



# **New Mexico Compilation of School Discipline Laws and Regulations**

Prepared: March 31, 2021

## ***Introduction***

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

## ***Notes & Disclaimers***

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2021. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

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22-10A-18. School principals; duties

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22-12A-2. Definitions

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22-12A-11. Progressive interventions for absent, chronically absent and excessively absent students

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### **Chapter 29. Law Enforcement**

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### **Chapter 30. Criminal Offenses**

#### **Article 7. Weapons and Explosives**

[30-7-2.1.](#) Unlawful carrying of a deadly weapon on school premises

### **Chapter 32A. Children's Code**

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## ***Codes of Conduct***

### **Authority to Develop and Establish Codes of Conduct**

#### **LAWS**

##### **22-1-1.2. Legislative findings and purpose.**

F. The legislature finds further that the public school governance structure needs to change to provide accountability from the bottom up instead of from the top down. Each school principal, with the help of school councils made up of parents and teachers, must be the instructional leader in the public school, motivating and holding accountable both teachers and students. Each local superintendent must function as the school district's chief executive officer and have responsibility for the day-to-day operations of the school district, including personnel and student disciplinary decisions.

##### **22-5-4.3. School discipline policies; students may self-administer certain medications.**

A. Local school boards shall establish student discipline policies and shall file them with the department. The local school board shall involve parents, school personnel and students in the development of these policies, and public hearings shall be held during the formulation of these policies in the high school attendance areas within each school district or on a district-wide basis for those school districts that have no high school.

B. Each school district discipline policy shall establish rules of conduct governing areas of student and school activity, detail specific prohibited acts and activities and enumerate possible disciplinary sanctions, which sanctions may include in-school suspension, school service, suspension or expulsion. Corporal punishment shall be prohibited by each local school board and each governing body of a charter school.

##### **22-10A-18. School principals; duties.**

In addition to other duties prescribed by law, a school principal shall:

A. under the general supervision of the local superintendent, assume administrative responsibility and overall instructional leadership for the public school to which he is assigned, including the discipline of students and the planning, operation, supervision and evaluation of the educational program of the school.

##### **22-12A-6. Public school attendance policies; reporting.**

A. A public school shall maintain an attendance policy that:

- (1) establishes an early warning system that includes evidence-based metrics to identify students at risk of chronic absenteeism or excessive absenteeism;
- (2) provides for early identification of chronically absent and excessively absent students;
- (3) employs an attendance improvement plan that focuses on:
  - (a) keeping students in an educational setting;
  - (b) prohibiting out-of-school suspension or expulsion as the punishment for absences;
  - (c) assisting a student's family to remove barriers to the student's regular school attendance or attendance in another educational setting; and
  - (d) providing additional educational opportunities to students who are struggling with attendance;
- (4) limits the ability of a student to withdraw to only after all intervention efforts by the public school or the children, youth and families department to keep the student in an educational setting have been exhausted;

- (5) requires that accurate class attendance be taken for every instructional class and school day in a public school or school program;
- (6) provides that a public school shall differentiate between different types of absences;
- (7) requires a public school to document the following for each chronically or excessively absent student:
  - (a) attempts by the public school to notify a parent that the student was absent from class or the school day;
  - (b) attempts to improve attendance by talking to a student or parent to identify barriers to school attendance, identify solutions to improve the student's attendance behavior and discuss necessary interventions for the student or the student's family; and
  - (c) intervention strategies implemented to support keeping the student in an educational setting, including additional educational opportunities offered to the student;
- (8) requires a student or the parent of a student who intends to claim excused absence because of medical condition, pregnancy or parenting to communicate the student's status to the appropriate school personnel and to provide required documentation; and
- (9) encourages and supports compliant data sharing, pursuant to the federal Family Educational Rights and Privacy Act of 1974 [20 U.S.C. § 1232g], between a public school and community-based organizations that provide services to students for the purpose of providing more personalized interventions and specialized supports as part of the public school's attendance improvement plan.

**22-35-3. Bullying prevention policies; adoption and enforcement.**

A. By January 1, 2020, each local school board shall adopt and enforce policies to:

- (1) prevent bullying:
  - (a) on its property, including electronic communication on or with the use of its property;
  - (b) at sponsored functions; and
  - (c) on its to-and-from-school transportation or any school-sponsored transportation; and
- (2) prohibit electronic communication directed at a student, that is published with the intent that it be seen by or disclosed to that student and that substantially interferes with the student's ability to participate in or benefit from the services, activities or privileges provided by the public school.

**REGULATIONS**

**6.11.2.8. General provisions.**

D. Local school board authority: Local school boards have the authority and responsibility to ensure that suitable rules of student conduct and appropriate disciplinary processes are established within their school districts. Within legal limits as defined in Subsection L. of 6.11.2.7 NMAC, and subject to the minimums prescribed in this rule, local school boards have discretion to develop such rules, policies, and procedures as they deem appropriate to local conditions, including policies which afford students more protection than the minimums established here. Local school boards and administrative authorities which deem it appropriate may provide for student, community or appropriate state and local agency participation in the formulation and enforcement of school rules.

**6.11.2.9. Rules of conduct for New Mexico public schools.**

The acts specified in Subsection A of 6.11.2.9 NMAC are prohibited in all public schools in New Mexico. Within legal limits as defined in Subsection L of 6.11.2.7 NMAC, local school boards have discretion to develop rules of conduct governing all others area of student and school activity.

#### **6.12.4.8. Requirements.**

Each local school board or governing body shall establish a tobacco, alcohol and drug free school policy:

- A. The policy shall provide specific rules of conduct prohibiting the use, possession and distribution of tobacco products, e-cigarettes and nicotine liquid containers, alcoholic beverages, mood-altering substances and illicit drugs in school buildings, on school premises and by students at school-sponsored activities away from school grounds.
- B. Each school district and state-chartered charter school shall detail the prohibited acts and activities under the policy, and shall establish adequate provisions for its enforcement, including the enumeration of possible sanctions or disciplinary action, consistent with applicable statutory and case law.
- C. The policy shall provide that no school employee who in good faith reports any known or suspected use, possession or distribution of alcoholic beverages, mood-altering substances or illicit drugs shall be held liable for any civil damages as a result of such report or efforts to enforce the policy.
- D. Each school district and state-chartered charter school shall develop and implement a procedure for effectively communicating the policy to students, their parents and families, school personnel, visitors on school premises, and to local residents, groups, businesses and organizations served by the school.
- E. Each school district and state-chartered charter school shall post conspicuous notices on all school premises prohibiting the use, possession and distribution of tobacco products, e-cigarettes and nicotine liquid containers, alcoholic beverages, mood-altering substances and illicit drugs, in school buildings, on school premises and by students at school-sponsored activities away from school grounds.

#### **6.12.7.8. Bullying Prevention Policies - adoption and enforcement.**

A. By January 1, 2020, each local school board or governing body shall adopt and enforce policies to:

- (1) prevent bullying and cyberbullying:
  - (a) on its property, including electronic communication on or with the use of its property;
  - (b) at school or district-sponsored events; and
  - (c) on any school-sponsored transportation; and
- (2) prohibit electronic communication directed at a student that is published with the intent that it be seen by or disclosed to that student and that substantially interferes with the student's ability to participate in or benefit from the services, activities, or privileges provided by the public school.

## **Scope**

### **LAWS**

#### **22-35-3. Bullying prevention policies; adoption and enforcement.**

A. By January 1, 2020, each local school board shall adopt and enforce policies to:

- (1) prevent bullying:
  - (a) on its property, including electronic communication on or with the use of its property;
  - (b) at sponsored functions; and
  - (c) on its to-and-from-school transportation or any school-sponsored transportation; and
- (2) prohibit electronic communication directed at a student, that is published with the intent that it be seen by or disclosed to that student and that substantially interferes with the student's ability to participate in or benefit from the services, activities or privileges provided by the public school.

## **22-5A-2. Definitions.**

As used in the School Alcohol-Free Zone Act [22-5A-1 NMSA 1978]:

A. "alcoholic beverage" means a beverage with no less than one-half percent alcohol and includes wine, beer, fermented, distilled, rectified and fortified beverages; and

B. "school grounds" means public elementary and secondary schools, including charter schools and facilities owned or leased by the school district in or on which public school-related and sanctioned activities are performed, but does not include other commercial properties owned by a school district but not related to the functions of a public school. "School grounds" includes the buildings, playing fields, parking lots and other facilities located on a school's premises.

## **REGULATIONS**

### **6.11.2.8. General provisions.**

B. School authority over non-students. In furtherance of the state's compelling interest in the orderly operation of public schools and school activities, school officials have the following forms of authority over non-students whose actions adversely affect school operations or activities.

(1) On school property: Local school boards may prohibit entry to and provide for the removal from any public school building or grounds any person who refuses to identify themselves and state a lawful purpose for entering. Any person who refuses to identify themselves may be removed by school authorities, who may use reasonable physical force to accomplish the removal. Alternately, a person who refuses to identify themselves and who refuses a lawful request to leave school premises may be subject to arrest by law enforcement officers for criminal offenses including but not limited to criminal trespass, interference with the educational process, or disorderly conduct. A person who identifies themselves and states a lawful purpose may nevertheless be subject to removal by school officials for engaging in activities prohibited by this rule. The person may also be subject to arrest by law enforcement officers if the person is committing any crime.

(2) Off school property: Public school authorities have indirect and limited authority over the activities of non-students off school property. To the extent that non-students' conduct at or near schools or school-sponsored activities may constitute a criminal offense, including the crimes of interference with the educational process, disorderly conduct or criminal trespass after refusing a lawful request to leave, school authorities may request law enforcement agencies to arrest the offenders.

### **6.12.7.8. Bullying Prevention Policies - adoption and enforcement.**

A. By January 1, 2020, each local school board or governing body shall adopt and enforce policies to:

(1) prevent bullying and cyberbullying:

(a) on its property, including electronic communication on or with the use of its property;

(b) at school or district-sponsored events; and

(c) on any school-sponsored transportation; and

(2) prohibit electronic communication directed at a student that is published with the intent that it be seen by or disclosed to that student and that substantially interferes with the student's ability to participate in or benefit from the services, activities, or privileges provided by the public school.

# Communication of Policy

## LAWS

### **22-12A-6. Public school attendance policies; reporting.**

D. A public school shall provide a copy of the public school's attendance policy to all parents of students in that school and publish the policy on the public school's website. The attendance policy shall include:

- (1) the rights and obligations of parents and students pursuant to the Attendance for Success Act;
- (2) the prevention strategies that will be implemented to ensure that students attend classes; and
- (3) details about consequences of failing to adhere to the attendance policy.

### **22-5A-4. Notices required.**

A school shall conspicuously post notices on school grounds stating that possession and consumption of alcoholic beverages is prohibited on school grounds.

### **22-35-3. Bullying prevention policies; adoption and enforcement.**

C. Each local school board shall include bullying prevention policies and procedures for reporting bullying in student handbooks using developmentally and culturally appropriate language. Policies shall be produced and disseminated in appropriate languages for any school district in which a substantial portion of the student population speaks a language other than English at home.

### **22-35-4. Bullying prevention programs establishment.**

B. Each school district and public school shall develop a plan for the way in which the policy is to be publicized, including:

- (1) making each school district's anti-bullying policy, and developmentally, culturally and linguistically appropriate variants of the policy, available on public websites;
- (2) identifying a point of contact for bullying-related concerns; and
- (3) informing parents and students about the policy at least annually through student handbooks and other resources.

## REGULATIONS

### **6.10.8.8. Requirements.**

E. A copy of the local school board or charter school's attendance policy shall be provided to the public education department's health education coordinator or designated staff for approval within ten (10) days of its adoption by the local school board or governing body of a charter school.

### **6.12.4.8. Requirements.**

Each local school board or governing body shall establish a tobacco, alcohol and drug free school policy:

- E. Each school district and state-chartered charter school shall post conspicuous notices on all school premises prohibiting the use, possession and distribution of tobacco products, e-cigarettes and nicotine liquid containers, alcoholic beverages, mood-altering substances and illicit drugs, in school buildings, on school premises and by students at school-sponsored activities away from school grounds.

### **6.12.7.8. Bullying Prevention Policies - adoption and enforcement.**

C. Each local school board and governing body shall include bullying prevention policies and procedures for reporting bullying in student handbooks using developmentally and culturally appropriate language.

Policies shall be produced and disseminated in appropriate languages in any school district in which a substantial portion of the student population speaks a language other than English at home.

**6.12.7.9. Bullying prevention programs - establishment.**

B. Each school district and public school shall develop a plan for the way in which the policy is to be publicized, including:

- (1) making each school district's bullying prevention policy, and developmentally, culturally and linguistically appropriate variants of the policy, available on district and/or school public websites;
- (2) identifying a point of contact for bullying-related concerns; and
- (3) informing parents and students about the policy at least annually through student handbooks and other resources.

## ***In-School Discipline***

### **Discipline Frameworks**

#### **LAWS**

##### **22-5-4.3. School discipline policies; students may self-administer certain medications.**

A. Local school boards shall establish student discipline policies and shall file them with the department.

The local school board shall involve parents, school personnel and students in the development of these policies, and public hearings shall be held during the formulation of these policies in the high school attendance areas within each school district or on a district-wide basis for those school districts that have no high school.

B. Each school district discipline policy shall establish rules of conduct governing areas of student and school activity, detail specific prohibited acts and activities and enumerate possible disciplinary sanctions, which sanctions may include in-school suspension, school service, suspension or expulsion. Corporal punishment shall be prohibited by each local school board and each governing body of a charter school.

C. An individual school within a school district may establish a school discipline policy, provided that parents, school personnel and students are involved in its development and a public hearing is held in the school prior to its adoption. If an individual school adopts a discipline policy in addition to the local school board's school district discipline policy, it shall submit its policy to the local school board for approval.

D. All school discipline policies shall define and include a specific prohibition against racialized aggression involving a student or school personnel. Every school district and every charter school shall provide links to the statewide hotline to report racially charged incidents or racialized aggression.

E. No school employee who in good faith reports any known or suspected violation of the school discipline policy or in good faith attempts to enforce the policy shall be held liable for any civil damages as a result of such report or of the employee's efforts to enforce any part of the policy.

F. All public school and school district discipline policies shall allow students to carry and self-administer asthma medication and emergency anaphylaxis medication that has been legally prescribed to the student by a licensed health care provider under the following conditions:

- (1) the health care provider has instructed the student in the correct and responsible use of the medication;
- (2) the student has demonstrated to the health care provider and the school nurse or other school official the skill level necessary to use the medication and any device that is necessary to administer the medication as prescribed;
- (3) the health care provider formulates a written treatment plan for managing asthma or anaphylaxis episodes of the student and for medication use by the student during school hours or school-sponsored activities, including transit to or from school or school-sponsored activities; and
- (4) the student's parent has completed and submitted to the school any written documentation required by the school or the school district, including the treatment plan required in Paragraph (3) of this subsection and other documents related to liability.

G. The parent of a student who is allowed to carry and self-administer asthma medication and emergency anaphylaxis medication may provide the school with backup medication that shall be kept in a location to which the student has immediate access in the event of an asthma or anaphylaxis emergency.

H. Authorized school personnel who in good faith provide a person with backup medication as provided in this section shall not be held liable for civil damages as a result of providing the medication.

## REGULATIONS

No relevant regulations found.

## Teacher Authority to Remove Students From Classrooms

### LAWS

No relevant laws found.

### REGULATIONS

#### **6.11.2.12. Procedure for detentions, suspensions, and expulsions.**

The authority of the state and of local school boards to prescribe and enforce standards of conduct for public school students must be exercised consistently with constitutional safeguards of individual student rights. The right to a public education is not absolute; it may be taken away, temporarily or permanently, for violations of school rules. The right to a public education is a property right which may only be denied where school authorities have adhered to the minimum procedural safeguards required to afford the student due process of law. This section prescribes minimum requirements for detention, in-school suspension, and temporary, long-term or permanent removal of students from public schools. Local school boards may adopt procedures which afford students more protection than this rule requires. The procedures in this section apply only to disciplinary detentions, suspensions, and expulsions. They do not apply to disenrollment of students who fail to meet immunization, age, residence, or other requirements for valid enrollment, nor to the removal from school membership reports of students who have been absent from school for 10 consecutive school days in accordance with Subsection B of Section 22-8-2 NMSA 1978. Nothing in this section shall be construed as prohibiting school boards or administrative authorities from involving other school staff, students, and members of the community in the enforcement of rules of student conduct to the extent they believe is appropriate.

C. Immediate removal. Students whose presence poses a continuing danger to persons or property or an ongoing threat of interfering with the educational process may be immediately removed from school, subject to the following rules:

- (1) A rudimentary hearing, as required for temporary suspensions, shall follow as soon as possible;
- (2) Students shall be reinstated after no more than one school day unless within that time a temporary suspension is also imposed after the required rudimentary hearing. In such circumstances, a single hearing will support both the immediate removal and a temporary suspension imposed in connection with the same incident(s); and
- (3) The school shall exert reasonable efforts to inform the student's parent of the charges against the student and the action taken as soon as practicable. If the school has not communicated with the parent by telephone or in person by the end of the school day following the immediate removal, the school shall on that day mail a written notice with the required information to the parent's address of record.

## Alternatives to Suspension

### LAWS

#### **22-5-4.3. School discipline policies; students may self-administer certain medications.**

B. Each school district discipline policy shall establish rules of conduct governing areas of student and school activity, detail specific prohibited acts and activities and enumerate possible disciplinary sanctions,



which sanctions may include in-school suspension, school service, suspension or expulsion. Corporal punishment shall be prohibited by each local school board and each governing body of a charter school.

### **22-35-2. Definitions.**

As used in the Safe Schools for All Students Act [Chapter 22, Article 35 NMSA 1978]:

G. "progressive discipline" means disciplinary action other than suspension or expulsion from school that is designed to correct and address the basic causes of a student's specific misbehavior while retaining the student in class or in school, or restorative school practices to repair the harm done to relationships and other students from the student's misbehavior, and may include:

- (1) meeting with the student and the student's parents;
- (2) reflective activities, such as requiring the student to write an essay about the student's misbehavior;
- (3) counseling;
- (4) anger management;
- (5) health counseling or intervention;
- (6) mental health counseling;
- (7) participation in skill-building and resolution activities, such as social-emotional cognitive skills building, resolution circles and restorative conferencing;
- (8) community service; and
- (9) in-school detention or suspension, which may take place during lunchtime, after school or during weekends.

### **22-35-3. Bullying prevention policies; adoption and enforcement.**

B. Each local school board shall control the content of its policy; provided that the policy includes:

- (4) a list of consequences, including progressive discipline approaches that can result from an identified incident of bullying that are designed to:
  - (a) appropriately correct the bullying behavior;
  - (b) prevent another occurrence of bullying or retaliation;
  - (c) protect the target of the bullying;
  - (d) be flexible so that, in application, the consequences can be unique to the individual incident and varied in method and severity based on: 1) the nature of the incident; 2) the developmental age of the student who is bullying; and 3) any history of problem behavior from the student who is bullying; and
  - (e) for cyberbullying incidents, use the least restrictive means necessary to address the interference with the student's ability to participate in or benefit from the services, activities or privileges provided by the school.

## **REGULATIONS**

### **6.11.2.7. Definitions.**

E. "Detention" means requiring a student to remain in a designated area in the student's school outside of instructional time, such as before school, during recess, during lunch, or after school. No detained student shall be denied an opportunity to eat lunch or reasonable opportunities to go to the restroom. [...]

K. "In-school suspension" means requiring a student to spend time in a designated area at the same school or in an environment where the student is allowed to continue with their academic learning.

