

Amendment to HB 520

1 Amend the bill by replacing section 1 with the following:

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3 1 New Paragraph; Duties of Commissioner; Power to Subpoena. Amend RSA 21-N:4 by
4 inserting after paragraph XII the following new paragraph:

5 XIII. Upon request of the commissioner or the commissioner's designee, the attorney general
6 is authorized, for good cause shown, to seek subpoenas for persons, and for books, papers,
7 documents, and other items for the purpose of carrying out investigations pursuant to the code of
8 conduct for New Hampshire educators, as established by RSA 21-N:9, II(cc)(1).

9 (a) In seeking a subpoena, the department shall present the reasons for seeking such a
10 subpoena to the attorney general, who shall issue the subpoena if the attorney general finds that:

11 (1) The subpoena is sought in good faith for the purpose of investigating a violation
12 or possible violation of the educator code of conduct by a certified educator; and

13 (2) The information sought by the subpoena appears reasonably likely to be material
14 and relevant to the investigation.

15 (b) Subpoenas for persons shall not require compliance in less than 48 hours after
16 receipt of service. Subpoenas for books, papers, documents and other items shall not require
17 compliance in fewer than 15 days after receipt of service.

18 (c) When a subpoena is authorized by the attorney general:

19 (1) Service shall be made on licensees and certified individuals by certified mail to
20 the address on file with the department or by hand and shall not entitle such persons to witness or
21 mileage fees; and

22 (2) Service shall be made on persons who are not licensees or certified individuals in
23 accordance with the procedures and fee schedules of the superior court, and the subpoenas served on
24 such persons shall be annotated "Fees Guaranteed by the New Hampshire Department of Education
25 Bureau of Credentialing."

26 (d) The person to whom the subpoena is directed may file a motion to quash or modify
27 the subpoena with the attorney general within 10 days after service of the subpoena. Upon
28 consideration of such a motion and any response submitted by the attorney general within such time
29 as he or she directs, the attorney general shall promptly rule upon the same, with or without a
30 hearing, as he or she determines appropriate. If, as a result of said ruling, any part or all of the
31 subpoena is enforced, the attorney general shall determine the time within which compliance with
32 the subpoena must occur.

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1 (e) Any evidence collected pursuant to a subpoena shall be made available to both
2 parties in any adjudicatory proceeding in which it is material and relevant.

3 (f) In any adjudicatory proceeding resulting from an alleged code of conduct violation,
4 the attorney general may issue subpoenas for the attendance of witnesses and for the production of
5 books, papers, documents and other items on behalf of the department or on behalf of the certified
6 educator alleged to have committed the violation. Any costs incurred in issuing a subpoena shall be
7 the responsibility of the party requesting the subpoena, unless otherwise determined by the attorney
8 general.

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AMENDED ANALYSIS

This bill authorizes the commissioner of the department of education to request the attorney general to issue subpoenas.