

SENATE BILL NO. 126—SENATOR DENIS

PREFILED JANUARY 31, 2019

Referred to Committee on Education

SUMMARY—Revises provisions relating to education.
(BDR 34-906)

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; repealing provisions governing the reappointment of a postprobationary administrator; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law: (1) requires a postprobationary administrator to apply for reappointment to his or her administrative position every 5 years, with certain exceptions; and (2) entitles an administrator who is not reappointed and was previously employed by the school district to be assigned to his or her former position. (NRS 391.830) **Section 10** of this bill repeals those provisions. **Sections 1-9** of this bill make conforming changes.

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

Section 1. NRS 388A.533 is hereby amended to read as follows:

388A.533 1. All employees of a charter school shall be deemed public employees.

2. Except as otherwise provided in NRS 388A.5342, the governing body of a charter school may make all decisions concerning the terms and conditions of employment with the charter school and any other matter relating to employment with the charter school. In addition, the governing body may make all employment decisions with regard to its employees pursuant to NRS 391.650 to ~~391.830,~~ **391.826**, inclusive, unless a collective bargaining agreement entered into by the governing body pursuant to



chapter 288 of NRS contains separate provisions relating to the discipline of licensed employees of a school.

3. Upon the request of the governing body of a charter school, the board of trustees of a school district shall, with the permission of the licensed employee who is seeking employment with the charter school, transmit to the governing body a copy of the employment record of the employee that is maintained by the school district. The employment record must include, without limitation, each evaluation of the licensed employee conducted by the school district and any disciplinary action taken by the school district against the licensed employee.

Sec. 2. NRS 388B.410 is hereby amended to read as follows:

388B.410 1. All employees of an achievement charter school shall be deemed public employees and are not employees of the Department.

2. Except as otherwise provided in a collective bargaining agreement entered into by the governing body of an achievement charter school pursuant to chapter 288 of NRS, the principal of an achievement charter school may make:

(a) All decisions concerning the terms and conditions of employment with the achievement charter school and any other matter relating to employment with the achievement charter school; and

(b) All employment decisions with regard to the employees of the achievement charter school pursuant to NRS 391.650 to ~~391.830,~~ 391.826, inclusive.

3. Upon the request of the governing body of an achievement charter school, the board of trustees of a school district shall, with the permission of the licensed employee who is seeking employment with the achievement charter school, transmit to the governing body a copy of the employment record of the employee that is maintained by the school district. The employment record must include, without limitation, each evaluation of the licensed employee conducted by the school district and any disciplinary action taken by the school district against the licensed employee.

Sec. 3. NRS 391.650 is hereby amended to read as follows:

391.650 As used in NRS 391.650 to ~~391.830,~~ 391.826, inclusive, unless the context otherwise requires:

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

2. "Board" means the board of trustees of the school district in which a licensed employee affected by NRS 391.650 to ~~391.830,~~ 391.826, inclusive, is employed.



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

4. "Immorality" means:

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

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

5. "Postprobationary employee" means an administrator or a teacher who has completed the probationary period as provided in NRS 391.820 and has been given notice of reemployment. The term does not include a person who is deemed to be a probationary employee pursuant to NRS 391.730.

6. "Probationary employee" means:

(a) An administrator or a teacher who is employed for the period set forth in NRS 391.820; and

(b) A person who is deemed to be a probationary employee pursuant to NRS 391.730.

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

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

Sec. 4. NRS 391.655 is hereby amended to read as follows:

391.655 1. The demotion, suspension, dismissal and nonreemployment provisions of NRS 391.650 to ~~391.830,~~ **391.826**, inclusive, do not apply to:

(a) Substitute teachers; or

(b) Adult education teachers.

2. The admonition, demotion, suspension, dismissal and nonreemployment provisions of NRS 391.650 to 391.800, inclusive, do not apply to:

(a) A probationary teacher. The policy for evaluations prescribed in NRS 391.685 and 391.725 applies to a probationary teacher.

(b) A principal described in subsection 1 of NRS 391.825 with respect to his or her employment as a principal.



