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SENATE BILL 502

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

INTRODUCED BY

Cynthia Nava

AN ACT

RELATING TO SCHOOL PERSONNEL; REQUIRING SCHOOL DISTRICTS AND
CHARTER SCHOOLS TO ADOPT THE STATE TEACHER EVALUATION FRAMEWORK
TO IMPROVE STUDENT ACHIEVEMENT AND A SCHOOL PRINCIPAL
EVALUATION BASED ON SCHOOL ACHIEVEMENT; PROVIDING TIME LINES;
AMENDING THE SCHOOL PERSONNEL ACT TO CHANGE THE TERMINATION
PROCESS; DECLARING AN EMERGENCY.

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

SECTION 1. A new section of the School Personnel Act is
enacted to read:

"[NEW MATERIAL] TEACHER EVALUATIONS--SCHOOL PRINCIPAL
EVALUATIONS--REQUIREMENTS--TIME LINES--WORK GROUP.--

A. As used in this section:

(1) "school district" includes a charter
school; and

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1 (2) "school principal" or "local
2 superintendent" includes the head administrator of a charter
3 school.

4 B. Each school district shall evaluate teachers
5 using the state framework and its own evaluation program to
6 measure teacher effectiveness and improve student achievement.
7 Each teacher evaluation program shall use multiple methods of
8 evaluation that are rigorous, fair and transparent, and the
9 results must be provided to the teacher in a timely manner.
10 The teacher evaluation program may include opportunities for
11 input and participation by peers, subject-matter experts,
12 external specialists, educational leaders other than a direct
13 supervisor and others specified in the program. Each teacher
14 evaluation program shall be approved by the department prior to
15 implementation, and the department shall monitor the program's
16 use and efficacy in improving teacher effectiveness and student
17 achievement in the school district. The school district
18 teacher evaluation shall:

19 (1) identify teachers who are most effective
20 at helping students succeed;

21 (2) provide targeted assistance and
22 professional development opportunities for teachers to improve;

23 (3) improve the match between teacher
24 assignments and student and school needs; and

25 (4) provide incentives for effective teachers.

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1 C. For teachers in grades and courses that have
2 required statewide standards-based assessments, the majority of
3 their evaluations shall be based on student academic growth in
4 reading and mathematics.

5 D. For teachers in grades and courses that do not
6 have required statewide standards-based assessments,
7 evaluations shall be as follows:

8 (1) the majority of their evaluations shall be
9 based on student academic growth determined by designated
10 school district assessments that indicate that students are
11 improving at a rate that will allow them to perform at or above
12 grade level within two years; or

13 (2) if no designated school district school
14 assessments apply, the majority of their evaluations shall be
15 based on teacher-developed assessments after those assessments
16 have been reviewed and approved by the local superintendent or
17 the school administrator designated by the local
18 superintendent.

19 E. In addition to the requirements of Subsections C
20 and D of this section, teacher evaluations shall include:

21 (1) classroom observations of teachers using a
22 research-based protocol completed by a school administrator at
23 least once a school year; and

24 (2) additional measures of teacher
25 effectiveness developed by each school district, including:

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- 1 (a) student and parent surveys;
2 (b) peer observations and reviews;
3 (c) teacher performance portfolios;
4 (d) video classroom observations with
5 teacher reflection after viewing the videos; or
6 (e) other evidence-based measures that
7 effectively measure teacher performance.

8 F. School district teacher evaluation scales shall
9 include at least four levels of evaluating effectiveness.

10 G. School districts shall document and use the
11 results of teacher evaluations to tailor professional
12 development for individual teachers.

13 H. The department shall make available to school
14 districts the evaluation framework and other materials from
15 evidence-based sources as models to help them develop and adopt
16 their own programs.

17 I. Each school district shall evaluate school
18 principals on their school's achievement based on the state
19 accountability system and provide incentives for effective
20 school principals. The governing board of a charter school
21 shall evaluate its school principal on the school's achievement
22 based on the state accountability system.

23 J. The department and school districts shall follow
24 the time line provided in Subsections K through Q of this
25 section to implement teacher and school principal evaluation

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1 programs in all school districts.

2 K. During April 2011 to August 2011, the department
3 shall convene a work group to develop and make recommendations
4 for a statewide framework for teacher evaluation models and
5 school principal evaluations and propose a performance-based
6 compensation system that incentivizes effective teachers and
7 school principals. The secretary shall report to the governor
8 in August 2011 on the statewide framework. The secretary shall
9 present a final report, with recommendations for legislative
10 changes as necessary, to the legislative education study
11 committee and the legislative finance committee by December 1,
12 2011. The work group shall be composed of:

13 (1) the secretary or the secretary's designee,
14 who shall serve as chair;

15 (2) the director of the legislative education
16 study committee;

17 (3) the director of the legislative finance
18 committee; and

19 (4) other members appointed by the secretary,
20 including:

21 (a) a representative from an
22 organization of school administrators;

23 (b) a representative from a public
24 school teacher organization;

25 (c) a representative from a public

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1 school parent organization;

2 (d) a representative of charter schools;

3 (e) a representative of the business
4 community;

5 (f) a public school teacher;

6 (g) a public school principal;

7 (h) a parent of a public school student;

8 (i) an expert on teacher evaluation

9 models; and

10 (j) an expert on value-added models.

11 L. The department shall provide to school districts
12 regular updates on the progress of the work group and provide
13 assistance to school districts to ensure that they are prepared
14 to implement the recommendations.

15 M. During April to August 2011, school districts
16 shall designate district-wide assessments and approve teacher-
17 developed assessments and make staff aware of evaluation models
18 and provide training for school principals and evaluators.

19 N. During the 2011-2012 school year, school
20 districts shall adopt their evaluation programs based on the
21 state teacher evaluation framework and school principal
22 evaluations based on school achievement and use them to
23 determine teacher and school principal effectiveness to create
24 a baseline of performance.

25 O. Beginning with the 2012-2013 school year, each

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1 school district's teacher and school principal evaluation
2 programs and performance-based compensation systems shall be
3 operational. A teacher who earns the lowest effectiveness
4 rating on the school district's evaluation scale for three
5 consecutive years shall be terminated unless the teacher can
6 demonstrate that the data or other information relied on for
7 the teacher's evaluation results was inaccurate or
8 misrepresented. A school district shall provide additional
9 professional development to a teacher who earns a low
10 effectiveness rating. If the teacher earns the lowest
11 effectiveness rating for two consecutive years, the teacher
12 shall be placed on probation and shall be terminated if the
13 teacher earns the lowest effectiveness rating for the third
14 consecutive year. A school principal whose school earns the
15 lowest ranking on the state's accountability system for three
16 consecutive years shall be terminated.

