

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON EDUCATION**

**Seventy-Seventh Session
February 18, 2013**

The Committee on Education was called to order by Chairman Elliot T. Anderson at 3:15 p.m. on Monday, February 18, 2013, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at nelis.leg.state.nv.us/77th2013. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Elliot T. Anderson, Chairman
Assemblywoman Marilyn Dondero Loop, Vice Chairwoman
Assemblyman Paul Aizley
Assemblywoman Lesley E. Cohen
Assemblyman Wesley Duncan
Assemblyman Andy Eisen
Assemblywoman Michele Fiore
Assemblyman Randy Kirner
Assemblyman Harvey J. Munford
Assemblywoman Dina Neal
Assemblyman Lynn D. Stewart
Assemblywoman Heidi Swank

COMMITTEE MEMBERS ABSENT:

Assemblywoman Olivia Diaz (excused)
Assemblywoman Melissa Woodbury (excused)

GUEST LEGISLATORS PRESENT:

None



STAFF MEMBERS PRESENT:

Todd Butterworth, Committee Policy Analyst
Kristin Roberts, Committee Counsel
Andrew Diss, Committee Manager
Sharon McCallen, Committee Secretary
Steven Sisneros, Committee Assistant

OTHERS PRESENT:

James G. Cox, Director, Department of Corrections
Kim S. Petersen, Education Programs Professional, Education Services,
Department of Corrections
Craig M. Stevens, representing Nevada State Education Association
Brian Daw, representing Clark County School District
Angie Sullivan, Private Citizen, Clark County
Daniela Carrillo, Private Citizen, Carson City

Chairman Elliot Anderson:

[Roll was called. Housekeeping, protocol, and procedures were explained.] We will begin bill hearings today, and I would like to remind the Committee and those who are working on bills to please talk to the members and work your bill before we begin, so we are not learning things the day of the hearing. Those of you in this Committee, pay attention to all of the bills out there, and get the information to our members as soon as possible so we can do our due diligence in preparing.

The Department of Corrections will be presenting a bill today, but first they have a presentation about their education programs.

James G. Cox, Director, Department of Corrections:

Kimberly Petersen is also in Carson City and she will give a PowerPoint presentation on the educational services we provide for a certain population in our facilities. Deputy Director Cheryl Foster in Las Vegas oversees our south division programs and also the educational programming in our facilities.

Kim S. Petersen, Education Programs Professional, Education Services, Department of Corrections:

I am excited about this presentation today, because we are going to talk about how the Nevada Department of Corrections (NDOC) feels about education both within and outside our institutions. We are calling this a continuum of education. We are going to talk about how important NDOC's reentry services and continuing education are going to be for Nevada inmates. I want to go over

facts where research has shown that education is the most effective program for inmates to reduce recidivism.

I also want to go into what NDOC's performance numbers were last year. There is a little concern with our performance for last year and what has been done the past six to eight months to bring the districts together to discuss strategies and goals to move forward to improve those numbers.

In addition to that, I will be discussing the continuum of education once inmates leave an NDOC facility and how, as local and government agencies; parole, and probation, community partners, and reentry people inside the institutions can make sure our inmates have appointments set up and are ready to continue their education once they are released from our institution. We tell our inmates that they enter to learn, and they leave to achieve.

[PowerPoint presentation from the Nevada Department of Corrections—NDOC Education Services, "Beyond Bars: An Education Continuum" ([Exhibit C](#)).]

I would like to go over the research, and talk to you about the statewide inmate population, beginning with the first topic, "Correctional Education Reduces Recidivism." Approximately 53 percent of Nevada's prisoners lack a high school credential, compared to 20 percent of the general population.

Approximately 56 percent of the inmates that are in our camps, who are going to be released soon, do not have a General Education Diploma (GED). We need to address this. Nationwide, 40 percent of adults released from corrections have not obtained a GED or high school diploma.

I can understand why that number is high because we looked at not only our collective school districts working with us, but also what we did as a department of corrections to make sure those inmates were not immediately transferred when they were in an education program. It is a two-sided consortium that I will get into. There are schools on each side, but there is a way to come to the middle.

The Federal Bureau of Prisons has estimated that an inmate who participates in GED programming while in prison is 16 percent less likely to recidivate than an inmate who does not participate in educational programming. That recidivism rate goes down each time an inmate receives an educational degree beyond the GED. High school diplomas, with all of the research nationwide, yield about a 28 percent recidivism rate; an associate of arts, or an associate of science degree, is about 12 percent; when it gets into a bachelor of arts or bachelor of science degree, there is only about a 1 percent recidivism rate.

The recidivism rate gets lower for each six months confined. The longer the inmate is with us and the more education they have, the better off they are going to be.

