

HOUSE EDUCATION COMMITTEE SUBSTITUTE FOR
HOUSE BILL 567

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

AN ACT

RELATING TO PUBLIC SCHOOLS; ALLOWING FOR THE SUSPENSION OF
INDIVIDUAL LOCAL SCHOOL BOARD MEMBERS; PROVIDING FOR
APPOINTMENTS DURING TERMS OF SUSPENSION.

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

SECTION 1. Section 22-2-14 NMSA 1978 (being Laws 1978,
Chapter 129, Section 1, as amended) is amended to read:

"22-2-14. LOCAL SCHOOL BOARDS--PUBLIC SCHOOLS--
SUSPENSION--PROCEDURES.--

A. Money budgeted by a school district shall be
spent first to attain and maintain the requirements for a
school district as prescribed by law and by standards and rules
as prescribed by the department. The department shall give
written notification to a local school board, local school
board member, local superintendent and school principal, as

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underscored material = new
[bracketed material] = delete

1 applicable, of any failure to meet requirements by any part of
2 the school district under the control of the local school
3 board. The notice shall specify the deficiency. Instructional
4 units or administrative functions may be disapproved for such
5 deficiencies. The department shall disapprove instructional
6 units or administrative functions that it determines to be
7 detrimental to the educational process.

8 B. Within thirty days after receipt of the notice
9 of failure to meet requirements, the local school board, local
10 superintendent and school principal, as applicable, shall:

11 (1) comply with the specific and attendant
12 requirements in order to remove the cause for disapproval; or

13 (2) submit plans satisfactory to the
14 department to meet requirements and remove the cause for
15 disapproval.

16 C. The secretary, after consultation with the
17 commission, shall suspend from authority and responsibility a
18 local school board, local superintendent or school principal
19 that has had notice of disapproval and fails to comply with
20 procedures of Subsection B of this section. The department
21 shall act in lieu of the suspended local school board, local
22 superintendent or school principal until the department removes
23 the suspension.

24 D. Within thirty days after receipt of the notice
25 of failure to meet requirements by a local school board member,

1 the following events shall occur in the following order:

2 (1) the local school board president shall
3 have a private, direct conversation with the local school board
4 member;

5 (2) the local school board, in executive
6 session, shall address the failure of the local school board
7 member to meet requirements; and

8 (3) the local school board shall have an open
9 meeting and vote to censure the local school board member.

10 E. If the local school board votes to censure a
11 local school board member pursuant to Paragraph (3) of
12 Subsection D of this section, the local school board president
13 shall file a formal complaint with the secretary to request a
14 review of the failure of the local school board member to meet
15 requirements and to authorize interventions to be directed by
16 the New Mexico school boards association.

17 F. If a local school board member fails to comply
18 with the specific and attendant requirements in order to remove
19 the cause for disapproval and the procedures of Subsection D of
20 this section, the local school board shall file a formal
21 complaint with the commission to conduct a public hearing to
22 make a determination of whether the local school board member
23 should be suspended.

24 [D.] G. To suspend a local school board, local
25 school board member, local superintendent or school principal,

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1 the secretary shall deliver to the local school board an
2 alternative order of suspension, stating the cause for the
3 suspension and the effective date and time the suspension will
4 begin. The alternative order shall also contain notice of a
5 time, date and place for a public hearing, prior to the
6 beginning of suspension, to be held by the department, at which
7 the local school board, local school board member, local
8 superintendent or school principal may appear and show cause
9 why the suspension should not be put into effect. Within five
10 days after the hearing, the secretary shall make permanent,
11 modify or withdraw the alternative order.

12 ~~[E-]~~ H. The secretary may suspend a local school
13 board, local school board member, local superintendent or
14 school principal when the local school board, local school
15 board member, local superintendent or school principal has been
16 notified of disapproval and when the department has sufficient
17 reason to believe that the educational process in the school
18 district or public school has been severely impaired or halted
19 as a result of deficiencies so severe as to warrant disapproved
20 status before a public hearing can be held. If a local school
21 board member is suspended pursuant to this subsection and a
22 majority of the full membership of the local school board
23 continues in authority, the remaining members shall continue to
24 execute all legal authority of the local school board. If
25 suspensions of local school board members under this subsection

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1 result in less than a majority of the full membership of the
2 local school board remaining in authority, the department shall
3 act in lieu of the local school board until such time as the
4 secretary enters an order pursuant to Subsection G of this
5 section and members are appointed pursuant to Subsection K of
6 this section.

7 ~~[F.]~~ I. The department, while acting in lieu of a
8 suspended local school board, local superintendent or school
9 principal, shall execute all the legal authority of the local
10 school board, local superintendent or school principal and
11 assume all the responsibilities of the local school board,
12 local superintendent or school principal.

13 J. Upon suspension of a local school board member
14 by order of the secretary pursuant to Subsection G of this
15 section, the appointment of a qualified person to serve in lieu
16 of the suspended member until the earlier of the removal of the
17 suspension or the expiration of the term of the suspended local
18 board member shall be accomplished as follows:

19 (1) the remaining members of the local school
20 board shall appoint a qualified person to serve in lieu of the
21 suspended member at an open meeting at which a quorum of the
22 membership is present, by a majority vote of the remaining
23 members; and

24 (2) if a qualified person is not appointed
25 within forty-five days from the date the secretary's order is

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1 entered, the department shall appoint a qualified person to
2 serve in lieu of the suspended member.

3 K. If suspensions of local school board members
4 pursuant to Subsection G of this section result in less than a
5 majority of the full membership of the local school board
6 remaining in authority, the department shall appoint qualified
7 persons to serve in lieu of the suspended local school board
8 members until the earlier of the removal of the suspensions or
9 the expiration of the terms of suspended local school board
10 members.

11 [~~G.~~] L. The provisions of this section shall be
12 invoked at any time the secretary, after consultation with the
13 commission, finds that the school district or public school has
14 failed to attain and maintain the requirements of law or
15 department standards and rules.

16 [~~H.~~] M. The commission shall consult with the
17 secretary and may recommend alternative actions for the
18 secretary's consideration.

19 [~~I.~~] N. A local school board, local school board
20 member, local superintendent or school principal aggrieved by a
21 decision of the secretary may appeal to the district court
22 pursuant to the provisions of Section 39-3-1.1 NMSA 1978."