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HOUSE BILL 167

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

Terry T. Marquardt

AN ACT

RELATING TO EDUCATION; PROVIDING THAT COSTS AND ATTORNEY FEES
MAY BE ASSESSED AGAINST A PERSON WHO FILES A FRIVOLOUS
COMPLAINT OR A COMPLAINT IN BAD FAITH AGAINST SCHOOL
PERSONNEL.

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

Section 1. A new section of the School Personnel Act is
enacted to read:

"~~[NEW MATERIAL]~~ FRIVOLOUS OR BAD FAITH COMPLAINTS--
ASSESSMENT FOR COSTS. --

A. If a local school board, governing authority,
state board or hearing examiner, in a hearing described in
Subsection B of this section, finds that a frivolous complaint
or a complaint in bad faith has been filed and, but for the
frivolous or bad faith complaint, the hearing would not

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

**underscored material = new
[bracketed material] = delete**

1 otherwise be necessary, the local school board, governing
2 authority, state board or hearing examiner may assess costs
3 and reasonable attorney fees against the person who filed the
4 frivolous or bad faith complaint. Costs assessed pursuant to
5 this subsection shall not exceed the expenses incurred in the
6 investigation and prosecution of the complaint.

7 B. The provisions of Subsection A of this section
8 apply to:

9 (1) a hearing on a termination decision
10 conducted pursuant to Section 22-10-14 NMSA 1978;

11 (2) a discharge hearing conducted pursuant to
12 Section 22-10-17 NMSA 1978;

13 (3) a hearing supervising or correcting
14 unsatisfactory work performance conducted pursuant to rules
15 adopted under Section 22-10-21 NMSA 1978; or

16 (4) a hearing on the suspension or revocation
17 of a certificate conducted pursuant to Section 22-10-22 NMSA
18 1978. "