17 P. As part of the performance-based compensation
18 system for each school district, teachers who earn the lowest
19 effectiveness rating on the school district's evaluation scale
20 are not eligible for compensation increases. School principals
21 whose schools earn the lowest ranking on the state's
22 accountability system are not eligible for compensation
23 increases.

24 Q. Beginning with the 2012-2013 school year, when a
25 school district must terminate or discharge teachers through a

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1 reduction in force, it shall consider the effectiveness of
2 individual teachers as demonstrated by their evaluations when
3 determining which teachers to terminate or discharge.

4 R. The department shall develop a recognition
5 program to reward effective teachers and school principals.
6 Awards are subject to the availability of funding and the
7 number of teachers and school principals who earn top
8 effectiveness ratings in a given year. All public schools are
9 eligible to participate in the program."

10 SECTION 2. Section 22-8B-5 NMSA 1978 (being Laws 1999,
11 Chapter 281, Section 5, as amended) is amended to read:

12 "22-8B-5. CHARTER SCHOOLS--STATUS--LOCAL SCHOOL BOARD
13 AUTHORITY.--

14 A. The local school board may waive only locally
15 imposed school district requirements for locally chartered
16 charter schools.

17 B. A state-chartered charter school is exempt from
18 school district requirements. A state-chartered charter school
19 is responsible for developing its own written policies and
20 procedures in accordance with this section.

21 C. The department shall waive requirements or rules
22 and provisions of the Public School Code pertaining to
23 individual class load, teaching load, length of the school day,
24 staffing patterns, subject areas, purchase of instructional
25 material, evaluation standards for school personnel, school

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1 principal duties and driver education; provided, however, that
2 the charter school shall have teacher and head administrator
3 evaluation programs as provided in Section 1 of this 2011 act
4 by the 2012-2013 school year. The department may waive
5 requirements or rules and provisions of the Public School Code
6 pertaining to graduation requirements. Any waivers granted
7 pursuant to this section shall be for the term of the charter
8 granted but may be suspended or revoked earlier by the
9 department.

10 D. A charter school shall be a public school
11 accredited by the department and shall be accountable to the
12 chartering authority for purposes of ensuring compliance with
13 applicable laws, rules and charter provisions.

14 E. A local school board shall not require any
15 employee of the school district to be employed in a charter
16 school.

17 F. A local school board shall not require any
18 student residing within the geographic boundary of its district
19 to enroll in a charter school.

20 G. A student who is suspended or expelled from a
21 charter school shall be deemed to be suspended or expelled from
22 the school district in which the student resides."

23 SECTION 3. Section 22-10A-4 NMSA 1978 (being Laws 2003,
24 Chapter 153, Section 35, as amended by Laws 2005, Chapter 315,
25 Section 4 and by Laws 2005, Chapter 316, Section 1) is amended

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1 to read:

2 "22-10A-4. TEACHERS AND SCHOOL ADMINISTRATORS--
3 PROFESSIONAL STATUS--LICENSURE LEVELS--SALARY ALIGNMENT.--

4 A. Teaching and school administration are
5 recognized as professions, with all the rights,
6 responsibilities and privileges accorded professions, having
7 their first responsibility to the public they serve. The
8 primary responsibilities of the teaching and school
9 administration professions are to educate the children of this
10 state and to improve the professional practices and ethical
11 conduct of their members.

12 B. The New Mexico licensure framework for teachers
13 and school administrators is a progressive career system in
14 which licensees are required to demonstrate increased
15 competencies and undertake increased duties as they progress
16 through the licensure levels. The minimum salary provided as
17 part of the career system shall not take effect until the
18 department has adopted increased competencies for the
19 particular level of licensure and a highly objective uniform
20 statewide standard of evaluation.

21 C. A level one license is a provisional license
22 that gives a beginning teacher the opportunity, through a
23 formal mentorship program, for additional preparation to be a
24 quality teacher. A level two license is given to a teacher who
25 is a fully qualified professional who is primarily responsible

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1 for ensuring that students meet and exceed department-adopted
2 academic content and performance standards; a teacher may
3 choose to remain at level two for the remainder of the
4 teacher's career. A level three-A license is the highest level
5 of teaching licensure for those teachers who choose to advance
6 as instructional leaders in the teaching profession and
7 undertake greater responsibilities such as curriculum
8 development, peer intervention and mentoring. A level three-B
9 license is for teachers who commence a new career path in
10 school administration by becoming school administrators.

11 D. All teacher and school administrator salary
12 systems shall be aligned with the licensure framework in a
13 professional educator licensing and [~~salary~~] performance-based
14 compensation system.

15 E. All teachers and school administrators who hold
16 teaching or administrator certificates on the effective date of
17 the 2003 act shall meet the requirements for their level of
18 licensure by September 1, 2006 and shall be issued licenses."

19 SECTION 4. Section 22-10A-7 NMSA 1978 (being Laws 2003,
20 Chapter 153, Section 38, as amended) is amended to read:

21 "22-10A-7. LEVEL ONE LICENSURE.--

22 A. A level one license is a provisional five-year
23 license for beginning teachers that requires as a condition of
24 licensure that the licensee undergo a formal mentorship program
25 for at least one full school year and an annual intensive

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1 performance evaluation by a school administrator for at least
2 three full school years before applying for a level two
3 license.

4 B. Each school district, in accordance with
5 department rules, shall provide for the mentorship and
6 evaluation of level one teachers. At the end of each year and
7 at the end of the license period, the level one teacher shall
8 be evaluated for [~~competency~~] teacher effectiveness. If the
9 teacher fails to demonstrate satisfactory progress and
10 [~~competence~~] effectiveness annually, the teacher may be
11 terminated as provided in Section [~~22-10A-24~~] 22-10A-22 NMSA
12 1978. If the teacher has not demonstrated satisfactory
13 progress and [~~competence~~] effectiveness by the end of the five-
14 year period, the teacher shall not be granted a level two
15 license.

16 C. Except in exigent circumstances defined by
17 department rule, a level one license shall not be extended
18 beyond the initial period.

19 D. The department shall issue a standard level one
20 license to an applicant who is at least eighteen years of age
21 who:

22 (1) holds a baccalaureate degree from an
23 accredited educational institution;

24 (2) has successfully completed a department-
25 approved teacher preparation program from a nationally

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1 accredited or state-approved educational institution;

2 (3) has passed the New Mexico teacher
3 assessments examination; and

4 (4) meets other qualifications for level one
5 licensure, including clearance of the required background
6 check.

7 E. The department shall issue an alternative level
8 one license to an applicant who meets the requirements of
9 Section 22-10A-8 NMSA 1978.

10 F. The department shall establish competencies and
11 qualifications for specific grade levels, types and subject
12 areas of level one licensure, including early childhood,
13 elementary, middle school, secondary, special education and
14 vocational education.