#### **6.11.2.10. Enforcing rules of conduct.**

G. Detention, suspension and expulsion. Where detention, suspension, or expulsion is determined to be the appropriate penalty, it may be imposed only in accordance with procedures that provide at least the minimum safeguards prescribed in 6.11.2.12 NMAC. Suspensions or expulsions of students with disabilities shall be subject to the further requirements of Subsection I of 6.11.2.10 NMAC and 6.11.2.11 NMAC.

#### **6.11.2.12. Procedure for detentions, suspensions, and expulsions.**

The authority of the state and of local school boards to prescribe and enforce standards of conduct for public school students must be exercised consistently with constitutional safeguards of individual student rights. The right to a public education is not absolute; it may be taken away, temporarily or permanently, for violations of school rules. The right to a public education is a property right which may only be denied where school authorities have adhered to the minimum procedural safeguards required to afford the student due process of law. This section prescribes minimum requirements for detention, in-school suspension, and temporary, long-term or permanent removal of students from public schools. Local school boards may adopt procedures which afford students more protection than this rule requires. The procedures in this section apply only to disciplinary detentions, suspensions, and expulsions. They do not apply to disenrollment of students who fail to meet immunization, age, residence, or other requirements for valid enrollment, nor to the removal from school membership reports of students who have been absent from school for 10 consecutive school days in accordance with Subsection B of Section 22-8-2 NMSA 1978. Nothing in this section shall be construed as prohibiting school boards or administrative authorities from involving other school staff, students, and members of the community in the enforcement of rules of student conduct to the extent they believe is appropriate.

##### E. In-school suspension.

(1) In-school suspension may be imposed with or without further restriction of student privileges. Any student who is placed in in-school suspension which exceeds 10 school days must be provided with an instructional program that meets state and local educational requirements. Student privileges, however, may be restricted for longer than 10 school days.

(2) In-school suspensions of any length shall be accomplished according to the procedures for a temporary suspension as set forth in Subsection D of 6.11.2.12 NMAC. A local school board may limit the length of in-school suspensions which may be accomplished under temporary suspension procedures. No student in in-school suspension shall be denied an opportunity to eat lunch or reasonable opportunities to go to the restroom.

##### F. Detention.

(1) Detention may be imposed in connection with in-school suspension, but is distinct from in-school suspension in that detention does not entail removing the student from any of the student's regular classes.

(2) The authority of the schools to supervise and control the conduct of students includes the authority to impose reasonable periods of detention during the day or outside normal school hours as a disciplinary measure. Reasonable periods of detention may be imposed in accordance with the procedures for temporary suspension.

#### **6.12.7.7. Definitions.**

G. "Progressive discipline " means disciplinary action other than suspension or expulsion from school that is designed to correct and address the basic causes of a student's specific misbehavior while retaining the student in class or in school, or restorative school practices to repair the harm done to relationships and other students from the student's misbehavior, and may include:

- (1) meeting with the student and the student's parents;
- (2) reflective activities, such as requiring the student to write an essay about the student's misbehavior;
- (3) counseling;
- (4) anger management;
- (5) health counseling or intervention;
- (6) mental health counseling or intervention;
- (7) participation in skill-building and conflict resolution activities;
- (8) community service; and
- (9) in-school detention or in-school suspension that is for a constructive purpose and may take place during lunchtime, recess, after school, or during weekends.

## ***Conditions on Use of Certain Forms of Discipline***

### **Corporal Punishment**

#### **LAWS**

##### **22-5-4.3. School discipline policies; students may self-administer certain medications.**

B. Each school district discipline policy shall establish rules of conduct governing areas of student and school activity, detail specific prohibited acts and activities and enumerate possible disciplinary sanctions, which sanctions may include in-school suspension, school service, suspension or expulsion. Corporal punishment shall be prohibited by each local school board and each governing body of a charter school.

#### **REGULATIONS**

##### **6.11.2.10. Enforcing rules of conduct.**

F. Corporal punishment. Corporal punishment shall be prohibited by each local school board pursuant to Subsection B of Section 22-5-4.3 NMSA 1978. Restraint or seclusion techniques used in compliance with Subsection E of 6.11.2.10 NMAC shall not be deemed to be corporal punishment.

### **Search and Seizure**

#### **LAWS**

No relevant laws found.

#### **REGULATIONS**

##### **6.11.2.10. Enforcing rules of conduct.**

B. Search and seizure. School property assigned to a student and a student's person or property while under the authority of a public school are subject to search, and items found are subject to seizure, in accordance with the following requirements:

- (1) Notice of search policy. Students shall be given reasonable notice, through distribution of written policies or otherwise, of each school's policy on searches at the beginning of each school year or upon admission for students entering during the school year.
- (2) Who may search. Certified school personnel, school security personnel and school bus drivers are "authorized persons" to conduct searches when a search is permissible as set forth in Subsection B of 6.11.2.10 NMAC. An authorized person who is conducting a search may request the assistance of one or more people, who upon consent become authorized to search for the purpose of that search only.
- (3) When a search is permissible. Unless local school board policy provides otherwise, an authorized person may conduct a search when the authorized person has a reasonable suspicion that a crime or other breach of disciplinary rules is occurring or has occurred. An administrative authority may direct or conduct a search under the same conditions and also when the administrative authority has reasonable cause to believe that a search is necessary to help maintain school discipline.
- (4) Conduct of searches and witnesses. The following requirements govern the conduct of permissible searches by authorized persons.
  - (a) School property, including lockers and school buses, may be searched with or without students present unless a local school board or administrative authority provides otherwise. When students are not present for locker searches, another authorized person shall serve as a witness whenever

possible. Locks furnished by students should not be destroyed unless a student refuses to open one or circumstances otherwise render such action necessary in the judgment of the administrative authority.

(b) Student vehicles when on campus or otherwise under school control and students' personal effects, which are not within their immediate physical possession, may be searched in accordance with the requirements for locker searches in Subparagraph (a) of Paragraph (4) of Subsection B of 6.11.2.10 NMAC.

(c) Physical searches of a student's person may be conducted only by an authorized person of the same sex as the student and, except when circumstances render it impossible, may be conducted only in the presence of another authorized person of the same sex. The extent of the search must be reasonably related to the infraction, and the search shall not be excessively intrusive in light of the student's age and sex, and the nature of the infraction.

(5) Seizure of items. Illegal items, legal items which threaten the safety or security of others and items which are used to disrupt or interfere with the educational process may be seized by authorized persons. Seized items shall be released to appropriate authorities or a student's parent or returned to the student when and if the administrative authority deems appropriate.

(6) Notification of law enforcement authorities. Unless a local school board policy provides otherwise, an administrative authority shall have discretion to notify the local children's court attorney, district attorney, or other law enforcement officers when a search discloses illegally possessed contraband material or evidence of some other crime or delinquent act.

## Restraint and Seclusion

### LAWS

#### **22-5-4.12. Use of restraint and seclusion; techniques; requirements.**

A. A school may permit the use of restraint or seclusion techniques on any student only if both of the following apply:

- (1) the student's behavior presents an imminent danger of serious physical harm to the student or others; and
- (2) less restrictive interventions appear insufficient to mitigate the imminent danger of serious physical harm.

B. If a restraint or seclusion technique is used on a student:

- (1) school employees shall maintain continuous visual observation and monitoring of the student while the restraint or seclusion technique is in use;
- (2) the restraint or seclusion technique shall end when the student's behavior no longer presents an imminent danger of serious physical harm to the student or others;
- (3) the restraint or seclusion technique shall be used only by school employees who are trained in the safe and effective use of restraint and seclusion techniques unless an emergency situation does not allow sufficient time to summon those trained school employees;
- (4) the restraint technique employed shall not impede the student's ability to breathe or speak; and
- (5) the restraint technique shall not be out of proportion to the student's age or physical condition.

C. Schools shall establish policies and procedures for the use of restraint or seclusion techniques in a school safety plan; provided that:

- (1) the school safety plan shall not be specific to any individual student; and

(2) any school safety plan shall be drafted by a planning team that includes at least one special education expert.

D. Schools shall establish reporting and documentation procedures to be followed when a restraint or seclusion technique has been used on a student. The procedures shall include the following provisions:

(1) a school employee shall provide the student's parent or guardian with written or oral notice on the same day that the incident occurred, unless circumstances prevent same-day notification. If the notice is not provided on the same day of the incident, notice shall be given within twenty-four hours after the incident;

(2) within a reasonable time following the incident, a school employee shall provide the student's parent or guardian with written documentation that includes information about any persons, locations or activities that may have triggered the behavior, if known, and specific information about the behavior and its precursors, the type of restraint or seclusion technique used and the duration of its use; and

(3) schools shall review strategies used to address a student's dangerous behavior if use of restraint or seclusion techniques for an individual student has occurred two or more times during any thirty-calendar-day period. The review shall include:

(a) a review of the incidents in which restraint or seclusion techniques were used and an analysis of how future incidents may be avoided, including whether the student requires a functional behavioral assessment; and

(b) a meeting of the student's individualized education program team, behavioral intervention plan team or student assistance team within two weeks of each use of restraint or seclusion after the second use within a thirty-calendar-day period to provide recommendations for avoiding future incidents requiring the use of restraint or seclusion.

E. If a school summons law enforcement instead of using a restraint or seclusion technique on a student, the school shall comply with the reporting, documentation and review procedures established pursuant to Subsection D of this section.

F. Policies regarding restraint and seclusion shall consider school district support and strategies for school employees to successfully reintegrate a student who has been restrained or secluded back into the school or classroom environment.

G. The provisions of this section shall not be interpreted as addressing the conduct of law enforcement or first responders.

H. The provisions of this section do not apply to any school located within a county juvenile detention center or a state-operated juvenile facility.

I. For the purposes of this section:

(1) "first responder" means a person based outside of a school who functions within the emergency medical services system and who is dispatched to a school to provide initial emergency aid;

(2) "mechanical restraint" means the use of any device or material attached or adjacent to the student's body that restricts freedom of movement or normal access to any portion of the student's body and that the student cannot easily remove, but "mechanical restraint" does not include mechanical supports or protective devices;

(3) "physical restraint" means the use of physical force without the use of any device or material that restricts the free movement of all or a portion of a student's body, but "physical restraint" does not include physical escort;

(4) "restraint" when not otherwise modified means mechanical or physical restraint; and

(5) seclusion" means the involuntary confinement of a student alone in a room from which egress is prevented. "Seclusion" does not mean the use of a voluntary behavior management technique,

including a timeout location, as part of a student's education plan, individual safety plan, behavioral plan or individualized education program that involves the student's separation from a larger group for purposes of calming.

## **REGULATIONS**

### **6.11.2.7. Definitions.**

P. "Mechanical restraint" means the use of any device or material attached or adjacent to the student's body that restricts freedom of movement or normal access to any portion of the student's body and that the student cannot easily remove, but "mechanical restraint" does not include mechanical supports or protective devices. [...]

R. "Physical restraint" means the use of physical force without the use of any device or material that restricts the free movement of all or a portion of a student's body, but "physical restraint" does not include physical escort. [...]

V. "Restraint" when not otherwise modified means mechanical or physical restraint. [...]

X. "Seclusion" means the involuntary confinement of a student alone in a room from which egress is prevented. "Seclusion" does not mean the use of a voluntary behavior management technique, including a timeout location, as part of a student's education plan, individual safety plan, behavioral plan or individualized education program that involves the student's separation from a larger group for purposes of calming.

### **6.11.2.10. Enforcing rules of conduct.**

E. Restraint or seclusion. In accordance with Section 22-5-4.12 NMSA 1978, each school shall establish requirements for the use of restraint and seclusion techniques.

(1) Schools shall establish policies and procedures, as approved by the local school board or governing body, for the use of restraint and seclusion techniques. Schools shall review such policies and procedures on a triennial basis, before submitting the school safety plan.

(a) A school may permit the use of restraint or seclusion techniques on any student only if the student's behavior presents an imminent danger of serious physical harm to the student or others and only if less restrictive interventions appear insufficient to mitigate the imminent danger of serious physical harm. Less restrictive interventions include de-escalation strategies, positive behavioral intervention supports, or other comparable behavior management techniques.

(b) The restraint or seclusion techniques shall be used only by school employees who are trained in de-escalation strategies, positive behavioral intervention supports, and the safe and effective use of restraint and seclusion techniques, unless an emergency does not allow sufficient time to summon those trained school employees.

(c) The restraint or seclusion techniques shall not impede the student's ability to breathe or speak, shall be in proportion to a student's age and physical condition, and shall end when the student's behavior no longer presents an imminent danger of serious physical harm to the student or others.

(d) If a restraint or seclusion technique is used on a student, trained and authorized school employees shall maintain continuous visual observation and monitoring of the student while the restraint or seclusion technique is in use.

(2) In accordance with Section 22-5-4.12 NMSA 1978, schools shall establish policies and procedures for the use of restraint and seclusion techniques in a school safety plan.

(a) A school safety plan, pursuant to requirements of Paragraph (7) of Subsection D of 6.12.6.8 NMAC, shall include the following minimum requirements:

- (i) The school safety plan shall not be specific to any individual student; and
  - (ii) The school safety planning team shall include at least one administrator, one educator, and one special education expert and may include a counselor or social worker, nurse, and school resource officer or security staff. The school safety planning team shall include personnel who are trained as designated school personnel restraint and seclusion.
- (b) A school safety plan, pursuant to requirements of Paragraph (7) of Subsection D of 6.12.6.8 NMAC, shall be submitted to the department on a triennial basis, on a schedule determined by the department. The department will provide local education agencies notice of a deadline to submit a school safety plan 90 days prior to the due date.
- (3) Policies and procedures for the use of restraint and seclusion techniques shall require and describe appropriate training for designated school personnel.
- (a) School districts and charter schools shall provide training for designated school personnel regarding de-escalation strategies, positive behavioral intervention supports, or other comparable behavior management techniques and the use of restraint or seclusion techniques. Designated school personnel shall attend training at least every two years or complete a certification course, exam, or other comparable demonstration of competency that provides evidence that the individual has up-to-date knowledge of proper restraint and seclusion techniques.
  - (b) In the event that new designated school personnel are identified within the school after the provision of the training, certification course, exam, or other comparable demonstration of competency, the school district or charter school shall ensure that a training or other competency demonstration is provided to new designated school personnel within 60 days of being designated.
- (4) Policies regarding restraint or seclusion shall consider school district support and strategies for school employees to successfully reintegrate a student who has been restrained or secluded back into the school or classroom environment.
- (5) Schools shall implement the following review procedures for incidents in which restraint or seclusion techniques are used.
- (a) If a student has been restrained or secluded two or more times within 30 calendar days, the school shall review strategies used to address the student's behavior and determine whether the student needs a functional behavior assessment or referral to a student assistance team, behavioral intervention plan team, or, if a student has an individualized education program, a referral to the student's individualized education program team.
  - (b) If a student has been restrained or secluded two or more times within 30 calendar days, the student's individualized education program team, behavioral intervention plan team, or student assistance team shall meet within two weeks of each subsequent use to provide recommendations for avoiding future incidents requiring the use of restraint or seclusion.
  - (c) The review shall include whether school personnel involved in the incidents were trained in the use of de-escalation strategies, positive behavioral intervention supports, or restraint and seclusion techniques. Additionally, the review shall consider whether the individual who restrained or secluded a student needs additional training.
  - (d) To improve internal practices relative to incidents of restraint or seclusion, schools shall conduct an annual review and analysis of all incidents in which restraint or seclusion techniques were used, including the number of incidents, the type of incident, personnel involved, the need for additional training, and student demographics.
- (6) Schools shall establish documentation and reporting procedures pursuant to the requirements listed in Section 22-5-4.12 NMSA 1978. In addition, schools shall provide written or oral assurance of secure storage and access to written documentation in accordance with this rule, 20 USC. Section 1232(g), 34



CFR Part 99, the Family Educational Rights and Privacy Act, and any other applicable federal or state laws or rules governing the privacy of such documents.

(a) A school employee shall provide the student's parent with written or oral notice on the same day the incident occurred, unless circumstances prevent same-day notification. If notice is not provided on the same day of the incident, notice shall be given within 24 hours after the incident.

(b) Within a reasonable time following the incident, no longer than two school days, a school employee shall provide the student's parent with written documentation that includes information about any persons, locations, or activities that may have triggered the behavior, if known, and specific information about the behavior and its precursors, the type of restraint or seclusion technique used, and the duration of its use.

(c) Schools shall report to the department, through the department's data collection and reporting system, the following information on a timeline and reporting frequency established by the department:

- (i) all instances in which a restraint or seclusion technique is used;
- (ii) all instances in which law enforcement is summoned instead of using a restraint or seclusion technique;
- (iii) the names of the students and school personnel involved in an incident in which restraint or seclusion was used; and
- (iv) if a student was restrained, the type of restraint, including mechanical restraint or physical restraint, that was used.

(d) If a school summons law enforcement instead of using a restraint or seclusion technique on a student, the school shall comply with the reporting, documentation, and review procedures established pursuant to this rule and Section 22-5-4.12 NMSA 1978.

## ***Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement***

### **Grounds for Suspension or Expulsion**

#### **LAWS**

##### **22-5-4.7. Additional student discipline policies; weapon-free schools.**

A. In addition to other student discipline policies, each school district shall adopt a policy providing for the expulsion from school, for a period of not less than one year, of any student who is determined to have knowingly brought a weapon to a school under the jurisdiction of the local board. The local school board or the superintendent of the school district may modify the expulsion requirement on a case-by-case basis.

#### **REGULATIONS**

No relevant regulations found.

### **Limitations or Conditions on Exclusionary Discipline**

#### **LAWS**

##### **22-5-4.7. Additional student discipline policies; weapon-free schools.**

A. In addition to other student discipline policies, each school district shall adopt a policy providing for the expulsion from school, for a period of not less than one year, of any student who is determined to have knowingly brought a weapon to a school under the jurisdiction of the local board. The local school board or the superintendent of the school district may modify the expulsion requirement on a case-by-case basis.

##### **22-12A-6. Public school attendance policies; reporting.**

A. A public school shall maintain an attendance policy that:

- (3) employs an attendance improvement plan that focuses on:
  - (b) prohibiting out-of-school suspension or expulsion as the punishment for absences.

##### **22-33-5. Medical cannabis; possession; storage; administration; restriction; exemptions.**

D. A public school, charter school or school district shall not:

- (1) discipline a student who is a qualified student on the basis that the student requires medical cannabis as a reasonable accommodation necessary for the student to attend school.

#### **REGULATIONS**

##### **6.10.8.8. Requirements.**

B. Each local school board and charter school shall develop a written attendance policy that:

- (4) prohibits out-of-school suspension and expulsion as a punishment for unexcused absences and habitual truancy.

#### **6.12.10.11. Students.**

A. Each school district and charter school shall ban a student's possession, use, distribution, sale, or being under the influence of a cannabis product in a manner inconsistent with provisions of the Lynn and Erin Compassionate Use Act.

B. No school shall discipline a student who is a qualified student on the basis that the student requires medical cannabis as necessary for the student to attend school.

C. No school shall deny eligibility to attend school to a qualified student on the basis that the qualified student requires medical cannabis as a reasonable accommodation necessary for the student to attend school or an in-state school-sponsored activity.

## **Due Process**

### **LAWS**

#### **22-5-4.7. Additional student discipline policies; weapon-free schools.**

B. Student discipline policies shall also provide for placement in an alternative educational setting, for not more than forty-five days, of any student with a disability who is determined to have knowingly brought a weapon to a school under the jurisdiction of the local board. If a parent or guardian of the student requests a due process hearing, then the student shall remain in the alternative educational setting during the pendency of any proceeding, unless the parent or guardian and the school district agree otherwise.

