

# Senate Judiciary Committee

*Pete Mulvey 271-4063*

**HB 520**, relative to authorizing hearing officers of the department of education to issue subpoenas.

**Hearing Date:** May 15, 2025

**Time Opened:** 4:15 p.m.

**Time Closed:** 4:38 p.m.

**Members of the Committee Present:** Senators Gannon, Abbas, McConkey and Reardon

**Members of the Committee Absent :** Senator Altschiller

**Bill Analysis:** This bill authorizes hearing officers of the department of education to issue subpoenas.

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**Sponsors:**

Rep. Lynn

Rep. Cordelli

Rep. Kuttab

Rep. Thibault

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**Who supports the bill:** 12 individuals supported HB 520. Contact peter.mulvey@gc.nh.gov for further details.

**Who opposes the bill:** 312 individuals opposed HB 520. Contact peter.mulvey@gc.nh.gov for further details.

**Who is neutral on the bill:** N/A.

**Summary of testimony:**

**Representative Bob Lynn**

**Rockingham – District 17**

- HB 520 is a request of the Department of Education.
- Most other States' Departments have the authority to subpoena.
- Rep. Lynn clarified that he was not alleging that the Department had egregious instances of being stonewalled.
- There was one instance where a school district refused to provide documentation and suggested that the Department appear physically to look at the documents but not copy.
- Subpoena authority made sense as a general proposition as the alternative meant that the Department would have no ability to compel compliance with its standards.

- Rep. Lynn contended with the suggestion that subpoena authority would somehow violate due process.
- Rep. Lynn noted that the bill contained authority to issue subpoenas in two situations. Sections A through E dealt with the investigative stage, which was limited to the requests of the Department.
- Section F and beyond dealt with subpoenas amid the adjudicatory stage.

### **Representative Katelyn Kuttab**

#### **Rockingham – District 17**

- Rep. Kuttab supported the bill and considered it one of the most important of the entire year.
- Rep. Kuttab maintained that most of the time, teachers educate students well.
- When there was a failure to provide appropriate supervision, or when there is solicitation, or sexual assault, the Department of Education needed subpoena power to properly investigate serious allegations.
- The house had heard that a former special education teacher was convicted of battery and rape of a student and was licensed and employed after the fact.
- Surrounding states all have the same standard, and all other licensed professions may be subpoenaed by their licensing agency.

### **Brian Hawkins**

#### **Director, Government Relations - NEA NH**

- Mr. Hawkins and NEA NH opposed HB 520.
- Mr. Hawkins stated that HB 520 is the third attempt to pass such legislation.
- HB 520 is unnecessary according to NEA NH.
- Many times, amid the house hearing, the Department was asked if they refrained from taking disciplinary action because of information they couldn't obtain, and their answer was routinely no.
- Mr. Hawkins specified that since the code of conduct's conception, not a single NEA member had a case enter the adjudicatory phase.
- The educator was not given the ability to prepare for a subpoena under HB 520 which was inconsistent with due process standards.
- HB 520 only applied to teaching credential holders, meaning that part-time teachers would not be affected.

### **Deb Howes**

#### **President, AFT-NH**

- AFT opposed HB 520.
- HB 520 was a solution in search of a problem.
- Not every individual in the schools were credentialed, and it seemed like more uncredentialed staffers were imminent. They would not be subject to the law.
- Safety was the bottom line for schools.

- Ms. Howes stated that the Department of Education’s own investigator had testified that only a small handful of investigations were serious enough to consider revoking credentials. In such scenarios, obtaining information or witnesses was typically not an issue
- Ms. Howes maintained that the department typically gets information rather quickly.
- Sen. Gannon asked if the instances described by representatives in previous testimony were anomalous or outlier events.
- Ms. Howes said absolutely.
- The biggest concern according to Ms. Howes was that subpoenas may be used as a witch hunt. Code of conduct violation allegations were frequent, and typically unrelated to student safety and more related to a teacher’s political comment, choice of posters, or curriculum.
- Ms. Howes said it was evident via the commissioner of education pressuring localities to investigate and revoke credentials.
- The committee was urged to find the bill inexpedient to legislate.

**Diana Fenton**

**Staff Attorney – New Hampshire Department of Education**

- The Department worked well with the districts and valued its relationship with them.
- Ms. Fenton said that when code of conduct violations occurred, typically the districts conducted the investigation, either internally or via a contracted third-party firm.
- The underlying report of the investigation belongs to the district, not the Department of Education.
- Ms. Fenton said that peculiarity sometimes left the Department at a crossroads where a report produced, which may contain highly valuable information, is not readily available for the Department.
- Sometimes the Department is limited to a strictly contemporaneous viewing with no notes allowed.

**Eric Pauer**

**Brookline New Hampshire**

- Mr. Pauer spoke in favor of the bill.
- Nobody hated bad cops more than policemen. Mr. Pauer believed the same applied for teachers.
- All other states had subpoena authority, whereas New Hampshire did not, which caused issues.

PM  
Date Hearing Report completed: May 20, 2025