15 G. Beginning with the 2003-2004 school year, with
16 the adoption by the department of a highly objective uniform
17 statewide standard of evaluation for level one teachers, the
18 minimum salary for a level one teacher shall be thirty thousand
19 dollars (\$30,000) for a standard nine and one-half month
20 contract.

21 H. Teachers who hold level one licenses on the
22 effective date of the 2003 act must be evaluated by the end of
23 the 2006-2007 school year.

24 I. Beginning with the 2012-2013 school year, level
25 one teachers shall be evaluated and retained pursuant to their

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1 school district's or charter school's teacher evaluation system
2 and compensated pursuant to the school district's performance-
3 based compensation system."

4 SECTION 5. Section 22-10A-10 NMSA 1978 (being Laws 2003,
5 Chapter 153, Section 41, as amended by Laws 2005, Chapter 315,
6 Section 7 and by Laws 2005, Chapter 316, Section 4) is amended
7 to read:

8 "22-10A-10. LEVEL TWO LICENSURE.--

9 A. A level two license is a nine-year license
10 granted to a teacher who meets the qualifications for that
11 level and who annually demonstrates [~~essential competency to~~
12 ~~teach~~] effectiveness in teaching. If a level two teacher does
13 not demonstrate [~~essential competency~~] effectiveness in a given
14 school year, the school district shall provide the teacher with
15 additional professional development and peer intervention
16 during the following school year. [~~If by the end of that~~
17 ~~school year the teacher fails to demonstrate essential~~
18 ~~competency, a school district may choose not to contract with~~
19 ~~the teacher to teach in the classroom.~~]

20 B. The department shall issue a level two license
21 to an applicant who successfully completes the level one
22 license or is granted reciprocity as provided by department
23 rules; demonstrates [~~essential competency~~] effectiveness in
24 teaching required by the [~~department as verified by the local~~
25 ~~superintendent through the highly objective uniform statewide~~

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1 ~~standard of evaluation]~~ school district's or charter school's
2 teacher evaluation system; and meets other qualifications as
3 required by the department.

4 C. The department shall provide for qualifications
5 for specific grade levels, types and subject areas of level two
6 licensure, including early childhood, elementary, middle,
7 secondary, special education and vocational education.

8 D. ~~[With the adoption by the department of the~~
9 ~~statewide objective performance evaluation for level two~~
10 ~~teachers]~~ The minimum salary for a level two teacher for a
11 standard nine and one-half month contract shall be as follows:

12 (1) for the 2003-2004 school year,
13 thirty thousand dollars (\$30,000);

14 (2) for the 2004-2005 school year,
15 thirty-five thousand dollars (\$35,000); and

16 (3) for the 2005-2006 school year and
17 subsequent school years, forty thousand dollars (\$40,000).

18 E. Beginning with the 2012-2013 school year, level
19 two teachers shall be evaluated and retained pursuant to their
20 school district's or charter school's teacher evaluation system
21 and compensated pursuant to the school district's performance-
22 based compensation system."

23 SECTION 6. Section 22-10A-11 NMSA 1978 (being Laws 2003,
24 Chapter 153, Section 42, as amended) is amended to read:

25 "22-10A-11. LEVEL THREE LICENSURE--TRACKS FOR TEACHERS,
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1 COUNSELORS AND SCHOOL ADMINISTRATORS.--

2 A. A level three-A license is a nine-year license
3 granted to a teacher who meets the qualifications for that
4 level and who annually demonstrates [~~instructional leader~~
5 ~~competencies~~] effectiveness in teaching. If a level three-A
6 teacher does not demonstrate [~~essential competency~~
7 effectiveness in a given school year, the school district shall
8 provide the teacher with additional professional development
9 and peer intervention during the following school year. [~~If by~~
10 ~~the end of that school year the teacher fails to demonstrate~~
11 ~~essential competency, a school district may choose not to~~
12 ~~contract with the teacher to teach in the classroom.~~]

13 B. The department shall grant a level three-A
14 license to an applicant who has been a level two teacher for at
15 least three years and holds a post-baccalaureate degree or
16 national board for professional teaching standards
17 certification; demonstrates [~~instructional leader competence as~~
18 ~~required by the department and verified by the local~~
19 ~~superintendent through the highly objective uniform statewide~~
20 ~~standard of~~] effectiveness in teaching as provided by the
21 school district's or charter school's teacher evaluation
22 program; and meets other qualifications for the license.

23 C. [~~With the adoption by the department of a highly~~
24 ~~objective uniform statewide standard of evaluation for level~~
25 ~~three-A teachers~~] The minimum salary for a level three-A

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1 teacher for a standard nine and one-half month contract shall
2 be as follows:

3 (1) for the 2003-2004 school year, thirty
4 thousand dollars (\$30,000);

5 (2) for the 2004-2005 school year,
6 thirty-five thousand dollars (\$35,000);

7 (3) for the 2005-2006 school year, forty
8 thousand dollars (\$40,000);

9 (4) for the 2006-2007 school year,
10 forty-five thousand dollars (\$45,000); and

11 (5) for the 2007-2008 school year and
12 subsequent school years, fifty thousand dollars (\$50,000).

13 D. Beginning with the 2012-2013 school year, level
14 three teachers shall be evaluated and retained pursuant to
15 their school district's or charter school's teacher evaluation
16 system and compensated pursuant to the school district's
17 performance-based compensation system.

18 [~~D.~~] E. A level three-B license is a nine-year
19 license granted to a school administrator who meets the
20 qualifications for that level. Licenses may be renewed upon
21 satisfactory annual demonstration of instructional leader and
22 administrative competency. School principals shall be
23 evaluated on their school's achievement based on the state
24 accountability system.

25 [~~E.~~] F. The department shall grant a level three-B

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1 license to an applicant who:

2 (1) holds a level two license and meets the
3 requirements for a level three-A license or who holds a current
4 level two teacher's license and for at least four years, has
5 held the highest-ranked counselor license as provided in
6 Chapter 22, Article 10A NMSA 1978 and rules promulgated by the
7 department;

8 (2) holds a post-baccalaureate degree or
9 national board for professional teaching standards
10 certification;

11 (3) has satisfactorily completed department-
12 approved courses in administration and a department-approved
13 administration apprenticeship program; and

14 (4) demonstrates instructional leader
15 competence as required by the department [~~and verified by the~~
16 ~~local superintendent through the highly objective uniform~~
17 ~~statewide standard of evaluation~~].

18 [~~F.~~] G. Beginning with the 2007-2008 school year,
19 the minimum annual salary for a level three-B school principal
20 or assistant school principal shall be fifty thousand dollars
21 (\$50,000) multiplied by the applicable responsibility factor.