#### **22-12A-12. Excessive absenteeism; enforcement.**

A. Each local school board and each governing body of a charter school or private school shall initiate the enforcement of the provisions of the Attendance for Success Act [Chapter 22, Article 12A NMSA 1978] for excessively absent students.

B. If unexcused absences continue after written notice of excessive absenteeism as provided in Section 11 [22-12A-11 NMSA 1978] of the Attendance for Success Act, the local school board or governing body of a charter school or private school, after consultation with the local superintendent or head administrator of a charter school or private school, shall report the excessively absent student to the probation services office of the judicial district in which the student resides for an investigation as to whether the student should be considered to be a neglected child or a child in a family in need of family services because of excessive absenteeism and, thus, subject to the provisions of the Children's Code [Chapter 32A NMSA 1978]. The record of the public school's interventions and the student's and parent's responses to the interventions shall be provided to the juvenile probation services office. The local superintendent or head administrator of a charter school or private school shall provide the documentation to the juvenile probation services office within ten business days of the student being identified as excessively absent.

C. If the juvenile probation services office determines that the student is a child in a family in need of family services, a caseworker from the child or family in need of family services program shall meet with the family at the public school in which the student is enrolled to determine if there are other intervention services that may be provided. The meeting shall involve the school principal or other school personnel and, unless the parent objects in writing, appropriate community partners that provide services to children and families. The children, youth and families department shall determine if additional interventions, including monitoring, will positively affect the student's behavior.

#### **22-35-3. Bullying prevention policies; adoption and enforcement.**

B. Each local school board shall control the content of its policy; provided that the policy includes:

(6) a procedure for prompt investigation of reports of violations of the policy and of complaints of bullying or retaliation, including:

(d) an appeal process for a student accused of bullying or a student who is the target of bullying who is not satisfied with the outcome of the initial investigation.

## REGULATIONS

### **6.11.2.12. Procedure for detentions, suspensions, and expulsions.**

The authority of the state and of local school boards to prescribe and enforce standards of conduct for public school students must be exercised consistently with constitutional safeguards of individual student rights. The right to a public education is not absolute; it may be taken away, temporarily or permanently, for violations of school rules. The right to a public education is a property right which may only be denied where school authorities have adhered to the minimum procedural safeguards required to afford the student due process of law. This section prescribes minimum requirements for detention, in-school suspension, and temporary, long-term or permanent removal of students from public schools. Local school boards may adopt procedures which afford students more protection than this rule requires. The procedures in this section apply only to disciplinary detentions, suspensions, and expulsions. They do not apply to disenrollment of students who fail to meet immunization, age, residence, or other requirements for valid enrollment, nor to the removal from school membership reports of students who have been absent from school for 10 consecutive school days in accordance with Subsection B of Section 22-8-2 NMSA 1978. Nothing in this section shall be construed as prohibiting school boards or administrative authorities from involving other school staff, students, and members of the community in the enforcement of rules of student conduct to the extent they believe is appropriate.

C. Immediate removal. Students whose presence poses a continuing danger to persons or property or an ongoing threat of interfering with the educational process may be immediately removed from school, subject to the following rules:

(2) Students shall be reinstated after no more than one school day unless within that time a temporary suspension is also imposed after the required rudimentary hearing. In such circumstances, a single hearing will support both the immediate removal and a temporary suspension imposed in connection with the same incident(s). [...]

D. Temporary suspension.

(2) A student facing temporary suspension shall be granted a rudimentary hearing in which the student shall first be informed of the charges against the student and, if the student denies them, shall be told what evidence supports the charge(s) and be given an opportunity to present the student's version of the facts. The following rules apply:

(a) the hearing may be an informal discussion and may follow immediately after the notice of the charges is given;

(b) unless the administrative authority decides a delay is essential to permit a fuller exploration of the facts, informal discussion may take place and a temporary suspension may be imposed within minutes after the alleged misconduct has occurred;

(c) a student who denies a charge of misconduct shall be told what act(s) the student is accused of committing, shall be given an explanation of the evidence supporting the accusation(s), and shall be given the opportunity to explain the student's version of the facts. The administrative authority is not required to divulge the identity of informants, although the administrative authority should not withhold such information without good cause. The administrative authority is required to disclose the substance of all evidence on which the administrative authority proposes to base a decision in the matter;

(d) the administrative authority is not required to allow the student to secure counsel, to confront or cross-examine witnesses supporting the charge(s), or to call witnesses to verify the student's version of the incident, but none of these is prohibited; and

(e) the school shall exert reasonable efforts to inform the student's parent(s) of the charges against the student and the possible or actual consequence as soon as practicable. If the school has not communicated with the parent(s) by telephone or in person by the end of the first full day of suspension, the school shall on that day mail a written notice with the required information to the parent's address of record. [...]

#### G. Long-term suspension and expulsion.

(1) Each local school board shall authorize appropriate administrative authorities to initiate procedures leading to long-term suspension or expulsion. Where prompt action to suspend a student long-term is deemed appropriate, a temporary suspension may be imposed while the procedures for long-term suspension or expulsion are activated. However, where a decision following the required formal hearing is delayed beyond the end of the temporary suspension, the student shall be returned to school pending the final outcome unless the provisions of Subparagraphs (j) and (k) of Paragraph (4) of Subsection G of 6.11.2.12 NMAC apply. [...]

(4) The following rules shall govern the imposition of long-term suspensions or expulsions:

(a) Hearing authority and disciplinarian. The same person or group may perform the functions of hearing authority and disciplinarian. Where the functions are divided, the hearing authority's determination of the facts shall be conclusive to the disciplinarian, but the disciplinarian may reject any consequence(s) recommended by the hearing authority.

(b) Review authority. Unless the local school board provides otherwise, a review authority shall have discretion to modify or overrule the disciplinarian's decision, but may not impose harsher consequences. A review authority shall be bound by a hearing authority's factual determinations except as provided in Subparagraph (o) of Paragraph (4) of Subsection G of 6.11.2.12 NMAC.

(c) Disqualification. No person shall act as hearing authority, disciplinarian, or review authority in a case where the person was directly involved in or witnessed the incident(s) in question, or if the person has prejudged disputed facts or is biased for or against any person who will actively participate in the proceedings.

(d) Local school board participation. A local school board may act as hearing authority, disciplinarian, or review authority for any cases involving proposed long-term suspensions or expulsions. However, whenever a quorum of the local school board acts in any such capacity, Section 10-15-1 et seq., NMSA 1978, the Open Meetings Act, requires a public meeting.

(e) Initiation of procedures. An authorized administrative authority shall initiate procedures for long-term suspension or expulsion of a student by designating a hearing authority and disciplinarian in accordance with local school board policies, scheduling a formal hearing in consultation with the hearing authority, and preparing and serving a written notice meeting the requirements of Subparagraph (h) of Paragraph (4) of Subsection G of 6.11.2.12 NMAC.

(f) Service of notice. The written notice shall be addressed to the student, through the student's parent(s), and shall be served upon the parent(s) personally or by mail.

(g) Timing of hearing. The hearing shall be scheduled no sooner than five nor later than 10 school days from the date of receipt of the notice by the parent(s). The hearing authority may grant or deny a request to delay the hearing in accordance with the provisions of Subparagraph (i) of Paragraph (4) of Subsection G of 6.11.2.12 NMAC.

(h) Contents of notice. The written notice must contain all of the following information, parts of which may be covered by appropriate reference to copies of any policies or regulations furnished with the notice:

- (i) the school rule(s) alleged to have been violated, a concise statement of the alleged act(s) of the student on which the charge(s) are based, and a statement of the possible penalty;
  - (ii) the date, time, and place of the hearing, and a statement that both the student and parent(s) are entitled and urged to be present;
  - (iii) a clear statement that the hearing will take place as scheduled unless the hearing authority grants a delay or the student and parent(s) agree to waive the hearing and comply voluntarily with the proposed disciplinary action or with a negotiated penalty, and a clear and conspicuous warning that a failure to appear will not delay the hearing and may lead to the imposition of the proposed penalty by default;
  - (iv) a statement that the student has the right to be represented at the hearing by legal counsel, a parent or some other representative designated in a written notice filed at least 72 hours before the hearing with the contact person named pursuant to Item (vi) of Subparagraph (h) of Paragraph (4) of Subsection G of 6.11.2.12 NMAC;
  - (v) a description of the procedures governing the hearing;
  - (vi) the name, business address, and telephone number of a contact person through whom the student, parent(s), or designated representative may request a delay or seek further information, including access to any documentary evidence or exhibits which the school proposes to introduce at the hearing; and
  - (vii) any other information, materials or instructions deemed appropriate by the administrative authority who prepares the notice.
- (i) Delay of hearing. The hearing authority shall have discretion to grant or deny a request by the student or the appropriate administrative authority to postpone the hearing. Such discretion may be limited or guided by local school board policies not otherwise inconsistent with this rule.
- (j) Student status pending hearing. Where a student has been suspended temporarily and a formal hearing on long-term suspension or expulsion will not occur until after the temporary suspension has expired, the student shall be returned to school at the end of the temporary suspension unless:
- (i) the provisions of Subparagraph (k) of Paragraph (4) of Subsection G of 6.11.2.12 NMAC apply, or
  - (ii) the student and parent(s) have knowingly and voluntarily waived the student's right to return to school pending the outcome of the formal proceedings; or
  - (iii) the appropriate administrative authority has conducted an interim hearing pursuant to a written local school board policy made available to the student which affords further due process protection sufficient to support the student's continued exclusion pending the outcome of the formal procedures.
- (k) Waiver of hearing, voluntary compliance, or negotiated penalty. A student and the student's parent(s) may elect to waive the formal hearing and review procedures and comply voluntarily with the proposed penalty, or may waive the hearing and review and negotiate a mutually acceptable penalty with the designated disciplinarian. Such a waiver and compliance agreement shall be made voluntarily, with knowledge of the rights being relinquished, and shall be evidenced by a written document signed by the student, the parent(s), and the appropriate school official.
- (l) Procedure for hearing and decision. The formal hearing is not a trial. The formal hearing is an administrative hearing designed to ensure a calm and orderly determination by an impartial hearing

authority of the facts of a case of alleged serious misconduct. Technical rules of evidence and procedure do not apply. The following rules govern the conduct of the hearing and the ultimate decision:

- (i) The school shall have the burden of proof of misconduct.
- (ii) The student and the student's parent(s) shall have the following rights: The right to be represented by legal counsel or other designated representative, however, the school is not required to provide representation; the right to present evidence, subject to reasonable requirements of substantiation at the discretion of the hearing authority and subject to exclusion of evidence deemed irrelevant or redundant; the right to confront and cross-examine adverse witnesses, subject to reasonable limitation by the hearing authority; the right to have a decision based solely on the evidence presented at the hearing and the applicable legal rules, including the governing rules of student conduct.
- (iii) The hearing authority shall determine whether the alleged act(s) of misconduct have been proved by a preponderance of the evidence presented at a hearing at which the student or a designated representative have appeared.
- (iv) If no one has appeared on the student's behalf within a reasonable time after the announced time for the hearing, the hearing authority shall determine whether the student, through the parent(s), received notice of the hearing. If so, the hearing authority shall review the schools' evidence to determine whether it is sufficient to support the charge(s) of misconduct.
- (v) A hearing authority who is also a disciplinarian shall impose an appropriate sanction if the hearing authority finds that the allegations of misconduct have been proved under the standards of either Item (iii) or (iv) of Subparagraph (l) of Paragraph (4) of Subsection G of 6.11.2.12 NMAC. A hearing authority who is not a disciplinarian shall report the findings, together with any recommended sanction, to the disciplinarian promptly after the hearing.
- (vi) Arrangements to make a tape recording or keep minutes of the proceedings shall be made by the administrative authority who scheduled the hearing and prepared the written notice. A verbatim written transcript is not required, but any minutes or other written record shall fairly reflect the substance of the evidence presented.
- (vii) The hearing authority may announce a decision on the question of whether the allegation(s) of misconduct have been proved at the close of the hearing. A hearing authority who is also a disciplinarian may also impose a penalty at the close of the hearing.
- (viii) In any event, the hearing authority shall prepare and mail or deliver to the student, through the parent(s), a written decision within five working days after the hearing. The decision shall include a concise summary of the evidence upon which the hearing authority based its factual determinations. A hearing authority who is also a disciplinarian shall include in the report a statement of the penalty, if any, to be imposed, and shall state reasons for the chosen penalty. A hearing authority who is not a disciplinarian shall forward a copy of the hearing authority's written decision to the disciplinarian forthwith. The disciplinarian shall prepare a written decision, including reasons for choosing any penalty imposed, and mail or deliver it to the student, through the parent(s), within five working days of receipt of the hearing authority's report.
- (ix) A disciplinarian who is not a hearing authority may observe but not participate in the proceedings at a formal hearing. If the disciplinarian is present at the formal hearing and if the hearing authority announces a decision at the close of the hearing, the disciplinarian may also announce the disciplinarian's decision at that time.
- (x) The disciplinarian's decision shall take effect immediately upon initial notification to the parent(s), either at the close of the hearing or upon receipt of the written decision. If initial

notification is by mail, the parent(s) shall be presumed to have received the notice on the fifth calendar day after the date of mailing unless a receipt for certified mail, if used, indicates a different date of receipt.

(m) Effect of decision. If the hearing authority decides that no allegation(s) of misconduct have been proved, or if the disciplinarian declines to impose a penalty despite a finding that an act or acts of misconduct have been proved, the matter shall be closed. If the disciplinarian imposes any sanction on the student, the decision shall take effect immediately upon notification to the parent and shall continue in force during any subsequent review.

(n) Right of review. Unless the local school board was the disciplinarian, a student aggrieved by a disciplinarian's decision after a formal hearing shall have the right to have the decision reviewed if the penalty imposed was at least as severe as a long-term suspension or expulsion, an in-school suspension exceeding one school semester, or a denial or restriction of student privileges for one semester or longer. A local school board may grant a right of review for less severe penalties. Local school boards shall establish appropriate mechanisms for review except where the local board was the disciplinarian, in which case the local school board decision is final and not reviewable administratively. A student request for review must be submitted to the review authority within 10 school days after the student is informed of the disciplinarian's decision.

(o) Conduct of review. Unless the local school board provides otherwise, a review authority shall have discretion to modify the disciplinarian's decision, including imposing any lesser sanction deemed appropriate. A review authority shall be bound by the hearing authority's factual determinations unless the student persuades the review authority that a finding of fact was arbitrary, capricious, or unsupported by substantial evidence or that new evidence, which has come to light since the hearing and which could not with reasonable diligence have been discovered in time for the hearing, would manifestly change the factual determination. Upon any such finding, the review authority shall have discretion to receive new evidence, reconsider evidence introduced at the hearing, or conduct a de novo hearing. In the absence of any such finding, the review shall be limited to an inquiry into the appropriateness of the penalty imposed.

(p) Form of review. Unless the local school board provides otherwise, a review authority shall have discretion to conduct a review on the written record of the hearing and decision in the case, to limit new submissions by the aggrieved student and school authorities to written materials, or to grant a conference or hearing at which the student and the student's representative and school authorities may present their respective views in person. Where a conference or hearing is granted, the record-keeping requirements of Item (vi) of Subparagraph (I) of Paragraph (4) of Subsection G of 6.11.2.12 NMAC apply.

(q) Timing of review. Except in extraordinary circumstances, a review shall be concluded no later than 15 working days after a student's written request for review is received by the appropriate administrative authority.

(r) Decision. A review authority may announce a decision at the close of any conference or hearing held on review. In any event, the review authority shall prepare a written decision, including concise reasons, and mail or deliver it to the disciplinarian, the hearing authority and the student, through the parent(s), within 10 working days after the review is concluded.

(s) Effect of decision. Unless the local school board provides otherwise, a review authority's decision shall be the final administrative action to which a student is entitled.

#### **6.12.7.8. Bullying Prevention Policies - adoption and enforcement.**

B. Each local school board and governing body shall control the content of its policy, provided that the policy includes:



(6) a procedure for prompt investigation of reports of violations of the bullying prevention policy and of complaints of bullying or retaliation, including:

(d) an appeal process for a student who is accused of bullying or who is the target of bullying and who is unsatisfied with the outcome of the initial investigation.

## **Return to School Following Removal**

### **LAWS**

No relevant laws found.

### **REGULATIONS**

#### **6.11.2.12. Procedure for detentions, suspensions, and expulsions.**

The authority of the state and of local school boards to prescribe and enforce standards of conduct for public school students must be exercised consistently with constitutional safeguards of individual student rights. The right to a public education is not absolute; it may be taken away, temporarily or permanently, for violations of school rules. The right to a public education is a property right which may only be denied where school authorities have adhered to the minimum procedural safeguards required to afford the student due process of law. This section prescribes minimum requirements for detention, in-school suspension, and temporary, long-term or permanent removal of students from public schools. Local school boards may adopt procedures which afford students more protection than this rule requires. The procedures in this section apply only to disciplinary detentions, suspensions, and expulsions. They do not apply to disenrollment of students who fail to meet immunization, age, residence, or other requirements for valid enrollment, nor to the removal from school membership reports of students who have been absent from school for 10 consecutive school days in accordance with Subsection B of Section 22-8-2 NMSA 1978. Nothing in this section shall be construed as prohibiting school boards or administrative authorities from involving other school staff, students, and members of the community in the enforcement of rules of student conduct to the extent they believe is appropriate.

C. Immediate removal. Students whose presence poses a continuing danger to persons or property or an ongoing threat of interfering with the educational process may be immediately removed from school, subject to the following rules:

(2) Students shall be reinstated after no more than one school day unless within that time a temporary suspension is also imposed after the required rudimentary hearing. In such circumstances, a single hearing will support both the immediate removal and a temporary suspension imposed in connection with the same incident(s).

## **Alternative Placements**

### **LAWS**

#### **22-2C-6. Remediation programs; promotion policies; restrictions.**

H. A student who does not demonstrate academic proficiency for two successive school years shall be referred to the student assistance team for placement in an alternative program designed by the school district. Alternative program plans shall be filed with the department.

**22-5-4.7. Additional student discipline policies; weapon-free schools.**

B. Student discipline policies shall also provide for placement in an alternative educational setting, for not more than forty-five days, of any student with a disability who is determined to have knowingly brought a weapon to a school under the jurisdiction of the local board. If a parent or guardian of the student requests a due process hearing, then the student shall remain in the alternative educational setting during the pendency of any proceeding, unless the parent or guardian and the school district agree otherwise.

**REGULATIONS**

**6.11.2.12. Procedure for detentions, suspensions, and expulsions.**

The authority of the state and of local school boards to prescribe and enforce standards of conduct for public school students must be exercised consistently with constitutional safeguards of individual student rights. The right to a public education is not absolute; it may be taken away, temporarily or permanently, for violations of school rules. The right to a public education is a property right which may only be denied where school authorities have adhered to the minimum procedural safeguards required to afford the student due process of law. This section prescribes minimum requirements for detention, in-school suspension, and temporary, long-term or permanent removal of students from public schools. Local school boards may adopt procedures which afford students more protection than this rule requires. The procedures in this section apply only to disciplinary detentions, suspensions, and expulsions. They do not apply to disenrollment of students who fail to meet immunization, age, residence, or other requirements for valid enrollment, nor to the removal from school membership reports of students who have been absent from school for 10 consecutive school days in accordance with Subsection B of Section 22-8-2 NMSA 1978. Nothing in this section shall be construed as prohibiting school boards or administrative authorities from involving other school staff, students, and members of the community in the enforcement of rules of student conduct to the extent they believe is appropriate.

