

ASSEMBLY BILL NO. 320—ASSEMBLYMEN
FRIERSON AND FUMO

MARCH 17, 2017

Referred to Committee on Education

SUMMARY—Revises provisions relating to the statewide performance evaluation system. (BDR 34-1016)

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; revising provisions relating to pupil achievement data as a component of the statewide performance evaluation system for employees; revising provisions relating to the number of evaluations that certain employees are required to receive; revising provisions relating to the Teachers and Leaders Council; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law requires the State Board of Education to adopt regulations
2 establishing a statewide performance evaluation system for evaluating the
3 performance of certain employees. Existing law requires this system to: (1) require
4 that an employee's overall performance be determined to be highly effective,
5 effective, minimally effective or ineffective; and (2) include a process for peer
6 evaluation of teachers. (NRS 391.465) **Section 2** of this bill: (1) removes the term
7 "minimally effective" and replaces it with the term "developing"; and (2) changes
8 the term "peer evaluation" to "peer observation." **Sections 1, 1.5 and 3.5-5.7** of this
9 bill make conforming changes. **Section 2** also provides that an administrator at the
10 district level who provides direct supervision of the principal of a school and who
11 also serves as the superintendent of schools of a school district must not be
12 evaluated using the statewide performance evaluation system.

13 Existing law generally requires the statewide performance evaluation system to
14 include a requirement that pupil achievement data account for at least 40 percent of
15 an evaluation and that such data be derived both from statewide examinations and
16 assessments and certain assessments approved by the board of trustees of a school
17 district. (NRS 391.465) **Section 2** instead requires pupil achievement data to
18 account for 20 percent of an evaluation. **Section 2** also requires this data to be
19 generated from the relevant school or school district.



Existing law establishes the Teachers and Leaders Council of Nevada and prescribes the membership of the Council. (NRS 391.455) **Section 1.3** of this bill adds an additional member to the Council, who must be a school counselor, psychologist, speech-language pathologist, audiologist or social worker.

Existing law requires each postprobationary teacher or administrator who receives an evaluation designating his or her overall performance as effective or highly effective to receive one evaluation in the next school year. (NRS 391.690, 391.710) **Sections 4 and 5** of this bill instead require a postprobationary teacher or administrator who receives an evaluation designating his or her overall performance as highly effective for 2 consecutive school years to receive one evaluation in the next 2 school years.

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

Section 1. NRS 391.102 is hereby amended to read as follows:

391.102 1. Notwithstanding the provisions of any collective bargaining agreement or contract of employment to the contrary, before the board of trustees of a school district may transfer a teacher or administrator who has received an evaluation designating his or her overall performance as ~~minimally effective~~ **developing** or ineffective to another school as a result of decreased enrollment, administrative transfer or a reduction in workforce at a public school, the board of trustees of the school district must obtain the consent of the principal of the school to which the teacher or administrator is proposed to be transferred. If such consent is not obtained, the superintendent of schools of the school district:

(a) May assign the teacher or administrator to a school within the district other than the school from which the teacher or administrator was transferred; and

(b) May assign the teacher or administrator to the school at which the principal did not consent to the transfer of the teacher or administrator.

2. The superintendent of schools of a school district shall develop a plan to address the assignment of teachers or administrators who have received evaluations designating their overall performance as ~~minimally effective~~ **developing** or ineffective when the consent of a principal to a transfer pursuant to subsection 1 is not obtained. Such a plan must include, without limitation, a plan for any such teacher or administrator to receive assistance to help the teacher or administrator, as applicable, meet the standards for effective teaching, which may include, without limitation, peer assistance and review, participation in programs of professional development and other appropriate training.



Sec. 1.3. NRS 391.455 is hereby amended to read as follows:

391.455 1. There is hereby created the Teachers and Leaders Council of Nevada consisting of the following ~~15~~ 16 members:

(a) The Superintendent of Public Instruction, or his or her designee, who serves as an ex officio member of the Council.

(b) The Chancellor of the Nevada System of Higher Education, or his or her designee, who serves as an ex officio member of the Council.

(c) Four teachers in public schools appointed by the Governor from a list of nominees submitted by the Nevada State Education Association. The members appointed pursuant to this paragraph must represent the geographical diversity of the school districts in this State.

