirement for such a pupil who wishes to enroll on a part-time basis. In cases where the trustees' written permission continues to be required, **section 3** requires that permission be granted unless, pursuant to **section 2** of this bill, the pupil is not entitled to participate in the program.

Existing law generally requires that an unlicensed employee of a school district be directly supervised by a licensed employee in performing any instructional duties unless an exemption is granted by the Superintendent of Public Instruction. (NRS 391.273) **Section 5** of this bill authorizes the Superintendent to grant such an exemption in the case of an unlicensed employee who is supervising pupils attending a course of distance education while the pupils receive instruction from a licensed employee remotely, through electronic means.

Other limitations on enrollment in a program of distance education are established by existing law. For example, a pupil who is enrolled in private school or is homeschooled may not participate in a program of distance education provided by a school district or charter school. (NRS 388.850) These limitations are not affected by this bill.

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

Section 1. NRS 388.829 is hereby amended to read as follows:

388.829 "Program of distance education" means a program comprised of one or more courses of distance education . ~~that is designed for pupils who meet the criteria for enrollment in a program of distance education prescribed in NRS 388.850.~~

Sec. 2. NRS 388.850 is hereby amended to read as follows:

388.850 1. A pupil ~~may~~ **is entitled to** enroll in a program of distance education ~~only if the pupil satisfies the requirements of any other applicable statute and the pupil:~~

~~—(a) Is participating in a program for pupils at risk of dropping out of school pursuant to NRS 388.537;~~

~~—(b) Is participating in a program of independent study pursuant to NRS 389.155;~~

~~—(c) Is enrolled in a public school that does not offer certain advanced or specialized courses that the pupil desires to attend;~~

~~—(d) Has a physical or mental condition that would otherwise require an excuse from compulsory attendance pursuant to NRS 392.050;~~

~~—(e) Would otherwise be excused from compulsory attendance pursuant to NRS 392.080;~~



~~(f) Is otherwise prohibited from attending public school pursuant to NRS 392.264, 392.4642 to 392.4648, inclusive, 392.466, 392.467 or 392.4675;~~

~~(g) Is otherwise permitted to enroll in a program of distance education provided by the board of trustees of a school district if the board of trustees determines that the pupil will benefit from the program; or~~

~~(h) Is otherwise permitted to enroll in a program of distance education provided by the governing body of a charter school if the governing body of the charter school determines that the pupil will benefit from the program.~~

~~2. In addition to the eligibility for enrollment set forth in subsection 1, a pupil must unless:~~

(a) Pursuant to this section or other specific statute, the pupil is not eligible for enrollment or the pupil's enrollment is otherwise prohibited;

(b) The pupil fails to satisfy the qualifications and conditions for enrollment ~~[in a program of distance education]~~ adopted by the State Board pursuant to NRS 388.874 ~~†~~

~~3.† ; or~~

(c) The pupil fails to satisfy the requirements of the program of distance education.

2. A child who is exempt from compulsory attendance and is enrolled in a private school pursuant to chapter 394 of NRS or is being homeschooled is not eligible to enroll in or otherwise attend a program of distance education, regardless of whether the child is otherwise eligible for enrollment pursuant to subsection 1.

~~†4.†~~ 3. If a pupil who is prohibited from attending public school pursuant to NRS 392.264 enrolls in a program of distance education, the enrollment and attendance of that pupil must comply with all requirements of NRS 62F.100 to 62F.150, inclusive, and 392.251 to 392.271, inclusive.

~~†5.—If a pupil is eligible for enrollment in a program of distance education pursuant to paragraph (c) of subsection 1, the pupil may enroll in the program of distance education only to take those advanced or specialized courses that are not offered at the public school he or she otherwise attends.†~~

Sec. 3. NRS 388.854 is hereby amended to read as follows:

388.854 1. ~~†Except as otherwise provided in this subsection, before†~~ Before a pupil may enroll full-time ~~[or part-time]~~ in a program of distance education that is provided by a school district other than the school district in which the pupil resides, the pupil must obtain the written permission of the board of trustees of the school district in which the pupil resides. Before a pupil who is enrolled in a public school of a school district may enroll part-time



1 in a program of distance education that is provided by a charter
2 school, the pupil must obtain the written permission of the board of
3 trustees of the school district in which the pupil resides. *Except as*
4 *otherwise provided in NRS 388.850 or other specific statute, a*
5 *board of trustees from whom permission is requested pursuant to*
6 *this subsection shall grant the requested permission.*

7 2. A pupil who enrolls *part-time in a program of distance*
8 *education that is provided by a school district other than the*
9 *school district in which the pupil resides or enrolls* full-time in a
10 program of distance education that is provided by a charter school is
11 not required to obtain the approval of the board of trustees of the
12 school district in which the pupil resides.