G. Long-term suspension and expulsion.

(2) A student who has been validly expelled or suspended is not entitled to receive any educational services from the local school district during the period of the exclusion from school. A local school board may provide alternative arrangements, including correspondence courses at the expense of the student or parent(s) pursuant to department requirements, if the local school board deems such arrangements appropriate.

## ***Discipline Addressing Specific Code of Conduct Violations***

### **Firearms and Other Weapons Violations**

#### **LAWS**

##### **22-5-4.7. Additional student discipline policies; weapon-free schools.**

A. In addition to other student discipline policies, each school district shall adopt a policy providing for the expulsion from school, for a period of not less than one year, of any student who is determined to have knowingly brought a weapon to a school under the jurisdiction of the local board. The local school board or the superintendent of the school district may modify the expulsion requirement on a case-by-case basis. [...]

C. For the purposes of this section, "weapon" means:

- (1) any firearm that is designed to, may readily be converted to or will expel a projectile by the action of an explosion; and
- (2) any destructive device that is an explosive or incendiary device, bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter-ounce, mine or similar device.

##### **32A-2-33. Child in possession of a firearm on school premises; detention; hearing.**

A. If a public school administrator or employee has reasonable cause to believe that a child is in possession of or has been in possession of a firearm on school premises in violation of Section 30-7-2.1 NMSA 1978, the administrator or employee shall immediately report the child's actions to a law enforcement agency and the children, youth and families department.

B. Upon receipt of a report pursuant to Subsection A of this section, the law enforcement agency may conduct an investigation to determine if there is probable cause to believe that the child possessed a firearm on school premises.

C. If the law enforcement agency determines there is probable cause to believe that the child possessed a firearm on school premises, the law enforcement agency may take the child into custody and deliver the child to a detention facility licensed by the department. After the child is delivered to a detention facility, the department shall comply with the notification provisions set forth in Subsection C of Section 32A-2-10 NMSA 1978. The child shall be detained in the detention facility, pending a detention hearing pursuant to the provisions of Section 32A-2-13 NMSA 1978.

D. As used in this section, "firearm" means any weapon that will or is designed to or may readily be converted to expel a projectile by the action of an explosion; the frame or receiver of any such weapon; or any firearm muffler or firearm silencer. "Firearm" includes any handgun, rifle or shotgun.

#### **REGULATIONS**

##### **6.11.2.7. Definitions.**

EE. "Weapon ," as set forth in Section 22-5-4.7 NMSA 1978, means:

- (1) any firearm that is designed to, may readily be converted to, or will expel a projectile by the action of an explosion; and
- (2) any destructive device that is an explosive or incendiary device, bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter-ounce, mine or similar device.

### **6.11.2.9. Rules of conduct for New Mexico public schools.**

The acts specified in Subsection A of 6.11.2.9 NMAC are prohibited in all public schools in New Mexico. Within legal limits as defined in Subsection L of 6.11.2.7 NMAC, local school boards have discretion to develop rules of conduct governing all others area of student and school activity.

B. Regulated activities: Beyond those activities designated as prohibited in Subsection A of 6.11.2.9 NMAC, all other areas of student conduct may be regulated within legal limits by local school boards as they deem appropriate to local conditions. Conduct by non-students which affects school operations may be regulated within legal limits pursuant to any of the forms of authority described in Subsection B. of 6.11.2.8 NMAC. Activities subject to local school board regulation within legal limits include:

(8) per Section 22-5-4.7 NMSA 1978, each school district is required to adopt a policy providing for the expulsion from school, for a period of not less than one year, any student who is determined to have knowingly brought a weapon to a public school under the jurisdiction of the local school board. The local school board or the superintendent of the school district may modify the expulsion requirement on a case-by-case basis; the special rule provisions of Subsection D of 6.11.2.11 NMAC, apply to students with disabilities.

## **Students with Chronic Disciplinary Issues**

### **LAWS**

No relevant laws found.

### **REGULATIONS**

No relevant regulations found.

## **Chronic Absenteeism and Truancy**

### **LAWS**

#### **22-12A-1. Short title.**

Sections 1 through 14 [22-12A-1 to 22-12A-14 NMSA 1978] of this act may be cited as the "Attendance for Success Act".

#### **22-12A-2. Definitions.**

As used in the Attendance for Success Act [Chapter 22, Article 12A NMSA 1978]:

A. "absent" means not in attendance for a class or school day for any reason, whether excused or not; provided that "absent" does not apply to participation in interscholastic extracurricular activities;

B. "attendance improvement plan" means a tiered data-informed system for public schools and school districts to identify students who are chronically or excessively absent and to aid public schools in developing whole-school prevention strategies and targeted interventions. Each of the tiers is defined as follows:

(1) "whole school prevention" means universal, whole-school prevention strategies for all students, including students who have missed less than five percent of classes or school days for any reason;

(2) "individualized prevention" means targeted prevention strategies for individual students who are missing five percent or more but less than ten percent of classes or school days for any reason;

(3) "early intervention" means interventions for students who are missing ten percent or more but less than twenty percent of classes or school days for any reason; and

- (4) "intensive support" means interventions for students who are missing twenty percent or more of classes or school days for any reason;
- C. "attendance team" means a group of school-based administrators, teachers, staff, other school personnel and community members who collaborate to implement an attendance improvement plan;
- D. "chronic absence rate" means the percentage of students, in the aggregate and disaggregated by the subgroups required for reporting pursuant to the federal Every Student Succeeds Act, in a public school and a school district who have been enrolled for at least ten days and who have missed ten percent or more of school days since the beginning of the school year;
- E. "chronically absent" or "chronic absenteeism" means that a student has been absent for ten percent or more of classes or school days for any reason, whether excused or not, when enrolled for more than ten days;
- F. "excessively absent" or "excessive absenteeism" means a student who is identified as needing intensive support and has not responded to intervention efforts implemented by the public school;
- G. "excused absence" means absence from a class or school day for a death in the family, medical absence, religious instruction or tribal obligations or any other allowable excuse pursuant to the policies of the local school board;
- H. "interscholastic extracurricular activities" means those activities sponsored by a public school or an organization whose principal purpose is the regulation, direction, administration and supervision of interscholastic extracurricular activities in public schools;
- I. "local school board" includes the governing body of a charter school;
- J. "medical absence" or "medically absent" means that a student is not in attendance for a class or a school day for a parent- or doctor-authorized medical reason or the student is a pregnant or parenting student;
- K. "school day" means a portion of the school day that is at least one-half of a student's approved program;
- L. "school district" includes a charter school;
- M. "school principal" includes the head administrator of a charter school; and
- N. "unexcused absence" means an absence from a class or school day for which the student does not have an allowable excuse pursuant to the Attendance for Success Act [Chapter 22, Article 12A NMSA 1978] or policies of the local school board.

**22-12A-6. Public school attendance policies; reporting.**

- A. A public school shall maintain an attendance policy that:
- (1) establishes an early warning system that includes evidence-based metrics to identify students at risk of chronic absenteeism or excessive absenteeism;
  - (2) provides for early identification of chronically absent and excessively absent students;
  - (3) employs an attendance improvement plan that focuses on:
    - (a) keeping students in an educational setting;
    - (b) prohibiting out-of-school suspension or expulsion as the punishment for absences;
    - (c) assisting a student's family to remove barriers to the student's regular school attendance or attendance in another educational setting; and
    - (d) providing additional educational opportunities to students who are struggling with attendance;

(4) limits the ability of a student to withdraw to only after all intervention efforts by the public school or the children, youth and families department to keep the student in an educational setting have been exhausted;

(5) requires that accurate class attendance be taken for every instructional class and school day in a public school or school program;

(6) provides that a public school shall differentiate between different types of absences;

(7) requires a public school to document the following for each chronically or excessively absent student:

(a) attempts by the public school to notify a parent that the student was absent from class or the school day;

(b) attempts to improve attendance by talking to a student or parent to identify barriers to school attendance, identify solutions to improve the student's attendance behavior and discuss necessary interventions for the student or the student's family; and

(c) intervention strategies implemented to support keeping the student in an educational setting, including additional educational opportunities offered to the student;

(8) requires a student or the parent of a student who intends to claim excused absence because of medical condition, pregnancy or parenting to communicate the student's status to the appropriate school personnel and to provide required documentation; and

(9) encourages and supports compliant data sharing, pursuant to the federal Family Educational Rights and Privacy Act of 1974 [20 U.S.C. § 1232g], between a public school and community-based organizations that provide services to students for the purpose of providing more personalized interventions and specialized supports as part of the public school's attendance improvement plan.

B. Local school boards shall review and approve their public school attendance policies.

C. School districts shall report absences, chronic absences and excessive absences data to the department at each reporting date and the end of the school year and shall document intervention efforts made to keep students in an educational setting. The department shall compile school district reports as provided in Section 13 [22-12A-13 NMSA 1978] of the Attendance for Success Act and require school districts to certify that the information is being reported consistently and correctly. The department shall share information from state-chartered charter schools with the commission.

D. A public school shall provide a copy of the public school's attendance policy to all parents of students in that school and publish the policy on the public school's website. The attendance policy shall include:

(1) the rights and obligations of parents and students pursuant to the Attendance for Success Act;

(2) the prevention strategies that will be implemented to ensure that students attend classes; and

(3) details about consequences of failing to adhere to the attendance policy.

E. A public school shall provide a parent, within five days of the parent's written request, with access to the attendance data of that parent's child, including information about any intervention strategies that have been employed to help the student improve the student's attendance.

F. Upon request, school districts shall provide the chronic absence rate from the most current reporting date or end-of-year report, in the aggregate and disaggregated by subgroups, for all its public schools.

**22-12A.7. Enforcement of Attendance for Success Act; district responsibilities; differentiation; district plan; additional support.**

A. School districts shall differentiate public schools based on their chronic absence rates into no fewer than four categories.

B. School districts shall differentiate student subgroups based on their chronic absence rates into no fewer than four categories.

C. Using the differentiation scheme pursuant to Subsections A and B of this section, a school district shall develop attendance improvement plans that include the following elements:

- (1) specific school district supports and resources available to public schools at each level to further the implementation of their attendance improvement plans;
- (2) attendance improvement targets for public schools or subpopulations with chronic absence rates of ten percent or greater, developed in collaboration with each public school; and
- (3) an attendance improvement target for school districts with chronic absence rates of ten percent or greater.

D. Each school district shall report its attendance improvement plan to the department no later than forty-five days after the beginning of the school year. The department may allow a school district to report its attendance improvement plan as part of the educational plan for student success.

E. At the end of each school year, each school district shall report to the local school board and to the public on the school district's website, the progress made on its attendance improvement plan, to include:

- (1) a description of the supports and resources provided to public schools at each tier of the attendance improvement plan;
- (2) the extent to which public schools with chronic absence rates greater than ten percent achieved their attendance improvement targets;
- (3) the extent to which the school district achieved its attendance improvement targets;
- (4) barriers and challenges to reducing chronic absence rates, as reported by the public school and school district personnel;
- (5) effective school-based practices, as evidenced by decreased chronic absence rates; and
- (6) recommendations for improvement during the next school year at both the public school and school district level.

F. Attendance teams may be formed in whole or in part from preexisting groups or teams within a public school or may be formed for the explicit purpose of improving school attendance. School districts shall reserve time for school personnel to collaborate as an attendance team.

G. School districts shall provide support and guidance to attendance teams on transportation and school scheduling options when these are identified as barriers to school attendance.

**22-12A-8. Enforcement of Attendance for Success Act; attendance improvement plan; procedures.**

A. A public school shall initiate the enforcement of the provisions of the Attendance for Success Act [Chapter 22, Article 12A NMSA 1978] for its enrolled students. The enforcement policies of a public school shall focus on prevention and intervention.

B. Beginning in the 2020-2021 school year, a public school with five percent or greater of students with a chronic absence rate during the prior school year, or with five percent or greater of one or more subgroups of students with a chronic absence rate during the prior school year, shall develop an attendance improvement plan to be submitted to the department as part of the public school's educational plan for student success.

C. A public school, regardless of its chronic absence rate, shall develop and implement a whole-school absence prevention strategy to be reported to the department as part of the public school's educational plan for student success.

D. An attendance improvement plan shall include:

- (1) attendance data for each of the preceding two school years and the current school year, including:

- (a) the public school's overall absence rate;
  - (b) chronic absence rates disaggregated by student subpopulation;
  - (c) chronic absence rates disaggregated by grade level; and
  - (d) student attendance for every day of the school year;
- (2) school-wide identification of potential root causes of chronic and excessive absenteeism through one or more of the following:
- (a) national or local research;
  - (b) analysis of supportive factors and barriers;
  - (c) student surveys or focus groups;
  - (d) youth participatory research; or
  - (e) other appropriate school-based research methods;
- (3) identification of strategies for each tier of the attendance improvement plan;
- (4) identification of performance measures for each strategy; and
- (5) a data-collection plan for performance measures.

E. A public school shall provide interventions to students who are absent or chronically absent, which may include:

- (1) assessing student and family needs and matching those needs with appropriate public or private providers, including civic and corporate sponsors;
- (2) making referrals to health care and social service providers;
- (3) collaborating and coordinating with health and social service agencies and organizations through school-based and off-site delivery systems;
- (4) recruiting service providers and business, community and civic organizations to provide needed services and goods that are not otherwise available to a student or the student's family;
- (5) establishing partnerships between the public school and community organizations, such as civic, business and professional groups and organizations and recreational, social and out-of-school programs;
- (6) identifying and coordinating age-appropriate resources for students in need of:
  - (a) counseling, training and placement for employment;
  - (b) drug and alcohol abuse counseling;
  - (c) family crisis counseling; and
  - (d) mental health counseling;
- (7) promoting family support and parent education programs; and
- (8) seeking out other services or goods that a student or the student's family needs to assist the student to stay in school and succeed.

F. Beginning on the first day of school, a classroom teacher or that teacher's adult designee shall be responsible for taking accurate attendance for every class and reporting absences to the attendance team.

**22-12A-11. Progressive interventions for absent, chronically absent and excessively absent students.**

A. A public school shall provide interventions for students who are missing school, depending on the number of absences. The process for notification and interventions is:



(1) for a student who has been identified as in need of individualized prevention, the attendance team shall:

(a) for an elementary student, talk to the parent and inform the parent of the student's attendance history, the impact of student absences on student academic outcomes, the interventions or services available to the student or family and the consequences of further absences, which may include referral to the children, youth and families department for excessive absenteeism; and

(b) for a middle or high school student, talk to the parent and the student about the student's attendance history and the impact of student absences on student academic outcomes, interventions or services available to the student or family and the consequences of further absences, which may include referral to the children, youth and families department for excessive absenteeism;

(2) for a student who has been identified as in need of early intervention, the attendance team shall notify the parent in writing by mail or personal service on the parent of the student's absenteeism. The notice shall include a date, time and place for the parent to meet with the public school to develop intervention strategies that focus on keeping the student in an educational setting. The attendance team shall be convened to establish a specific intervention plan for the student that includes establishing weekly progress monitoring and a contract for attendance; and

(3) for a student who has been identified as in need of intensive support, the attendance team shall:

(a) give written notice to the parent, including a date, time and place for the parent to meet with the school principal and the attendance team;

(b) establish nonpunitive consequences at the school level;

(c) identify appropriate specialized supports that may be needed to help the student address the underlying causes of excessive absenteeism; and

(d) apprise the student and the parent of the consequences of further absences.

B. The school principal shall consult with a student's teacher and initiate meetings with the teacher, the student and the parent if the alleged cause of absence from class is teacher-student incompatibility.

#### **22-12A-12. Excessive absenteeism; enforcement.**

A. Each local school board and each governing body of a charter school or private school shall initiate the enforcement of the provisions of the Attendance for Success Act [Chapter 22, Article 12A NMSA 1978] for excessively absent students.

B. If unexcused absences continue after written notice of excessive absenteeism as provided in Section 11 [22-12A-11 NMSA 1978] of the Attendance for Success Act, the local school board or governing body of a charter school or private school, after consultation with the local superintendent or head administrator of a charter school or private school, shall report the excessively absent student to the probation services office of the judicial district in which the student resides for an investigation as to whether the student should be considered to be a neglected child or a child in a family in need of family services because of excessive absenteeism and, thus, subject to the provisions of the Children's Code [Chapter 32A NMSA 1978]. The record of the public school's interventions and the student's and parent's responses to the interventions shall be provided to the juvenile probation services office. The local superintendent or head administrator of a charter school or private school shall provide the documentation to the juvenile probation services office within ten business days of the student being identified as excessively absent.

C. If the juvenile probation services office determines that the student is a child in a family in need of family services, a caseworker from the child or family in need of family services program shall meet with the family at the public school in which the student is enrolled to determine if there are other intervention services that may be provided. The meeting shall involve the school principal or other school personnel and, unless the parent objects in writing, appropriate community partners that provide services to children

and families. The children, youth and families department shall determine if additional interventions, including monitoring, will positively affect the student's behavior.

### **22-12A-13. Reporting requirements.**

A. For each reporting date and at the end of the year, each school district shall report:

- (1) the total number of days missed for excused and unexcused absences for each student in each public school, the total number of days each student was enrolled and in which tier each student with absences fell during the reporting period, along with the student's demographics; and
- (2) the number of students at each public school who were referred to the children, youth and families department because of excessive absences, in the aggregate and disaggregated by subgroups.

B. The department shall compile a report by public school and school district that includes:

- (1) the total number and percent of students who were in each tier of chronic absenteeism or were excessively absent at each public school and school district in the aggregate for each public school and school district and disaggregated by subgroups;
- (2) the average number of excused and unexcused absences per student for all students and subgroups, not including interscholastic extracurricular activities; and
- (3) a calculated chronic absenteeism rate for the school district for all students and for each subgroup.

## **REGULATIONS**

### **6.10.8.6. Objective.**

To set forth the requirements for the implementation of the compulsory school attendance law. Specifically, this rule establishes requirements for the identification, reduction and reporting of truancy in all public schools including charter schools. In addressing truancy, the goal is to keep children in school until age eighteen and not to suspend, expel or outright punish them for being truant.

### **6.10.8.7. Definitions.**

C. "Habitual truant" means a student who has accumulated the equivalent of ten or more unexcused absences within a school year.

### **6.10.8.8. Requirements.**

A. It is the policy of this state that school age persons receive an education and do not dropout or otherwise withdraw prematurely prior to completing an educational program. To that end, a school-age person shall attend public school, private school, home school or a state institution until the school-age person is at least eighteen years of age unless that person has graduated from high school or received a general educational development certificate. A parent may give written, signed permission for the school-age person to leave school in case of a documented hardship approved by the local superintendent.