22 [~~G.~~] H. By the beginning of the 2008-2009 school
23 year, the department shall adopt a highly objective uniform
24 statewide standard of evaluation, which includes data sources
25 linked to student achievement and educational plan for student

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1 success progress, for level three-B school principals and
2 assistant school principals and rules for the implementation of
3 that evaluation system linked to the level of responsibility at
4 each school level.

5 I. By the 2012-2013 school year, school principals
6 shall be evaluated on their school's achievement based on the
7 state accountability system."

8 SECTION 7. Section 22-10A-19 NMSA 1978 (being Laws 2003,
9 Chapter 153, Section 50, as amended) is amended to read:

10 "22-10A-19. TEACHERS AND SCHOOL PRINCIPALS--
11 ACCOUNTABILITY--EVALUATIONS--PROFESSIONAL DEVELOPMENT--PEER
12 INTERVENTION--MENTORING.--

13 A. The department shall adopt criteria and minimum
14 highly objective uniform statewide standards of evaluation for
15 the annual performance evaluation of licensed school employees
16 except teachers. A teacher shall be evaluated through the
17 school district's or charter school's teacher evaluation
18 program as provided in Section 1 of this 2011 act. The
19 professional development plan for teachers shall include
20 documentation on how a teacher who receives professional
21 development that has been required or offered by the state or a
22 school district or charter school incorporates the results of
23 that professional development in the classroom.

24 B. The local superintendent shall adopt policies,
25 guidelines and procedures for the performance evaluation

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1 process. Evaluation by other school employees shall be one
2 component of the evaluation tool for school administrators.

3 ~~[G. As part of the highly objective uniform~~
4 ~~statewide standard of evaluation for teachers, the school~~
5 ~~principal shall observe each teacher's classroom practice to~~
6 ~~determine the teacher's ability to demonstrate state-adopted~~
7 ~~competencies.~~

8 ~~D.]~~ C. At the beginning of each school year,
9 teachers and school principals shall devise professional
10 development plans for the coming year, and performance
11 evaluations shall be based in part on how well the professional
12 development plan was carried out.

13 ~~[E.]~~ D. If a level two or three-A teacher's
14 performance evaluation indicates less than [~~satisfactory~~]
15 effective performance [~~and competency~~], the school principal
16 may require the teacher to undergo peer intervention, including
17 mentoring, for a period the school principal deems necessary.
18 If the teacher is unable to demonstrate [~~satisfactory~~]
19 effective performance [~~and competency~~] by the end of the
20 period, the peer interveners may recommend termination of the
21 teacher.

22 ~~[F.]~~ E. At least every two years, school principals
23 shall attend a training program [~~approved by the department~~] to
24 improve their evaluation, administrative and instructional
25 leadership skills."

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1 SECTION 8. Section 22-10A-21 NMSA 1978 (being Laws 1967,
2 Chapter 16, Section 113, as amended) is amended to read:

3 "22-10A-21. EMPLOYMENT CONTRACTS--DURATION.--

4 A. All employment contracts between [~~local~~] a
5 school [~~boards~~] district or state agency and [~~certified~~
6 licensed school [~~personnel and between governing authorities of~~
7 ~~state agencies and certified school instructors~~] employees
8 shall be in writing on forms approved by the [~~state board~~
9 department]. These forms shall contain and specify the term of
10 service, the salary to be paid, the method of payment, the
11 causes for termination of the contract and other provisions
12 required by the [~~regulations of the state board~~] rules of the
13 department.

14 B. All employment contracts between [~~local~~] a
15 school [~~boards~~] district or state agency and [~~certified~~
16 licensed school [~~personnel and between governing authorities of~~
17 ~~state agencies and certified school instructors~~] employees
18 shall be for a period of one school year except:

19 (1) contracts for less than one school year
20 are permitted to fill personnel vacancies [~~which~~] that occur
21 during the school year;

22 (2) contracts for the remainder of a school
23 year are permitted to staff programs when the availability of
24 funds for the programs is not known until after the beginning
25 of the school year;

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1 (3) contracts for less than one school year
2 are permitted to staff summer school programs and to staff
3 federally funded programs in which the federally approved
4 programs are specified to be conducted for less than one school
5 year; and

6 (4) contracts not to exceed three years are
7 permitted for [~~certified~~] school administrators in public
8 schools who are engaged in administrative functions for more
9 than one-half of their employment time [~~and~~

10 ~~(5) contracts not to exceed three years are~~
11 ~~permitted at the discretion of the local school board for~~
12 ~~certified school instructors in public schools who have been~~
13 ~~employed in the school district for three consecutive school~~
14 ~~years].~~

15 C. Persons employed under contracts for periods of
16 less than one school year as provided in Paragraphs (1) and (2)
17 of Subsection B of this section shall be accorded all the
18 duties, rights and privileges of the [~~Certified~~] School
19 Personnel Act.

20 D. In determination of eligibility for unemployment
21 compensation rights and benefits for [~~certified~~] licensed
22 school [~~instructors~~] employees where those rights and benefits
23 are claimed to arise from the employment relationship between
24 [~~governing authorities of state agencies or local school boards~~
25 ~~and certified school instructors~~] school districts or state

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1 agencies and the licensed school employees, that period of a
2 year not covered by a school year shall not be considered an
3 unemployment period.

4 E. ~~[Except as provided in Section 22-10-12 NMSA~~
5 ~~1978]~~ A person employed by contract pursuant to this section
6 has no legitimate objective expectancy of reemployment, and no
7 contract entered into pursuant to this section shall be
8 construed as an implied promise of continued employment
9 pursuant to a subsequent contract."

10 SECTION 9. Section 22-10A-22 NMSA 1978 (being Laws 1967,
11 Chapter 16, Section 114, as amended) is amended to read:

12 "22-10A-22. NOTICE OF REEMPLOYMENT--TERMINATION OF OF
13 LICENSED SCHOOL EMPLOYEES.--

14 A. Each school principal shall recommend to the
15 local superintendent the reemployment or termination of each
16 licensed school employee under the principal's supervision. On
17 or before the last day of the school year of the existing
18 employment contract, the local [~~school board or the governing~~
19 ~~authority of the state agency]~~ superintendent shall serve
20 written notice of reemployment or termination on each
21 [~~certified]~~ licensed school [~~instructor]~~ employee employed by
22 the school district or state agency. A notice of reemployment
23 shall be an offer of employment for the ensuing school year. A
24 notice of termination shall be a notice of intention not to
25 reemploy for the ensuing school year. [~~Failure of the local~~

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1 ~~school board or the governing authority of the state agency to~~
2 ~~serve a written notice of reemployment or termination on a~~
3 ~~certified school instructor shall be construed to mean that~~
4 ~~notice of reemployment has been served upon the person for the~~
5 ~~ensuing school year according to the terms of the existing~~
6 ~~employment contract but subject to any additional compensation~~
7 ~~allowed other certified school instructors of like~~
8 ~~qualifications and experience employed by the school district~~
9 ~~or state agency.]~~

10 B. Nothing in this section shall be construed to
11 mean that failure of a local [~~school board or the governing~~
12 ~~authority of the state agency~~] superintendent to serve a
13 written notice of reemployment or termination shall
14 automatically extend a [~~certified~~] licensed school
15 [~~instructor's~~] employee's employment contract for a period in
16 excess of one school year.

