

HOUSE BILL 47

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Patricia Roybal Caballero

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

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

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state agency may terminate [~~an~~] Hf1→~~HEC~~→~~an~~←~~HEC~~←Hf1 HEC→a  
licensed school employee, excluding licensed educational  
assistants, with fewer than three years of consecutive  
service←HEC Hf1→~~Hf1~~→~~a licensed school employee, excluding~~  
~~licensed educational assistants, with fewer than three years of~~  
~~consecutive service~~←Hf1←Hf1 Hf1→~~HEC~~→~~employee with fewer than~~  
~~three years of consecutive service or a licensed school~~  
~~employee, excluding licensed educational assistants who have~~  
~~not been offered and accepted the third consecutive~~  
~~contract,~~←HEC←Hf1 Hf1→a licensed school employee, excluding  
licensed educational assistants who have not been offered and  
accepted the third consecutive contract,←Hf1 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 licensed educational assistant with less than one year of  
employment 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 reasons shall not be publicly  
disclosed by the local superintendent, state agency  
administrator, local school board or governing authority. The  
reasons shall not provide a basis for contesting the decision  
under the School Personnel Act.

B. Before terminating a [~~noncertified~~] nonlicensed

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school employee or a licensed educational assistant, the local school board or governing authority shall serve the employee or assistant with a written notice of termination.

C. [An] A licensed school employee who has been employed by a school district or state agency for ~~HEC→less than three~~←HEC HEC→**more than two**←HEC consecutive years or a nonlicensed school employee or licensed educational assistant who has been employed for HEC→less←HEC HEC→**more**←HEC than one year and who receives a notice of termination pursuant to either Section [~~22-10-12~~] 22-10A-22 NMSA 1978 or this section may request an opportunity to make a statement to the local school board or governing authority on the decision to terminate [~~him~~] the employee or assistant by submitting a written request to the local superintendent or state agency administrator within five working days from the date written notice of termination is served upon [~~him~~] the employee or assistant. The employee or assistant may also request in writing the reasons for the termination action [~~to terminate him~~]. The local superintendent or state agency administrator shall provide written reasons for the notice of termination to the employee or assistant within five working days from the date the written request for a meeting and the written request for the reasons were received by the local superintendent or state agency administrator. Neither the local superintendent or state agency administrator nor the local school board or

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governing authority shall publicly disclose its reasons for termination.

D. A local school board or governing authority may not terminate [an] Hfl → ~~an~~ ← HEC ← Hfl HEC → a licensed school employee who has been employed by a school district or state agency for three consecutive years ← HEC Hfl → ~~Hfl~~ → a licensed school employee who has been employed by a school district or state agency for three consecutive years ← Hfl ← Hfl Hfl → ~~employee who has been employed by a school district or state agency for three consecutive years, a licensed school employee who has been offered and accepted a third-year contract~~ ← HEC ← Hfl Hfl → a licensed school employee who has been offered and accepted a third-year contract ← Hfl or a nonlicensed school employee or licensed educational assistant who has been employed by a school district or state agency for HEC → more than ← HEC one year without just cause.

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

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statement of the facts that the employee believes support [~~his~~] the employee's contention. This written statement shall be submitted within ten working days from the date the employee receives the written reasons from the local superintendent or state agency administrator. The submission of this statement constitutes a representation on the part of the employee that [~~he~~] the employee can support [~~his~~] the employee's contentions and an acknowledgment that the local school board or governing authority may offer the causes for its decision and any relevant data in its possession in rebuttal of [~~his~~] the employee's contentions.

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

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

Then, the employee shall present [~~his~~] the employee's

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