

Amendment No. 373

Assembly Amendment to Assembly Bill No. 269	(BDR 34-123)
Proposed by: Assembly Committee on Education	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

JDK/AAK



Date: 4/23/2023

A.B. No. 269—Revises provisions governing education. (BDR 34-123)



ASSEMBLY BILL NO. 269—ASSEMBLYMEN BRITTNEY MILLER, LA RUE HATCH,
ANDERSON; COHEN, CONSIDINE, D'SILVA, GONZÁLEZ, SUMMERS-
ARMSTRONG AND TORRES

MARCH 8, 2023

Referred to Committee on Education

SUMMARY—Revises provisions governing education. (BDR 34-123)

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

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to education; revising provisions governing performance evaluations of certain postprobationary teachers; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Board of Education to adopt regulations establishing a statewide performance evaluation system for evaluating the performance of certain employees. (NRS 391.465) Existing law requires each postprobationary teacher who receives an evaluation designating his or her overall performance as effective to receive one evaluation in the immediately succeeding school year. Existing law requires a postprobationary teacher who receives an evaluation designating his or her overall performance as highly effective for 2 consecutive school years to participate in one observation cycle in the school year immediately following the school year in which the postprobationary teacher receives a second consecutive evaluation designating his or her performance as highly effective but does not require such a teacher to receive an evaluation for that year. (NRS 391.690)

~~This~~ **Section 1.5 of this bill** authorizes a postprobationary teacher who receives an evaluation designating his or her overall performance as effective or highly effective for 2 consecutive evaluations to request to participate in one observation cycle in the school year immediately following the school year in which the postprobationary teacher receives a second consecutive evaluation designating his or her overall performance as effective or highly effective and to receive, upon request, one evaluation based in part on that observation cycle, but does not require the teacher to receive an evaluation for that year. ~~This bill~~ **Section 1.5** requires a postprobationary teacher to receive an evaluation in the second school year immediately following the school year in which the postprobationary teacher receives a second consecutive evaluation designating his or her overall performance as effective or highly effective. ~~This bill~~ **Section 1.5** prohibits an administrator from threatening, intimidating, coercing, compelling or otherwise requiring a postprobationary teacher to request or not request to participate in an observation or receive an evaluation. **Section 1.7 of this bill makes these provisions retroactively applicable to include evaluations received for the 2021-2022 and 2022-2023 school years.**

Existing law: (1) requires each teacher and administrator who provides direct instructional services to pupils at a school to develop learning goals for such pupils; (2) provides that pupil growth may be determined by the extent to which the learning goals of a pupil are achieved; and (3) requires such learning goals and pupil growth to be included in the evaluations of such teachers and administrators. (NRS 391.480) Section

1.9 of this bill repeals those requirements. Sections 1, 1.1 and 1.3 of this bill make conforming changes to remove other references to learning goals and pupil growth from the Nevada Revised Statutes.

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

Section 1. 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, 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, and other licensed educational personnel, 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 growth 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, administrators and other licensed educational personnel 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, administrators and other licensed educational personnel, 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 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, administrators and other licensed educational personnel; 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. 1.1. 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 otherwise provided in subsection 3, the State Board shall prescribe the tools to be used by a school district for obtaining such measures.

2. The statewide performance evaluation system must:

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

- (1) Highly effective;
- (2) Effective;
- (3) Developing; or
- (4) Ineffective.

(b) Include the criteria for making each designation identified in paragraph (a), which must include, without limitation, consideration of whether the classes for which the employee is responsible exceed the applicable recommended ratios of pupils per licensed teacher prescribed by the State Board pursuant to NRS 388.890 and, if so, the degree to which the ratios affect:

(1) The ability of the employee to carry out his or her professional responsibilities; and

(2) The instructional practices of the employee.