17 C. Beginning with the 2012-2013 school year and the
18 implementation of teacher evaluation programs, a teacher who
19 earns the lowest effectiveness rating on the school district's
20 rating scale for three consecutive years shall be terminated."

21 **SECTION 10.** Section 22-10A-23 NMSA 1978 (being Laws 1967,
22 Chapter 16, Section 115, as amended) is amended to read:

23 "22-10A-23. REEMPLOYMENT--ACCEPTANCE--REJECTION--BINDING
24 CONTRACT.--

25 A. Each [~~certified~~] licensed school [~~instructor~~]

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1 employee shall deliver to the local [~~school board of the school~~
2 ~~district or to the governing authority of the state agency in~~
3 ~~which~~] superintendent by whom the person is employed a written
4 acceptance or rejection of reemployment for the ensuing school
5 year within fifteen days from [~~the following~~;

6 (1) the date written notice of reemployment is
7 served upon the person [~~or~~

8 (2) ~~the last day of the school year when no~~
9 ~~written notice of reemployment or termination is served upon~~
10 ~~the person on or before the last day of the school year].~~

11 B. Delivery of the written acceptance of
12 reemployment by a [~~certified~~] licensed school [~~instructor~~]
13 employee creates a binding employment contract between the
14 [~~certified~~] licensed school [~~instructor~~] employee and the
15 [~~local school board or the governing authority of the~~] school
16 district or state agency until the parties enter into a formal
17 written employment contract. Written employment contracts
18 between [~~local~~] school [~~boards~~] districts or [~~governing~~
19 ~~authorities of~~] state agencies and [~~certified~~] licensed school
20 [~~instructors~~] employees shall be executed by the parties not
21 later than ten days before the first day of a school year."

22 SECTION 11. Section 22-10A-24 NMSA 1978 (being Laws 1986,
23 Chapter 33, Section 22, as amended) is amended to read:

24 "22-10A-24. TERMINATION DECISIONS--LOCAL [~~SCHOOL BOARD~~]
25 SUPERINTENDENT--GOVERNING AUTHORITY OF A STATE AGENCY--

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1 PROCEDURES.--

2 A. ~~[A local school board or governing authority of~~
3 ~~a state agency may terminate an employee with fewer than three~~
4 ~~years of consecutive service for any reason it deems~~
5 ~~sufficient.]~~ A school principal may recommend the termination
6 of a school employee under the principal's supervision who has
7 worked for the school district or state agency for less than
8 three consecutive years for any reason the principal deems
9 sufficient. Based upon this recommendation, the local
10 superintendent may terminate the school employee. Upon request
11 of the school employee, the local superintendent ~~[or~~
12 ~~administrator]~~ shall provide written reasons for the decision
13 to terminate. The reasons shall be provided within ten working
14 days of the request. The reasons shall not be publicly
15 disclosed by the local superintendent ~~[administrator, local~~
16 ~~school board or governing authority]~~. The reasons shall not
17 provide a basis for contesting the decision under the School
18 Personnel Act.

19 B. Before terminating ~~[a noncertified]~~ an
20 unlicensed school employee, the local ~~[school board or~~
21 ~~governing authority]~~ superintendent shall serve the unlicensed
22 school employee with a written notice of termination.

23 C. ~~[An]~~ A school employee who has been employed by
24 a school district or state agency for three consecutive years
25 and who receives a notice of termination pursuant to either

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1 Section ~~[22-10-12]~~ 22-10A-22 NMSA 1978 or this section may
2 request an opportunity to make a statement to the local ~~[school~~
3 ~~board or governing authority]~~ superintendent on the decision to
4 terminate ~~[him]~~ the school employee by submitting a written
5 request to the local superintendent ~~[or administrator]~~ within
6 five working days from the date written notice of termination
7 is served ~~[upon him]~~. The school employee may also request in
8 writing the reasons for the termination action ~~[to terminate~~
9 ~~him]~~. The local superintendent ~~[or administrator]~~ shall
10 provide written reasons for the notice of termination to the
11 school employee within five working days from the date the
12 written request for a meeting and the written request for the
13 reasons were received by the local superintendent ~~[or~~
14 ~~administrator. Neither]~~. The local superintendent ~~[or~~
15 ~~administrator nor the local school board or governing~~
16 ~~authority]~~ shall not publicly disclose ~~[its]~~ the reasons for
17 termination.

18 D. A local ~~[school board or governing authority]~~
19 superintendent may not terminate ~~[an]~~ a school employee who has
20 been employed by a school district or state agency for three
21 consecutive years without just cause. "Just cause" for the
22 termination of a teacher includes low effectiveness ratings. A
23 teacher who earns the lowest effectiveness rating on the school
24 district's evaluation scale for three consecutive years shall
25 be terminated unless the teacher can demonstrate that the data

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1 or other information relied on for the teacher's evaluation
2 results was inaccurate or misrepresented. Other reasons for
3 just cause may also apply.

4 E. The school employee's request pursuant to
5 Subsection C of this section shall be granted if [~~he~~] the
6 school employee responds to the local superintendent's [~~or~~
7 ~~administrator's~~] written reasons as provided in Subsection C of
8 this section by submitting in writing to the local
9 superintendent [~~or administrator~~] a contention that the
10 decision to terminate [~~him~~] was made without just cause. The
11 written contention shall specify the grounds on which it is
12 contended that the decision was without just cause and shall
13 include a statement of the facts that the school employee
14 believes support [~~his~~] the school employee's contention. This
15 written statement shall be submitted within ten working days
16 from the date the school employee receives the written reasons
17 from the local superintendent [~~or administrator~~]. The
18 submission of this statement constitutes:

19 (1) a representation on the part of the school
20 employee that [~~he~~] the school employee can support [~~his~~] the
21 school employee's contentions; and

22 (2) an acknowledgment that the [~~local~~] school
23 [~~board or governing authority~~] principal may offer the causes
24 for [~~its~~] the school principal's decision and any relevant data
25 in [~~its~~] the school principal's possession in rebuttal of [~~his~~]

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1 the school employee's contentions.