B. Each local school board and charter school shall develop a written attendance policy that:

- (1) in accordance with the definition of "attendance" stated in this rule, requires that class attendance be taken and maintained by class period for every instructional day for each student in each school or school program in the school district;
- (2) provides excused absences for pregnant and parenting students as follows:
  - (a) provides at least ten days of excused absences for a student who provides documentation of the birth of the student's child and allows the student a time period to make up the work that the student missed that equals the number of days the student was absent for the birth of a child;

- (b) provides excused absences for any additional days missed by a pregnant or parenting student for which a longer period of absence is deemed medically necessary by the student's physician and allows the student a time period to make up the work that the student missed that equals the number of days the student was absent;
  - (c) provides four days per semester of excused absences, in addition to the number of allowed absences for all students, for a student who provides appropriate documentation of pregnancy or that the student is the parent of a child under the age of thirteen needing care and allows the student a time period to make up the work that the student missed that equals the number of days the student was absent;
  - (d) clearly states that the pregnant or parenting student is responsible for communicating the student's pregnancy and parenting status to the appropriate school personnel if the student chooses to disclose the information; and
  - (e) provides that the school district or charter school shall provide a copy of the pregnant and parenting student absence policies to all students in middle, junior high and high schools; and
- (3) requires each school to report unexcused absences of two or more classes up to fifty percent of an instructional day as one-half day absence, and the unexcused absence of more than fifty percent of an instructional day to be counted as one full-day absence;
- (4) prohibits out-of-school suspension and expulsion as a punishment for unexcused absences and habitual truancy;
- (5) uses withdrawal as provided in Section 22-8-2 NMSA 1978 only after exhausting intervention efforts to keep students in educational settings;
- (6) provides for early identification of students with unexcused absences, students in need of early intervention, and habitual truants; provides for intervention strategies that focus on keeping students in need of early intervention in an educational setting; and further provides that:
- (a) if a student is in need of early intervention, the school district or charter school shall contact the student's parent(s)/guardian(s) to inform them that the student has unexcused absences from school and to discuss possible interventions unless the parent(s)/guardian(s) has contacted the school to explain the absence and the excuse compiles with the school district attendance policy;
  - (b) a representative of the school district or charter school shall meet with the student in need of early intervention and his or her parent(s)/guardian(s) to identify the causes for the student's unexcused absences, identify what actions can be taken that might prevent the student's unexcused absences, identify possible school district, charter school and community resources to address the causes for the student's unexcused absences, and establish a corrective action plan to address the student's unexcused absences;
  - (c) the notification to the student's parent(s)/guardian(s) and the meeting with the parent(s)/guardian(s) must be respectful and in a language and in manner that is understandable to the student and the parent(s)/guardian(s);
  - (d) the corrective action plan must contain follow-up procedures to ensure that the causes for the student's unexcused absences are being addressed;
  - (e) if the student is a habitual truant, the local school board, charter school or their authorized representatives shall, in addition, give written notice of the habitual truancy by mail to or by personal service on the student's parent(s)/guardian(s); the notice shall include a date, time and place for the parent to meet with the local school district or charter to develop intervention strategies that focus on keeping the student in an educational setting;

(f) if there is another unexcused absence after delivery of a written notice of habitual truancy, the student shall within seven (7) days of this unexcused absence be reported to the probation services office of the judicial district where the student resides;

(g) if the student is a habitual truant the school shall document the following for each student identified as a habitual truant:

- (i) attempts of the school to notify the parent that the student had unexcused absences;
- (ii) attempts of the school to meet with the parent to discuss intervention strategies; and
- (iii) intervention strategies implemented to support keeping the student in school.

C. If the habitual truant is not referred to the children's court by the juvenile probation office for appropriate disposition, including consideration of initial or renewed suspension of his or her driving privileges, the school district may contact the children's court attorney directly to determine what action will be taken.

D. If a determination and finding has been made by the juvenile probation office that the habitual truancy by a student may have been caused by the parent or guardian of the student, and no charges have been filed against the parent or guardian, the school district may contact the district attorney's office to determine what action will be taken.

E. A copy of the local school board or charter school's attendance policy shall be provided to the public education department's health education coordinator or designated staff for approval within ten (10) days of its adoption by the local school board or governing body of a charter school.

F. The public education department's truancy prevention coordinator shall be permitted access to any records and information related to students in need of early intervention or habitual truancy in any school district, any particular school within a district, or any charter school.

#### **6.10.8.9. Intergovernmental agreements.**

In carrying out its duties under this rule and the compulsory school attendance law, school districts and charter schools shall take into consideration the sovereignty of a Native American tribe. While all children attending public schools will still be subject to being reported to the public education department if they are habitually truant, a school district or charter school shall respect tribal laws and traditions in carrying out its duties of early identification, intervention, and parental notification. To do so, school districts and charter schools shall adopt policies that:

- A. emphasize a better understanding of tribal customs, religious practices and laws,
- B. consider entering into a memorandum of agreement, a memorandum of understanding, or some other form of intergovernmental agreement with Native American tribes,
- C. consider respectful and effective ways to notify a parent(s)/guardian(s) of student in need of intervention and habitually truant Native American students,
- D. consider follow-up or reinforcement procedures after Native American children have undergone intervention through Native American or other agreed upon resources.

#### **6.10.8.10. Reporting requirement.**

A. Each school district and each individual charter school shall maintain class attendance records by class period for every instructional day for each student in each school or school program in the school district or charter school in a manner verifiable by the public education department.

B. The local superintendent of each school district or governing body or administrative head of a charter school will report absences with excused and unexcused identifiers through the student teacher accountability reporting system and certify that the information is being reported consistently at intervals and in a manner as specified by the public education department.

#### **6.11.2.10. Enforcing rules of conduct.**

A. Enforcing attendance requirements. Local school districts and public schools shall establish, maintain, and enforce attendance policies and requirements set forth in Section 22-12A-1 et seq. NMSA 1978, the Attendance for Success Act, and Section 32A-3A-1 et seq. NMSA 1978, the Family Services Act.

#### **6.11.2.9. Rules of conduct for New Mexico public schools.**

The acts specified in Subsection A of 6.11.2.9 NMAC are prohibited in all public schools in New Mexico. Within legal limits as defined in Subsection L of 6.11.2.7 NMAC, local school boards have discretion to develop rules of conduct governing all others area of student and school activity.

B. Regulated activities: Beyond those activities designated as prohibited in Subsection A of 6.11.2.9 NMAC, all other areas of student conduct may be regulated within legal limits by local school boards as they deem appropriate to local conditions. Conduct by non-students which affects school operations may be regulated within legal limits pursuant to any of the forms of authority described in Subsection B. of 6.11.2.8 NMAC. Activities subject to local school board regulation within legal limits include:

- (1) school attendance.

## **Substance Use**

### **LAWS**

#### **22-2D-3. Programs; purpose; functions.**

A. A "family and youth resources program" may be created in any public school in the state. Except as provided in Subsection D of this section, the department shall accept applications for grants from public schools in which eighty percent of the students are eligible for the free or reduced-fee lunch program to fund their program.

B. The purpose of the program is to provide an intermediary for students and their families at public schools to access social and health care services. The goal of the program is to forge mutual long-term relationships with public and private agencies and community-based, civic and corporate organizations to help students attain high academic achievement by meeting certain nonacademic needs of students and their families.

C. A program shall include the employment of a resource liaison, who shall:

- (6) identify and coordinate age-appropriate resources for students in need of:
  - (b) drug and alcohol abuse counseling.

#### **22-5-4.4. School employees; reporting drug and alcohol use; release from liability.**

A. A school employee who knows or in good faith suspects any student of using or abusing alcohol or drugs shall report such use or abuse pursuant to procedures established by the local school board.

B. No school employee who in good faith reports any known or suspected instances of alcohol or drug use or abuse shall be held liable for any civil damages as a result of such report or his efforts to enforce any school policies or regulations regarding drug or alcohol use or abuse.

#### **22-5A-1. Short title.**

This act [22-5A-1 to 22-5A-5 NMSA 1978] may be cited as the "School Alcohol-Free Zone Act".

#### **22-5A-2. Definitions.**

As used in the School Alcohol-Free Zone Act [22-5A-1 NMSA 1978]:

A. "alcoholic beverage" means a beverage with no less than one-half percent alcohol and includes wine, beer, fermented, distilled, rectified and fortified beverages; and

B. "school grounds" means public elementary and secondary schools, including charter schools and facilities owned or leased by the school district in or on which public school-related and sanctioned activities are performed, but does not include other commercial properties owned by a school district but not related to the functions of a public school. "School grounds" includes the buildings, playing fields, parking lots and other facilities located on a school's premises.

### **22-5A-3. Alcoholic beverages prohibited on public school grounds.**

It is unlawful to possess or consume alcoholic beverages on public school grounds.

### **22-5A-4. Notices required.**

A school shall conspicuously post notices on school grounds stating that possession and consumption of alcoholic beverages is prohibited on school grounds.

### **22-5A-5. Penalties.**

A. A person convicted of consumption or possession of an alcoholic beverage on school property for the first offense is guilty of a petty misdemeanor and subject to a fine of not less than twenty-five dollars (\$25.00) or more than one hundred dollars (\$100) and may be ordered to perform community service.

B. A person convicted of consumption or possession of an alcoholic beverage on school property for the second or a subsequent offense is guilty of a misdemeanor and subject to a fine of not more than five hundred dollars (\$500) or imprisonment for a definite term not to exceed six months, or both.

## **REGULATIONS**

### **6.11.2.9. Rules of conduct for New Mexico public schools.**

The acts specified in Subsection A of 6.11.2.9 NMAC are prohibited in all public schools in New Mexico. Within legal limits as defined in Subsection L of 6.11.2.7 NMAC, local school boards have discretion to develop rules of conduct governing all others area of student and school activity.

B. Regulated activities: Beyond those activities designated as prohibited in Subsection A of 6.11.2.9 NMAC, all other areas of student conduct may be regulated within legal limits by local school boards as they deem appropriate to local conditions. Conduct by non-students which affects school operations may be regulated within legal limits pursuant to any of the forms of authority described in Subsection B. of 6.11.2.8 NMAC. Activities subject to local school board regulation within legal limits include:

(4) use of controlled substances, alcohol and tobacco in public schools.

### **6.12.4.6. Objective.**

The objective of this rule is to prohibit the use, possession and distribution of tobacco products, e-cigarettes and nicotine liquid containers, alcoholic beverages, mood-altering substances and illicit drugs in school buildings, on school premises and by students at school-sponsored activities away from school grounds.

### **6.12.4.7. Definitions.**

A. "Alcoholic beverage" means any beverage containing more than one-half percent alcohol by volume, and includes all distilled or rectified spirits, potable alcohol or any similar alcoholic beverages, including all fermented or blended beverages and dilutions or mixtures of one or more of these alcoholic beverages.

B. "E-cigarette":

(1) means any electronic oral device, whether composed of a heating element and battery or an electronic circuit, that provides a vapor of nicotine or any other substances the use or inhalation of which simulates smoking; and

(2) includes any such device, or any part of it, whether manufactured, distributed, marketed or sold as an e-cigarette, e-cigar, e-pipe or any other product, name or descriptor; but

(3) does not include any product regulated as a drug or device by the United States food and drug administration under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Section 301 et seq.

C. "Illicit drugs" means prescription and over-the-counter medications used for non-medical purposes, or not used as medically prescribed by lawfully authorized practitioners or as directed by the manufacturer's literature, and include all supplemental dietary or nutrition ergogenic aids, stimulants, nootropics, adaptogens, painkillers, sedatives and anxiolytics, blood boosters and other performance-enhancing drugs.

D. "Mood-altering substances" means substances that change, or are capable of changing, a person's emotional state, and include all stimulants, opioids, intoxicative inhalants and hallucinogens.

E. "Nicotine liquid container" means a bottle or other container of any substance containing nicotine where the substance is sold, marketed or intended for use in an e-cigarette.

F. "School personnel" includes all administrators, principals, teachers, counselors, social workers, speech therapists, psychologists, nurses, librarians and other support staff who is employed by a school, or who perform services for the school on a contractual basis.

G. "Tobacco product" means any product made or derived from tobacco that is intended for human consumption, including any component, part or accessory of a tobacco product. This includes, among other products, cigarettes, cigars, pipe tobacco, roll-your-own tobacco, dissolvable tobacco, and smokeless tobacco. Smokeless tobacco means any snuff or chewing tobacco.

#### **6.12.4.8. Requirements.**

Each local school board or governing body shall establish a tobacco, alcohol and drug free school policy:

A. The policy shall provide specific rules of conduct prohibiting the use, possession and distribution of tobacco products, e-cigarettes and nicotine liquid containers, alcoholic beverages, mood-altering substances and illicit drugs in school buildings, on school premises and by students at school-sponsored activities away from school grounds.

B. Each school district and state-chartered charter school shall detail the prohibited acts and activities under the policy, and shall establish adequate provisions for its enforcement, including the enumeration of possible sanctions or disciplinary action, consistent with applicable statutory and case law.

C. The policy shall provide that no school employee who in good faith reports any known or suspected use, possession or distribution of alcoholic beverages, mood-altering substances or illicit drugs shall be held liable for any civil damages as a result of such report or efforts to enforce the policy.

D. Each school district and state-chartered charter school shall develop and implement a procedure for effectively communicating the policy to students, their parents and families, school personnel, visitors on school premises, and to local residents, groups, businesses and organizations served by the school.

E. Each school district and state-chartered charter school shall post conspicuous notices on all school premises prohibiting the use, possession and distribution of tobacco products, e-cigarettes and nicotine liquid containers, alcoholic beverages, mood-altering substances and illicit drugs, in school buildings, on school premises and by students at school-sponsored activities away from school grounds.

#### **6.12.4.9. Exception.**

Sections 6 and 8 of this rule shall not include the lawful possession or use by a minor of a tobacco-cessation product approved by the United States food and drug administration.

#### **6.12.10.11. Students.**

A. Each school district and charter school shall ban a student's possession, use, distribution, sale, or being under the influence of a cannabis product in a manner inconsistent with provisions of the Lynn and Erin Compassionate Use Act.

B. No school shall discipline a student who is a qualified student on the basis that the student requires medical cannabis as necessary for the student to attend school.

C. No school shall deny eligibility to attend school to a qualified student on the basis that the qualified student requires medical cannabis as a reasonable accommodation necessary for the student to attend school or an in-state school-sponsored activity.

## **Gang-related Activity**

### **LAWS**

No relevant laws found.

### **REGULATIONS**

No relevant regulations found.

## **Bullying, Harassment, or Hazing**

### **LAWS**

#### **22-35-1. Short title.**

This act [22-35-1 to 22-35-5 NMSA 1978] may be cited as the "Safe Schools for All Students Act".

#### **22-35-2. Definitions.**

As used in the Safe Schools for All Students Act [Chapter 22, Article 35 NMSA 1978]:

A. "bullying" means any severe, pervasive or persistent act or conduct that targets a student, whether physically, electronically or verbally, and that:

(1) may be based on a student's actual or perceived race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, spousal affiliation, physical or cognitive disability or any other distinguishing characteristic; or on an association with a person, or group with any person, with one or more of the actual or perceived distinguishing characteristics; and

(2) can be reasonably predicted to:

(a) place a student in reasonable fear of physical harm to the student's person or property;

(b) cause a substantial detrimental effect on a student's physical or mental health;

(c) substantially interfere with a student's academic performance or attendance; or

(d) substantially interfere with a student's ability to participate in or benefit from the services, activities or privileges provided by an agency, educational institution or grantee;

B. "cyberbullying" means any bullying that takes place through electronic communication;



- C. "electronic communication" means a communication transmitted by means of an electronic device, including a telephone, cellular phone, computer, electronic tablet, pager or video or audio recording;
- D. "gender identity" means a student's self-perception, or perception of that student by another, of the student's identity as a male or female based upon the student's appearance, behavior or physical characteristics that are in accord with or opposed to the student's physical anatomy, chromosomal sex or sex at birth;
- E. "local school board" includes the governing body of a charter school;
- F. "physical or cognitive disability" means a physical or cognitive impairment that substantially limits one or more of a student's major life activities;
- G. "progressive discipline" means disciplinary action other than suspension or expulsion from school that is designed to correct and address the basic causes of a student's specific misbehavior while retaining the student in class or in school, or restorative school practices to repair the harm done to relationships and other students from the student's misbehavior, and may include:
- (1) meeting with the student and the student's parents;
  - (2) reflective activities, such as requiring the student to write an essay about the student's misbehavior;
  - (3) counseling;
  - (4) anger management;
  - (5) health counseling or intervention;
  - (6) mental health counseling;
  - (7) participation in skill-building and resolution activities, such as social-emotional cognitive skills building, resolution circles and restorative conferencing;
  - (8) community service; and
  - (9) in-school detention or suspension, which may take place during lunchtime, after school or during weekends; and
- H. "sexual orientation" means heterosexuality, homosexuality or bisexuality, whether actual or perceived.

**22-35-3. Bullying prevention policies; adoption and enforcement.**

- A. By January 1, 2020, each local school board shall adopt and enforce policies to:
- (1) prevent bullying:
    - (a) on its property, including electronic communication on or with the use of its property;
    - (b) at sponsored functions; and
    - (c) on its to-and-from-school transportation or any school-sponsored transportation; and
  - (2) prohibit electronic communication directed at a student, that is published with the intent that it be seen by or disclosed to that student and that substantially interferes with the student's ability to participate in or benefit from the services, activities or privileges provided by the public school.
- B. Each local school board shall control the content of its policy; provided that the policy includes:
- (1) the definitions as set forth in the Safe Schools for All Students Act [Chapter 22, Article 35 NMSA 1978];
  - (2) a statement prohibiting bullying;
  - (3) a statement prohibiting retaliation against persons who report or witness incidents of bullying;

(4) a list of consequences, including progressive discipline approaches that can result from an identified incident of bullying that are designed to:

- (a) appropriately correct the bullying behavior;
- (b) prevent another occurrence of bullying or retaliation;
- (c) protect the target of the bullying;
- (d) be flexible so that, in application, the consequences can be unique to the individual incident and varied in method and severity based on: 1) the nature of the incident; 2) the developmental age of the student who is bullying; and 3) any history of problem behavior from the student who is bullying; and
- (e) for cyberbullying incidents, use the least restrictive means necessary to address the interference with the student's ability to participate in or benefit from the services, activities or privileges provided by the school;

(5) a procedure for reporting bullying or retaliation for reporting an act of bullying, including:

- (a) a flexible reporting system that allows for reporting orally and in the student's preferred language;
- (b) a method for reporting bullying anonymously; provided that no formal disciplinary measures shall be taken solely on the basis of an anonymous report; and
- (c) a method for parents to file written reports of suspected bullying; and

(6) a procedure for prompt investigation of reports of violations of the policy and of complaints of bullying or retaliation, including:

- (a) designation of a school administrator to investigate or supervise the investigation of all reports of bullying and to ensure that such investigation is completed promptly after the receipt of any report made under the Safe Schools for All Students Act;
- (b) a procedure for notification of the parents of the student alleged to have committed an act of bullying and the parents of the students targeted by the alleged act; provided that if the administrator believes, in the administrator's professional capacity, that notifying the parents would endanger the health or well-being of a student, the administrator may delay such notification as appropriate;
- (c) a benchmark that school employees who witness acts of bullying or receive reports of bullying notify the designated administrator not later than two days after the school employee witnesses or receives a report of bullying;
- (d) an appeal process for a student accused of bullying or a student who is the target of bullying who is not satisfied with the outcome of the initial investigation; and
- (e) development of a student safety support plan for students who are targets of bullying that addresses safety measures the school will take to protect targeted students against further acts of bullying.

C. Each local school board shall include bullying prevention policies and procedures for reporting bullying in student handbooks using developmentally and culturally appropriate language. Policies shall be produced and disseminated in appropriate languages for any school district in which a substantial portion of the student population speaks a language other than English at home.

D. Each public school shall document reports and investigations of bullying and shall maintain those records for no less than four years.

E. Each local school board shall establish procedures for public schools to report aggregate incidents of bullying and incidents of harassment under any applicable federal or state law, along with responses to these incidents, and report this information annually to the department.

#### **22-35-4. Bullying prevention programs establishment.**

A. Following adoption of a bullying prevention policy, each public school shall:

- (1) establish an annual bullying prevention program for students included in New Mexico's health education content standards with benchmarks and performance standards;
- (2) provide annual training on bullying prevention to all employees and volunteers who have significant contact with students; and
- (3) incorporate information on the bullying prevention policy into new employee training.