(d) *One school counselor, psychologist, speech-language pathologist, audiologist or social worker who is licensed pursuant to chapter 391 of NRS appointed by the Governor from a list of nominees submitted by the Nevada State Education Association. The persons nominated pursuant to this paragraph must represent the geographical diversity of school districts in this State.*

(e) Two administrators in public schools appointed by the Governor from a list of nominees submitted by the Nevada Association of School Administrators and one superintendent of schools of a school district appointed by the Governor from a list of nominees submitted by the Nevada Association of School Superintendents. The members appointed pursuant to this paragraph must represent the geographical diversity of the school districts in this State.

~~(e)~~ (f) Two persons who are members of boards of trustees of school districts and who are appointed by the Governor from a list of nominees submitted by the Nevada Association of School Boards.

~~(f)~~ (g) One representative of the regional training programs for the professional development of teachers and administrators created by NRS 391A.120 appointed by the Governor from a list of nominees submitted by the Nevada Association of School Superintendents.

~~(g)~~ (h) One parent or legal guardian of a pupil enrolled in public school appointed by the Governor from a list of nominees submitted by the Nevada Parent Teacher Association.

~~(h)~~ (i) Two persons with expertise in the development of public policy relating to education appointed by the Superintendent of Public Instruction. The members appointed pursuant to this paragraph must not otherwise be eligible for appointment pursuant to paragraphs (a) to ~~(g)~~ (h), inclusive.



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2. After the initial terms, each appointed member of the Council serves a term of 3 years commencing on July 1 and may be reappointed to one additional 3-year term following his or her initial term. If any appointed member of the Council ceases to be qualified for the position to which he or she was appointed, the position shall be deemed vacant and the appointing authority shall appoint a replacement for the remainder of the unexpired term. A vacancy must be filled in the same manner as the original appointment.

3. The Council shall, at its first meeting and annually thereafter, elect a Chair from among its members.

4. The Council shall meet at least semiannually and may meet at other times upon the call of the Chair or a majority of the members of the Council. Nine members of the Council constitute a quorum, and a quorum may exercise all the power and authority conferred on the Council.

5. Members of the Council serve without compensation, except that for each day or portion of a day during which a member of the Council attends a meeting of the Council or is otherwise engaged in the business of the Council, the member is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

6. A member of the Council who is a public employee must be granted administrative leave from the member's duties to engage in the business of the Council without loss of his or her regular compensation. Such leave does not reduce the amount of the member's other accrued leave.

7. The Department shall provide administrative support to the Council.

8. The Council may apply for and accept gifts, grants, donations and contributions from any source for the purpose of carrying out its duties pursuant to NRS 391.460.

Sec. 1.5. NRS 391.460 is hereby amended to read as follows:

391.460 1. The Council shall:

(a) Make recommendations to the State Board concerning the adoption of regulations for establishing a statewide performance evaluation system to ensure that teachers, administrators who provide primarily administrative services at the school level and administrators at the district level who provide direct supervision of the principal of a school, and who do not provide primarily direct instructional services to pupils, regardless of whether licensed as a teacher or administrator, including, without limitation, a principal and vice principal are:

(1) Evaluated using multiple, fair, timely, rigorous and valid methods, which includes evaluations based upon pupil achievement data as required by NRS 391.465;



(2) Afforded a meaningful opportunity to improve their effectiveness through professional development that is linked to their evaluations; and

(3) Provided with the means to share effective educational methods with other teachers and administrators throughout this State.

(b) Develop and recommend to the State Board a plan, including duties and associated costs, for the development and implementation of the performance evaluation system by the Department and school districts.

(c) Consider the role of professional standards for teachers and administrators to which paragraph (a) applies and, as it determines appropriate, develop a plan for recommending the adoption of such standards by the State Board.

(d) Develop and recommend to the State Board a process for peer ~~evaluations~~ *observations* of teachers by qualified educational personnel which is designed to provide assistance to teachers in meeting the standards of effective teaching, and includes, without limitation, conducting observations, participating in conferences before and after observations of the teacher and providing information and resources to the teacher about strategies for effective teaching.

2. The performance evaluation system recommended by the Council must ensure that:

(a) Data derived from the evaluations is used to create professional development programs that enhance the effectiveness of teachers and administrators; and

(b) A timeline is included for monitoring the performance evaluation system at least annually for quality, reliability, validity, fairness, consistency and objectivity.

3. The Council may establish such working groups, task forces and similar entities from within or outside its membership as necessary to address specific issues or otherwise to assist in its work.