(c) A principal who is employed at-will pursuant to subsection 2 of NRS 391.825.

~~(d) [An administrator described in subsection 2 of NRS 391.830.~~

~~—(e)]~~ A new employee who is employed as a probationary administrator primarily to provide administrative services at the school level and not primarily to provide direct instructional services to pupils, regardless of whether licensed as a teacher or administrator, including, without limitation, a principal and vice principal.

↳ Insofar as it is consistent with the provisions of NRS 391.825 , ~~[and 391.830,]~~ the policy for evaluations prescribed in NRS 391.700 and 391.725 applies to any administrator described in this subsection.

3. The admonition, demotion and suspension provisions of NRS 391.650 to 391.800, inclusive, do not apply to a postprobationary teacher who is employed as a probationary administrator primarily to provide administrative services at the school level and not primarily to provide direct instructional services to pupils, regardless of whether licensed as a teacher or administrator, including, without limitation, a principal and vice principal, with respect to his or her employment in the administrative position. The policy for evaluations prescribed in NRS 391.700 and 391.725 applies to such a probationary administrator.

4. The provisions of NRS 391.650 to 391.800, inclusive, do not apply to a teacher whose employment is suspended or terminated pursuant to subsection 3 of NRS 391.120 or NRS 391.3015 for failure to maintain a license in force.

5. A licensed employee who is employed in a position fully funded by a federal or private categorical grant or to replace another licensed employee during that employee's leave of absence is employed only for the duration of the grant or leave. Such a licensed employee and licensed employees who are employed on temporary contracts for 90 school days or less, or its equivalent in a school district operating under an alternative schedule authorized pursuant to NRS 388.090, to replace licensed employees whose employment has terminated after the beginning of the school year are entitled to credit for that time in fulfilling any period of probation and during that time the provisions of NRS 391.650 to ~~[391.830,]~~ **391.826**, inclusive, for demotion, suspension or dismissal apply to them.

Sec. 5. NRS 391.660 is hereby amended to read as follows:

391.660 Excluding the provisions of NRS 391.730 ~~[]~~ **and** 391.825 , ~~[and 391.830,]~~ the provisions of NRS 391.650 to ~~[391.830,]~~ **391.826**, inclusive, do not apply to a teacher or other licensed employee who has entered into a contract with the board



1 negotiated pursuant to chapter 288 of NRS if the contract contains
2 separate provisions relating to the board's right to dismiss or refuse
3 to reemploy the employee.

4 **Sec. 6.** NRS 391.700 is hereby amended to read as follows:

5 391.700 Except as otherwise provided in NRS 391.825 : ~~and~~
6 ~~391.830;~~

7 1. Each board, following consultation with and involvement of
8 elected representatives of administrative personnel or their
9 designated representatives, shall develop an objective policy for the
10 objective evaluation of administrators in narrative form. The policy
11 must provide for the evaluation of those administrators who provide
12 primarily administrative services at the school level and who do not
13 provide primarily direct instructional services to pupils, regardless
14 of whether such an administrator is licensed as a teacher or
15 administrator, including, without limitation, a principal and a vice
16 principal. The policy must also provide for the evaluation of those
17 administrators at the district level who provide direct supervision of
18 the principal of a school. The policy must comply with the statewide
19 performance evaluation system established by the State Board
20 pursuant to NRS 391.465. The policy may include an evaluation by
21 the administrator, superintendent, pupils or other administrators or
22 any combination thereof. A copy of the policy adopted by the board
23 must be filed with the Department and made available to the
24 Commission.

25 2. The person charged with the evaluation of an administrator
26 pursuant to NRS 391.705 or 391.710 shall hold a conference with
27 the administrator before and after each scheduled observation of the
28 administrator during the school year.

29 **Sec. 7.** NRS 391.730 is hereby amended to read as follows:

30 391.730 Except as otherwise provided in NRS 391.825, a
31 postprobationary employee who receives an evaluation designating
32 his or her overall performance as:

33 1. Developing;

34 2. Ineffective; or

35 3. Developing during 1 year of the 2-year consecutive period
36 and ineffective during the other year of the period,

37 ➤ for 2 consecutive school years shall be deemed to be a
38 probationary employee for the purposes of NRS 391.650 to
39 ~~391.830;~~ 391.826, inclusive, and must serve an additional
40 probationary period in accordance with the provisions of
41 NRS 391.820.