The "Correctional Education Cost Savings" portion shows that when you compare the cost savings of education as one of the most beneficial costs NDOC has in the prison system for recidivism, the studies have found that every dollar spent on general education within corrections yields a benefit of \$6. That includes the savings we have for victims, for law enforcement, for courts, and for correctional supervision. The investment has a huge return when we look at public safety that becomes greater when inmates earn an education degree. If it costs Nevada \$23,000 to \$24,000 each year for an inmate, how much will we save if that inmate does not come back to a correctional institution?

Once they get into higher education or vocational programs—all of the vocational programs within Nevada Department of Corrections are industry recognized—it has been shown through reentry studies, that if an inmate has a decent paying job and there is room for career advancement, that is the key to having that inmate not return. Education and jobs go hand in hand. [Continued with PowerPoint ([Exhibit C](#)).]

This is the Adult High School Programs for Corrections cumulative report summary for fiscal year (FY) 2011-2012. The NDOC has four statewide school districts that come into our institutions, depending upon the location of the institution. Carson City Adult Education comes into Warm Springs Correctional Center and Northern Nevada Correctional Center; Clark County School District works with the inmates in Southern Desert Correctional Center, Florence McClure Women's Correctional Center, Jean Conservation Camp, and Three-Lakes Valley Conservation Camp. Pershing County has Lovelock Correctional Center, and White Pine County has Ely State Prison, as well as some of our camps. White Pine County School District serves those inmates.

The first column in this summary ([Exhibit C](#)) is the number of eligible students in NDOC. Eligibility of students is determined when an inmate comes into the institution for intake. The first day of intake prepares them for release into the community, so we immediately determine what their educational needs are. These are the individuals who have told us they do not have a high school diploma or a GED. There were 1,199 inmates in Warm Springs and Northern Nevada Correctional Center who were eligible for education. If an inmate comes in with anything beyond a high school diploma, they do not receive our educational services.

The numbers in Clark, Pershing, and White Pine Counties correlate to the number of inmates in each location. The total eligible inmates for education services were 6,783. The number that each of the districts served was 3,857. Fifty-seven percent of students were served. Again, most of the inmates served came from the larger facilities. Not many of the inmates from the camps were served in the 57 percent.

The number of students who were actually enrolled was 3,706. Once the inmates were tested and it was determined they had a high school diploma or a GED, the percentage of students enrolled was 55 percent. Our funding was \$6 million, and our average cost per student was \$1,543. The breakdown by district is included in the summary.

If you are familiar with the adult education programs, the cost in the general population is between \$600 and \$700 per student. That is something that caught our attention, and NDOC wanted to see how that cost could be reduced. The cumulative summary report shows how many students are served in each district. The districts served 3,857 inmates, and of those, 183 achieved a high school diploma; 4.9 percent of those inmates who were enrolled. Three hundred forty-one inmates received a GED representing 9 percent of the inmate population. With combined totals, there were 514 inmates who achieved either a GED or high school diploma; 13 percent of inmates who enrolled came out with an educational certificate, degree, or a proficiency.

With that said, NDOC began to look at processes and wanted to evaluate what was being done and how the inmates in education were being served. One conclusion after the process was reviewed is that it is time to concentrate on outcomes and how outcome numbers can be better. What the Director decided to do, and it was very successful, was to bring all of the parties to the table and asked for a meeting with all four school districts that serve NDOC's inmates. He asked the Nevada Department of Education (DOE) to assist in facilitating and coordinating that meeting so we could have an open dialogue regarding the obstacles they saw and what some of the obstacles that corrections was viewing. That was several months ago. Since that time, we have held monthly videoconferences and have conducted the first biannual workshop where each director of the education districts attends and discusses the goals for the consortium and how they are progressing. This is the first time that directors and principals of school districts actually knew who the other members were, what others were doing, and how districts serving the inmate population differed. They collaborated to see how inmate services could be streamlined.

That also brought NDOC to some goals to be achieved this year. One goal is to increase the population's participation rates and improve outcomes. It is expensive, but another goal is to provide additional industry-certified vocational programs. Those seem to be very beneficial when they are concurrent with a GED program or a high school diploma program. Nevada Department of Correction's administration has a policy that unless an inmate has a GED, they will not be permitted to get a job within the correctional facility, and that has also been effective. We heard that from the districts as well.

We know from the research that inmates to be released sooner need expedited educational programming to get a GED by the time they are released. The NDOC is currently failing in that endeavor. We do not have educational services at the camps, and those are most of the inmates that will be out between 3 and 12 months, maybe 2 years. Maybe we could consolidate the inmates who need those educational programs to camps that are closer to the districts serving them. Some of the rural camps are distant and transportation costs prohibit teachers from going to those camps.

Research also identified that the districts needed to be more flexible regarding the hours their instructors worked. Camp inmates work six to eight hours a day, so the instructors need to be at the camps in the evenings, or possibly during weekends.

Assemblyman Aizley:

What do the camps look like?