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

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

10 SECTION 12. Section 22-10A-25 NMSA 1978 (being Laws 1986,
11 Chapter 33, Section 23, as amended) is amended to read:

12 "22-10A-25. APPEALS--INDEPENDENT ARBITRATOR--
13 QUALIFICATIONS--PROCEDURE--BINDING DECISION.--

14 A. [~~An~~] A school employee who is still aggrieved by
15 a decision of a local [~~school board or governing authority~~]
16 superintendent rendered pursuant to Section [~~22-10-14~~]
17 22-10A-24 NMSA 1978 may appeal the decision to an arbitrator.
18 A written appeal shall be submitted to the local superintendent
19 [~~or administrator~~] within five working days from the receipt of
20 the [~~local school board's or governing authority's~~] written
21 decision [~~or the refusal of the board or authority to grant a~~
22 ~~hearing~~]. The appeal shall be accompanied by a statement of
23 particulars specifying the grounds on which it is contended
24 that the decision was impermissible pursuant to Subsection E of
25 Section [~~22-10-14~~] 22-10A-24 NMSA 1978 and including a

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1 statement of facts supporting the contentions. Failure of the
2 school employee to submit a timely appeal or a statement of
3 particulars with the appeal shall disqualify ~~[him]~~ the school
4 employee for any appeal and render the local ~~[school board's or~~
5 ~~governing authority's]~~ superintendent's decision final.

6 B. The local ~~[school board or governing authority]~~
7 superintendent and the school employee shall meet within ten
8 working days from the receipt of the request for an appeal and
9 select an independent arbitrator to conduct the appeal. If the
10 parties fail to agree on an independent arbitrator, they shall
11 request the presiding judge in the judicial district in which
12 the school employee's public school is located to select one.
13 The presiding judge shall select the independent arbitrator
14 within five working days from the date of the parties' request.

15 C. A qualified independent arbitrator shall be
16 appointed who is versed in employment practices and school
17 procedures and who preferably has experience in the practice of
18 law. No person shall be appointed to serve as the independent
19 arbitrator who has any direct or indirect financial interest in
20 the outcome of the proceeding, has any relationship to any
21 party in the proceeding, is employed by the ~~[local]~~ school
22 ~~[board or governing authority]~~ district or state agency or is a
23 member of or employed by any professional or labor organization
24 of which the school employee is a member.

25 D. Appeals from the decision of the local ~~[school]~~

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1 ~~board or governing authority~~ superintendent shall be decided
2 after a de novo hearing before the independent arbitrator. The
3 issue to be decided by the independent arbitrator is whether
4 there was just cause for the decision of the local ~~school~~
5 ~~board or governing authority~~ superintendent to terminate the
6 school employee.

7 E. The de novo hearing shall be held within thirty
8 working days from the selection of the independent arbitrator.
9 The arbitrator shall give written notice of the date, time and
10 place of the hearing, and such notice shall be sent to the
11 school employee and the local ~~school board or governing~~
12 ~~authority~~ superintendent.

13 F. Each party has the right to be represented by
14 counsel at the hearing before the independent arbitrator.

15 G. Discovery shall be limited to depositions and
16 requests for production of documents on a time schedule to be
17 established by the independent arbitrator.

18 H. The independent arbitrator may issue subpoenas
19 for the attendance of witnesses and for the production of
20 books, records, documents and other evidence and shall have the
21 power to administer oaths. Subpoenas so issued shall be served
22 and enforced in the manner provided by law for the service and
23 enforcement of subpoenas in a civil action.

24 I. The rules of civil procedure shall not apply to
25 the de novo hearing, but it shall be conducted so that both

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1 contentions and responses are amply and fairly presented. To
2 this end, the independent arbitrator shall permit either party
3 to call and examine witnesses, cross-examine witnesses and
4 introduce exhibits. The technical rules of evidence shall not
5 apply, but, in ruling on the admissibility of evidence, the
6 independent arbitrator shall require reasonable substantiation
7 of statements or records tendered, the accuracy or truth of
8 which is in reasonable doubt.

9 J. The local [~~school board or governing authority~~]
10 superintendent has the burden of proof and shall prove by a
11 preponderance of the evidence that, at the time the notice of
12 termination was served on the school employee, the local
13 [~~school board or governing authority~~] superintendent had just
14 cause to terminate the school employee. If the local [~~school~~
15 ~~board or governing authority~~] superintendent proves by a
16 preponderance of the evidence that there was just cause for
17 [~~its~~] the action, then the burden shifts to the school employee
18 to rebut the evidence presented by the local [~~school board or~~
19 ~~governing authority~~] superintendent.

20 K. The independent arbitrator shall uphold the
21 local [~~school board's or governing authority's~~]
22 superintendent's decision only if it proves by a preponderance
23 of the evidence that, at the time the notice of termination was
24 served on the school employee, the local [~~school board or~~
25 ~~governing authority~~] superintendent had just cause to terminate

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1 the school employee. If the local [~~school board or governing~~
2 ~~authority~~] superintendent fails to meet [~~its~~] the burden of
3 proof or if the school employee rebuts the proof offered by the
4 local [~~school board or governing authority~~] superintendent, the
5 arbitrator shall reverse the decision of the local [~~school~~
6 ~~board or governing authority~~] superintendent.

7 L. No official record shall be made of the hearing.
8 Either party desiring a record of the arbitration proceedings
9 may, at [~~his~~] the party's own expense, record or otherwise
10 provide for a transcript of the proceedings; provided, however,
11 that the record so provided shall not be deemed an official
12 transcript of the proceedings nor shall it imply any right of
13 automatic appeal or review.

14 M. The independent arbitrator shall render a
15 written decision affirming or reversing the action of the local
16 [~~school board or governing authority~~] superintendent. The
17 decision shall contain findings of fact and conclusions of law.
18 The parties shall receive actual written notice of the decision
19 of the independent arbitrator within ten working days from the
20 conclusion of the de novo hearing.

21 N. The sole remedies available under this section
22 shall be reinstatement or payment of compensation reinstated in
23 full but subject to any additional compensation allowed other
24 school employees of like qualifications and experience employed
25 by the school district or state agency and including

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1 reimbursement for compensation during the entire period for
2 which compensation was terminated, or both, less an offset for
3 any compensation received by the school employee during the
4 period the compensation was terminated.

5 O. Unless a party can demonstrate prejudice arising
6 from a departure from the procedures established in this
7 section and in Section [~~22-10-14~~] 22-10A-24 NMSA 1978, such
8 departure shall be presumed to be harmless error.

9 P. The decision of the independent arbitrator shall
10 be binding on both parties and shall be final and nonappealable
11 except where the decision was procured by corruption, fraud,
12 deception or collusion, in which case it shall be appealed to
13 the district court in the judicial district in which the public
14 school or state agency is located.

15 Q. Each party shall bear its own costs and
16 expenses. The independent arbitrator's fees and other expenses
17 incurred in the conduct of the arbitration shall be assigned at
18 the discretion of the independent arbitrator.

19 R. [~~Local~~] School districts shall file a record
20 with the department [~~of education~~] of all terminations and all
21 actions arising from terminations annually."

