

HOUSE BILL 567

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

INTRODUCED BY

Luciano "Lucky" Varela

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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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 school board member, local superintendent and school principal,
11 as applicable, shall:

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

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

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

25 D. To suspend a local school board, local school

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

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

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

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

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

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

25 (2) if a qualified person is not appointed

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1 within forty-five days from the date the secretary's order is
2 entered, the department shall appoint a qualified person to
3 serve in lieu of the suspended member.

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

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

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

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