Kim Petersen:

I will defer that to Director Cox.

James Cox:

The camps are basically dormitory-style facilities in rural Nevada and work hand in hand with the Nevada Division of Forestry in establishing those units and inmates as firefighters for the wild land fires in our state. That is their major mission. They are located at various places throughout Nevada: Tonopah, Pioche, Wells, Humboldt, and Carlin on Interstate 80. Our larger facilities are Stewart Conservation Camp in Carson City; Three Lakes Valley Conservation Camp on Highway 95; Las Vegas on Cold Creek Road; and Jean Conservation Camp on Interstate 15, where the female population is housed. The NDOC covers the vast majority of the state.

Kim Petersen:

[Continued with PowerPoint ([Exhibit C](#)).] Not only did we want to make sure NDOC was serving inmates with education at the camps, but also at the

Casa Grande Transitional Center in Las Vegas and Northern Nevada Restitution Center in Reno. When the inmates are at these centers, they are close to getting out into the community. If they are lacking any type of education certificate or diploma, NDOC needs to serve them in that manner.

All of this data and information was not found out in a day. It has taken time. Nevada Department of Corrections communicated with the districts to determine how performance could be streamlined and numbers could be increased in our education department. Each district had their own assessment tool. When the inmates entered NDOC's education department, they were referred to education services based on a priority list. How they were enrolled in education services depended on factors such as how close an inmate was to release, their age, the nature of their crime, and their literacy rate. At this time, the districts came in and did their educational assessments. They determined the best individual plan for each inmate.

There is open enrollment in all of NDOC's facilities where inmates can enroll at any time due to open entries, and very flexible schedules. The district teachers are teaching six to seven subjects at a time to inmates with various proficiencies. For example, reading proficiency could range from first to eleventh grade. All of these learning differences need to be addressed. It is demanding of the teachers in the institutions.

When inmates were transferred from one institution to another, it was often to a different school district. The inmate would be tested again with that district's own assessment. As a consortium, the goal would be to have an electronic database so when an inmate is transferred, his or her educational level and progress—including what chapter of the textbook he or she is at—would be electronically transferred with him or her. There would no longer be a duplication of assessment and proficiency testing upon a transfer.

The consortium has asked the Nevada Department of Education to recommend a universal assessment tool, which we are on track to implement by next semester. The districts, as well as our community partners, will be utilizing the same assessment tools from one facility to another. When the inmates are released, the adult education centers will be able to assess the scores the same as the inmates transferring from one facility to another.

When inmates transferred, they often had to begin a subject again, since there was not a standardized curriculum. Even schools within districts did not standardize curriculum. Not only was that wasting time, it was very frustrating to the inmate.

The consortium began to try to standardize curriculum and textbooks between four school districts so that all education progress information would electronically travel with the inmate upon transfer and re-entry. To date, the consortium has reviewed content areas, but has not moved beyond that. Ideally, standardized textbooks are the way to go so it can be determined exactly where an inmate is in that subject. The hope is that this will increase NDOC's completion rates.

It is important to realize that correctional personnel are developing individualized employment plans for each inmate as the inmates arrive at the intake centers and want the inmate be responsible for those goals. The caseworkers working with inmates need to be able to look at NDOC's software program and determine that an inmate should not be transferred yet, as he may only have three to four weeks left in education to receive his GED.

It is about communication, eliminating duplication, making it seamless for the inmate, and saving time, as well as reviewing the progress reports and evaluating the consortium's desired outcomes. This is the plan for 2013.

Assemblywoman Neal:

What is the range of sentences of the inmates in your program?

Kim Petersen:

It varies depending upon the facility. There are educational services at both the medium- and maximum-security facilities.

Assemblyman Munford:

It is not difficult to motivate an inmate to enter the educational program, because that is easily a vehicle for them to be eligible for parole. They build a certain amount of positive behavior and performance while they are incarcerated, and education is one of the keys. They can achieve an education all the way to an associate degree, if they stay with the program. That is a strong indicator that the inmate is less at risk and a good candidate for parole. Most of the inmates are very enthusiastic about education.

Kim Petersen:

I would agree with you after the inmate has been in the institution for a time. Inmates are prioritized for educational services based upon the shortest amount of release time, the literacy levels, and the age of the inmates. Those factors are all considered when we do refer them to education.

Assemblyman Munford:

The teachers and instructors are certified not only by their county, but also by the State of Nevada, correct?

Kim Petersen:

That is correct.

Assemblyman Munford:

Most of the instructors feel a commitment and passion for helping the inmates. I talked to the principal at Indian Springs, and he talked about wanting to build a new, quality educational center. Is that being considered?

Kim Petersen:

It is not a part of this presentation.

Chairman Elliot Anderson:

Let us stay with the presentation at this time. How many teachers and school personnel are involved in teaching inmates on a day-to-day basis in the Department of Corrections institutions?