4. The State Board shall consider the recommendations made by the Council pursuant to this section and shall adopt regulations establishing a statewide performance evaluation system as required by NRS 391.465.

Sec. 2. NRS 391.465 is hereby amended to read as follows:

391.465 1. The State Board shall, based upon the recommendations of the Teachers and Leaders Council of Nevada submitted pursuant to NRS 391.460, adopt regulations establishing a statewide performance evaluation system which incorporates multiple measures of an employee's performance. Except as



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1 otherwise provided in subsection 4, the State Board shall prescribe
2 the tools to be used by a school district for obtaining such measures.

3 2. The statewide performance evaluation system must:

4 (a) Require that an employee's overall performance is
5 determined to be:

- 6 (1) Highly effective;
7 (2) Effective;
8 (3) ~~Minimally effective;~~ **Developing;** or
9 (4) Ineffective.

10 (b) Include the criteria for making each designation identified in
11 paragraph (a).

12 (c) Except as otherwise provided in subsections 2 and 3 of NRS
13 391.695 and subsections 2 and 3 of NRS 391.715, require that pupil
14 achievement data account for ~~at least 40~~ **20** percent of the
15 evaluation.

16 (d) ~~Except as otherwise provided in subsection 3, prescribe the~~
17 ~~pupil achievement data that must be used as part of the evaluation~~
18 ~~system pursuant to paragraph (c) which must require that:~~

19 ~~—(1) Pupil achievement data derived from statewide~~
20 ~~examinations and assessments must account for at least 20 percent~~
21 ~~of the evaluation of a teacher or administrator, as applicable; and~~

22 ~~—(2) Pupil achievement data derived from assessments~~
23 ~~approved by the board of trustees of a school district that employs~~
24 ~~the teacher or administrator, as applicable, must account for at least~~
25 ~~20 percent of the evaluation.~~

26 ~~—(e)~~ Include an evaluation of whether the teacher, or
27 administrator who provides primarily administrative services at the
28 school level or administrator at the district level who provides direct
29 supervision of the principal of a school, and who does not provide
30 primarily direct instructional services to pupils, regardless of
31 whether the probationary administrator is licensed as a teacher or
32 administrator, including, without limitation, a principal and vice
33 principal, employs practices and strategies to involve and engage the
34 parents and families of pupils.

35 ~~((f))~~ **(e)** Include a process for peer ~~evaluations~~ **observations** of
36 teachers by qualified educational personnel which is designed to
37 provide assistance to teachers in meeting the standards of effective
38 teaching, and includes, without limitation, conducting observations,
39 participating in conferences before and after observations of the
40 teacher and providing information and resources to the teacher about
41 strategies for effective teaching. The regulations must include the
42 criteria for school districts to determine which educational personnel
43 are qualified to conduct peer reviews pursuant to the process.

44 3. ~~The State Board shall, by regulation, designate the~~
45 ~~assessments that may be used by a school district to determine~~ **The**



pupil achievement *data required to be included as a part of the evaluation system* pursuant to ~~subparagraph (2) of~~ paragraph ~~((d))~~ (c) of subsection 2 ~~]. The board of trustees of a school district may select one or more of the assessments designated by the State Board to determine pupil achievement, or the board of trustees may apply to the Superintendent of Public Instruction for approval to use a different assessment to determine pupil achievement.] :~~

(a) *Must be:*

(1) *Generated from a school or school district in which the teacher or administrator was employed during the period covered by the evaluation; and*

(2) *Used by the school or school district in which the teacher or administrator was employed to measure the progress of a pupil toward meeting the student learning objectives prescribed by the school district.*

(b) *May not be derived from statewide examinations and assessments.*

4. A school district may apply to the State Board to use a performance evaluation system and tools that are different than the evaluation system and tools prescribed pursuant to subsection 1. The application must be in the form prescribed by the State Board and must include, without limitation, a description of the evaluation system and tools proposed to be used by the school district. The State Board may approve the use of the proposed evaluation system and tools if it determines that the proposed evaluation system and tools apply standards and indicators that are equivalent to those prescribed by the State Board.

5. An administrator at the district level who provides direct supervision of the principal of a school and who also serves as the superintendent of schools of a school district must not be evaluated using the statewide performance evaluation system.