B. Each school district and public school shall develop a plan for the way in which the policy is to be publicized, including:

- (1) making each school district's anti-bullying policy, and developmentally, culturally and linguistically appropriate variants of the policy, available on public websites;
- (2) identifying a point of contact for bullying-related concerns; and
- (3) informing parents and students about the policy at least annually through student handbooks and other resources.

### **22-35-5. Department duties; school district and charter school report cards.**

A. The department shall:

- (1) issue guidance for bullying prevention programs and policies in accordance with the Safe Schools for All Students Act [Chapter 22, Article 35 NMSA 1978]; and
- (2) within one hundred twenty days of the effective date of the Safe Schools for All Students Act:
  - (a) promulgate rules for a model policy for local school boards on bullying prevention in accordance with that act, as well as any developmentally, culturally or linguistically appropriate variants of the policy;
  - (b) provide guidance to local school boards relating to effective forms of progressive discipline to reduce bullying and school violence; and
  - (c) provide guidance to local school boards on effective bullying prevention programs to reduce bullying and school violence.

B. At the same time as or as part of the annual accountability report, each school district and charter school shall report on the status of its implementation of the provisions of the Safe Schools for All Students Act, including the aggregate number of incidents of bullying in the state, the aggregate number of incidents of harassment under any applicable federal or state laws, the aggregate number of responsive actions taken by public schools by type of action, a tabulation of the number of incidents associated with each distinguishing characteristic defined in the Safe Schools for All Students Act, the department's evaluation of the sufficiency of funding for bullying prevention programs and any recommendations for policy or programmatic change to improve the addressing of bullying issues in the state.

### **32A-25-1. Short title.**

This act [32A-25-1 to 32A-25-5 NMSA 1978] may be cited as the "Carlos Vigil Memorial Act" in honor of Carlos Vigil.

### **32A-25-2. Purposes.**

The purposes of the Carlos Vigil Memorial Act [Chapter 32A, Article 25 NMSA 1978] are to:

- A. cultivate a statewide culture where bullying is not accepted;
- B. educate New Mexicans about recognizing bullying behaviors and understanding the potential consequences of bullying; and

C. provide grants for providers of services and programs for the prevention, resolution and eradication of bullying statewide.

**32A-25-3. Carlos Vigil memorial board; created.**

A. The "Carlos Vigil memorial board" is created to review grant applications and to award grants from the eradicate bullying fund.

B. The board consists of five voting members who together provide diverse experience and expertise in:

- (1) administering or delivering services in an organization focused on preventing bullying or suicide;
- (2) administering or delivering services in an organization focused on providing counseling and support services to victims and perpetrators of bullying;
- (3) professional development workshops on the topic of bullying or suicide prevention;
- (4) coalescing and leading communities; or
- (5) administering or delivering public health services.

C. Board appointments shall be as follows:

- (1) one member shall be appointed by the president pro tempore of the senate;
- (2) one member shall be appointed by the minority floor leader of the senate;
- (3) one member shall be appointed by the speaker of the house of representatives;
- (4) one member shall be appointed by the minority floor leader of the house of representatives; and
- (5) one member shall be appointed by the governor from department of health staff.

D. The chair of the board shall be elected by a quorum of the board members. The board shall meet at the call of the chair or whenever two members submit a request in writing to the chair, but not less often than once each calendar year. A majority of members constitutes a quorum for the transaction of business. The affirmative vote of a majority of a quorum present shall be necessary for an action to be taken by the board.

E. Members of the board shall be appointed to two-year terms. Vacancies shall be filled by appointment by the governor for the remainder of the unexpired term. Any member of the board shall be eligible for reappointment.

F. Public members of the board may be paid per diem and mileage as provided for nonsalaried officers in the Per Diem and Mileage Act [10-8-1 to 10-8-8 NMSA 1978] but shall receive no other compensation, perquisite or allowance.

**32A-25-4. Carlos Vigil memorial board; duties.**

The Carlos Vigil memorial board shall:

- A. adopt and promulgate rules governing the acceptance, evaluation and prioritization of applications for grants, including applicant qualifications and the format, procedure and deadlines for grant applications;
- B. review grant applications from public agencies and institutions and nonprofit private entities that indicate the qualifications and expertise to provide services for the prevention, resolution and eradication of bullying;
- C. process, evaluate and prioritize applications based on the criteria delineated in the board's rules; and
- D. award grants to the most qualified grant applicants and reach a broad spectrum of New Mexicans.

**32A-25-5. Eradicate bullying fund created; grant application review.**

A. The "eradicate bullying fund" is created in the state treasury. The fund shall be administered by the board of regents of the university of New Mexico. Money in the fund is appropriated to the board of regents of the university of New Mexico for disbursement to grant recipients selected by the Carlos Vigil memorial board.

B. The fund shall consist of:

- (1) money appropriated by the legislature to carry out the purposes of the Carlos Vigil Memorial Act [Chapter 32A, Article 25 NMSA 1978];
- (2) grants, gifts, donations and bequests to the fund; and
- (3) earnings from investment of the money in the fund.

C. Disbursements from the fund shall be made by warrant of the secretary of finance and administration pursuant to vouchers signed by the president of the board of regents of the university of New Mexico or the president's designee.

D. Unexpended and unencumbered balances in the fund shall not revert to the general fund at the end of a fiscal year.

E. An applicant may apply for a grant from the fund in accordance with rules promulgated by the Carlos Vigil memorial board. Allocations from the fund shall be based on a competitive process with applications reviewed by the board.

**REGULATIONS**

**6.12.7.1. Issuing agency.**

Public Education Department, hereinafter the department.

**6.12.7.2. Scope.**

This rule applies to school districts, local school boards, state-chartered charter schools and governing bodies.

**6.12.7.3. Statutory authority.**

This rule is promulgated by the secretary of the department and the department under the authority of Sections 9-24-8, 22-2-1, 22-2-2, and 22-35-1 through 22-35-5 NMSA 1978.

**6.12.7.4. Duration.**

Permanent.

**6.12.7.5. Effective date.**

November 12, 2019, unless a later date is cited at the end of a section.

**6.12.7.6. Objective.**

To establish requirements for local school boards and public schools, including charter schools and governing bodies, to develop and implement bullying prevention policies and programs and to report on the implementation of the Safe Schools for All Students Act per the parameters established within the provisions of this rule.

**6.12.7.7. Definitions.**

A. "Bullying " means any severe, pervasive, or persistent act or conduct that targets a student, whether physically, electronically, or verbally, and that:

(1) may be based on a student's actual or perceived race, religion, color, national origin, ancestry, sex, sexual orientation, gender identify, spousal affiliation, physical or cognitive disability, or any other distinguishing characteristic; or an association with a person, or group with any person, with one or more of the actual or perceived distinguishing characteristics; and

(2) can be reasonably predicted to:

- (a) place a student in reasonable fear of physical harm to the student's person or property;
- (b) cause a substantial detrimental effect on a student's physical or mental health;
- (c) substantially interfere with a student's academic performance, attendance, or participation in extracurricular activities; or
- (d) substantially interfere with a student's ability to participate in or benefit from the services, activities, or privileges provided by a school or school-affiliated entity.

B. "Cyberbullying " means any bullying that takes place through electronic communication.

C. "Electronic communication " means a communication transmitted by means of an electronic device, including a telephone, cellular phone, computer, electronic tablet, pager or video or audio recording device.

D. "Gender identity" means a student's self-perception, or perception by another, of the student's identity as a male or female based upon the student's appearance, behavior, or physical characteristics that are in accord with, or opposed to, the student's physical anatomy, chromosomal sex, or sex at birth.

E. "Harassment" means a pattern of conduct that is intended to annoy, seriously alarm, or terrorize another person or group of people.

F. "Physical or cognitive disability" means a physical or cognitive impairment that substantially limits one or more of a student's major life activities.

G. "Progressive discipline " means disciplinary action other than suspension or expulsion from school that is designed to correct and address the basic causes of a student's specific misbehavior while retaining the student in class or in school, or restorative school practices to repair the harm done to relationships and other students from the student's misbehavior, and may include:

- (1) meeting with the student and the student's parents;
- (2) reflective activities, such as requiring the student to write an essay about the student's misbehavior;
- (3) counseling;
- (4) anger management;
- (5) health counseling or intervention;
- (6) mental health counseling or intervention;
- (7) participation in skill-building and conflict resolution activities;
- (8) community service; and
- (9) in-school detention or in-school suspension that is for a constructive purpose and may take place during lunchtime, recess, after school, or during weekends.

H. "Regular volunteers" means those persons, including relatives of students, who commit to serve on a regular basis at a school district, charter school, or other educational entity without compensation.

I. "Sexual orientation" means heterosexuality, homosexuality, or bisexuality, whether actual or perceived.

#### **6.12.7.8. Bullying Prevention Policies - adoption and enforcement.**

A. By January 1, 2020, each local school board or governing body shall adopt and enforce policies to:

- (1) prevent bullying and cyberbullying:

- (a) on its property, including electronic communication on or with the use of its property;
- (b) at school or district-sponsored events; and
- (c) on any school-sponsored transportation; and

(2) prohibit electronic communication directed at a student that is published with the intent that it be seen by or disclosed to that student and that substantially interferes with the student's ability to participate in or benefit from the services, activities, or privileges provided by the public school.

B. Each local school board and governing body shall control the content of its policy, provided that the policy includes:

- (1) the definitions as set forth in this rule;
- (2) a statement prohibiting bullying;
- (3) a statement prohibiting retaliation against persons who report or witness incidents of bullying;
- (4) a list of consequences, exclusive of suspension and expulsion, that can result from an incident of bullying, and with consequences that are designed to:
  - (a) appropriately correct the bullying behavior;
  - (b) prevent another occurrence of bullying or retaliation;
  - (c) protect the target of the bullying;
  - (d) be flexible so that, in application, the consequences can vary in method and severity based on:
    - (i) the nature of the incident;
    - (ii) the developmental age and/or cognitive level of the student who is bullying; and
    - (iii) historical problem behavior from the student who is bullying; and
  - (e) limit the restrictive nature of consequences for cyberbullying incidents, such that while correcting cyberbullying behavior and preventing further incidents of cyberbullying, a student with cyberbullying behavior is able to participate in or benefit from the services, activities, or privileges provided by the school to the greatest extent possible;
- (5) a procedure for reporting bullying and for reporting retaliation for reporting an act of bullying, including:
  - (a) an allowance for reporting orally and in the preferred language of the person reporting;
  - (b) a method for anonymous reporting; provided that no formal disciplinary measures shall be taken solely on the basis of an anonymous report of an actual bullying incident; and
  - (c) a method for parents to file written reports of suspected bullying; and
- (6) a procedure for prompt investigation of reports of violations of the bullying prevention policy and of complaints of bullying or retaliation, including:
  - (a) designation of a school or district administrator who has the responsibility to:
    - (i) investigate or supervise the investigation of all reports of bullying and
    - (ii) to ensure that investigations are completed promptly after the receipt of any report made under this rule;
  - (b) a procedure for notification of the parents of the student alleged to have committed an act of bullying and the parents of the student targeted by the alleged act; provided that if, in the administrator's professional opinion, notifying the parents would endanger the health or well-being of a student, the administrator may delay such notification as appropriate;
  - (c) a requirement that school employees who witness bullying or who receive reports of bullying notify the designated administrator within two calendar days of the employee witnessing or receiving a report of bullying;

(d) an appeal process for a student who is accused of bullying or who is the target of bullying and who is unsatisfied with the outcome of the initial investigation; and

(e) development of a student safety support plan for students who are targets of bullying that addresses safety measures the school will take to protect targeted students against further acts of bullying.

C. Each local school board and governing body shall include bullying prevention policies and procedures for reporting bullying in student handbooks using developmentally and culturally appropriate language. Policies shall be produced and disseminated in appropriate languages in any school district in which a substantial portion of the student population speaks a language other than English at home.

D. Each public school shall document reports and investigations of bullying and shall maintain those records for no less than four years.

E. Each local school board or governing body shall establish procedures for public schools to report the number of bullying incidents and the number of harassment incidents, as defined by federal or state law, along with responses to these incidents, and shall report this information annually to the department at such time as determined by the department and through the department's student teacher accountability reporting or through other means as determined by the department.

#### **6.12.7.9. Bullying prevention programs - establishment.**

A. Following adoption of a bullying prevention policy, each public school shall:

- (1) establish an annual bullying prevention program for students aligned with New Mexico's health education content standards with benchmarks and performance standards;
- (2) provide annual training beginning with the 2020-2021 school year and each school year thereafter on bullying prevention to all school personnel and regular volunteers who have significant contact with students; and
- (3) incorporate information on the bullying prevention policy into new employee training.

B. Each school district and public school shall develop a plan for the way in which the policy is to be publicized, including:

- (1) making each school district's bullying prevention policy, and developmentally, culturally and linguistically appropriate variants of the policy, available on district and/or school public websites;
- (2) identifying a point of contact for bullying-related concerns; and
- (3) informing parents and students about the policy at least annually through student handbooks and other resources.

#### **6.12.7.10. Reporting requirements.**

A. Beginning with the 2020-2021 school year, each school district and state-chartered charter school shall annually submit the following to the department in a method prescribed by the department and in a timeframe determined by the department:

- (1) a status report on the implementation of the provisions of this rule;
- (2) data elements on the implementation of this rule including:
  - (a) the aggregate number of bullying incidents of students within the district or state-chartered charter school;
  - (b) the aggregate number of harassment incidents of students within the district or state-chartered charter school; and



(c) the corresponding responsive action or disposition taken by the district or state-chartered charter school, by type of action, for each bullying incident of a student and for each harassment incident of a student.

B. Each school district and state-chartered charter school shall include, in its reporting, when known, a tabulation of the number of bullying incidents of students and the number of harassment incidents of students associated with each of the following actual or perceived distinguishing characteristic:

- (1) race;
- (2) color;
- (3) national origin;
- (4) ancestry;
- (5) sex;
- (6) sexual orientation;
- (7) gender identity;
- (8) spousal affiliation;
- (9) physical or cognitive disability; or
- (10) an association with a person, or group with any person, with one or more of the actual or perceived distinguishing characteristics.

## **Dating and Relationship Violence**

### **LAWS**

No relevant laws found.

### **REGULATIONS**

No relevant regulations found.

## ***Prevention, Behavioral Intervention, and Supports***

### **State Model Policies and Implementation Support**

#### **LAWS**

##### **22-12A-7. Enforcement of Attendance for Success Act; district responsibilities; differentiation; district plan; additional support.**

F. Attendance teams may be formed in whole or in part from preexisting groups or teams within a public school or may be formed for the explicit purpose of improving school attendance. School districts shall reserve time for school personnel to collaborate as an attendance team.

G. School districts shall provide support and guidance to attendance teams on transportation and school scheduling options when these are identified as barriers to school attendance.

##### **22-35-5. Department duties; school district and charter school report cards.**

A. The department shall:

(1) issue guidance for bullying prevention programs and policies in accordance with the Safe Schools for All Students Act [Chapter 22, Article 35 NMSA 1978]; and

(2) within one hundred twenty days of the effective date of the Safe Schools for All Students Act:

(a) promulgate rules for a model policy for local school boards on bullying prevention in accordance with that act, as well as any developmentally, culturally or linguistically appropriate variants of the policy;

(b) provide guidance to local school boards relating to effective forms of progressive discipline to reduce bullying and school violence; and

(c) provide guidance to local school boards on effective bullying prevention programs to reduce bullying and school violence.

#### **REGULATIONS**

##### **6.29.1.9. Procedural requirements.**

E. Student intervention system. The school and school district shall follow the multi-layered system of supports (MLSS), which is a three-layer model of student intervention as a proactive system for early intervention for students who demonstrate a need for educational support for learning or behavior. All students shall have access to layer 1, 2, and 3 interventions without a need to convene a SAT team or a referral to special education or related services. At any layer, a referral from a parent, a school staff member, or if other information available to a school or district suggests that a particular student needs educational support for learning or behavior, then the student shall be referred to the SAT. Likewise, at any layer, a parent may request initial evaluation to determine whether a student is a child with a disability requiring special education and related service, in accordance with 6.31.2.10 NMAC. There are no additional documentation requirements under the MLSS outside of what is already required for education professionals.

(5) The department's manual, Multi-Layered System of Supports, shall be the guiding document for schools and districts to use in implementing the student intervention system.

### **6.30.12.8. Program development and implementation.**

The department shall support schools in their capacity-building to increase participation in the K-5 plus program. Capacity-building includes professional development, curriculum development, teacher recruitment, parent and family outreach, assessment, and program design and evaluation.

## **Multi-tiered Frameworks and Systems of Support**

### **LAWS**

No relevant laws found.

### **REGULATIONS**

#### **6.29.1.7. Definitions.**

AA. "Multi-Layered System of Supports (MLSS)" means a coordinated and comprehensive framework that uses increasingly intensive evidence-based academic and behavioral supports that address student needs as evidenced by student data. It is a model for holistic school improvement that provides progress measures for additional supports such as school-based team structures, professional development, health and wellness, and family and community engagement. MLSS satisfies the definition of "multi-tiered system of supports" contained within the ESSA.

#### **6.29.1.9. Procedural requirements.**

E. Student intervention system. The school and school district shall follow the multi-layered system of supports (MLSS), which is a three-layer model of student intervention as a proactive system for early intervention for students who demonstrate a need for educational support for learning or behavior. All students shall have access to layer 1, 2, and 3 interventions without a need to convene a SAT team or a referral to special education or related services. At any layer, a referral from a parent, a school staff member, or if other information available to a school or district suggests that a particular student needs educational support for learning or behavior, then the student shall be referred to the SAT. Likewise, at any layer, a parent may request initial evaluation to determine whether a student is a child with a disability requiring special education and related service, in accordance with 6.31.2.10 NMAC. There are no additional documentation requirements under the MLSS outside of what is already required for education professionals.

(1) In layer 1, the school and school district shall ensure that adequate universal screening in the areas of general health and well-being, language proficiency status, and academic levels of proficiency has been completed for each student enrolled. If data from universal screening and progress monitoring suggests that a particular student is in need of additional behavioral and academic supports, then teacher teams shall make a determination on whether or not the student would benefit from layer 2 interventions. Teacher teams, when making a determination for moving a student up or down a layer may consult with non-teacher staff such as counselors, paraprofessionals, administrators, and ancillary personnel to inform the teacher team on how to plan and implement relevant learner interventions in the general education environment.

(2) In layer 2, a properly-constituted teacher team shall conduct the student study process and consider, implement, and document the effectiveness of appropriate evidence-based interventions utilizing curriculum-based measures. As part of this process, the teacher team shall address culture and acculturation, socioeconomic status, possible lack of appropriate instruction in reading or math, teaching and learning styles and instructional delivery mechanisms in order to rule out other possible causes of the student's educational difficulties.

(3) In layer 3, students are provided with intensive academic and behavioral supports that are progress monitored on a bi-weekly basis. At the end of each progress monitoring cycle, the teacher team shall evaluate the efficacy of the supports provided using all available data. At that time, the teacher team may decide whether to continue with the current support, change the intensity, or nature of support. If progress monitoring data suggests that the learner has benefited from provided layer 3 supports and does not show concern for recidivism, than the teacher team may decide to move the student out of receiving layer 3 supports.

(4) All students shall have access to the MLSS layers of screening and support without a referral to SAT or an evaluation to determine eligibility for special education and related services. Nothing in this section prevents a school district from evaluating a student during the provision of any layer of MLSS to determine whether the student is a child with a disability requiring special education and related services. A parent may request an initial special education at any time during the public agency's implementation of MLSS, and a school or school district may determine a referral to special education is necessary at any time during the implementation of MLSS if the student is suspected of having a disability. If a school district rejects a request for initial special education evaluation, the parent may use the IDEA procedural safeguards in 34 CFR Secs. 300.506 through 5007 to dispute the rejection of the request to evaluate.