Kim Petersen:

Approximately 55 from all four districts. I can get the exact figure for you at a later date.

Chairman Elliot Anderson:

Please send that to Mr. Butterworth, our policy analyst.

Kim Petersen:

[Continued with PowerPoint ([Exhibit C](#)).] The research emphasizes that if you do not continue the education of an inmate, or help the inmate get a job once they are released, they are probably going to be reincarcerated. That is the whole education continuum which has a lot to do with the reentry facility previously discussed. There are similarities between what the districts are anticipating to do, and our education continuum. It is important before the inmates leave the facilities that they have been connected to their next level of education in the communities. If an inmate is to be released, that inmate needs to know that they are expected to be at that adult education center, what time, and who they are to see. Ideally, that adult education center would be able to electronically pull that inmate's information up and see their individual case plans. The case plans would electronically travel with that inmate from the time of intake, through community transition, through a job, through parole and probation, and with the community partners. Once again, the inmates would not miss a beat; they would not have to repeat. The most simple task of

tracking down a GED for an inmate once they are released is very time consuming for correctional staff, as well as parole and probation staff.

The electronic system we currently have available to us is Nevada Offender Tracking Information System (NOTIS). There are modules capable of scanning all of the inmate's educational documents into the system. At intake, we can begin a case plan, set up goals, and begin to monitor those goals. The inmate will understand that it is their responsibility to follow that case plan and to move it forward. Once they are released, that case plan continues and does not stop until that inmate is a contributing member of society.

Assemblyman Munford:

What is the average age of a first offender? Usually, you do not incarcerate anyone under high school age, or do you? No one under 16 or 17 years old?

Kim Petersen:

That is not necessarily the case. I will defer that to Director Cox.

James Cox:

I appreciate Assemblyman Munford's involvement with the Department. He has toured all of our major facilities repeatedly over the years. He is very in tune with the educational processes in NDOC's facilities.

There is the Youthful Offender Program at High Desert State Prison which is geared toward inmates or students who are under 18 years old. With grant funding and educational funding, they can be up to 25 years old. I recently looked at the current numbers in our system of inmates who are younger than 18, and if it continues, by the end of 2013 and the first of 2014, we will have 15 or fewer inmates younger than 18. That would be if we do not get additional inmates through our intake process who are 18 years old or younger. There has been a remarkable decrease in inmates younger than 18 being sent to NDOC's institution by the judicial system during the past year. If NDOC does not get another offender in this year younger than 18, there will be 6 as of January 1, 2014. Last year there was an individual sentenced to NDOC by the court system who was 13 years old, and turned 14 inside NDOC's system. It is possible to be that age. Again, I would say the trend continues to move downward with that type of individual being sent to the Department of Corrections. I have been watching that closely over the past year. There is continued movement with our court system to not send that young offender to the Department of Corrections.

Kim Petersen:

[Continued with PowerPoint ([Exhibit C](#)).] Again, it is the goal of NDOC to have an electronic, comprehensive, and interactive individual case plan developed for every inmate; and to develop interagency contracts with reentry partners throughout the community, our state and local agencies, and Nevada JobConnect centers. Inmates can then be connected, during their prerelease stage, to those community-based organizations and state and local partners that will assist them once they are released. There could be a possibility of bringing those agencies and partners into the institutions for a job or career fair. The fairs could take place on the yard. This would ensure inmates know what services and resources are available and to initially sign them up prior to their release. Those are goals to be looked at.

For this to happen will require a lot of staff training. The electronic data system, as it is now, is not compatible with our school districts' data systems. The school districts' systems are all different; therefore, the districts cannot electronically exchange data. The Department of Corrections is looking at an education school district system. We do have an existing system. It could be possible to train community member staff and Department of Corrections personnel on possible use of our existing system as a way to monitor and hold all of the educational records for the inmates.

This would provide measurable data once the reentry process is created and everyone works together to see if NDOC is effective in terms of the inmates actually completing education, completing a higher degree, obtaining a job, and advancing their career once they have been released. At this point, there is not the means to gather all of this information. That would allow NDOC to continually evaluate the program; what needs to be fixed, and what are the obstacles. It would give the legislators actual numbers and the benefits in the performance-based rates. Again, it would lessen the duplication of services between school districts.

The continuum for education employment is crucial to inmate success once they are released. Recidivism numbers will be reduced even more once the inmate is released and continues their education and employment search.

The Department of Corrections is excited by our new endeavor with the four school districts that are working with us. We look forward to expanding to other state and local agencies, and our community partners who work so passionately with the inmates in trying to find them jobs and alleviate their duplication of efforts. A statewide reentry electronic tracking system is the goal.

Chairman Elliot Anderson:

Are there additional questions from our Committee members?

