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SENATE BILL 473

**47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006**

INTRODUCED BY

Cynthia Nava

AN ACT

RELATING TO PUBLIC SCHOOLS; REQUIRING REPORTS OF SCHOOL  
EMPLOYEE MISCONDUCT; PROVIDING THAT SETTLEMENT AGREEMENT  
CONFIDENTIALITY PROVISIONS DO NOT RELIEVE RESPONSIBILITY FOR  
REPORTING.

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

Section 1. Section 22-10A-5 NMSA 1978 (being Laws 1997,  
Chapter 238, Section 1, as amended) is amended to read:

"22-10A-5. BACKGROUND CHECKS--KNOWN CONVICTIONS--  
REPORTING REQUIRED--LIMITED IMMUNITY--PENALTY FOR FAILURE TO  
REPORT.--

A. An applicant for initial licensure shall be  
fingerprinted and shall provide two fingerprint cards or the  
equivalent electronic fingerprints to the department to obtain  
the applicant's federal bureau of investigation record.

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1 Convictions of felonies or misdemeanors contained in the  
2 federal bureau of investigation record shall be used in  
3 accordance with the Criminal Offender Employment Act. Other  
4 information contained in the federal bureau of investigation  
5 record, if supported by independent evidence, may form the  
6 basis for the denial, suspension or revocation of a license for  
7 good and just cause. Records and related information shall be  
8 privileged and shall not be disclosed to a person not directly  
9 involved in the licensure or employment decisions affecting the  
10 specific applicant. The applicant for initial licensure shall  
11 pay for the cost of obtaining the federal bureau of  
12 investigation record.

13 B. Local school boards and regional education  
14 cooperatives shall develop policies and procedures to require  
15 background checks on an applicant who has been offered  
16 employment, a contractor or a contractor's employee with  
17 unsupervised access to students at a public school.

18 C. An applicant for employment who has been  
19 initially licensed within twenty-four months of applying for  
20 employment with a local school board, regional education  
21 cooperative or [a] charter school shall not be required to  
22 submit to another background check if the department has copies  
23 of [his] the applicant's federal bureau of investigation  
24 records on file. An applicant who has been offered employment,  
25 a contractor or a contractor's employee with unsupervised

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1 access to students at a public school shall provide two  
2 fingerprint cards or the equivalent electronic fingerprints to  
3 the local school board, regional education cooperative or  
4 charter school to obtain ~~his~~ the applicant's federal bureau  
5 of investigation record. The applicant, contractor or  
6 contractor's employee who has been offered employment by a  
7 regional education cooperative or at a public school may be  
8 required to pay for the cost of obtaining a background check.  
9 At the request of a local school board, regional education  
10 cooperative or charter school, the department is authorized to  
11 release copies of federal bureau of investigation records that  
12 are on file with the department and that are not more than  
13 twenty-four months old. Convictions of felonies or  
14 misdemeanors contained in the federal bureau of investigation  
15 record shall be used in accordance with the Criminal Offender  
16 Employment Act; provided that other information contained in  
17 the federal bureau of investigation record, if supported by  
18 independent evidence, may form the basis for the employment  
19 decisions for good and just cause. Records and related  
20 information shall be privileged and shall not be disclosed to a  
21 person not directly involved in the employment decision  
22 affecting the specific applicant who has been offered  
23 employment, contractor or contractor's employee with  
24 unsupervised access to students at a public school.

25 D. A local superintendent or charter school

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1 administrator shall report to the department any known  
2 conviction of a felony or misdemeanor involving moral turpitude  
3 of a licensed school employee that results in any type of  
4 action against the licensed school employee.

5 E. A local superintendent or charter school  
6 administrator shall report to the department the identity and  
7 attendant circumstances of a licensed school employee who  
8 resigns, is removed from or otherwise leaves school employment  
9 during or after an allegation of ethical misconduct. The  
10 signing of a settlement agreement containing a confidentiality  
11 provision does not relieve a local superintendent or charter  
12 school administrator from the responsibility of reporting the  
13 identity and attendant circumstances of the employee's alleged  
14 misconduct.

15 ~~[E.] F.~~ The ~~[state board]~~ department may suspend or  
16 revoke the license of a local superintendent or charter school  
17 administrator who fails to report ~~[a criminal conviction~~  
18 ~~involving moral turpitude of a licensed school employee]~~ as  
19 required by the provisions of Subsection D and E of this  
20 section.

21 ~~[F.] G.~~ A person who in good faith reports ~~[any~~  
22 ~~known conviction of a felony or misdemeanor involving moral~~  
23 ~~turpitude of a licensed school employee]~~ as required by the  
24 provisions of Subsections D and E of this section shall not be  
25 held liable for civil damages as a result of the report;

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1 provided that the person being accused shall have the right to  
2 sue for any damages sustained as a result of negligent or  
3 intentional reporting of inaccurate information or the  
4 disclosure of any information to an unauthorized person."

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