

Protection of School District Personnel Regarding the Disclosure of Testing Irregularities

2013-2014 School Year

Nevada Revised Statutes (NRS) 391.600 through 391.648 provide for specific rights and responsibilities of school district personnel with regard to the disclosure of irregularities in testing administration and testing security relative to all state- and district-mandated examinations. NRS 391.644 also requires the Department to annually submit a written summary of these rights and responsibilities to the board of trustees of each school district and to the governing body of each charter school.

Definitions

- “Examination” means:
 - Achievement and proficiency examinations that are administered to pupils pursuant to NRS 389.015 or 389.550, which include
 - 1) High School Proficiency Examinations in Reading, Mathematics, Science, and Writing;
 - 2) Criterion-referenced tests for students in grades 3 through 8;
 - 3) Any other examinations that measure achievement and proficiency of pupils and that are administered to pupils on a district-wide basis.
- “Irregularity in testing administration” means the failure to administer an examination in the manner intended by the person or entity that created the examination.
- “Irregularity in testing security” means an act or omission that tends to corrupt or impair the security of an examination, including, without limitation,
 - The failure to comply with the department or district security procedures;
 - The disclosure of questions or answers to questions on an examination in a manner not otherwise approved by law;
 - Other breaches in the security or confidentiality of the questions or answers to questions on an examination.
- “Reprisal or retaliatory action” is action that is taken because the school official disclosed information concerning testing irregularities and includes, without limitation,
 - Frequent or undesirable changes in the location of an office;
 - Frequent or undesirable transfers or reassignments;
 - The issuance of letters of reprimand, letters of admonition or evaluations of poor performance;
 - A demotion;
 - A reduction in pay;
 - The denial of a promotion;
 - A suspension;
 - A dismissal;
 - A transfer;
 - Frequent changes in working hours or workdays.

- “School official” means
 - A member of a board of trustees of a school district;
 - A member of a governing body of a charter school;
 - A licensed or unlicensed person employed by the board of trustees of a school district or the governing body of a charter school.

Rights and Responsibilities

- School officials are encouraged to disclose testing irregularities, and it is the intent of the legislature to protect the rights of a school official who makes such a disclosure.
- A school official shall not directly or indirectly use or attempt to use his official authority or influence to intimidate, threaten, coerce, command, or influence another school official in an effort to interfere with or prevent the disclosure of information concerning testing irregularities. “Official authority or influence” includes taking, directing others to take, recommending, processing, or approving any personnel action such as an appointment, promotion, transfer, assignment, reassignment, reinstatement, restoration, reemployment, evaluation, or other disciplinary action.
- If reprisal or retaliatory action is taken against a school official who discloses information concerning testing irregularities within 2 years after the information is disclosed, the school official may file a written appeal with the state board for a hearing on the matter and determination of whether the action taken was a reprisal or retaliatory action. The written appeal must be accompanied by a statement that specifies
 - The facts and circumstances leading to the disclosure of information concerning testing irregularities;
 - The reprisal or retaliatory action that is alleged to have been taken against the school official.
- The state board may issue a subpoena to compel the attendance or testimony of any witness or the production of any materials needed as part of the appeal investigation.
- If the state board determines that the action taken was a reprisal or retaliatory action, it may issue an order directing the proper person to desist and refrain from engaging in such action.
- The state board may not rule against the school official based on the identity of the person or persons to whom the information concerning testing irregularities was disclosed.
- No school official may use the provisions outlined in this summary to harass another school official.
- A person who willfully discloses untruthful information concerning testing irregularities
 - Is guilty of a misdemeanor;
 - Is subject to appropriate disciplinary action.
- These provisions do not apply to offenses committed before July 1, 2001.
- Upon receipt of this summary, the board of trustees or governing body shall provide a copy of the written summary to all school officials within the school district or charter school.