Assemblyman Stewart:

Do you have the resources and personnel to carry out the goals of follow-up? If an inmate takes the GED and just misses passing, then is released, is there a follow-up to have him retake the test? If an inmate only needs one more class to graduate and he is released, is there follow-up or do you lack the personnel to do that?

Kim Petersen:

At this particular time, we have not worked with the individual inmates on those specific goals. It could be a matter of staff training. If staff and community members could be trained, we could pool our resources as a consortium for reentry for inmates. The Department of Corrections has submitted a grant proposal for funds provided under the federal Second Chance Act and have outlined all of our activities and goals to accomplish those activities, most of which I am presenting to you today. It would be phenomenal if we would receive those grant funds, because we would be implementing staff training as soon as next month.

Assemblyman Munford:

In answering Assemblyman Stewart's question, I know there are many nonprofit organizations and groups on the outside. They are usually comprised of families—of former inmates or who are former inmates themselves—who have developed or been a part of nonprofit organizations focused on continuation-type programs that support transition and productivity. There are several groups in my district alone that do this work so the inmate follows through.

Kim Petersen:

The Nevada Department of Corrections has received some federal grants, and they are actually contracting with some of those nonprofit organizations.

Assemblyman Munford:

You do work at Casa Grande.

Kim Petersen:

Right. We would like to expand those services statewide and use that as a model. We are a part of the Nevada Re-entry Task Force which meets once a month. The task force has about 80 members and most of them are nonprofits that have so much passion to work with the inmates at Ridge House, Inc. and really pulls the northern consortium together. Those are the ones I was

speaking of to be trained in a universal model to follow the inmates and ensure they do not fall through the cracks.

Chairman Elliot Anderson:

Please get the exact number to Mr. Butterworth, and touch base with Mr. Munford if he has other concerns.

Before we begin our first bill hearing, I would remind the Committee, and those testifying before the Committee, about Assembly Standing Rule No. 54. It is a new rule this session, which standardizes our positions of support, opposition, and neutral across committees, so everyone is clear and the legislative record is clear. Support of a bill or resolution shall be construed as approval of a measure as written, or approval of a measure as written along proposed amendments that have been approved by the sponsor of the measure—in other words "friendly" amendments. Opposition should be construed as not supporting the measure as written, or opposing the measure as revised by an amendment that has not been approved by the sponsor of the amendment. Neutral means a person offers insight on the measure, but expresses no position on that measure.

I will now open the hearing on Assembly Bill 17. This measure relates to some of the programs we just discussed and changes the process for those inside the prison conducting the educational programs.

Assembly Bill 17: Revises provisions governing interagency panels convened when a school district employee operating a program of education for incarcerated persons is excluded from a facility or institution operated by the Department of Corrections. (BDR 34-319)

James G. Cox, Director, Department of Corrections:

Assembly Bill 17 is basically changing a provision under *Nevada Revised Statutes* (NRS) 388.583, subsection 3 of section 1, which indicates, "Upon conclusion of the hearing conducted pursuant to subsection 2, the Director shall render a written decision affirming or disaffirming, in whole or in part, the determination made by the interagency panel within 10 business days after the hearing. The decision of the Director is a final decision and is not subject to appeal."

I have been asked many questions concerning A.B. 17, and my responsibility as the Director as outlined in NRS 209.131. I am not talking about eliminating the panel, and certainly not the licensure or the ability of that individual person or educator to teach in their county. I am talking specifically about my authority as the Director due to an action or behavior that has impacted the safety and

security of our institution in regard to contraband, or some type of compromised situation involving an educator and an inmate, and our ability as a department to not allow that person to continue to provide educational services, through whatever county, in our facilities.

We do have laws that govern our contraband issues such as cell phones, which are not allowed in our institutions. You are not allowed to trade or traffic with inmates, or provide them with items they cannot have and are not provided or allowed to buy in our inmate stores or commissaries. If our Department of Corrections staff were to be compromised, we would actually go for progressive discipline and ask for termination.

What I am asking for in this bill is to clarify that I have the authority to limit an instructor's ability to educate or continue to teach in our facilities. Certainly not to interfere with the school district's policy, or to involve licensure, or to eliminate the panel. I believe the panel is a good measure for people and their issues to be heard. As the Director of the Department my responsibilities are clear. I am responsible for the safety and security of all of our staff and inmates. Not only I as the director, but future directors, need that authority as, frankly, I have the authority and ability to do that with anyone else; a vendor, or a contractor.

Chairman Elliot Anderson:

I want to learn more about the process. There is an interagency panel that is convened, but can you tell me more of how the actual hearing works? Can you discuss the last hearing you are familiar with and how it proceeded?

James Cox:

I know that the Department of Education (NDE) conducts those hearings. We do not. It is through NDE and the local school districts.

Chairman Elliot Anderson:

Does the panel take evidence? Is it a normal administrative hearing?

James Cox:

Yes, you can present evidence and have administrative process at the hearing. Evidence, statements, and information, with regard to a specific incident regarding that employee and that educator is given.

