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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 state agency may terminate a licensed school employee,
excluding licensed educational assistants who have not been
offered and accepted the third consecutive contract, 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

1 provide a basis for contesting the decision under the School
2 Personnel Act.

3 B. Before terminating a nonlicensed school
4 employee or a licensed educational assistant, the local
5 school board or governing authority shall serve the employee
6 or assistant with a written notice of termination.

7 C. A licensed school employee who has been
8 employed by a school district or state agency for more than
9 two consecutive years or a nonlicensed school employee or
10 licensed educational assistant who has been employed for more
11 than one year and who receives a notice of termination
12 pursuant to either Section 22-10A-22 NMSA 1978 or this
13 section may request an opportunity to make a statement to the
14 local school board or governing authority on the decision to
15 terminate the employee or assistant by submitting a written
16 request to the local superintendent or state agency
17 administrator within five working days from the date written
18 notice of termination is served upon the employee or
19 assistant. The employee or assistant may also request in
20 writing the reasons for the termination action. The local
21 superintendent or state agency administrator shall provide
22 written reasons for the notice of termination to the employee
23 or assistant within five working days from the date the
24 written request for a meeting and the written request for the
25 reasons were received by the local superintendent or state

1 agency administrator. Neither the local superintendent or
2 state agency administrator nor the local school board or
3 governing authority shall publicly disclose its reasons for
4 termination.

5 D. A local school board or governing authority may
6 not terminate a licensed school employee who has been offered
7 and accepted a third-year contract or a nonlicensed school
8 employee or licensed educational assistant who has been
9 employed by a school district or state agency for more than
10 one year without just cause.

11 E. The employee's request pursuant to Subsection C
12 of this section shall be granted if the employee responds to
13 the local superintendent's or state agency administrator's
14 written reasons as provided in Subsection C of this section
15 by submitting in writing to the local superintendent or state
16 agency administrator a contention that the decision to
17 terminate was made without just cause. The written
18 contention shall specify the grounds on which it is contended
19 that the decision was without just cause and shall include a
20 statement of the facts that the employee believes support the
21 employee's contention. This written statement shall be
22 submitted within ten working days from the date the employee
23 receives the written reasons from the local superintendent or
24 state agency administrator. The submission of this statement
25 constitutes a representation on the part of the employee that

1 the employee can support the employee's contentions and an
2 acknowledgment that the local school board or governing
3 authority may offer the causes for its decision and any
4 relevant data in its possession in rebuttal of the employee's
5 contentions.

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

15 First, the local superintendent shall present the factual
16 basis for the determination that just cause exists for the
17 termination of the employee, limited to those reasons provided
18 to the employee pursuant to Subsection C of this section.

19 Then, the employee shall present the employee's contentions,
20 limited to those grounds specified in Subsection E of this
21 section. The local school board or governing authority may
22 offer such rebuttal testimony as it deems relevant. All
23 witnesses may be questioned by the local school board or
24 governing authority, the employee or the employee's

25 representative and the local superintendent or state agency

1 administrator or the local superintendent's or state agency
2 administrator's representative. The local school board or
3 governing authority may consider only such evidence as is
4 presented at the hearing and need consider only such evidence
5 as it considers reliable. No record shall be made of the
6 proceeding. The local school board or governing authority
7 shall notify the employee and the local superintendent or
8 state agency administrator of its decision in writing within
9 five working days from the conclusion of the meeting."

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