
ASSEMBLY BILL NO. 212—ASSEMBLYMEN FUMO AND BROOKS

PREFILED FEBRUARY 13, 2017

JOINT SPONSORS: SENATORS WOODHOUSE,
SEGERBLOM AND MANENDO

Referred to Committee on Education

SUMMARY—Prohibits the use of pupil achievement data to evaluate employees of a school district. (BDR 34-693)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

~

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

AN ACT relating to educational personnel; prohibiting the use of pupil achievement data to evaluate employees of a school district; 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 to evaluate the performance
3 of teachers and administrators who are employed by school districts. Beginning on
4 July 1, 2017, pupil achievement data must account for at least 40 percent of an
5 evaluation. (NRS 391.465) **Section 2** of this bill removes this requirement and
6 provides that the evaluation of a teacher or administrator is prohibited from
7 including pupil achievement data. The remaining provisions of this bill remove
8 references to the use of pupil achievement data to evaluate teachers and
9 administrators and make other conforming changes.
- 10 Existing law also authorizes the State Board to: (1) provide for the evaluations
11 of counselors, librarians and other licensed educational personnel, except for
12 teachers and administrators; and (2) determine whether to use pupil achievement
13 data as part of such an evaluation. (NRS 391.675) **Section 4** of this bill removes the
14 authority of the State Board to use pupil achievement data as part of such an
15 evaluation and instead prohibits the State Board from doing so.



* A B 2 1 2 *

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

1 **Section 1.** NRS 391.460 is hereby amended to read as follows:
2 391.460 1. The Council shall:

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

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

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

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

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

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

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

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

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



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

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

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

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

13 391.465 1. The State Board shall, based upon the
14 recommendations of the Teachers and Leaders Council of Nevada
15 submitted pursuant to NRS 391.460, adopt regulations establishing a
16 statewide performance evaluation system which incorporates
17 multiple measures of an employee's performance. Except as
18 otherwise provided in subsection ~~4~~ 3, the State Board shall
19 prescribe the tools to be used by a school district for obtaining such
20 measures.

21 2. The statewide performance evaluation system must:

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

- 24 (1) Highly effective;
- 25 (2) Effective;
- 26 (3) Minimally effective; or
- 27 (4) Ineffective.

28 (b) Include the criteria for making each designation identified in
29 paragraph (a).

30 (c) ~~Except as otherwise provided in subsections 2 and 3 of NRS~~
31 ~~391.695 and subsections 2 and 3 of NRS 391.715, require that pupil~~
32 ~~achievement data account for at least 40 percent of the evaluation.~~

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

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

39 ~~—(2) Pupil achievement data derived from assessments~~
40 ~~approved by the board of trustees of a school district that employs~~
41 ~~the teacher or administrator, as applicable, must account for at least~~
42 ~~20 percent of the evaluation.~~

43 ~~—(e)~~ Include an evaluation of whether the teacher, or
44 administrator who provides primarily administrative services at the
45 school level or administrator at the district level who provides direct



1 supervision of the principal of a school, and who does not provide
2 primarily direct instructional services to pupils, regardless of
3 whether the probationary administrator is licensed as a teacher or
4 administrator, including, without limitation, a principal and vice
5 principal, employs practices and strategies to involve and engage the
6 parents and families of pupils.

7 ~~(f)~~ (d) Include a process for peer evaluations of teachers by
8 qualified educational personnel which is designed to provide
9 assistance to teachers in meeting the standards of effective teaching,
10 and includes, without limitation, conducting observations,
11 participating in conferences before and after observations of the
12 teacher and providing information and resources to the teacher about
13 strategies for effective teaching. The regulations must include the
14 criteria for school districts to determine which educational personnel
15 are qualified to conduct peer reviews pursuant to the process.

16 (e) *Not include the use of pupil achievement data as part of the*
17 *evaluation of an employee.*

18 3. ~~{The State Board shall, by regulation, designate the~~
19 ~~assessments that may be used by a school district to determine pupil~~
20 ~~achievement pursuant to subparagraph (2) of paragraph (d) of~~
21 ~~subsection 2. The board of trustees of a school district may select~~
22 ~~one or more of the assessments designated by the State Board to~~
23 ~~determine pupil achievement, or the board of trustees may apply to~~
24 ~~the Superintendent of Public Instruction for approval to use a~~
25 ~~different assessment to determine pupil achievement.~~

26 ~~—4.~~ A school district may apply to the State Board to use a
27 performance evaluation system and tools that are different than the
28 evaluation system and tools prescribed pursuant to subsection 1. The
29 application must be in the form prescribed by the State Board and
30 must include, without limitation, a description of the evaluation
31 system and tools proposed to be used by the school district. The
32 State Board may approve the use of the proposed evaluation system
33 and tools if it determines that the proposed evaluation system and
34 tools ~~apply~~:

35 (a) *Apply* standards and indicators that are equivalent to those
36 prescribed by the State Board ~~{~~; and

37 (b) *Do not include the use of pupil achievement data as part of*
38 *the evaluation of an employee.*

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

40 391.470 On or before August 1 of each year, the board of
41 trustees of each school district shall submit a report to the State
42 Board and the Teachers and Leaders Council of Nevada created by
43 NRS 391.455 concerning the implementation and effectiveness of
44 the process for peer evaluations of teachers set forth in the
45 regulations adopted by the State Board pursuant to paragraph ~~(f)~~



1 (d) of subsection 2 of NRS 391.465, including, without limitation,
2 any recommendations for revisions to the process of peer
3 evaluations.

