

CHAPTER.....

AN ACT relating to educational personnel; requiring certain teachers and administrators who receive unsatisfactory evaluations to serve an additional probationary period; authorizing certain employees to request an expedited hearing under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides that each teacher and administrator who is employed by a school district in this State must serve a 2-year probationary period, unless the second year of the probationary period is waived by the superintendent of schools of the school district or the superintendent’s designee. A probationary employee who completes his or her probationary period and receives a notice of reemployment from the school district becomes a postprobationary employee in the ensuing year of employment. (NRS 391.3197) Existing law also provides that a postprobationary teacher or administrator must be evaluated at least once each year. (NRS 391.3125, 391.3127) **Section 1** of this bill provides that a postprobationary teacher or administrator who receives an unsatisfactory evaluation, or any other equivalent evaluation which designates his or her overall performance as below average, for 2 consecutive school years shall be deemed to be a probationary employee and must serve an additional probationary period. **Section 4** of this bill provides that the provisions of **section 1** are not superseded by the terms of a collective bargaining agreement. **Section 5** of this bill authorizes a teacher or administrator who is deemed to be a probationary employee pursuant to **section 1** and who receives notice that he or she will be dismissed before the completion of the current school year to request an expedited hearing pursuant to the expedited hearing procedures established by the American Arbitration Association.

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

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

Section 1. Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

A postprobationary employee who receives an unsatisfactory evaluation pursuant to NRS 391.3125 or 391.3127, as applicable, or any other equivalent evaluation designating his or her overall performance as below average, for 2 consecutive school years shall be deemed to be a probationary employee for the purposes of NRS 391.311 to 391.3197, inclusive, and must serve an additional probationary period in accordance with the provisions of NRS 391.3197.



Sec. 2. NRS 391.311 is hereby amended to read as follows:

391.311 As used in NRS 391.311 to 391.3197, inclusive, *and section 1 of this act*, 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 391.311 to 391.3197, inclusive, *and section 1 of this act* 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, 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 391.3197 and has been given notice of reemployment. *The term does not include a person who is deemed to be a probationary employee pursuant to section 1 of this act.*

6. “Probationary employee” means ~~an~~:

(a) An administrator or a teacher who is employed for the period set forth in NRS 391.3197 ~~;~~; and

(b) *A person who is deemed to be a probationary employee pursuant to section 1 of this act.*

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. 3. NRS 391.3115 is hereby amended to read as follows:

391.3115 1. The demotion, suspension, dismissal and nonreemployment provisions of NRS 391.311 to 391.3197, inclusive, *and section 1 of this act* do not apply to:

(a) Substitute teachers; or



(b) Adult education teachers.

2. The provisions of NRS 391.311 to 391.3194, 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.

3. 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 391.311 to 391.3197, inclusive, *and section 1 of this act* for demotion, suspension or dismissal apply to them.

Sec. 4. NRS 391.3116 is hereby amended to read as follows:

391.3116 ~~[The]~~ *Excluding the provisions of section 1 of this act, the* provisions of NRS 391.311 to 391.3197, inclusive, do not apply to a teacher, administrator, or other licensed employee who has entered into a contract with the board negotiated pursuant to chapter 288 of NRS if the contract contains separate provisions relating to the board's right to dismiss or refuse to reemploy the employee or demote an administrator.

Sec. 5. NRS 391.317 is hereby amended to read as follows:

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

2. The notice must:

(a) Inform the licensed employee of the grounds for the 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 391.315 to 391.3194, inclusive, or if the employee is deemed to be a probationary employee pursuant to section 1 of this act 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 an employee who is deemed to be a probationary employee pursuant to section 1 of this act receives notice pursuant to subsection 1 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 391.3161, 391.3192 and 391.3193 do not apply.

Sec. 6. This act becomes effective on July 1, 2011.