42 **Sec. 8.** NRS 391.755 is hereby amended to read as follows:

43 391.755 1. Whenever an administrator charged with
44 supervision of a licensed employee believes it is necessary to
45 admonish the employee for a reason that the administrator believes



1 may lead to demotion or dismissal or may cause the employee not to
2 be reemployed under the provisions of NRS 391.750, the
3 administrator shall:

4 (a) Except as otherwise provided in subsection 3, bring the
5 matter to the attention of the employee involved, in writing, stating
6 the reasons for the admonition and that it may lead to the
7 employee's demotion, dismissal or a refusal to reemploy him or her,
8 and make a reasonable effort to assist the employee to correct
9 whatever appears to be the cause for the employee's potential
10 demotion, dismissal or a potential recommendation not to reemploy
11 him or her; and

12 (b) Except as otherwise provided in NRS 391.760, allow
13 reasonable time for improvement, which must not exceed 3 months
14 for the first admonition.

15 ➤ The admonition must include a description of the deficiencies of
16 the employee and the action that is necessary to correct those
17 deficiencies.

18 2. An admonition issued to a licensed employee who, within
19 the time granted for improvement, has met the standards set for the
20 employee by the administrator who issued the admonition must be
21 removed from the records of the employee together with all
22 notations and indications of its having been issued. The admonition
23 must be removed from the records of the employee not later than 3
24 years after it is issued.

25 3. An administrator need not admonish an employee pursuant
26 to paragraph (a) of subsection 1 if the administrator has been
27 informed by the superintendent that the superintendent intends to
28 recommend the dismissal of the employee to the board in the
29 manner set forth in NRS 391.822, 391.824 and 391.826.

30 4. A licensed employee is subject to immediate dismissal or a
31 refusal to reemploy according to the procedures provided in NRS
32 391.650 to ~~391.830,~~ 391.826, inclusive, without the admonition
33 required by this section, on grounds contained in paragraphs (b), (f),
34 (g), (h), (p), (s), (t) and (u) of subsection 1 of NRS 391.750.

35 **Sec. 9.** NRS 391.775 is hereby amended to read as follows:

36 391.775 Except as otherwise provided in NRS 391.825 : ~~and~~
37 ~~391.830;~~

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

43 2. The notice must:

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



(b) Inform the employee that, if a written request therefor is directed to the superintendent within 10 days after receipt of the notice, the employee is entitled to a hearing before a hearing officer pursuant to NRS 391.765 to 391.800, inclusive, or if a dismissal of the employee will occur before the completion of the current school year or if the employee is deemed to be a probationary employee pursuant to NRS 391.730 and dismissal of the employee will occur before the completion of the current school year, the employee may request an expedited hearing pursuant to subsection 3.

(c) Refer to chapter 391 of NRS.

3. If a postprobationary employee or an employee who is deemed to be a probationary employee pursuant to NRS 391.730 receives notice that he or she will be dismissed before the completion of the current school year, the employee may request an expedited hearing pursuant to the Expedited Labor Arbitration Procedures established by the American Arbitration Association or its successor organization. If the employee elects to proceed under the expedited procedures, the provisions of NRS 391.770, 391.785 and 391.795 do not apply.

Sec. 10. NRS 391.830 is hereby repealed.

Sec. 11. This act becomes effective on July 1, 2019.

TEXT OF REPEALED SECTION

391.830 Reappointment of certain postprobationary administrators.

1. Each postprobationary administrator employed by a school district, except an administrator excluded from any bargaining unit pursuant to NRS 288.170 or a principal, must apply to the superintendent for reappointment to his or her administrative position every 5 years.

2. If an administrator is not reappointed to his or her administrative position pursuant to this section and was previously employed by the school district in another position, the administrator is entitled to be assigned to his or her former position at the rate of compensation provided for that position.