~~(c) Except as otherwise provided in subsections 2 and 3 of NRS 391.695 and subsections 2 and 3 of NRS 391.715, require that pupil growth, as determined pursuant to NRS 391.480, account for 15 percent of the evaluation of a teacher or administrator who provides direct instructional services to pupils at a school in a school district.~~

~~(d)~~ Include an evaluation of whether the teacher, or administrator who provides primarily administrative services at the school level or administrator at the district level who provides direct supervision of the principal of a school, and who does not provide primarily direct instructional services to pupils, regardless of whether the probationary administrator is licensed as a teacher or administrator, including, without limitation, a principal and vice principal or licensed educational employee, other than a teacher or administrator, employs practices and strategies to involve and engage the parents and families of pupils.

~~(e)~~ (d) Include a process for peer 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. The regulations must include the criteria for school districts to determine which educational personnel are qualified to conduct peer observations pursuant to the process.

~~(f)~~ (e) Require a person who evaluates a teacher who is responsible for a number of pupils that exceeds the applicable recommended ratio of pupils per licensed teacher prescribed by the State Board pursuant to NRS 388.890, who is a postprobationary employee as defined in NRS 391.650 and whose performance on that evaluation is designated as effective or highly effective to, under the statewide performance evaluation system, award the teacher an additional weight for criteria relating to:

- (1) The manner in which the teacher structures a classroom environment;
- (2) The manner in which the teacher provides an opportunity for extended discourse;
- (3) The manner in which the teacher employs the cognitive abilities and skills of all pupils;

(4) The manner in which the teacher engages with the families of pupils; and

(5) The perception of pupils of the performance of the teacher, ➤ that is equivalent to the percentage by which the ratio of pupils for which the teacher is responsible exceeds the recommended ratio of pupils per licensed teacher. Any additional weight awarded to a teacher pursuant to this paragraph must not cause the score on a criterion to exceed the maximum score that would otherwise be possible on the criterion for a teacher rated as highly effective.

~~(c)~~ (d) If an employee knowingly and willfully failed to comply with the provisions of NRS 388.1351, indicate any disciplinary actions taken against the employee pursuant to NRS 388.1354.

3. 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.

4. 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. 1.2. 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 observations of teachers set forth in the regulations adopted by the State Board pursuant to paragraph ~~(c)~~ (d) of subsection 2 of NRS 391.465, including, without limitation, any recommendations for revisions to the process of peer observations.

Sec. 1.3. NRS 391.485 is hereby amended to read as follows:

391.485 1. The State Board shall annually review the statewide performance evaluation system to ensure accuracy and reliability. Such a review must include, without limitation, an analysis of the:

(a) Number and percentage of teachers, administrators and other licensed educational personnel who receive each designation identified in paragraph (a) of subsection 2 of NRS 391.465 in each school, school district, and the State as a whole; and

~~(b) [Data used to evaluate pupil growth in each school, school district and the State as a whole, including, without limitation, any observations; and~~

~~—(c) Effect of the evaluations conducted pursuant to the statewide system of accountability for public schools on the academic performance of pupils enrolled in the school district in each school and school district, and the State as a whole.~~

2. The board of trustees of each school district shall annually review the manner in which schools in the school district carry out the evaluation of teachers, administrators and other licensed educational personnel pursuant to the statewide performance evaluation system.

3. The Department may review the manner in which the statewide performance evaluation system is carried out by each school district ~~—(f) including, without limitation, the manner in which the learning goals for pupils are established and evaluated pursuant to NRS 391.480.]~~

~~[Section 1.]~~ **Sec. 1.5.** NRS 391.690 is hereby amended to read as follows:

391.690 1. If a postprobationary teacher receives an evaluation designating his or her overall performance as developing or ineffective, the postprobationary teacher must receive one evaluation in the immediately succeeding school year which is based in part upon three observation cycles which must occur in accordance with the observation schedule set forth in subsection 1 of NRS 391.685. If a postprobationary teacher receives evidence from the first two observation cycles during the school year indicating that, unless his or her performance improves, his or her overall performance may be rated as developing or ineffective on the evaluation, the postprobationary teacher may request that the third observation cycle be conducted by another administrator. If a postprobationary teacher requests that his or her third observation cycle be conducted by another administrator, that administrator must be:

(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. ~~[[~~ *Except as otherwise provided in subsection 3, if* a postprobationary teacher receives an evaluation designating his or her overall performance as effective ~~[[~~ *or highly effective*, 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 cycle, 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 *effective or* highly effective for 2 consecutive ~~[school years.] evaluations~~, the postprobationary teacher : ~~[must:]~~

(a) ~~[Participate]~~ *May request to participate* in one observation cycle in the school year immediately following the school year in which the postprobationary teacher receives a second consecutive evaluation designating his or her performance as *effective or* highly effective . ~~[, and]~~ *If a postprobationary teacher requests to participate in an observation cycle pursuant to this paragraph, the postprobationary teacher may receive one evaluation based in part upon the observation cycle conducted pursuant to this paragraph only upon the request of the postprobationary teacher; and*

(b) ~~[Receive]~~ *Must receive* one evaluation in the *second* school year immediately following the school year in which the postprobationary teacher ~~[participated in the observation cycle pursuant to paragraph (a).]~~ *receives a second consecutive evaluation designating his or her performance as effective or highly effective.* The evaluation must be based in part upon at least one scheduled observation cycle, which must occur within 120 days after the first day of instruction of that school year.

4. *An administrator may not, directly or indirectly, threaten, intimidate, coerce, compel or otherwise require a postprobationary teacher to request or not to request to participate in an observation cycle or receive an evaluation pursuant to paragraph (a) of subsection 3 or perform such an observation cycle or evaluation without the consent of a postprobationary teacher.*

Sec. 1.7. 1. The amendatory provisions of section 1.5 of this act apply to any evaluation, observation cycle and other conduct of postprobationary teachers and administrators described in NRS 391.690, as amended by section 1.5 of this act, that occurs on or after July 1, 2021.

2. As used in this section:

(a) "Evaluation" means an evaluation of a postprobationary teacher as described in NRS 391.690, as amended by section 1.5 of this act.

(b) "Observation cycle" means an observation cycle that a postprobationary teacher participates in or requests to participate in as described in NRS 391.690, as amended by section 1.5 of this act.

Sec. 1.8. Any administrative regulations relating to learning goals or pupil growth which were adopted pursuant to NRS 391.480 by a regulatory body before July 1, 2023, and which conflict with or are inconsistent with the provisions of this act are void.

Sec. 1.9. NRS 391.480 is hereby repealed.

Sec. 2. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 1.9, inclusive, of this act ~~becomes~~ become effective ~~for~~ :
(a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and
(b) On July 1, 2023, ~~for~~, for all other purposes.

TEXT OF REPEALED SECTION

391.480 Development of learning goals for pupils; Department to establish list of assessments to measure achievement of learning goals; evaluation of educational personnel based on achievement of learning goals; regulations.

1. Each teacher at a school in a school district shall, in consultation with the principal of the school at which the teacher is employed or other administrator who is assigned by the principal, develop learning goals for the pupils of the teacher for a specified period.

2. Each principal, vice principal and other administrator who provides direct instructional services to pupils at a school in a school district shall, in consultation with his or her direct supervisor, develop learning goals for the pupils at the school where the principal, vice principal or other administrator, as applicable, is employed for a specified period.

3. The Department shall establish a list of assessments that may be used by a school or school district to measure the achievement of learning goals established pursuant to this section.

4. The board of trustees of each school district shall ensure that the learning goals for pupils established pursuant to this section measure pupil growth in accordance with the criteria established by regulation of the State Board.

5. Each teacher and administrator who establishes learning goals for pupils pursuant to this section must be evaluated at the end of the specified period to determine the extent to which the learning goals of the pupils were achieved. Such an evaluation must be conducted in accordance with the criteria established by regulation of the State Board for determining the level of pupil growth for the purposes of the statewide performance evaluation system. The State Board may establish by regulation the manner in which to include certain categories of pupils in the evaluation conducted pursuant to this subsection.