Sec. 3. NRS 391.470 is hereby amended to read as follows:

391.470 On or before August 1 of each year, the board of trustees of each school district shall submit a report to the State Board and the Teachers and Leaders Council of Nevada created by NRS 391.455 concerning the implementation and effectiveness of the process for peer evaluations of teachers set forth in the regulations adopted by the State Board pursuant to paragraph ~~((d))~~ (e) of subsection 2 of NRS 391.465, including, without limitation, any recommendations for revisions to the process of peer ~~evaluations.] observations.~~

Sec. 3.5. NRS 391.685 is hereby amended to read as follows:

391.685 1. A probationary teacher must receive one evaluation during each school year of his or her probationary employment. The evaluation must be based in part upon at least



1 three scheduled observations of the teacher during the first school
2 year of his or her probationary period as follows:

3 (a) The first scheduled observation must occur within 40 days
4 after the first day of instruction of the school year;

5 (b) The second scheduled observation must occur after 40 days
6 but within 80 days after the first day of instruction of the school
7 year; and

8 (c) The third scheduled observation must occur after 80 days but
9 within 120 days after the first day of instruction of the school year.

10 2. If a probationary teacher receives an evaluation designating
11 his or her overall performance as effective or highly effective:

12 (a) During the first school year of his or her probationary period,
13 the evaluation during the second school year of the probationary
14 period must be based in part upon at least two scheduled
15 observations of the teacher which must occur within the times
16 specified in paragraphs (b) and (c) of subsection 1.

17 (b) During the first and second school years of his or her
18 probationary period, the evaluation during the third school year of
19 the probationary period must be based in part upon at least one
20 scheduled observation of the teacher which must occur within 120
21 days after the first day of instruction of the school year.

22 3. If a probationary teacher receives an evaluation designating
23 his or her overall performance as ~~minimally effective~~ **developing**
24 or ineffective during the first or second school year of the
25 probationary period, the probationary teacher must receive one
26 evaluation during the immediately succeeding school year which is
27 based in part upon three observations which must occur in
28 accordance with the observation schedule set forth in subsection 1.

29 **Sec. 4.** NRS 391.690 is hereby amended to read as follows:

30 391.690 1. If a postprobationary teacher receives an
31 evaluation designating his or her overall performance as ~~minimally~~
32 ~~effective~~ **developing** or ineffective, the postprobationary teacher
33 must receive one evaluation in the immediately succeeding school
34 year which is based in part upon three observations which must
35 occur in accordance with the observation schedule set forth in
36 subsection 1 of NRS 391.685. If a postprobationary teacher receives
37 evidence from the first two observations during the school year
38 indicating that, unless his or her performance improves, his or her
39 overall performance may be rated as ~~minimally effective~~
40 **developing** or ineffective on the evaluation, the postprobationary
41 teacher may request that the third observation be conducted by
42 another administrator. If a postprobationary teacher requests that his
43 or her third observation be conducted by another administrator, that
44 administrator must be:



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(a) Employed by the school district or, if the school district has five or fewer administrators, employed by another school district in this State; and

(b) Selected by the postprobationary teacher from a list of three candidates submitted by the superintendent.

2. If a postprobationary teacher receives an evaluation designating his or her overall performance as effective , ~~for~~ *the postprobationary teacher must receive one evaluation in the immediately succeeding school year. The evaluation must be based in part upon at least one scheduled observation, which must occur within 120 days after the first day of instruction of the school year.*

3. *If a postprobationary teacher receives an evaluation designating his or her overall performance as highly effective* ~~for 2 consecutive school years,~~ the postprobationary teacher must receive one evaluation in the ~~immediately succeeding~~ *next 2* school ~~year~~ *years.* The evaluation must be based in part upon at least one scheduled observation , which must occur within 120 days after the first day of instruction of the school year ~~in which the evaluation occurs.~~

Sec. 4.5. NRS 391.705 is hereby amended to read as follows:

391.705 1. A probationary administrator must receive one evaluation during each school year of his or her probationary employment. The evaluation must be based in part upon at least three scheduled observations of the probationary administrator during the first school year of his or her probationary period which must occur as follows:

(a) The first scheduled observation must occur within 40 days after the first day of instruction of the school year;

(b) The second scheduled observation must occur after 40 days but within 80 days after the first day of instruction of the school year; and

(c) The third scheduled observation must occur after 80 days but within 120 days after the first day of instruction of the school year.

