

HOUSE BILL 558

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

Patricia Roybal Caballero

AN ACT

RELATING TO PUBLIC SCHOOL PERSONNEL; REDUCING THE PROBATIONARY PERIOD FOR NONLICENSED SCHOOL EMPLOYEES AND LICENSED EDUCATIONAL ASSISTANTS 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, excluding licensed educational assistants, 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 or a

.200382.3

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 licensed educational assistant with less than one year of
2 employment for any reason it deems sufficient. Upon request of
3 the employee, the local superintendent or state agency
4 administrator shall provide written reasons for the decision to
5 terminate. The reasons shall be provided within ten working
6 days of the request. The reasons shall not be publicly
7 disclosed by the local superintendent, state agency
8 administrator, local school board or governing authority. The
9 reasons shall not provide a basis for contesting the decision
10 under the School Personnel Act.

11 B. Before terminating a [~~noncertified~~] nonlicensed
12 school employee or a licensed educational assistant, the local
13 school board or governing authority shall serve the employee or
14 assistant with a written notice of termination.

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

.200382.3

underscored material = new
[bracketed material] = delete

1 served upon [~~him~~] the employee or assistant. The employee or
2 assistant may also request in writing the reasons for the
3 termination action [~~to terminate him~~]. The local
4 superintendent or state agency administrator shall provide
5 written reasons for the notice of termination to the employee
6 or assistant within five working days from the date the written
7 request for a meeting and the written request for the reasons
8 were received by the local superintendent or state agency
9 administrator. Neither the local superintendent or state
10 agency administrator nor the local school board or governing
11 authority shall publicly disclose its reasons for termination.

12 D. A local school board or governing authority may
13 not terminate [~~an~~] a licensed school employee who has been
14 employed by a school district or state agency for three
15 consecutive years or a nonlicensed school employee or licensed
16 educational assistant who has been employed by a school
17 district or state agency for one year without just cause.

18 E. The employee's request pursuant to Subsection C
19 of this section shall be granted if [~~he~~] the employee responds
20 to the local superintendent's or state agency administrator's
21 written reasons as provided in Subsection C of this section by
22 submitting in writing to the local superintendent or state
23 agency administrator a contention that the decision to
24 terminate [~~him~~] was made without just cause. The written
25 contention shall specify the grounds on which it is contended

.200382.3

underscored material = new
[bracketed material] = delete

1 that the decision was without just cause and shall include a
2 statement of the facts that the employee believes support [~~his~~]
3 the employee's contention. This written statement shall be
4 submitted within ten working days from the date the employee
5 receives the written reasons from the local superintendent or
6 state agency administrator. The submission of this statement
7 constitutes a representation on the part of the employee that
8 [~~he~~] the employee can support [~~his~~] the employee's contentions
9 and an acknowledgment that the local school board or governing
10 authority may offer the causes for its decision and any
11 relevant data in its possession in rebuttal of [~~his~~] the
12 employee's contentions.

13 F. A local school board or governing authority
14 shall meet to hear the employee's statement in no less than
15 five or more than fifteen working days after the local school
16 board or governing authority receives the statement. The
17 hearing shall be conducted informally in accordance with the
18 provisions of the Open Meetings Act. The employee and the
19 local superintendent or state agency administrator may each be
20 accompanied by a person of [~~his~~] the employee's and the local
21 superintendent's or state agency administrator's choice.

22 First, the local superintendent shall present the factual basis
23 for [~~his~~] the determination that just cause exists for the
24 termination of the employee, limited to those reasons provided
25 to the employee pursuant to Subsection C of this section.

.200382.3

underscoring material = new
~~[bracketed material] = delete~~

1 Then, the employee shall present [~~his~~] the employee's
2 contentions, limited to those grounds specified in Subsection E
3 of this section. The local school board or governing authority
4 may offer such rebuttal testimony as it deems relevant. All
5 witnesses may be questioned by the local school board or
6 governing authority, the employee or [~~his~~] the employee's
7 representative and the local superintendent or state agency
8 administrator or [~~his~~] the local superintendent's or state
9 agency administrator's representative. The local school board
10 or governing authority may consider only such evidence as is
11 presented at the hearing and need consider only such evidence
12 as it considers reliable. No record shall be made of the
13 proceeding. The local school board or governing authority
14 shall notify the employee and the local superintendent or state
15 agency administrator of its decision in writing within five
16 working days from the conclusion of the meeting."

17 - 5 -
18
19
20
21
22
23
24
25