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SENATE BILL 493

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Steve Komadi na

AN ACT

RELATING TO EDUCATION; ELIMINATING TENURE FOR PUBLIC SCHOOL  
EMPLOYEES; AMENDING THE PUBLIC SCHOOL CODE.

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

Section 1. Section 22-10-14 NMSA 1978 (being Laws 1986,  
Chapter 33, Section 22, as amended) is amended to read:

"22-10-14. 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 employee [~~with fewer than~~  
~~three years of consecutive service~~] for any reason it deems  
sufficient. Upon request of the employee, the local  
superintendent or state agency administrator shall provide  
written reasons for the decision to terminate. The reasons  
shall be provided within ten working days of the request. The

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1 reasons shall not be publicly disclosed by the superintendent,  
2 administrator, local school board or governing authority. The  
3 reasons shall not provide a basis for contesting the decision  
4 under the School Personnel Act.

5 B. Before terminating [~~a non-certified school~~]  
6 an employee, the local school board or governing authority  
7 shall serve the employee with a written notice of termination.

8 [~~C. An employee who has been employed by a school~~  
9 ~~district or state agency for three consecutive years and who~~  
10 ~~receives a notice of termination pursuant to either Section~~  
11 ~~22-10-12 NMSA 1978 or this section may request an opportunity~~  
12 ~~to make a statement to the local school board or governing~~  
13 ~~authority on the decision to terminate him by submitting a~~  
14 ~~written request to the local superintendent or administrator~~  
15 ~~within five working days from the date written notice of~~  
16 ~~termination is served upon him. The employee may also request~~  
17 ~~in writing the reasons for the action to terminate him. The~~  
18 ~~local superintendent or administrator shall provide written~~  
19 ~~reasons for the notice of termination to the employee within~~  
20 ~~five working days from the date the written request for a~~  
21 ~~meeting and the written request for the reasons were received~~  
22 ~~by the local superintendent or administrator. Neither the~~  
23 ~~local superintendent or administrator nor the local school~~  
24 ~~board or governing authority shall publicly disclose its~~  
25 ~~reasons for termination.~~

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1                   D. ~~A local school board or governing authority may~~  
2 ~~not terminate an employee who has been employed by a school~~  
3 ~~district or state agency for three consecutive years without~~  
4 ~~just cause.~~

5                   E. ~~The employee's request pursuant to Subsection C~~  
6 ~~of this section shall be granted if he responds to the local~~  
7 ~~superintendent's or administrator's written reasons as~~  
8 ~~provided in Subsection C of this section by submitting in~~  
9 ~~writing to the local superintendent or administrator a~~  
10 ~~contention that the decision to terminate him was made without~~  
11 ~~just cause. The written contention shall specify the grounds~~  
12 ~~on which it is contended that the decision was without just~~  
13 ~~cause and shall include a statement of the facts that the~~  
14 ~~employee believes support his contention. This written~~  
15 ~~statement shall be submitted within ten working days from the~~  
16 ~~date the employee receives the written reasons from the local~~  
17 ~~superintendent or administrator. The submission of this~~  
18 ~~statement constitutes a representation on the part of the~~  
19 ~~employee that he can support his contentions and an~~  
20 ~~acknowledgment that the local school board or governing~~  
21 ~~authority may offer the causes for its decision and any~~  
22 ~~relevant data in its possession in rebuttal of his~~  
23 ~~contentions.~~

24                   F. ~~A local school board or governing authority~~  
25 ~~shall meet to hear the employee's statement in no less than~~

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1 ~~five or more than fifteen working days after the local school~~  
2 ~~board or governing authority receives the statement. The~~  
3 ~~hearing shall be conducted informally in accordance with the~~  
4 ~~provisions of the Open Meetings Act. The employee and the~~  
5 ~~local superintendent or administrator may each be accompanied~~  
6 ~~by a person of his choice. First, the superintendent shall~~  
7 ~~present the factual basis for his determination that just~~  
8 ~~cause exists for the termination of the employee, limited to~~  
9 ~~those reasons provided to the employee pursuant to Subsection~~  
10 ~~C of this section. Then, the employee shall present his~~  
11 ~~contentions, limited to those grounds specified in Subsection~~  
12 ~~E of this section. The local school board or governing~~  
13 ~~authority may offer such rebuttal testimony as it deems~~  
14 ~~relevant. All witnesses may be questioned by the local school~~  
15 ~~board or governing authority, the employee or his~~  
16 ~~representative and the local superintendent or administrator~~  
17 ~~or his representative. The local school board or governing~~  
18 ~~authority may consider only such evidence as is presented at~~  
19 ~~the hearing and need consider only such evidence as it~~  
20 ~~considers reliable. No record shall be made of the~~  
21 ~~proceeding. The local school board or governing authority~~  
22 ~~shall notify the employee and the local superintendent or~~  
23 ~~administrator of its decision in writing within five working~~  
24 ~~days from the conclusion of the meeting.]~~

25 C. For purposes of this section, "employee" means

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1 either a certified or non-certified school employee."

2 Section 2. Section 22-10-16 NMSA 1978 (being Laws 1967,  
3 Chapter 16, Section 118, as amended) is amended to read:

4 "22-10-16. EXCEPTED FROM PROVISIONS. -- Sections 22-10-12  
5 [~~through 22-10-14.1~~] and 22-10-13 NMSA 1978 do not apply to  
6 the following:

7 A. a certified school instructor employed to fill  
8 the position of a certified school instructor entering  
9 military service;

10 B. a person who is employed as a certified school  
11 administrator; or

12 C. a non-certified school employee employed to  
13 perform primarily district-wide management functions."

14 Section 3. REPEAL. -- Section 22-10-14.1 NMSA 1978 (being  
15 Laws 1986, Chapter 33, Section 23, as amended) is repealed.