2. If a probationary administrator receives an evaluation designating his or her overall performance as effective or highly effective:

(a) During the first school year of his or her probationary period, the evaluation during the second school year of the probationary period must be based in part upon at least two scheduled observations of the administrator which must occur within the times specified in paragraphs (b) and (c) of subsection 1.

(b) During the first and second school year of his or her probationary period, the evaluation during the third school year of the probationary period must be based in part upon at least one



1 scheduled observation of the administrator which must occur within
2 120 days after the first day of instruction of the school year.

3 3. If a probationary administrator receives an evaluation
4 designating his or her overall performance as ~~minimally effective~~
5 *developing* or ineffective during the first or second school year of
6 the probationary period, the probationary administrator must receive
7 one evaluation during the immediately succeeding school year
8 which is based in part upon three observations which must occur in
9 accordance with the observation schedule set forth in subsection 1.

10 4. Each probationary administrator is subject to the provisions
11 of NRS 391.725 and 391.820.

12 **Sec. 5.** NRS 391.710 is hereby amended to read as follows:

13 391.710 1. If a postprobationary administrator receives an
14 evaluation designating his or her overall performance as ~~minimally~~
15 ~~effective~~ *developing* or ineffective, the postprobationary
16 administrator must receive one evaluation in the immediately
17 succeeding school year which is based in part upon three
18 observations which must occur in accordance with the observation
19 schedule set forth in subsection 1 of NRS 391.705. If a
20 postprobationary administrator receives evidence from the first two
21 observations indicating that, unless his or her performance
22 improves, his or her overall performance may be rated as ~~minimally~~
23 ~~effective~~ *developing* or ineffective on the evaluation, the
24 postprobationary administrator may request that the third
25 observation be conducted by another administrator. If a
26 postprobationary administrator requests that his or her third
27 observation be conducted by another administrator, that
28 administrator must be:

29 (a) Employed by the school district or, if the school district has
30 five or fewer administrators, employed by another school district in
31 this State; and

32 (b) Selected by the postprobationary administrator from a list of
33 three candidates submitted by the superintendent.

34 2. If a postprobationary administrator receives an evaluation
35 designating his or her overall performance as effective ~~for~~, *the*
36 *postprobationary administrator must receive one evaluation in the*
37 *immediately succeeding school year. The evaluation must be based*
38 *in part upon at least one scheduled observation, which must occur*
39 *within 120 days after the first day of instruction of the school year.*

40 3. *If a postprobationary administrator receives an evaluation*
41 *designating his or her overall performance as highly effective* ~~for~~
42 *for 2 consecutive school years*, the postprobationary administrator
43 must receive one evaluation in the ~~immediately succeeding~~ *next 2*
44 school ~~year~~ *years*. The evaluation must be based in part upon at
45 least one scheduled observation, which must occur within 120 days



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1 after the first day of instruction of the school year ~~H~~ *in which the*
2 *evaluation occurs.*

3 **Sec. 5.3.** NRS 391.725 is hereby amended to read as follows:

4 391.725 1. If a written evaluation of a probationary teacher,
5 or a probationary administrator who provides primarily
6 administrative services at the school level and who does not provide
7 primarily direct instructional services to pupils, regardless of
8 whether the probationary administrator is licensed as a teacher or
9 administrator, including, without limitation, a principal and vice
10 principal, designates the overall performance of the teacher or
11 administrator as ~~{“minimally—effective”}~~ *“developing”* or
12 “ineffective”:

13 (a) The written evaluation must include the following statement:
14 “Please be advised that, pursuant to Nevada law, your contract may
15 not be renewed for the next school year. If you receive a
16 ~~{“minimally—effective”}~~ *“developing”* or ‘ineffective’ evaluation on
17 the first or second evaluation, or both evaluations for this school
18 year, you may request that the third evaluation be conducted by
19 another administrator. You may also request, to the administrator
20 who conducted the evaluation, reasonable assistance in improving
21 your performance based upon the recommendations reported in the
22 evaluation for which you request assistance, and upon such request,
23 a reasonable effort will be made to assist you in improving your
24 performance.”

25 (b) The probationary teacher or probationary administrator, as
26 applicable, must acknowledge in writing that he or she has received
27 and understands the statement described in paragraph (a).

28 2. If a probationary teacher or probationary administrator to
29 which subsection 1 applies requests that his or her next evaluation
30 be conducted by another administrator in accordance with the notice
31 required by subsection 1, the administrator conducting the
32 evaluation must be:

33 (a) Employed by the school district or, if the school district has
34 five or fewer administrators, employed by another school district in
35 this State; and

36 (b) Selected by the probationary teacher or probationary
37 administrator, as applicable, from a list of three candidates
38 submitted by the superintendent.