4 **Sec. 4.** NRS 391.675 is hereby amended to read as follows:

5 391.675 The State Board may provide for evaluations of
6 counselors, librarians and other licensed educational personnel,
7 except for teachers and administrators, and determine the manner in
8 which to measure the performance of such personnel . ~~including,~~
9 ~~without limitation, whether to use pupil~~ *Pupil* achievement data
10 *must not be used* as part of the evaluation.

11 **Sec. 5.** NRS 391.695 is hereby amended to read as follows:

12 391.695 1. The evaluation of a probationary teacher or a
13 postprobationary teacher pursuant to NRS 391.685 or 391.690 must
14 comply with the regulations of the State Board adopted pursuant to
15 NRS 391.465, which must include, without limitation:

16 (a) An evaluation of the instructional practice of the teacher in
17 the classroom;

18 (b) An evaluation of the professional responsibilities of the
19 teacher to support learning and promote the effectiveness of the
20 school community;

21 ~~(c) Except as otherwise provided in subsection 2 or 3, an~~
22 ~~evaluation of the performance of pupils enrolled in the school;~~

23 ~~—(d) An evaluation of whether the teacher employs practices and~~
24 ~~strategies to involve and engage the parents and families of pupils in~~
25 ~~the classroom;~~

26 ~~(e) (d) Recommendations for improvements in the~~
27 ~~performance of the teacher;~~

28 ~~(f) (e) A description of the action that will be taken to assist~~
29 ~~the teacher in the areas of instructional practice ~~and~~ and professional~~
30 ~~responsibilities ; ~~and the performance of pupils;~~ and~~

31 ~~(g) (f) A statement by the administrator who evaluated the~~
32 ~~teacher indicating the amount of time that the administrator~~
33 ~~personally observed the performance of the teacher in the~~
34 ~~classroom.~~

35 2. ~~The evaluation of a probationary teacher in his or her initial~~
36 ~~year of employment as a probationary teacher must not include an~~
37 ~~evaluation of the performance of pupils enrolled in the school. This~~
38 ~~subsection does not apply to a postprobationary employee who is~~
39 ~~deemed to be a probationary employee pursuant to NRS 391.730.~~

40 ~~—3. The evaluation of a teacher at a school designated as a~~
41 ~~turnaround school pursuant to NRS 388G.400 must not include an~~
42 ~~evaluation of the performance of pupils enrolled in the school for~~
43 ~~the first and second years after the school has been designated as a~~
44 ~~turnaround school.~~



1 ~~4.~~ The teacher must receive a copy of each evaluation not later
2 than 15 days after the evaluation. A copy of the evaluation and the
3 teacher's response must be permanently attached to the teacher's
4 personnel file. Upon the request of a teacher, a reasonable effort
5 must be made to assist the teacher to improve his or her
6 performance based upon the recommendations reported in the
7 evaluation of the teacher.

8 **Sec. 6.** NRS 391.715 is hereby amended to read as follows:

9 391.715 ~~4.~~ The evaluation of an administrator pursuant to
10 NRS 391.705 or 391.710 must comply with the regulations of the
11 State Board adopted pursuant to NRS 391.465, which must include,
12 without limitation:

13 ~~(a)~~ 1. An evaluation of the instructional leadership practices
14 of the administrator at the school;

15 ~~(b)~~ 2. An evaluation of the professional responsibilities of
16 the administrator to support learning and promote the effectiveness
17 of the school community;

18 ~~(c) Except as otherwise provided in subsection 2 or 3, an~~
19 ~~evaluation of the performance of pupils enrolled in the school;~~

20 ~~(d)~~ 3. An evaluation of whether the administrator employs
21 practices and strategies to involve and engage the parents and
22 families of pupils enrolled in the school;

23 ~~(e)~~ 4. Recommendations for improvements in the
24 performance of the administrator; and

25 ~~(f)~~ 5. A description of the action that will be taken to assist
26 the administrator in the areas of instructional leadership practice ~~4~~
27 ~~and~~ professional responsibilities. ~~and the performance of pupils.~~

28 ~~2. The evaluation of a probationary administrator in his or her~~
29 ~~initial year of probationary employment must not include an~~
30 ~~evaluation of the performance of pupils enrolled in the school. This~~
31 ~~subsection does not apply to a postprobationary employee who is~~
32 ~~deemed to be a probationary employee pursuant to NRS 391.730.~~