22 SECTION 13. Section 22-10A-26 NMSA 1978 (being Laws 1967,
23 Chapter 16, Section 118, as amended) is amended to read:

24 "22-10A-26. EXCEPTED FROM PROVISIONS.--Sections [~~22-10-12~~
25 ~~through 22-10-14.1~~] 22-10A-22 through 22-10A-25 NMSA 1978 do

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1 not apply to the following:

2 A. a [~~certified~~] licensed school [~~instructor~~]
3 employee employed to fill the position of a [~~certified~~]
4 licensed school [~~instructor~~] employee entering military
5 service;

6 B. a person who is employed as a [~~certified~~] school
7 administrator; or

8 C. [~~a non-certified~~] an unlicensed school employee
9 employed to perform primarily district-wide management
10 functions."

11 SECTION 14. Section 22-10A-27 NMSA 1978 (being Laws 1986,
12 Chapter 33, Section 24, as amended) is amended to read:

13 "22-10A-27. DISCHARGE HEARING--PROCEDURES.--

14 A. A local [~~school board or the governing authority~~
15 ~~of a state agency~~] superintendent may discharge a [~~certified~~]
16 licensed school employee only for just cause according to the
17 following procedure:

18 (1) the [~~superintendent~~] school principal
19 shall serve a written notice of [~~his~~] intent to recommend
20 discharge on the [~~certified~~] licensed school employee in
21 accordance with the law for service of process in civil
22 actions; and

23 (2) the [~~superintendent~~] school principal
24 shall state in the notice of [~~his~~] intent to recommend
25 discharge the cause for [~~his~~] the recommendation and shall

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1 advise the [~~certified~~] licensed school employee of [~~his~~] the
2 licensed school employee's right to a discharge hearing before
3 the [~~local school board or governing authority~~] superintendent
4 as provided in this section.

5 B. A [~~certified~~] licensed school employee who
6 receives a notice of intent to recommend discharge pursuant to
7 Subsection A of this section may exercise [~~his~~] the licensed
8 school employee's right to a hearing before the local [~~school~~
9 ~~board or governing authority~~] superintendent by giving the
10 local superintendent [~~or administrator~~] written notice of that
11 election within five working days of [~~his~~] the licensed school
12 employee's receipt of the notice to recommend discharge.

13 C. The local [~~school board or governing authority~~]
14 superintendent shall hold a discharge hearing no less than
15 twenty and no more than forty working days after [~~the local~~
16 ~~superintendent or administrator receives~~] receipt of the
17 written election from the [~~certified~~] licensed school employee
18 and shall give the [~~certified~~] licensed school employee at
19 least ten days written notice of the date, time and place of
20 the discharge hearing.

21 D. [~~Each party, the local superintendent or~~
22 ~~administrator~~] The school principal and the [~~certified~~]
23 licensed school employee may be accompanied by a person of
24 [~~his~~] the party's choice.

25 E. The parties shall complete and respond to

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1 discovery by deposition and production of documents prior to
2 the discharge hearing.

3 F. The local [~~school board or governing authority~~]
4 superintendent shall have the authority to issue subpoenas for
5 the attendance of witnesses and to produce books, records,
6 documents and other evidence at the request of either party and
7 shall have the power to administer oaths.

8 G. The [~~local superintendent or administrator~~]
9 school principal shall have the burden of proving by a
10 preponderance of the evidence that, at the time of the notice
11 of intent to recommend discharge, [~~he~~] the school principal had
12 just cause to discharge the [~~certified~~] licensed school
13 employee.

14 H. The [~~local superintendent or administrator~~]
15 school principal shall present [~~his~~] evidence first, with the
16 [~~certified~~] licensed school employee presenting [~~his~~] evidence
17 thereafter. The local [~~school board or governing authority~~]
18 superintendent shall permit either party to call, examine and
19 cross-examine witnesses and to introduce documentary evidence.

20 I. An official record shall be made of the hearing.
21 Either party may have one copy of the record at the expense of
22 the [~~local school board or governing authority~~] school district
23 or state agency.

24 J. The local [~~school board~~] superintendent shall
25 render [~~its~~] a written decision within twenty days of the

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1 conclusion of the discharge hearing."

2 SECTION 15. Section 22-10A-28 NMSA 1978 (being Laws 1986,
3 Chapter 33, Section 25, as amended) is amended to read:

4 "22-10A-28. APPEALS--INDEPENDENT ARBITRATOR--
5 QUALIFICATIONS--PROCEDURE--BINDING DECISION.--

6 A. A [~~certified~~] licensed school employee aggrieved
7 by a decision of a local [~~school board or governing authority~~]
8 superintendent to discharge [~~him~~] the licensed school employee
9 after a discharge hearing held pursuant to Section [~~22-10-17~~]
10 22-10A-27 NMSA 1978 may appeal the decision to an independent
11 arbitrator. A written notice of appeal shall be submitted to
12 the local superintendent [~~or administrator~~] within five working
13 days from the receipt of the copy of the written decision of
14 the local [~~school board or governing authority~~] superintendent.

15 B. The local [~~school board or governing authority~~]
16 superintendent and the [~~certified~~] licensed school employee
17 shall meet within ten calendar days from the receipt of the
18 notice of appeal and select an independent arbitrator to
19 conduct the appeal, or, in the event the parties fail to agree
20 on an independent arbitrator, they shall request the presiding
21 judge in the judicial district in which the public school is
22 located to select the independent arbitrator. The presiding
23 judge shall select the independent arbitrator within five
24 working days from the date of the parties' request.

25 C. A qualified independent arbitrator shall be

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1 appointed who is versed in employment practices and school
2 procedures. No person shall be appointed to serve as the
3 independent arbitrator who has any direct or indirect financial
4 interest in the outcome of the proceeding, has any relationship
5 to any party in the proceeding, is employed by the ~~[local]~~
6 school ~~[board or governing authority]~~ district or state agency
7 or is a member of or employed by any professional organization
8 of which the ~~[certified]~~ licensed school employee is a member.

9 D. Appeals from the decision of the local ~~[school~~
10 ~~board or governing authority]~~ superintendent shall be decided
11 after a de novo hearing before the independent arbitrator. The
12 local ~~[school board or governing authority]~~ superintendent
13 shall have the burden of proving by a preponderance of the
14 evidence that, at the time of the notice of intent to recommend
15 discharge, the local superintendent ~~[or administrator]~~ had just
16 cause to discharge the ~~[certified]~~ licensed school employee.
17 The local ~~[school board or governing authority]~~ superintendent
18 shall present ~~[its]~~ evidence first, with the ~~[certified]~~
19 licensed school employee presenting ~~[his]~~ evidence thereafter.