Assemblywoman Swank:

What problem is this trying to fix? You say it does not eliminate the utility of the panel, but it seems to eliminate the utility of the panel.

James Cox:

The issue is the authority of the panel in the case that the employee or the teacher says the panel believes the teacher should still be allowed to teach in our facilities. I appreciate the process of how the panel operates; however, what the school districts may consider to be an issue or not—in the community or our local school—are significantly different than those educators who are working in correctional facilities throughout our state and throughout the country.

I am trying to clarify the fact that in the event the panel would say an employee should return, we could be subject to suit as the Department of Corrections and also as director, due to my authority to limit that person's ability to teach in our facilities. We are trying to clarify that NRS 209.131 gives me the authority to do this through A.B. 17. It has been brought to my attention, and that is why NDOC has submitted this bill. There was a belief that the panel had the authority to say, "No, the NDOC does not have the authority to limit the ability of that person to educate in our facility." I believe that I do.

Assemblywoman Swank:

My concern is that any given director in the foreseeable future could decide that what is being taught in the classes is something they do not agree with. It seems that you could delineate the issues as there are two categories of things that are clear where you, as Director, could override the panel. If they are bringing things into the classroom that are not usually available to them would be one, but there are other issues regarding course content that, by eliminating the panel, makes me uncomfortable.

James Cox:

I certainly would not want the Committee or anyone to think that I am going to limit the content of the educational programming that is provided by the counties to NDOC's inmate population. My concern is basically for the safety and security of the staff and inmates. The vast majority of our educators are very good people and do a fantastic job for NDOC and the taxpayers of this state. When an individual in a correctional environment, not a community—in this case, an employee, a teacher—can impact the safety and security of the institution by bringing in cell phones, maps, or other types of contraband that pose a safety and security risk not only to other teachers, but to inmates that are in those classrooms, as well as the correctional staff in those facilities, those are significant security issues.

I do not want the Committee to think that I would be involved in limiting the content of that educational program. That is not my intent, nor what I was trying to accomplish in this bill.

Assemblywoman Neal:

I have a question on behalf of my colleague Assemblyman Eisen, who had to leave. He wanted to know why, in the setup of the panel, the director was actually answering to himself? It seems to be arbitrary. The way the panel was set up and with the change in the law, you still have the existing hearing, the director is part of the panel, and then the director has the final say after convening with the panel.

James Cox:

Historically, the director does not sit on the panel. In fact, none of the three predecessors in our state sat on the panel. It is usually the deputy director of programs or the deputy director of operations who sits on that panel. They gather all of the evidence, and all of the facts, then come back and make a recommendation. That is what actually occurs.

Assemblywoman Cohen:

Can you tell me how many times a teacher has been excluded by a warden?

James Cox:

In at least ten cases that I have had since 2007, and that have come from various parts of our school districts, with the largest school district being Clark County. I am not trying to paint a negative picture of that delivery of educational services to the inmate population or the state in general. We have had a number of issues associated with contraband, as I have described; items that could be used for escape or activities of a sexual nature, all leading to safety and security concerns, not only for our staff, but inmates who are in those specific classes. We have had a wide variety of issues associated with an individual educator being compromised by inmates.

Assemblywoman Cohen:

Of those exclusions, how many were sustained by the panel?

James Cox:

Interestingly enough, the panel in general hears a number of exclusions, but not all of them. Sometimes a teacher resigns their position with the school district as a result of the investigation. We do work very closely, for example, with the Clark County School District police and with the NDE in regard to a specific instructor.

Assemblywoman Cohen:

When there have been some compromises, were there ever criminal charges brought against the teacher?

James Cox:

Yes, there have been criminal charges brought against the teacher for conduct and behavior with regard to activities in our facilities.

Assemblyman Duncan:

Is the exclusion or the actual removal of teachers governed by statute or regulation, or is it more discretionary?

James Cox:

It is governed in the statute basically. It is clear to me that in every department of correction, whether it is the warden or the director, they have the authority to limit access to any correctional facility. It is a cornerstone for them to be able to run those facilities and to determine who has access and who can come in and go out. Every director that I know of throughout the country has this authority and utilizes it sparingly. We should utilize it only in the event we believe it is going to impact the safety and security of our institution as a result of that individual's behavior or conduct. We do not use it often, but do have the ability to have it in our tool chest, and to utilize it in the event where we believe an instructor should no longer teach or enter our facilities. Keep in mind, I do have that same authority with my staff, as does every warden or director in the country.

Assemblyman Kirner:

As I am listening to you, and I certainly acknowledge your authority, I am trying to determine, as my colleague asked, what is the problem you are trying to solve? If you have the authority, how many decisions of the panel that you disaffirmed have occurred in the past five years?