39 3. If a probationary teacher or probationary administrator to
40 which subsection 1 applies requests assistance in improving
41 performance reported in his or her evaluation, the administrator who
42 conducted the evaluation shall ensure that a reasonable effort is
43 made to assist the probationary teacher or probationary
44 administrator in improving his or her performance.



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1 **Sec. 5.5.** NRS 391.730 is hereby amended to read as follows:
2 391.730 Except as otherwise provided in NRS 391.825, a
3 postprobationary employee who receives an evaluation designating
4 his or her overall performance as:

- 5 1. ~~Minimally effective;~~ **Developing;**
- 6 2. Ineffective; or
- 7 3. ~~Minimally effective;~~ **Developing** during 1 year of the 2-
8 year consecutive period and ineffective during the other year of the
9 period,

10 ↳ for 2 consecutive school years shall be deemed to be a
11 probationary employee for the purposes of NRS 391.650 to 391.830,
12 inclusive, and must serve an additional probationary period in
13 accordance with the provisions of NRS 391.820.

14 **Sec. 5.7.** NRS 288.151 is hereby amended to read as follows:
15 288.151 Notwithstanding the provisions of any collective
16 bargaining agreement or contract of employment to the contrary:

- 17 1. Except as otherwise provided in subsections 2 to 6,
18 inclusive, if the board of trustees of a school district determines that
19 a reduction in the existing workforce of the licensed educational
20 personnel in the school district is necessary, the decision to lay off a
21 teacher or an administrator must be based solely on the overall
22 performance of the teacher or administrator under the statewide
23 performance evaluation system adopted by the State Board pursuant
24 to NRS 391.465. When determining the manner in which to reduce
25 the existing workforce, the board of trustees of a school district must
26 lay off a teacher or administrator whose overall performance has
27 been determined to be:

28 (a) Ineffective, before laying off a teacher or administrator
29 whose overall performance has been determined to be ~~minimally~~
30 ~~effective;~~ **developing**, effective or highly effective;

31 (b) ~~Minimally effective;~~ **Developing**, before laying off a
32 teacher or administrator whose overall performance has been
33 determined to be effective or highly effective; and

34 (c) Effective, before laying off a teacher or administrator whose
35 overall performance has been determined to be highly effective.

- 36 2. Except as otherwise provided in subsection 6, if the board of
37 trustees of a school district determines that a further reduction in the
38 existing workforce of the licensed educational personnel in a school
39 district beyond that made pursuant to subsection 1 is necessary, the
40 board of trustees must lay off a teacher or administrator whose
41 employment record includes:

42 (a) A criminal record that resulted in the suspension of the
43 teacher or administrator; or



(b) Disciplinary action that resulted in the suspension of the teacher or administrator and that was uncontested or has been finally adjudicated;

↳ before laying off a teacher or administrator whose employment record does not include such a record or disciplinary action.

3. The board of trustees shall lay off teachers or administrators whose employment records include disciplinary actions that resulted in the suspension of the teacher or administrator pursuant to subsection 2 in the order of severity of the disciplinary action, with those employees whose employment record includes more severe disciplinary action being laid off first.

4. Except as otherwise provided in subsection 6, if the board of trustees of a school district determines that a further reduction in the existing workforce of licensed educational personnel beyond that made pursuant to subsection 2 is necessary, the decision to lay off a teacher or administrator must be based on the following factors:

(a) Whether the teacher or administrator is employed in a position which is hard to fill;

(b) Whether the teacher or administrator has received a national board certification;

(c) The type of licensure held by the teacher or administrator; and

(d) The type of degree attained by the teacher or administrator and whether the degree is in a subject area that is related to his or her position.

5. If, after consideration of the factors described in subsections 1 to 4, inclusive, two or more teachers or administrators are similarly situated, the board of trustees of the school district may give preference to the more senior teacher or administrator.

6. The board of trustees of a school district is not required to take the actions described in subsections 1 to 4, inclusive, with regard to a teacher who teaches in a school in the district in a subject area for which there is a shortage of teachers, which may include, without limitation, science, technology, engineering, mathematics, special education and English as a second language.

Sec. 6. This act becomes effective on July 1, 2017.