20 E. The hearing shall be held within thirty working
21 days from the selection of the independent arbitrator. The
22 independent arbitrator shall give written notice of the date,
23 time and place of the hearing, and such notice shall be sent to
24 the ~~[certified]~~ licensed school employee and the local ~~[school~~
25 ~~board or governing authority]~~ superintendent.

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1 F. Each party has the right to be represented by
2 counsel at the hearing before the independent arbitrator.

3 G. Discovery shall be limited to depositions and
4 requests for production of documents on a time schedule to be
5 established by the independent arbitrator.

6 H. The independent arbitrator may issue subpoenas
7 for the attendance of witnesses and for the production of
8 books, records, documents and other evidence and shall have the
9 power to administer oaths. Subpoenas so issued shall be served
10 and enforced in the manner provided by law for the service and
11 enforcement of subpoenas in a civil action or in the manner
12 provided by the American arbitration association's voluntary
13 labor arbitration rules if that entity is used by the parties.

14 I. The rules of civil procedure shall not apply to
15 the hearing, but it shall be conducted so that both contentions
16 and responses are amply and fairly presented. To this end, the
17 independent arbitrator shall permit either party to call and
18 examine witnesses, cross-examine witnesses and introduce
19 exhibits. The technical rules of evidence shall not apply,
20 but, in ruling on the admissibility of evidence, the
21 independent arbitrator may require reasonable substantiation of
22 statements or records tendered, the accuracy or truth of which
23 is in reasonable doubt.

24 J. An official record shall be made of the hearing.
25 Either party may order a transcript of the record at ~~his~~ the

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1 party's own expense.

2 K. The independent arbitrator shall render a
3 written decision affirming or reversing the action of the local
4 [~~school board or governing authority~~] superintendent. The
5 decision shall contain findings of fact and conclusions of law.
6 The parties shall receive the written decision of the
7 independent arbitrator within thirty working days from the
8 conclusion of the hearing.

9 L. Unless a party can demonstrate prejudice arising
10 from a departure from the procedures established in this
11 section and in Section [~~22-10-17~~] 22-10A-27 NMSA 1978, such
12 departure shall be presumed to be harmless error.

13 M. The decision of the independent arbitrator shall
14 be final and binding on both parties and shall be nonappealable
15 except where the decision was procured by corruption, fraud,
16 deception or collusion, in which case it may be appealed to the
17 court of appeals by filing a notice of appeal as provided by
18 the New Mexico rules of appellate procedure.

19 N. Each party shall bear its own costs and
20 expenses. The independent arbitrator's fees and other expenses
21 incurred in the conduct of the arbitration shall be assigned at
22 the discretion of the independent arbitrator."

23 **SECTION 16.** Section 22-10A-29 NMSA 1978 (being Laws 1967,
24 Chapter 16, Section 120, as amended) is amended to read:

25 "22-10A-29. COMPENSATION PAYMENTS TO DISCHARGED

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1 PERSONNEL.--

2 A. Payment of compensation to any [~~certified~~]
3 licensed school [~~instructor~~] employee employed by a [~~local~~
4 ~~school board or by the governing authority of~~] school district
5 or a state agency and payment of compensation to any
6 [~~certified~~] school administrator employed by a [~~local~~] school
7 [~~board~~] district or state agency shall terminate as of the
8 date, after a hearing, that a written copy of the decision of
9 the local [~~school board or the governing authority of the state~~
10 ~~agency~~] superintendent to discharge the [~~person~~] licensed
11 school employee is served on the person. If the compensation
12 of the person discharged during the term of a written
13 employment contract is to be paid monthly during a twelve-month
14 period for services to be performed during a period less than
15 twelve months, the person shall be entitled to a pro rata share
16 of the compensation payments due for the period during the
17 twelve months in which no services were to be performed.

18 B. In the event the action of the local [~~school~~
19 ~~board~~] superintendent in discharging a [~~certified~~] licensed
20 school [~~instructor or administrator or the action of the~~
21 ~~governing authority of a state agency in discharging a~~
22 ~~certified school instructor~~] employee is reversed on appeal,
23 payment of compensation to the person shall be reinstated in
24 full but subject to any additional compensation allowed other
25 [~~certified~~] licensed school [~~instructor~~] employees or

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1 ~~[administrator]~~ administrators of like qualifications and
2 experience employed by the school district or state agency and
3 including reimbursement for compensation during the entire
4 period the compensation was terminated less an offset for any
5 compensation received by the person from a school district or
6 state agency during the period the compensation was
7 terminated."

8 SECTION 17. Section 22-10A-30 NMSA 1978 (being Laws 1967,
9 Chapter 16, Section 123, as amended) is amended to read:

10 "22-10A-30. SUPERVISION AND CORRECTION PROCEDURES.--

11 A. The ~~[state board]~~ department shall prescribe by
12 ~~[regulations]~~ rule procedures to be followed by a ~~[local school~~
13 ~~board or the governing authority of a]~~ school district or state
14 agency in supervising and correcting unsatisfactory work
15 performance of ~~[certified]~~ licensed school ~~[personnel]~~
16 employees before notice of intent to discharge is served upon
17 them. ~~[and by the governing authority of a state agency in~~
18 ~~supervising and correcting unsatisfactory work performance of~~
19 ~~certified school instructors before notice of intent to~~
20 ~~discharge is served upon them. These regulations]~~

21 B. The department's rules shall provide that
22 written records shall be kept on all action taken by a ~~[local]~~
23 school ~~[board or the governing authority of a]~~ district or
24 state agency to improve ~~[any person's]~~ a school employee's
25 unsatisfactory work performance and all improvements made in

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underscored material = new
[bracketed material] = delete

1 the ~~[person's]~~ school employee's work performance. These
2 written records shall be introduced as evidence at any hearing
3 for termination or discharge of the ~~[person]~~ school employee
4 conducted by the local ~~[school board or the governing authority~~
5 ~~of the state agency]~~ superintendent."

6 SECTION 18. Section 22-10A-31 NMSA 1978 (being Laws 1967,
7 Chapter 16, Section 124, as amended) is amended to read:

8 "22-10A-31. DENIAL, SUSPENSION AND REVOCATION OF
9 LICENSES.--In accordance with the procedures provided in the
10 Uniform Licensing Act, the ~~[state board]~~ department may deny,
11 suspend or revoke a department-issued license for incompetency,
12 moral turpitude or any other good and just cause."

13 SECTION 19. APPLICABILITY.--The provisions of Sections 2
14 through 18 of this act apply to contracts signed for the 2012-
15 2013 and subsequent school years and for termination and
16 discharge actions occurring after July 1, 2012.

17 SECTION 20. EFFECTIVE DATE.--The effective date of the
18 provisions of Sections 2 through 19 of this act is July 1,
19 2012.

20 SECTION 21. EMERGENCY.--It is necessary for the public
21 peace, health and safety that this act take effect immediately.