

HOUSE BILL 104

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

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AN ACT

RELATING TO PUBLIC SCHOOL PERSONNEL; REDUCING THE PROBATIONARY PERIOD FOR NONLICENSED SCHOOL EMPLOYEES TO ONE YEAR.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 22-10A-24 NMSA 1978 (being Laws 1986, Chapter 33, Section 22, as amended) is amended to read:

"22-10A-24. TERMINATION DECISIONS--LOCAL SCHOOL BOARD--GOVERNING AUTHORITY OF A STATE AGENCY--PROCEDURES.--

A. A local school board or governing authority of a state agency may terminate ~~[an]~~ a licensed school employee with fewer than three years of consecutive service for any reason it deems sufficient. A local school board or governing authority of a state agency may terminate a nonlicensed school employee with less than one year of employment for any reason it deems sufficient. Upon request of the employee, the local

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1 superintendent or state agency administrator shall provide
2 written reasons for the decision to terminate. The reasons
3 shall be provided within ten working days of the request. The
4 reasons shall not be publicly disclosed by the superintendent,
5 administrator, local school board or governing authority. The
6 reasons shall not provide a basis for contesting the decision
7 under the School Personnel Act.

8 B. Before terminating a [~~noncertified~~] nonlicensed
9 school employee, the local school board or governing authority
10 shall serve the nonlicensed school employee with a written
11 notice of termination.

12 C. [~~An~~] A licensed school employee who has been
13 employed by a school district or state agency for less than
14 three consecutive years or a nonlicensed school employee who
15 has been employed for less than one year and who receives a
16 notice of termination pursuant to either Section [~~22-10-12~~]
17 22-10A-22 NMSA 1978 or this section may request an opportunity
18 to make a statement to the local school board or governing
19 authority on the decision to terminate [~~him~~] the employee by
20 submitting a written request to the local superintendent or
21 state agency administrator within five working days from the
22 date written notice of termination is served upon [~~him~~] the
23 employee. The employee may also request in writing the reasons
24 for the termination action [~~to terminate him~~]. The local
25 superintendent or state agency administrator shall provide

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1 written reasons for the notice of termination to the employee
2 within five working days from the date the written request for
3 a meeting and the written request for the reasons were received
4 by the local superintendent or administrator. Neither the
5 local superintendent or administrator nor the local school
6 board or governing authority shall publicly disclose its
7 reasons for termination.

8 D. A local school board or governing authority may
9 not terminate ~~[an]~~ a licensed school employee who has been
10 employed by a school district or state agency for three
11 consecutive years or a nonlicensed school employee who has been
12 employed by a school district or state agency for one year
13 without just cause.

14 E. The employee's request pursuant to Subsection C
15 of this section shall be granted if ~~[he]~~ the employee responds
16 to the local superintendent's or state agency administrator's
17 written reasons as provided in Subsection C of this section by
18 submitting in writing to the local superintendent or
19 administrator a contention that the decision to terminate ~~[him]~~
20 was made without just cause. The written contention shall
21 specify the grounds on which it is contended that the decision
22 was without just cause and shall include a statement of the
23 facts that the employee believes support ~~[his]~~ the employee's
24 contention. This written statement shall be submitted within
25 ten working days from the date the employee receives the

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1 written reasons from the local superintendent or administrator.
2 The submission of this statement constitutes a representation
3 on the part of the employee that [~~he~~] the employee can support
4 [~~his~~] the employee's contentions and an acknowledgment that the
5 local school board or governing authority may offer the causes
6 for its decision and any relevant data in its possession in
7 rebuttal of [~~his~~] the employee's contentions.

8 F. A local school board or governing authority
9 shall meet to hear the employee's statement in no less than
10 five or more than fifteen working days after the local school
11 board or governing authority receives the statement. The
12 hearing shall be conducted informally in accordance with the
13 provisions of the Open Meetings Act. The employee and the
14 local superintendent or state agency administrator may each be
15 accompanied by a person of [~~his~~] the employee's and the
16 superintendent's or administrator's choice. First, the
17 superintendent shall present the factual basis for [~~his~~] the
18 determination that just cause exists for the termination of the
19 employee, limited to those reasons provided to the employee
20 pursuant to Subsection C of this section. Then, the employee
21 shall present [~~his~~] the employee's contentions, limited to
22 those grounds specified in Subsection E of this section. The
23 local school board or governing authority may offer such
24 rebuttal testimony as it deems relevant. All witnesses may be
25 questioned by the local school board or governing authority,

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1 the employee or [~~his~~] the employee's representative and the
2 local superintendent or administrator or [~~his~~] the
3 superintendent's or administrator's representative. The local
4 school board or governing authority may consider only such
5 evidence as is presented at the hearing and need consider only
6 such evidence as it considers reliable. No record shall be
7 made of the proceeding. The local school board or governing
8 authority shall notify the employee and the local
9 superintendent or administrator of its decision in writing
10 within five working days from the conclusion of the meeting."