13 ~~12-1~~ 3. If the board of trustees of a school district grants
14 permission pursuant to subsection 1, the board of trustees shall enter
15 into a written agreement with the board of trustees or governing
16 body, as applicable, that provides the program of distance education.
17 A separate agreement must be prepared for each year that a pupil
18 enrolls in a program of distance education. *If permission is granted*
19 *pursuant to subsection 1, the written agreement required by this*
20 *subsection is not a condition precedent to the pupil's enrollment in*
21 *the program of distance education.*

22 Sec. 4. NRS 388.874 is hereby amended to read as follows:

23 388.874 1. The State Board shall adopt regulations that
24 prescribe:

25 (a) The process for submission of an application by a person or
26 entity for inclusion of a course of distance education on the list
27 prepared by the Department pursuant to NRS 388.834 and the
28 contents of the application;

29 (b) The process for submission of an application by the board of
30 trustees of a school district, the governing body of a charter school
31 or a committee to form a charter school to provide a program of
32 distance education and the contents of the application;

33 (c) The qualifications and conditions for enrollment that a pupil
34 must satisfy to enroll in a program of distance education, consistent
35 with NRS 388.850 ~~12-1~~ *and any other applicable statute;*

36 (d) A method for reporting to the Department the number of
37 pupils who are enrolled in a program of distance education and the
38 attendance of those pupils;

39 (e) The requirements for assessing the achievement of pupils
40 who are enrolled in a program of distance education, which must
41 include, without limitation, the administration of the achievement
42 and proficiency examinations required pursuant to NRS 389.015 and
43 389.550; and



(f) A written description of the process pursuant to which the State Board may revoke its approval for the operation of a program of distance education.

2. The State Board may adopt regulations as it determines are necessary to carry out the provisions of NRS 388.820 to 388.874, inclusive.

Sec. 5. NRS 391.273 is hereby amended to read as follows:

391.273 1. Except as otherwise provided ~~in subsections 4 and 10~~ *this section* and except for persons who are supervised pursuant to NRS 391.096, the unlicensed personnel of a school district must be directly supervised by licensed personnel in all duties which are instructional in nature. To the extent practicable, the direct supervision must be such that the unlicensed personnel are in the immediate location of the licensed personnel and are readily available during such times when supervision is required.

2. Unlicensed personnel who are exempted pursuant to subsection 4, *5 or 6* must be under administrative supervision when performing *any* duties which are instructional in nature.

3. Unlicensed personnel may temporarily perform duties under administrative supervision which are not primarily instructional in nature.

4. Except as otherwise provided in subsection ~~5~~ *7*, upon application by a superintendent of schools, the Superintendent of Public Instruction may grant an exemption from the provisions of subsection 1 ~~of this section~~ *pursuant to subsection 5 or 6*.

5. Except as otherwise provided in subsection 6, the Superintendent shall not grant an exemption from the provisions of subsection 1 unless:

(a) The duties are within the employee's special expertise or training;

(b) The duties relate to the humanities or an elective course of study, or are supplemental to the basic curriculum of a school;

(c) The performance of the duties does not result in the replacement of a licensed employee or prevent the employment of a licensed person willing to perform those duties;

(d) The secondary or combined school in which the duties will be performed has less than 100 pupils enrolled and is at least 30 miles from a school in which the duties are performed by licensed personnel; and

(e) The unlicensed employee submits his or her fingerprints for an investigation pursuant to NRS 391.033.

~~5~~ *6. Upon application by a superintendent of schools, the Superintendent of Public Instruction may grant an exemption from the provisions of subsection 1 if:*



1 (a) *The duties of the unlicensed employee relate to the*
2 *supervision of pupils attending a course of distance education*
3 *provided pursuant to NRS 388.820 to 388.874, inclusive, while the*
4 *pupils are receiving instruction from a licensed employee remotely*
5 *through any electronic means of communication; and*

6 (b) *The unlicensed employee submits his or her fingerprints*
7 *for an investigation pursuant to NRS 391.033.*

8 7. The exemption authorized by subsection 4, 5 or 6 does not
9 apply to a paraprofessional if the provisions of 20 U.S.C. § 6319
10 and the regulations adopted pursuant thereto require the
11 paraprofessional to be directly supervised by a licensed teacher.

12 ~~16-1~~ 8. The Superintendent of Public Instruction shall file a
13 record of all exempt personnel with the clerk of the board of trustees
14 of each local school district, and advise the clerk of any changes
15 therein. The record must contain:

16 (a) The name of the exempt employee;

17 (b) The specific instructional duties the exempt employee may
18 perform;

19 (c) Any terms or conditions of the exemption deemed
20 appropriate by the Superintendent of Public Instruction; and

21 (d) The date the exemption expires or a statement that the
22 exemption is valid as long as the employee remains in the same
23 position at the same school.

24 ~~17-1~~ 9. The Superintendent of Public Instruction may adopt
25 regulations prescribing the procedure to apply for an exemption
26 pursuant to this section and the criteria for the granting of such
27 exemptions.

28 ~~18-1~~ 10. Except in an emergency, it is unlawful for the board of
29 trustees of a school district to allow a person employed as a
30 teacher's aide to serve as a teacher unless the person is a legally
31 qualified teacher licensed by the Superintendent of Public
32 Instruction. As used in this subsection, "emergency" means an
33 unforeseen circumstance which requires immediate action and
34 includes the fact that a licensed teacher or substitute teacher is not
35 immediately available.

36 ~~19-1~~ 11. If the Superintendent of Public Instruction determines
37 that the board of trustees of a school district has violated the
38 provisions of subsection ~~18-1~~ 10, the Superintendent shall take such
39 actions as are necessary to reduce the amount of money received by
40 the district pursuant to NRS 387.124 by an amount equal to the
41 product when the following numbers are multiplied together:

42 (a) The number of days on which the violation occurred;

43 (b) The number of pupils in the classroom taught by the
44 teacher's aide; and



(c) The number of dollars of basic support apportioned to the district per pupil per day pursuant to NRS 387.1233.

~~110.1~~ 12. The provisions of this section do not apply to unlicensed personnel who are employed by the governing body of a charter school, unless a paraprofessional employed by the governing body is required to be directly supervised by a licensed teacher pursuant to the provisions of 20 U.S.C. § 6319 and the regulations adopted pursuant thereto.

Sec. 6. This act becomes effective upon passage and approval.