(5) The department's manual, Multi-Layered System of Supports, shall be the guiding document for schools and districts to use in implementing the student intervention system.

#### **6.30.12.7. Definitions.**

I. "Multi-layered system of support" means an umbrella framework that encompasses response to intervention and positive behavioral intervention and supports.

#### **6.30.12.10. Program element instruction.**

A. K-5 plus programs shall include:

(5) implementation of the department's multi-layered system of support.

#### **6.30.12.15. Evaluation and reporting and auditing.**

B. All students participating in K-5 plus shall be reported to the department through the department's data collection and reporting system. Required fields include the following:

(3) services rendered under the multi-layered system of support.

## **Prevention**

### **LAWS**

No relevant laws found.

### **REGULATIONS**

No relevant regulations found.

## **Social-emotional Learning (SEL)**

### **LAWS**

No relevant laws found.

## REGULATIONS

### **6.12.6.8. Requirements.**

A. This section applies to local school boards, local school districts, and charter schools and governs policies to be implemented by local school districts with regards to student and school employee wellness.

B. Each school district and charter school shall develop and implement a policy that addresses student and school employee wellness through a coordinated school health approach.

C. Each school district and charter school shall submit the wellness policy to the public education department for approval.

(1) Sections of the wellness policy that meet the requirements set forth in Paragraphs (3), (4), (5) and (10) of Subsection D and the requirements set forth in Subsection E of this section shall be submitted to the public education department on or before August 30, 2006.

(2) Sections of the wellness policy that meet the requirements set forth in Paragraphs (1), (2), (6), (7), (8) and (9) of Subsection D of this section shall be submitted to the public education department on or before January 30, 2007.

D. The wellness policy shall include, but shall not be limited to:

(1) a planned, sequential, K-12 health education curriculum that addresses the physical, mental, emotional, and social dimensions of health and is aligned to the health education content standards with benchmarks and performance standards as set forth in 6.30.2.19 NMAC.

### **6.12.14.8. Requirements for schools.**

A. All public schools and local school districts shall:

(6) to the extent possible, implement practices to promote social emotional learning, support high quality teaching and learning, and effectively communicate with tribal communities and families.

## Trauma-informed Practices

### LAWS

#### **22-13-33. Appointing a point of contact person for certain students.**

F. For students in foster care and students involved in the juvenile justice system, the point of contact person shall be responsible for:

(6) ensuring that other school staff and teachers have access to training and resources about the educational challenges and needs of system-involved youth, including trauma-informed practices and the impact of trauma on learning.

### REGULATIONS

No relevant regulations found.

## Mental Health Literacy Training

### LAWS

No relevant laws found.

## REGULATIONS

No relevant regulations found.

## School-based Behavioral Health Programs

### LAWS

#### **22-2D-3. Programs; purpose; functions.**

A. A "family and youth resources program" may be created in any public school in the state. Except as provided in Subsection D of this section, the department shall accept applications for grants from public schools in which eighty percent of the students are eligible for the free or reduced-fee lunch program to fund their program.

B. The purpose of the program is to provide an intermediary for students and their families at public schools to access social and health care services. The goal of the program is to forge mutual long-term relationships with public and private agencies and community-based, civic and corporate organizations to help students attain high academic achievement by meeting certain nonacademic needs of students and their families.

C. A program shall include the employment of a resource liaison, who shall:

- (6) identify and coordinate age-appropriate resources for students in need of:
  - (d) mental health counseling.

#### **22-12A-8. Enforcement of Attendance for Success Act; attendance improvement plan; procedures.**

E. A public school shall provide interventions to students who are absent or chronically absent, which may include:

- (6) identifying and coordinating age-appropriate resources for students in need of:
  - (d) mental health counseling.

#### **22-35-2. Definitions.**

As used in the Safe Schools for All Students Act [Chapter 22, Article 35 NMSA 1978]:

G. "progressive discipline" means disciplinary action other than suspension or expulsion from school that is designed to correct and address the basic causes of a student's specific misbehavior while retaining the student in class or in school, or restorative school practices to repair the harm done to relationships and other students from the student's misbehavior, and may include:

- (6) mental health counseling.

## REGULATIONS

#### **6.12.6.7. Definitions.**

E. "Health services" means services provided for students to appraise, protect, and promote health. These services are designed to ensure access or referral to primary health care or behavioral health services or both, foster appropriate use of primary health care services, behavioral health services, prevent and control communicable diseases and other health problems, provide emergency care for illness or injury, promote and provide optimum sanitary conditions for a safe school facility and school environment, and provide educational and counseling opportunities for promoting and maintaining individual, family, and community health. [...]

J. "Social and emotional wellbeing" means services provided to maintain or improve students' mental, emotional, behavioral, and social health.

**6.12.6.8. Requirements.**

D. The wellness policy shall include, but shall not be limited to:

(6) a plan addressing the behavioral health needs of all students in the educational process by focusing on students' social and emotional wellbeing.

## ***Monitoring and Accountability***

### **Formal Incident Reporting of Conduct Violations**

#### **LAWS**

##### **22-5-4.12. Use of restraint and seclusion; techniques; requirements.**

D. Schools shall establish reporting and documentation procedures to be followed when a restraint or seclusion technique has been used on a student. The procedures shall include the following provisions:

- (1) a school employee shall provide the student's parent or guardian with written or oral notice on the same day that the incident occurred, unless circumstances prevent same-day notification. If the notice is not provided on the same day of the incident, notice shall be given within twenty-four hours after the incident;
- (2) within a reasonable time following the incident, a school employee shall provide the student's parent or guardian with written documentation that includes information about any persons, locations or activities that may have triggered the behavior, if known, and specific information about the behavior and its precursors, the type of restraint or seclusion technique used and the duration of its use; and
- (3) schools shall review strategies used to address a student's dangerous behavior if use of restraint or seclusion techniques for an individual student has occurred two or more times during any thirty-calendar-day period. The review shall include:
  - (a) a review of the incidents in which restraint or seclusion techniques were used and an analysis of how future incidents may be avoided, including whether the student requires a functional behavioral assessment; and
  - (b) a meeting of the student's individualized education program team, behavioral intervention plan team or student assistance team within two weeks of each use of restraint or seclusion after the second use within a thirty-calendar-day period to provide recommendations for avoiding future incidents requiring the use of restraint or seclusion.

##### **22-35-3. Bullying prevention policies; adoption and enforcement.**

B. Each local school board shall control the content of its policy; provided that the policy includes:

- (5) a procedure for reporting bullying or retaliation for reporting an act of bullying, including:
  - (a) a flexible reporting system that allows for reporting orally and in the student's preferred language;
  - (b) a method for reporting bullying anonymously; provided that no formal disciplinary measures shall be taken solely on the basis of an anonymous report; and
  - (c) a method for parents to file written reports of suspected bullying.

#### **REGULATIONS**

##### **6.12.7.8. Bullying Prevention Policies - adoption and enforcement.**

B. Each local school board and governing body shall control the content of its policy, provided that the policy includes:

- (5) a procedure for reporting bullying and for reporting retaliation for reporting an act of bullying, including:
  - (a) an allowance for reporting orally and in the preferred language of the person reporting;



- (b) a method for anonymous reporting; provided that no formal disciplinary measures shall be taken solely on the basis of an anonymous report of an actual bullying incident; and
  - (c) a method for parents to file written reports of suspected bullying; and
- (6) a procedure for prompt investigation of reports of violations of the bullying prevention policy and of complaints of bullying or retaliation, including:
- (a) designation of a school or district administrator who has the responsibility to:
    - (i) investigate or supervise the investigation of all reports of bullying and
    - (ii) to ensure that investigations are completed promptly after the receipt of any report made under this rule;
  - (b) a procedure for notification of the parents of the student alleged to have committed an act of bullying and the parents of the student targeted by the alleged act; provided that if, in the administrator's professional opinion, notifying the parents would endanger the health or well-being of a student, the administrator may delay such notification as appropriate;
  - (c) a requirement that school employees who witness bullying or who receive reports of bullying notify the designated administrator within two calendar days of the employee witnessing or receiving a report of bullying;
  - (d) an appeal process for a student who is accused of bullying or who is the target of bullying and who is unsatisfied with the outcome of the initial investigation; and
  - (e) development of a student safety support plan for students who are targets of bullying that addresses safety measures the school will take to protect targeted students against further acts of bullying.

## Parental Notification

### LAWS

#### **22-5-4.12. Use of restraint and seclusion; techniques; requirements.**

D. Schools shall establish reporting and documentation procedures to be followed when a restraint or seclusion technique has been used on a student. The procedures shall include the following provisions:

- (1) a school employee shall provide the student's parent or guardian with written or oral notice on the same day that the incident occurred, unless circumstances prevent same-day notification. If the notice is not provided on the same day of the incident, notice shall be given within twenty-four hours after the incident;
- (2) within a reasonable time following the incident, a school employee shall provide the student's parent or guardian with written documentation that includes information about any persons, locations or activities that may have triggered the behavior, if known, and specific information about the behavior and its precursors, the type of restraint or seclusion technique used and the duration of its use.

#### **22-12A-11. Progressive interventions for absent, chronically absent and excessively absent students.**

A. A public school shall provide interventions for students who are missing school, depending on the number of absences. The process for notification and interventions is:

- (2) for a student who has been identified as in need of early intervention, the attendance team shall notify the parent in writing by mail or personal service on the parent of the student's absenteeism. The notice shall include a date, time and place for the parent to meet with the public school to develop intervention strategies that focus on keeping the student in an educational setting. The attendance team

shall be convened to establish a specific intervention plan for the student that includes establishing weekly progress monitoring and a contract for attendance.

(3) for a student who has been identified as in need of intensive support, the attendance team shall:

(a) give written notice to the parent, including a date, time and place for the parent to meet with the school principal and the attendance team.

#### **22-12A-6. Public school attendance policies; reporting.**

A. A public school shall maintain an attendance policy that:

(7) requires a public school to document the following for each chronically or excessively absent student:

(a) attempts by the public school to notify a parent that the student was absent from class or the school day.

#### **22-35-3. Bullying prevention policies; adoption and enforcement.**

B. Each local school board shall control the content of its policy; provided that the policy includes:

(6) a procedure for prompt investigation of reports of violations of the policy and of complaints of bullying or retaliation, including:

(b) a procedure for notification of the parents of the student alleged to have committed an act of bullying and the parents of the students targeted by the alleged act; provided that if the administrator believes, in the administrator's professional capacity, that notifying the parents would endanger the health or well-being of a student, the administrator may delay such notification as appropriate.

### **REGULATIONS**

#### **6.10.8.8. Requirements.**

B. Each local school board and charter school shall develop a written attendance policy that:

(6) provides for early identification of students with unexcused absences, students in need of early intervention, and habitual truants; provides for intervention strategies that focus on keeping students in need of early intervention in an educational setting; and further provides that:

(a) if a student is in need of early intervention, the school district or charter school shall contact the student's parent(s)/guardian(s) to inform them that the student has unexcused absences from school and to discuss possible interventions unless the parent(s)/guardian(s) has contacted the school to explain the absence and the excuse compiles with the school district attendance policy;

(b) a representative of the school district or charter school shall meet with the student in need of early intervention and his or her parent(s)/guardian(s) to identify the causes for the student's unexcused absences, identify what actions can be taken that might prevent the student's unexcused absences, identify possible school district, charter school and community resources to address the causes for the student's unexcused absences, and establish a corrective action plan to address the student's unexcused absences;

(c) the notification to the student's parent(s)/guardian(s) and the meeting with the parent(s)/guardian(s) must be respectful and in a language and in manner that is understandable to the student and the parent(s)/guardian(s);

(d) the corrective action plan must contain follow-up procedures to ensure that the causes for the student's unexcused absences are being addressed;

(e) if the student is a habitual truant, the local school board, charter school or their authorized representatives shall, in addition, give written notice of the habitual truancy by mail to or by personal

service on the student's parent(s)/guardian(s); the notice shall include a date, time and place for the parent to meet with the local school district or charter to develop intervention strategies that focus on keeping the student in an educational setting.

#### **6.11.2.12. Procedure for detentions, suspensions, and expulsions.**

The authority of the state and of local school boards to prescribe and enforce standards of conduct for public school students must be exercised consistently with constitutional safeguards of individual student rights. The right to a public education is not absolute; it may be taken away, temporarily or permanently, for violations of school rules. The right to a public education is a property right which may only be denied where school authorities have adhered to the minimum procedural safeguards required to afford the student due process of law. This section prescribes minimum requirements for detention, in-school suspension, and temporary, long-term or permanent removal of students from public schools. Local school boards may adopt procedures which afford students more protection than this rule requires. The procedures in this section apply only to disciplinary detentions, suspensions, and expulsions. They do not apply to disenrollment of students who fail to meet immunization, age, residence, or other requirements for valid enrollment, nor to the removal from school membership reports of students who have been absent from school for 10 consecutive school days in accordance with Subsection B of Section 22-8-2 NMSA 1978. Nothing in this section shall be construed as prohibiting school boards or administrative authorities from involving other school staff, students, and members of the community in the enforcement of rules of student conduct to the extent they believe is appropriate.

C. Immediate removal. Students whose presence poses a continuing danger to persons or property or an ongoing threat of interfering with the educational process may be immediately removed from school, subject to the following rules:

(3) The school shall exert reasonable efforts to inform the student's parent of the charges against the student and the action taken as soon as practicable. If the school has not communicated with the parent by telephone or in person by the end of the school day following the immediate removal, the school shall on that day mail a written notice with the required information to the parent's address of record. [...]

D. Temporary suspension.

(2) A student facing temporary suspension shall be granted a rudimentary hearing in which the student shall first be informed of the charges against the student and, if the student denies them, shall be told what evidence supports the charge(s) and be given an opportunity to present the student's version of the facts. The following rules apply:

(e) the school shall exert reasonable efforts to inform the student's parent(s) of the charges against the student and the possible or actual consequence as soon as practicable. If the school has not communicated with the parent(s) by telephone or in person by the end of the first full day of suspension, the school shall on that day mail a written notice with the required information to the parent's address of record.

#### **6.12.7.8. Bullying Prevention Policies - adoption and enforcement.**

B. Each local school board and governing body shall control the content of its policy, provided that the policy includes:

(6) a procedure for prompt investigation of reports of violations of the bullying prevention policy and of complaints of bullying or retaliation, including:

(b) a procedure for notification of the parents of the student alleged to have committed an act of bullying and the parents of the student targeted by the alleged act; provided that if, in the

administrator's professional opinion, notifying the parents would endanger the health or well-being of a student, the administrator may delay such notification as appropriate.

## **Data Collection, Review, and Reporting of Discipline Policies and Actions**

### **LAWS**

#### **22-12A-2. Definitions.**

As used in the Attendance for Success Act [Chapter 22, Article 12A NMSA 1978]:

D. "chronic absence rate" means the percentage of students, in the aggregate and disaggregated by the subgroups required for reporting pursuant to the federal Every Student Succeeds Act, in a public school and a school district who have been enrolled for at least ten days and who have missed ten percent or more of school days since the beginning of the school year.

#### **22-12A-6. Public school attendance policies; reporting.**

C. School districts shall report absences, chronic absences and excessive absences data to the department at each reporting date and the end of the school year and shall document intervention efforts made to keep students in an educational setting. The department shall compile school district reports as provided in Section 13 [22-12A-13 NMSA 1978] of the Attendance for Success Act and require school districts to certify that the information is being reported consistently and correctly. The department shall share information from state-chartered charter schools with the commission. [...]

F. Upon request, school districts shall provide the chronic absence rate from the most current reporting date or end-of-year report, in the aggregate and disaggregated by subgroups, for all its public schools.

#### **22-12A-7. Enforcement of Attendance for Success Act; district responsibilities; differentiation; district plan; additional support.**

E. At the end of each school year, each school district shall report to the local school board and to the public on the school district's website, the progress made on its attendance improvement plan, to include:

- (1) a description of the supports and resources provided to public schools at each tier of the attendance improvement plan;
- (2) the extent to which public schools with chronic absence rates greater than ten percent achieved their attendance improvement targets;
- (3) the extent to which the school district achieved its attendance improvement targets;
- (4) barriers and challenges to reducing chronic absence rates, as reported by the public school and school district personnel;
- (5) effective school-based practices, as evidenced by decreased chronic absence rates; and
- (6) recommendations for improvement during the next school year at both the public school and school district level.

#### **22-12A-8. Enforcement of Attendance for Success Act; attendance improvement plan; procedures.**

C. A public school, regardless of its chronic absence rate, shall develop and implement a whole-school absence prevention strategy to be reported to the department as part of the public school's educational plan for student success.

D. An attendance improvement plan shall include:

- (1) attendance data for each of the preceding two school years and the current school year, including:

- (a) the public school's overall absence rate;
- (b) chronic absence rates disaggregated by student subpopulation;
- (c) chronic absence rates disaggregated by grade level; and
- (d) student attendance for every day of the school year.

**22-12A-13. Reporting requirements.**

A. For each reporting date and at the end of the year, each school district shall report:

- (1) the total number of days missed for excused and unexcused absences for each student in each public school, the total number of days each student was enrolled and in which tier each student with absences fell during the reporting period, along with the student's demographics; and
- (2) the number of students at each public school who were referred to the children, youth and families department because of excessive absences, in the aggregate and disaggregated by subgroups.

B. The department shall compile a report by public school and school district that includes:

- (1) the total number and percent of students who were in each tier of chronic absenteeism or were excessively absent at each public school and school district in the aggregate for each public school and school district and disaggregated by subgroups;
- (2) the average number of excused and unexcused absences per student for all students and subgroups, not including interscholastic extracurricular activities; and
- (3) a calculated chronic absenteeism rate for the school district for all students and for each subgroup.

**22-2F-1. Short title.**

This act [22-2F-1 to 22-2F-3 NMSA 1978] may be cited as the "School Support and Accountability Act".

**22-2F-2. Definitions.**

As used in the School Support and Accountability Act [Chapter 22, Article 2F NMSA 1978]:

- B. "chronic absenteeism" means the percentage of students missing ten percent or more of the school year for any reason, including excused absences, unexcused absences and out-of-school suspensions.

**22-2F-3. School support and accountability system; created; establishing a school dashboard; prioritizing resources for schools receiving additional support.**

A. The "school support and accountability system" is created in the department. The department, in consultation with school districts, charter schools, school personnel, tribal nations and the legislative education study committee, shall promulgate rules to carry out the provisions of the School Support and Accountability Act [Chapter 22, Article 2F NMSA 1978] through the system.

B. The system shall:

- (3) include indicators of school quality and student success that are valid, reliable, comparable and statewide, including:
  - (a) chronic absenteeism.

**22-35-3. Bullying prevention policies; adoption and enforcement.**

E. Each local school board shall establish procedures for public schools to report aggregate incidents of bullying and incidents of harassment under any applicable federal or state law, along with responses to these incidents, and report this information annually to the department.

**22-35-5. Department duties; school district and charter school report cards.**

B. At the same time as or as part of the annual accountability report, each school district and charter school shall report on the status of its implementation of the provisions of the Safe Schools for All Students Act, including the aggregate number of incidents of bullying in the state, the aggregate number of incidents of harassment under any applicable federal or state laws, the aggregate number of responsive actions taken by public schools by type of action, a tabulation of the number of incidents associated with each distinguishing characteristic defined in the Safe Schools for All Students Act, the department's evaluation of the sufficiency of funding for bullying prevention programs and any recommendations for policy or programmatic change to improve the addressing of bullying issues in the state.

