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SENATE BILL 650

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

INTRODUCED BY

Cynthia L. Nava

AN ACT

RELATING TO EDUCATION; REQUIRING A SCHOOL DISTRICT SUPERINTENDENT TO REPORT INFORMATION REGARDING MISCONDUCT TO THE DEPARTMENT OF EDUCATION; PROVIDING PROCEDURES FOR SUSPENSION, REVOCATION OR DENIAL OF RENEWAL OF CERTIFICATES HELD BY CERTIFIED SCHOOL EMPLOYEES; AMENDING SECTIONS OF THE PUBLIC SCHOOL CODE.

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

Section 1. Section 22-10-3.4 NMSA 1978 (being Laws 1997, Chapter 238, Section 2) is amended to read:

"22-10-3.4. KNOWN CONVICTION--RESIGNATION OR DEPARTURE INVOLVING SCHOOL-RELATED MISCONDUCT--REPORTING REQUIREMENT--LIMITED IMMUNITY FROM LIABILITY--PENALTY FOR FAILURE TO REPORT.--

A. A school district superintendent shall report

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

5 B. The state board may suspend or revoke a  
6 certificate held by a certified school administrator who fails  
7 to report a criminal conviction involving moral turpitude of a  
8 certified school employee in accordance with Subsection A of  
9 this section.

10 C. An individual who in good faith reports any  
11 known conviction of a felony or misdemeanor involving moral  
12 turpitude of a certified school employee shall not be held  
13 liable for civil damages as a result of the report; provided  
14 that the person being accused shall have the right to sue for  
15 any damages sustained as a result of negligent or intentional  
16 reporting of inaccurate information or the disclosure of any  
17 information to an unauthorized person.

18 D. Notwithstanding the existence of a  
19 confidentiality agreement, a school district superintendent  
20 shall report to the department of education the identity of a  
21 certified school employee who resigns, enters into a  
22 settlement agreement or leaves his school employment during or  
23 after allegations of school-related misconduct.

24 E. The state board may suspend or revoke a  
25 certificate held by a certified school administrator who fails

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1 to report the resignation or departure of a certified school  
2 employee in accordance with Subsection D of this section.

3 F. An individual who in good faith reports the  
4 resignation or departure of a certified school employee shall  
5 not be held liable for civil damages as a result of the  
6 report; provided that the person being accused shall have the  
7 right to sue for any damages sustained as a result of  
8 negligent or intentional reporting of inaccurate information  
9 or the disclosure of any information to an unauthorized  
10 person. "

11 Section 2. Section 22-10-22 NMSA 1978 (being Laws 1967,  
12 Chapter 16, Section 124, as amended) is amended to read:

13 "22-10-22. SUSPENSION, [~~AND~~] REVOCATION AND DENIAL OF  
14 RENEWAL OF CERTIFICATES--APPEAL. --

15 A. The state board may suspend, [~~or~~] revoke or  
16 deny renewal of a certificate held by a certified school  
17 instructor or administrator for incompetency, immorality or  
18 any other good and just cause.

19 B. A certificate may be suspended, [~~or~~] revoked or  
20 have its renewal denied only according to the following  
21 procedure:

22 (1) the state board serving written notice of  
23 the suspension, [~~or~~] revocation or denial of renewal on the  
24 person holding the certificate in accordance with the law for  
25 service of process in civil actions. The notice of the

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1 suspension, [Ø] revocation or denial of renewal shall state  
2 the grounds for the suspension, [Ø] revocation or denial of  
3 renewal of the certificate. The notice of the suspension,  
4 [Ø] revocation or denial of renewal shall describe the rights  
5 of the person holding the certificate and include instructions  
6 for requesting a hearing before the state board. A hearing  
7 shall be requested within thirty days of receipt of the notice  
8 of suspension, [Ø] revocation or denial of renewal. If a  
9 hearing is requested, the hearing shall be held not more than  
10 ninety days from the date of the request for the hearing;

11 (2) the state board or its designated hearing  
12 officer conducting a hearing that provides the person holding  
13 the certificate, or his attorney, an opportunity to present  
14 evidence or arguments on all pertinent issues. A transcript  
15 shall be made of the entire hearing conducted by the state  
16 board or its designated hearing officer; and

17 (3) the state board rendering a written  
18 decision in accordance with the law and based upon evidence  
19 presented and admitted at the hearing. The written decision  
20 shall include findings of fact and conclusions of law and  
21 shall be based upon the findings of fact and the conclusions  
22 of law. A written copy of the decision of the state board  
23 shall be served upon the person holding the certificate within  
24 sixty days from the date of the hearing. Service of the  
25 written copy of the decision shall be in accordance with the

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1 law for service of process in civil actions or by certified  
2 mail to the person's address of record.

3 C. The ~~[secretary of the]~~ state board ~~[with the~~  
4 ~~approval of the state board]~~ or its designated hearing officer  
5 may subpoena witnesses, require their attendance and giving of  
6 testimony and require the production of books, papers and  
7 records in connection with a hearing held pursuant to the  
8 provisions of Subsection B of this section. Also, the state  
9 board or its designated hearing officer may apply to the  
10 district court for the issuance of subpoenas and subpoenas  
11 duces tecum in the name of and on behalf of the state board.  
12 For the purpose of investigating a complaint against a person  
13 holding a certificate issued by the state board, the board or  
14 its designated hearing officer may apply to the district court  
15 for an investigative subpoena prior to the issuance of a  
16 notice regarding the suspension, revocation or denial of  
17 renewal of a certificate.

18 D. Any person aggrieved by a decision of the state  
19 board, after a hearing pursuant to this section, may appeal  
20 the decision to the district court pursuant to the provisions  
21 of Section 39-3-1.1 NMSA 1978. "

22 Section 3. EFFECTIVE DATE. -- The effective date of the  
23 provisions of this act is July 1, 2001.