33 ~~3. The evaluation of an administrator at a school designated as~~
34 ~~a turnaround school pursuant to NRS 388G.400 must not include an~~
35 ~~evaluation of the performance of pupils enrolled in the school for~~
36 ~~the first and second years after the school has been designated as a~~
37 ~~turnaround school.~~

38 **Sec. 7.** NRS 392.765 is hereby amended to read as follows:

39 392.765 1. If a pupil will be retained in grade 3 pursuant to
40 NRS 392.760, the principal of the school must:

41 (a) Provide written notice to the parent or legal guardian of the
42 pupil that the pupil will be retained in grade 3. The written notice
43 must include, without limitation, a description of the intensive
44 instructional services in the subject area of reading that the pupil



1 will receive to improve the proficiency of the pupil in that subject
2 area.

3 (b) Develop a plan to monitor the progress of the pupil in the
4 subject area of reading.

5 (c) Require the teacher of the pupil to develop a portfolio of the
6 pupil's work in the subject area of reading, which must be updated
7 as necessary to reflect progress made by the pupil.

8 (d) Ensure that the pupil receives intensive instructional services
9 in the subject area of reading that are designed to improve the
10 pupil's proficiency in the subject area of reading, including, without
11 limitation:

12 (1) Programs and services included in the plan to improve
13 the literacy of pupils enrolled in kindergarten and grades 1, 2 and 3
14 approved by the Department pursuant to NRS 388.157;

15 (2) Instruction for at least 90 minutes each school day based
16 upon scientifically based reading instruction research; and

17 (3) Intensive instructional services prescribed by the board of
18 trustees of the school district pursuant to subsection 2, as determined
19 appropriate for the pupil.

20 2. The board of trustees of each school district or the governing
21 body of a charter school, as applicable, shall:

22 (a) Review and evaluate the plans for monitoring the progress of
23 pupils developed pursuant to subsection 1.

24 (b) Prescribe the intensive instructional services in the subject
25 area of reading which the principal of a school must implement as
26 determined appropriate for a pupil who is retained in grade 3
27 pursuant to NRS 392.760, which may include, without limitation:

28 (1) Instruction that is provided in small groups;

29 (2) Instruction provided in classes with reduced pupil-teacher
30 ratios;

31 (3) A timeline for frequently monitoring the progress of the
32 pupil;

33 (4) Tutoring and mentoring;

34 (5) Classes which are designed to increase the ability of
35 pupils to transition from grade 3 to grade 4;

36 (6) Instruction provided through an extended school day,
37 school week or school year;

38 (7) Programs to improve a pupil's proficiency in reading
39 which are offered during the summer; or

40 (8) Any combination of the services set forth in
41 subparagraphs (1) to (7), inclusive.

42 3. Except as otherwise provided in subsection 4, the intensive
43 instructional services in the subject area of reading required by this
44 section must be provided to the pupil by a teacher:



1 (a) Who is different than the teacher who provided instructional
2 services to the pupil during the immediately preceding school year;
3 and

4 (b) Who has been determined to be highly effective, as
5 demonstrated by ~~{pupil performance data and}~~ performance
6 evaluations.

7 4. The intensive instructional services in the subject area of
8 reading required by this section may be provided to the pupil by the
9 same teacher who provided instructional services to the pupil during
10 the immediately preceding school year if a different teacher who
11 meets the requirements of paragraph (b) of subsection 3 is not
12 reasonably available and the pupil:

13 (a) Has an individualized education program; or

14 (b) Is enrolled in a school district in a county whose population
15 is less than 100,000.

16 5. The board of trustees of each school district and the
17 governing body of a charter school, as applicable, shall develop a
18 policy by which the principal of a school may promote a pupil who
19 is retained in grade 3 pursuant to NRS 392.760 to grade 4 at any
20 time during the school year if the pupil demonstrates adequate
21 proficiency in the subject area of reading. The policy must include
22 the specific criteria a pupil must satisfy to be eligible for promotion,
23 including, without limitation, a reasonable expectation that the
24 pupil's progress will allow him or her to sufficiently master the
25 requirements for a fourth-grade reading level. If a pupil is promoted
26 after November 1 of a school year, he or she must demonstrate
27 proficiency in reading at a level prescribed by the State Board.

28 6. If a principal of a school determines that a pupil is not
29 academically ready for promotion to grade 4 after being retained in
30 grade 3 and the pupil received intensive instructional services
31 pursuant to this section, the school district in which the pupil is
32 enrolled must allow the parent or legal guardian of the pupil to
33 decide, in consultation with the principal of the school, whether to
34 place the pupil in a transitional instructional setting which is
35 designed to produce learning gains sufficient for the pupil to meet
36 the performance standards required for grade 4 while continuing to
37 receive remediation in the subject area of reading.

38 7. As used in this section, "individualized education program"
39 has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).

40 **Sec. 8.** This act becomes effective on July 1, 2017.