James Cox:

I can get that information to you, as I do not have it with me. Specifically in Clark County, when we have the discussions with our school districts with regard to the activity or behavior of an employee or educator, normally they remove that person. In some instances, it is due to criminal misconduct or it is conduct which will lead to compromise by having relationships with an inmate's family members in the community. I am trying to make it clear that I have the authority to limit that person's ability to come back into NDOC's institution, and to further reduce litigation to the State and the taxpayers of the state as a result of a teacher or educator saying the panel said they should be able to return to the facility and the director of NDOC said they cannot.

Assemblyman Kirner:

Has there ever been litigation?

James Cox:

There is litigation currently, in regard to decisions made by other departments with regard to staff where we limit their ability to enter NDOC facilities, or simply ask that they be placed in another facility, and how an educator deems that authority. I am trying to reduce the likelihood of litigation, and that the employee or teacher would use the panel's recommendation to overturn my decision that educator could not enter our facility.

Chairman Elliot Anderson:

You said you wanted to clarify your authority. I am looking at the citation you gave the Committee, and I do not see anything in there which, in dealing with the educational program, would even remotely allow you to say that you could just do what you want. I am trying to figure out what you mean by clarifying. Is it section 1, subsection 7, of NRS 209.131 that talks about the health and safety of the facility that you are referring to? We have a whole set of sections that deal with the educational program, so I want to get to where the law is now. I do not think you would come here if you already had the authority. It seems as though we are adding a lot of new language.

James Cox:

It is a question of the authority, and again, safety and security is a paramount effect. If you read under NRS 209.131, section 1, subsection 7, and then under NRS 209.131, section 1, subsection 5, regarding the security of the staff and the institution facility of the department, it is pretty broad, but if you are the director or a warden of NDOC, you need that authority. You cannot give that authority up to anyone else. The safety and security of that facility lies with the people who run those prisons, and we make decisions everyday based on the safety, security, and operational functions of that facility. We apparently have the authority to limit people, including our own employees. A number of the activities by educators in the past would result in termination of my staff for doing the same things. We do provide extensive training to educators, and they are doing a good job. I am trying to clarify my authority, but also eliminate a loophole in the fact that the panel would suggest that they have that authority. They do not.

Assemblyman Aizley:

I see this as two different situations. Before you arrange to have someone teach a class, there is a chance to investigate by panels, and to ask questions. That is one situation where I would put more on the teaching aspect than the prison side of things. The educational system will decide who is eligible to teach the classes unless you have evidence that there is misbehavior or misconduct.

The other situation is during a particular class time, in the prison or the camps, something happens where you feel you need to protect the safety and well-being of the inmates. I do not see that you get one chance at being able to say 100 percent, who is going to teach and who is not. I think you need to have more regulations and rules, where in the two different situations you would exclude someone.

As the director, you could be remote from the situation. Maybe the warden is the one to have this authority to exclude a potentially dangerous person. I am not following the whole structure. I cannot say what the best situation is. I understand what you are saying, but I do not think it applies in every situation.

James Cox:

I would suggest that you cannot have a blanket that would cover each individual situation. The warden runs the facilities. I am responsible for the safety and security of the entire department, all of the employees, all of the inmates in my care, and under my supervision. As we begin investigation hearings with regard to an employee's conduct through our inspector general's office, and we have evidence that the educator has provided contraband due to a cell shakedown—for instance, airplane tickets or other items that could be used in an attempted escape—I need the authority to remove that educator immediately from teaching at that facility. I have that authority with everyone else. We certainly do not overuse or abuse that authority in any manner. We look at it from the standpoint of the chain of command. The warden works for the deputy director of operations, who works for me, just as you would have in the military. The authority would be a recommendation from the facility warden, that an investigation was required of an educator. At that time, an investigation would be conducted, and we would look at evidence of contraband or other items that would, in my experience, impact the safety and security of the institution. We work through the Office of the Inspector General conducting a clean investigation, working with school district police if needed, and through the Office of the Attorney General to request prosecution if necessary.

Assemblywoman Fiore:

I applaud your efforts, and after visiting five of your facilities, I see the need for A.B. 17.

James Cox:

I appreciate your touring our facilities in the south and looking at our operation.

Chairman Elliot Anderson:

Are there any other questions for the Director? [There were none.] I would like to open the discussion to those in support of Assembly Bill 17. Is there anyone in Las Vegas? [There was no one.] Is there anyone in Carson City in support of A.B. 17? [There was no one.] Is there testimony in opposition to A.B. 17? Carson City?

Craig M. Stevens, representing Nevada State Education Association:

The Association is in opposition to A.B. 17. Again, the panel is in place in order to conduct the investigation and to put forward a recommendation. Having the director able to override that opinion does not make sense to then have a panel. We understand the need to make sure we keep the prisons and the inmates safe. However, we feel the panel would do just that by enabling the panel to convene, look at the evidence presented to them, and make a decision. I think this has added importance since I just learned that those serving on the panel actually work for the corrections department. You would think they would do what is in the best interest of the correctional facility and the people within, including the employees.