**REGULATIONS**

**6.10.8.10. Reporting requirement.**

A. Each school district and each individual charter school shall maintain class attendance records by class period for every instructional day for each student in each school or school program in the school district or charter school in a manner verifiable by the public education department.

B. The local superintendent of each school district or governing body or administrative head of a charter school will report absences with excused and unexcused identifiers through the student teacher accountability reporting system and certify that the information is being reported consistently at intervals and in a manner as specified by the public education department.

**6.12.7.8. Bullying Prevention Policies - adoption and enforcement.**

E. Each local school board or governing body shall establish procedures for public schools to report the number of bullying incidents and the number of harassment incidents, as defined by federal or state law, along with responses to these incidents, and shall report this information annually to the department at such time as determined by the department and through the department's student teacher accountability reporting or through other means as determined by the department.

**6.12.7.10. Reporting requirements.**

A. Beginning with the 2020-2021 school year, each school district and state-chartered charter school shall annually submit the following to the department in a method prescribed by the department and in a timeframe determined by the department:

- (1) a status report on the implementation of the provisions of this rule;
- (2) data elements on the implementation of this rule including:
  - (a) the aggregate number of bullying incidents of students within the district or state-chartered charter school;
  - (b) the aggregate number of harassment incidents of students within the district or state-chartered charter school; and
  - (c) the corresponding responsive action or disposition taken by the district or state-chartered charter school, by type of action, for each bullying incident of a student and for each harassment incident of a student.

B. Each school district and state-chartered charter school shall include, in its reporting, when known, a tabulation of the number of bullying incidents of students and the number of harassment incidents of students associated with each of the following actual or perceived distinguishing characteristic:

- (1) race;
- (2) color;

- (3) national origin;
- (4) ancestry;
- (5) sex;
- (6) sexual orientation;
- (7) gender identity;
- (8) spousal affiliation;
- (9) physical or cognitive disability; or
- (10) an association with a person, or group with any person, with one or more of the actual or perceived distinguishing characteristics.

## ***Partnerships between Schools and Law Enforcement***

### **Referrals to Law Enforcement**

#### **LAWS**

##### **22-5-4.12. Use of restraint and seclusion; techniques; requirements.**

E. If a school summons law enforcement instead of using a restraint or seclusion technique on a student, the school shall comply with the reporting, documentation and review procedures established pursuant to Subsection D of this section.

##### **22-12A-12. Excessive absenteeism; enforcement.**

A. Each local school board and each governing body of a charter school or private school shall initiate the enforcement of the provisions of the Attendance for Success Act [Chapter 22, Article 12A NMSA 1978] for excessively absent students.

B. If unexcused absences continue after written notice of excessive absenteeism as provided in Section 11 [22-12A-11 NMSA 1978] of the Attendance for Success Act, the local school board or governing body of a charter school or private school, after consultation with the local superintendent or head administrator of a charter school or private school, shall report the excessively absent student to the probation services office of the judicial district in which the student resides for an investigation as to whether the student should be considered to be a neglected child or a child in a family in need of family services because of excessive absenteeism and, thus, subject to the provisions of the Children's Code [Chapter 32A NMSA 1978]. The record of the public school's interventions and the student's and parent's responses to the interventions shall be provided to the juvenile probation services office. The local superintendent or head administrator of a charter school or private school shall provide the documentation to the juvenile probation services office within ten business days of the student being identified as excessively absent.

C. If the juvenile probation services office determines that the student is a child in a family in need of family services, a caseworker from the child or family in need of family services program shall meet with the family at the public school in which the student is enrolled to determine if there are other intervention services that may be provided. The meeting shall involve the school principal or other school personnel and, unless the parent objects in writing, appropriate community partners that provide services to children and families. The children, youth and families department shall determine if additional interventions, including monitoring, will positively affect the student's behavior.

##### **32A-2-33. Child in possession of a firearm on school premises; detention; hearing.**

A. If a public school administrator or employee has reasonable cause to believe that a child is in possession of or has been in possession of a firearm on school premises in violation of Section 30-7-2.1 NMSA 1978, the administrator or employee shall immediately report the child's actions to a law enforcement agency and the children, youth and families department.

B. Upon receipt of a report pursuant to Subsection A of this section, the law enforcement agency may conduct an investigation to determine if there is probable cause to believe that the child possessed a firearm on school premises.

C. If the law enforcement agency determines there is probable cause to believe that the child possessed a firearm on school premises, the law enforcement agency may take the child into custody and deliver the child to a detention facility licensed by the department. After the child is delivered to a detention facility, the department shall comply with the notification provisions set forth in Subsection C of Section 32A-2-10



NMSA 1978. The child shall be detained in the detention facility, pending a detention hearing pursuant to the provisions of Section 32A-2-13 NMSA 1978.

D. As used in this section, "firearm" means any weapon that will or is designed to or may readily be converted to expel a projectile by the action of an explosion; the frame or receiver of any such weapon; or any firearm muffler or firearm silencer. "Firearm" includes any handgun, rifle or shotgun.

## **REGULATIONS**

### **6.11.2.10. Enforcing rules of conduct.**

B. Search and seizure. School property assigned to a student and a student's person or property while under the authority of a public school are subject to search, and items found are subject to seizure, in accordance with the following requirements:

- (6) Notification of law enforcement authorities. Unless a local school board policy provides otherwise, an administrative authority shall have discretion to notify the local children's court attorney, district attorney, or other law enforcement officers when a search discloses illegally possessed contraband material or evidence of some other crime or delinquent act.

## **School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification**

## **LAWS**

### **22-10A-40. School security personnel; definitions; required training.**

D. Prior to an offer of employment, the school district shall require for each potential school security personnel:

- (1) proof that the retired or former law enforcement officer was certified and commissioned for no less than three years and left law enforcement in good standing;
- (2) successful completion of school security personnel training;
- (3) proof of up-to-date firearms training;
- (4) a background check that indicates the person has not been convicted of a crime or engaged in behavior that violates the School Personnel Act [Chapter 22, Article 10A NMSA 1978]; and
- (5) any other conditions required by law, department rule or school district policy. [...]

G. The department and the public school insurance authority shall approve one or more school security personnel and firearms training programs. Approved programs must include working with students with special needs, cultural competency and prohibited profiling practices. The department of public safety shall make recommendations for firearms training.

### **29-7-14. Law enforcement officers as school resource officers; training required.**

A. As used in this section, "school resource officer" means a commissioned and certified law enforcement officer who is designated to be responsible for school safety and crime prevention and the appropriate response to crimes in public schools and has completed the training specified in Subsection B of this section.

B. A law enforcement officer who is or will be assigned as a school resource officer shall receive specific training for the duty, including instruction on the following:

- (1) the differences in successful law enforcement when conducted inside a school environment, including understanding the adolescent brain, crisis management and de-escalation techniques;

- (2) tools to be a positive role model for youth, including mentoring and informal counseling techniques;
- (3) the school resource officer's role and responsibilities to school personnel and students and their families and strategies for connecting students and families to appropriate resources that will assist students to succeed in school, including strategies for mitigating truancy;
- (4) a variety of instructional techniques as well as classroom management tools to provide law-related education to students;
- (5) an understanding of adolescent development and adolescent mental health disorders and treatment; and
- (6) identification and response to students who are suspected of having a mental health need, including critical skills and capacity for appropriately responding to behavior issues that are typically observed among adolescents with mental health needs.

C. Beginning with the 2022-2023 school year, a law enforcement officer who:

- (1) is assigned as a school resource officer shall complete the training required in Subsection B of this section within twelve months of being assigned as a school resource officer; or
- (2) was serving as a school resource officer prior to the 2022-2023 school year and who has not received specific training for the position of school resource officer shall complete the training required in Subsection B of this section no later than July 1, 2023.

D. The school resource officer training shall be provided by or approved by the New Mexico law enforcement academy in consultation with the public education department.

## **REGULATIONS**

### **6.12.12.9. Employment requirements of school security personnel.**

Each local school board and governing body of a charter school shall establish policies and procedures addressing pre-employment and continuing employment requirements for school security personnel. Policies and procedures shall include the following:

- A. requirement of proof that the former law enforcement officer was certified and commissioned for no less than three years and left law enforcement in good standing;
- B. successful completion of a 16-hour program of training, approved by the department in collaboration with the New Mexico public school insurance authority, for working with students with special needs, prior to employment as school security personnel;
- C. successful completion of a four-hour program of training, approved by the department in collaboration with the New Mexico public school insurance authority, on cultural competency and prohibited profiling practices, prior to employment as school security personnel; and
- D. proof of current firearms training and successful firearms qualification provided by a certified use-of-force instructor through a local law enforcement agency, or through a New Mexico law enforcement academy certified firearms instructor approved by a local law enforcement agency in the jurisdiction in which the school district or charter school is located. Firearms training shall include the following:
  - (1) an initial use-of-force training program of eight hours, prior to employment as school security personnel, including the following topics:
    - (a) resistance;
    - (b) confrontational dynamics;
    - (c) deadly force (when it is justifiable);
    - (d) communication;
    - (e) self-control, fear, and anger management in the use of force;

- (f) consequences of unreasonable force;
  - (g) vicarious liability;
  - (h) legality of use of force in school setting by school security personnel;
  - (i) documenting use of force;
  - (j) search and seizure; and
  - (k) other topics as recommended by the local law enforcement agency, school district, or charter school;
- (2) an initial firearms training program of 16 hours prior to employment as school security personnel;
  - (3) prior to employment as school security personnel and annually thereafter, a qualification shoot requiring qualifying scores that meet or exceed the New Mexico law enforcement academy standard scores in daytime qualification shoot and night or low light qualification shoot; and
  - (4) an annual firearms manipulation training program of four hours.
- E. a background check indicating the individual has not been convicted of a crime or engaged in behavior that violates prohibitions against ethical misconduct pursuant to the New Mexico School Personnel Act, Section 22-10A-5 NMSA 1978, as ethical misconduct; or Subsection A of 6.12.12.8 NMAC; and
- F. any other conditions required by law, department rule, or school district or charter school policy.

## **Authorizations, Memoranda of Understanding (MOUs), and/or Funding**

### **LAWS**

#### **22-10A-40. School security personnel; definitions; required training.**

A. As used in this section:

- (5) "school security personnel" means retired or former certified and commissioned law enforcement officers who are employed by a school district and authorized by department rules and local school board policy to carry a firearm on school premises.

B. The department shall promulgate rules to carry out the purposes of this section. [...]

D. Prior to an offer of employment, the school district shall require for each potential school security personnel:

- (1) proof that the retired or former law enforcement officer was certified and commissioned for no less than three years and left law enforcement in good standing;
- (2) successful completion of school security personnel training;
- (3) proof of up-to-date firearms training;
- (4) a background check that indicates the person has not been convicted of a crime or engaged in behavior that violates the School Personnel Act [Chapter 22, Article 10A NMSA 1978]; and
- (5) any other conditions required by law, department rule or school district policy.

E. School security personnel shall not perform any other job in the school district, by title or duty, other than school security while carrying a firearm.

F. Prior to school security personnel being allowed to carry firearms authorized by department rules and local school board policy, the school security personnel must successfully pass a physical and psychological evaluation as prescribed by the department in consultation with the public school insurance authority to determine suitability to carry a firearm. The school district shall pay the cost of the physical and psychological evaluations for current and potential school security personnel.

G. The department and the public school insurance authority shall approve one or more school security personnel and firearms training programs. Approved programs must include working with students with special needs, cultural competency and prohibited profiling practices. The department of public safety shall make recommendations for firearms training.

## **REGULATIONS**

### **6.12.12.9. Employment requirements of school security personnel.**

Each local school board and governing body of a charter school shall establish policies and procedures addressing pre-employment and continuing employment requirements for school security personnel.

Policies and procedures shall include the following:

- A. requirement of proof that the former law enforcement officer was certified and commissioned for no less than three years and left law enforcement in good standing;
- B. successful completion of a 16-hour program of training, approved by the department in collaboration with the New Mexico public school insurance authority, for working with students with special needs, prior to employment as school security personnel;
- C. successful completion of a four-hour program of training, approved by the department in collaboration with the New Mexico public school insurance authority, on cultural competency and prohibited profiling practices, prior to employment as school security personnel; and
- D. proof of current firearms training and successful firearms qualification provided by a certified use-of-force instructor through a local law enforcement agency, or through a New Mexico law enforcement academy certified firearms instructor approved by a local law enforcement agency in the jurisdiction in which the school district or charter school is located. Firearms training shall include the following:
  - (1) an initial use-of-force training program of eight hours, prior to employment as school security personnel, including the following topics:
    - (a) resistance;
    - (b) confrontational dynamics;
    - (c) deadly force (when it is justifiable);
    - (d) communication;
    - (e) self-control, fear, and anger management in the use of force;
    - (f) consequences of unreasonable force;
    - (g) vicarious liability;
    - (h) legality of use of force in school setting by school security personnel;
    - (i) documenting use of force;
    - (j) search and seizure; and
    - (k) other topics as recommended by the local law enforcement agency, school district, or charter school;
  - (2) an initial firearms training program of 16 hours prior to employment as school security personnel;
  - (3) prior to employment as school security personnel and annually thereafter, a qualification shoot requiring qualifying scores that meet or exceed the New Mexico law enforcement academy standard scores in daytime qualification shoot and night or low light qualification shoot; and
  - (4) an annual firearms manipulation training program of four hours.
- E. a background check indicating the individual has not been convicted of a crime or engaged in behavior that violates prohibitions against ethical misconduct pursuant to the New Mexico School

Personnel Act, Section 22-10A-5 NMSA 1978, as ethical misconduct; or Subsection A of 6.12.12.8 NMAC; and

F. any other conditions required by law, department rule, or school district or charter school policy.

## **Threat Assessment Protocols**

### **LAWS**

No relevant laws found.

### **REGULATIONS**

No relevant regulations found.

## State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by New Mexico provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
<i>Website</i>		
Bullying Prevention: Providing Safe Schools for All Students, New Mexico Public Education Department	Provides information on bullying, including cyberbullying. Website has information/resources on bullying prevention programs and strategies and effective means to respond to bullying. By January 1, 2020, each school district was to establish a bullying prevention program for students reflective of the parameters of the <a href="#">Safe Schools for All Students Act</a> and reflective of New Mexico's Health Education Content Standards with Benchmarks and Performance Standards. PED has established a Policy Framework for 6.12.7 NMSAC, Safe Schools for All Students.	<a href="http://ped.state.nm.us/ped/PEDAnti-Bullying.html">http://ped.state.nm.us/ped/PEDAnti-Bullying.html</a>
Multi-layered System of Supports (MLSS), New Mexico Public Education Department	Provides links to resources and overview of New Mexico's Multi-layered System of Supports. In school year 19-20, the agency will be piloting a Multi-Layered Systems of Support model to select districts across the state. Universal rollout will occur in the 2020-2021 school year. MLSS is a holistic intervention framework that guides educators, those closest to the student, to intervene quickly when students need additional supports. The MLSS framework reflects the supports that the classroom teacher, schools, family, health and wellness staff offer toward readying students to experience academic and behavioral success in school resulting in students being ready for success.	<a href="https://webnew.ped.state.nm.us/bureaus/title-i/multi-layered-system-of-supports-mlss/">https://webnew.ped.state.nm.us/bureaus/title-i/multi-layered-system-of-supports-mlss/</a>

Title	Description	Website address (if applicable)
Safe Schools, New Mexico Public Education Department	Provides information and resources for safe schools' plans, training/webinars, best practices, school threat, and hazard assessment worksheets.	<a href="http://webnew.ped.state.nm.us/officesandprograms/safe-healthy-schools/safe-schools/">http://webnew.ped.state.nm.us/officesandprograms/safe-healthy-schools/safe-schools/</a>
Social and Emotional Learning (SEL), New Mexico Public Education Department	Provides information and resources on district-wide social and emotional learning (SEL) including a guide on the SEL framework and additional learning resources.	<a href="https://webnew.ped.state.nm.us/bureaus/safe-healthy-schools/social-and-emotional-learning-sel/">https://webnew.ped.state.nm.us/bureaus/safe-healthy-schools/social-and-emotional-learning-sel/</a>
Wellness Policy, New Mexico Public Education Department	Supports school districts to create a wellness policy that includes the components of a Coordinated School Health Model and Whole School, Whole Community, Whole Child approach to student health and well-being per the New Mexico Administrative Code (NMAC) 6.12.6.	<a href="https://webnew.ped.state.nm.us/bureaus/safe-healthy-schools/wellness-policy/">https://webnew.ped.state.nm.us/bureaus/safe-healthy-schools/wellness-policy/</a>
<b>Documents</b>		
Addressing Student Behavior, A Guide for All Educators, New Mexico Public Education Department	Guidance manual designed to help educators understand how to identify and target the underlying causes behind undesirable behavior that is frequent, persistent, or severe.	<a href="https://webnew.ped.state.nm.us/wp-content/uploads/2018/03/Addressing-Student-Behavior-7.30.19.pdf">https://webnew.ped.state.nm.us/wp-content/uploads/2018/03/Addressing-Student-Behavior-7.30.19.pdf</a>
MLSS Implementation Guide (2021), New Mexico Public Education Department	Provides districts, school leadership and teachers with guidance, resources, and tools for ensuring an effective implementation of MLSS.	<a href="https://webnew.ped.state.nm.us/wp-content/uploads/2021/05/MLSS_Implementation-Guide_DRAFT.pdf">https://webnew.ped.state.nm.us/wp-content/uploads/2021/05/MLSS_Implementation-Guide_DRAFT.pdf</a>
New Mexico Department of Education's Social Emotional Learning Framework, New Mexico Public Education Department	Statewide framework to support the integration of social emotional learning into school environments.	<a href="https://webnew.ped.state.nm.us/wp-content/uploads/2021/02/SHSB_NM.SEL_Framework.document.1.7.21-002.pdf">https://webnew.ped.state.nm.us/wp-content/uploads/2021/02/SHSB_NM.SEL_Framework.document.1.7.21-002.pdf</a>
New Mexico Planning for Safe Schools Guide (2019-2020), New Mexico Public Education Department	Guidance document to assist schools with the development of site-specific Safe Schools Plans (SSP) and provide proper training to school staff and students to assess, facilitate, and implement response actions to emergency events.	<a href="https://webnew.ped.state.nm.us/wp-content/uploads/2019/09/SHSB_NM-Planning-For-Safe-Schools-Guide-2019-2020.pdf">https://webnew.ped.state.nm.us/wp-content/uploads/2019/09/SHSB_NM-Planning-For-Safe-Schools-Guide-2019-2020.pdf</a>

Title	Description	Website address (if applicable)
Student Discipline: A Technical Assistance Manual for Students with Disabilities (April 2008), New Mexico Public Education Department	Guidance document to assist schools with the process of disciplining students who receive special education services in accordance with state and federal law.	<a href="https://webnew.ped.state.nm.us/wp-content/uploads/2018/03/Student-Discipline-for-Students-with-Disabilities.pdf">https://webnew.ped.state.nm.us/wp-content/uploads/2018/03/Student-Discipline-for-Students-with-Disabilities.pdf</a>
<i>Other Resources</i>		
Supportive School Discipline (PowerPoint), New Mexico Public Education Department	Supportive School Discipline Initiative PowerPoint presentation.	<a href="https://webnew.ped.state.nm.us/wp-content/uploads/2017/12/SHSB_Supportive-School-Discipline-Initiative.ppsx">https://webnew.ped.state.nm.us/wp-content/uploads/2017/12/SHSB_Supportive-School-Discipline-Initiative.ppsx</a>