Chairman Elliot Anderson:

Are there any questions for Mr. Stevens? [There were none.]

Brian Daw, representing Clark County School District:

I am here today to voice opposition against A.B. 17 as presently constituted. Summarized prepared text ([Exhibit D](#)).]

Assemblywoman Fiore:

How would you handle a teacher sneaking drugs into the prison?

Brian Daw:

That is not within my purview. That is the responsibility of the Department of Corrections if they have the evidence against that person or the immediate supervisor of that individual.

Assemblywoman Fiore:

If it is the responsibility of NDOC, why do you oppose Mr. Cox's ability to fire the educator?

Brian Daw:

It is based on the tenets of the investigation that Clark County School District owes, as a right of the educator's employment, to investigate that incident. In the event that there is sufficient evidence, then it follows due process and employee discipline.

Chairman Elliot Anderson:

To clarify, your concern with this bill is the permanent exclusion, not possibly a suspension, while the panel is meeting, correct?

Brian Daw:

Exactly. It is the right of the employee to have that investigation follow through, but the permanent expulsion of a teacher, counselor, or administrator from that facility might have undue consequences in the event the charges may not be completely true.

Assemblyman Kirner:

When an individual such as a teacher is taken out of the prison system, they are still a teacher in the Clark County School District subject to due process as the labor agreement would require. So they are not fired; they do not lose due process except in terms of whether they should have access to the prison or not? Is that correct?

Brian Daw:

Yes, that is basically correct. If they have committed a violation that they would be terminated for, then the process follows through as to their discipline and due process rights.

Assemblyman Kirner:

If they are taken out of the prison system because they possibly violated some safety rules, and they go back into the school system, they are not terminated from the school system, and may be assigned to another classroom. They may get a ding on their employment record, but they are not terminated, are they?

Brian Daw:

It would depend on what they are accused of and what they are found guilty of, but they would be transferred to another school. That is correct.

Assemblywoman Neal:

As contraband standards are different in the correctional facility than they may be in the school district, what is the difference? I understand not having the right to appeal is a big issue. If you bring in something like a paperclip, a prisoner could tweak that and use that in the classroom and tag someone. That is an entirely different contraband issue within a prison facility than in a school. When you say "progressive discipline," the discipline for that situation would not be the same as in a school. How do you measure it? What is the difference?

Brian Daw:

The individuals who teach in these schools go into those positions knowing exactly what the violations are, because they are much more stringent than in a regular classroom. They know that violations could get them arrested, in addition to being disciplined as a teacher, administrator, or counselor.

Chairman Elliot Anderson:

Do we have any other questions from the Committee? [There were none.] Do we have anyone else to testify in opposition to A.B. 17 from Carson City? [There was no one.] Is there anyone in Las Vegas in opposition to A.B. 17?

Angie Sullivan, Private Citizen, Clark County:

I am a supporter of my union and a supporter of due process. I believe we have contract language, and it sounds as though we have a system set up to investigate and fairly deal with teachers in situations like this. It is important, as a professional, as a teacher, that we follow that due process and the guidelines that are already outlined. I do not want to belittle Director Cox. I believe he needs the tools to be able to be safe, but teachers who teach in the prisons also need the tools needed to do the job there.

I am very concerned about the youth in the prison, but that is a topic for another day.

I support my union and they have voiced opposition in this matter.

Chairman Elliot Anderson:

Are there any questions for Ms. Sullivan? [There were none.] Is there anyone else in Las Vegas in opposition to A.B. 17? [There was no one.] We will close the hearing on Assembly Bill 17, and open the microphones for public comment here in Carson City or in Las Vegas.

Daniela Carrillo, Private Citizen, Carson City:

I am a senior at Carson High school, where we are required to complete a senior project in order to graduate. I have chosen as my project to follow the state legislative process. [Ms. Carrillo read from prepared testimony ([Exhibit E](#)).]

Chairman Elliot Anderson:

Thank you, Ms. Carrillo. Congratulations on a lot of hard work. It takes courage to come before the Committee. Are there any questions for Ms. Carrillo? [There were none.]

That is all of our business for today, so we are adjourned [at 4:41 p.m.].

RESPECTFULLY SUBMITTED:

Sharon McCallen
Committee Secretary

APPROVED BY:

Assemblyman Elliot T. Anderson, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Education

Date: February 18, 2013

Time of Meeting: 3:15 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Kim S. Petersen, Education Programs Professional, Education Services, Department of Corrections	Nevada Department of Corrections
A.B. 17	D	Brian Daw, Legislative Representative, Community and Government Relations, Clark County School District	Prepared Testimony
	E	Daniela Carrillo, private citizen, Carson City	Prepared Testimony