



New Mexico Compilation of School Discipline Laws and Regulations

Prepared: April 3, 2019

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 April 2019. 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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General Provisions

Authority to develop and establish rules of conduct

LAWS

22-2-1. Secretary and department; general powers.

A. The secretary is the governing authority and shall have control, management and direction of all public schools, except as otherwise provided by law.

B. The department may:

- (1) adopt, promulgate and enforce rules to exercise its authority and the authority of the secretary;
- (2) enter into contracts to carry out its duties;
- (3) apply to the district court for an injunction, writ of mandamus or other appropriate relief to enforce the provisions of the Public School Code [Chapter 22 [except Article 5A] NMSA 1978] or rules promulgated pursuant to the Public School Code; and
- (4) waive provisions of the Public School Code as authorized by law.

22-2-2. Department; general duties.

The department shall:

- A. properly and uniformly enforce the provisions of the Public School Code [Chapter 22 [except Article 5A] NMSA 1978];
- B. determine policy for the operation of all public schools and vocational education programs in the state, including vocational programs that are part of a juvenile construction industries initiative for juveniles who are committed to the custody of the children, youth and families department;
- C. supervise all schools and school officials coming under its jurisdiction, including taking over the control and management of a public school or school district that has failed to meet requirements of law or department rules or standards, and, until such time as requirements of law, standards or rules have been met and compliance is ensured, the powers and duties of the local school board and local superintendent shall be suspended;
- D. prescribe courses of instruction to be taught in all public schools in the state, requirements for graduation and standards for all public schools, for private schools seeking state accreditation and for the educational programs conducted in state institutions other than the New Mexico military institute;
- E. provide technical assistance to local school boards and school districts;
- F. assess and evaluate public schools for accreditation purposes to determine the adequacy of student gain in standards-required subject matter, adequacy of student activities, functional feasibility of public school and school district organization, adequacy of staff preparation and other matters bearing upon the education of the students;
- G. assess and evaluate all state institutions and those private schools that desire state accreditation;
- H. enforce requirements for home schools. Upon finding that a home school is not in compliance with law, the department may order that a student attend a public school or a private school;
- I. require periodic reports on forms prescribed by it from all public schools and attendance reports from private schools;
- J. determine the qualifications for and issue licenses to teachers, instructional support providers and school administrators according to law and according to a system of classification adopted and promulgated by rules of the department;

- K. deny, suspend or revoke a license according to law for incompetency, moral turpitude or any other good and just cause;
- L. approve or disapprove all rules promulgated by an association or organization attempting to regulate a public school activity and invalidate any rule in conflict with any rule promulgated by the department. The department shall require an association or organization attempting to regulate a public school activity to comply with the provisions of the Open Meetings Act [Chapter 10, Article 15 NMSA 1978] and be subject to the inspection provisions of the Public Records Act [Chapter 14, Article 3 NMSA 1978]. The department may require performance and financial audits of an association or organization attempting to regulate a public school activity. The department shall have no power or control over the rules or the bylaws governing the administration of the internal organization of the association or organization;
- M. review decisions made by the governing board or officials of an organization or association regulating a public school activity, and any decision of the department shall be final in respect thereto;
- N. require a public school under its jurisdiction that sponsors athletic programs involving sports to mandate that the participating student obtain catastrophic health and accident insurance coverage, such coverage to be offered through the school and issued by an insurance company duly licensed pursuant to the laws of New Mexico;
- O. establish and maintain regional centers, at its discretion, for conducting cooperative services between public schools and school districts within and among those regions and for facilitating regulation and evaluation of school programs;
- P. approve education curricula and programs offered in all two-year public post-secondary educational institutions, except those in Chapter 21, Article 12 NMSA 1978, that lead to alternative licenses for degreed persons pursuant to Section 22-10A-8 NMSA 1978 or licensure for educational assistants;
- Q. withhold program approval from a college of education or teacher preparation program that fails to offer a course on teaching reading that:
- (1) is based upon current scientifically based reading research;
 - (2) aligns with department-adopted reading standards;
 - (3) includes strategies and assessment measures to ensure that beginning teachers are proficient in teaching reading; and
 - (4) was designed after seeking input from experts in the education field;
- R. annually, prior to December 1, prepare and publish a report on public and private education in the state and distribute the report to the governor and the legislature;
- S. solicit input from local school boards and school districts in the formulation and implementation of department rules; and
- T. report to the legislature or any of its committees as requested and report findings of any educational research study made with public money to the legislature through its appropriate interim or standing committees.

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. 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.

E. 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.

F. 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.

G. 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.

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, 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 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.

22-35-3. 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.

A. Jurisdiction over students. All officials, employees and authorized agents of the public schools whose responsibilities include supervision of students shall have comprehensive authority within constitutional bounds to maintain order and discipline in school. In exercising this authority, such officials, employees and authorized agents of the public schools may exercise such powers of control, supervision, and correction over students as may be reasonably necessary to enable them to properly perform their duties and accomplish the purposes of education. This authority applies whenever students are lawfully subject to the schools' control, regardless of place. During such periods, public school authorities shall have the right to supervise and control the conduct of students, and students shall have the duty to submit to the schools' authority. The foregoing is intended to reflect the common law regarding the rights, duties and liabilities of public school authorities in supervising, controlling and disciplining students. Nothing herein shall be construed as enlarging the liability of public school authorities beyond that imposed by statute, common law or public education department rule.

B. School authority over non-students. In furtherance of the state's compelling interest in the orderly operation of the 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 of any person who refuses to identify him/herself and state a lawful purpose for entering. Any person who refuses may be removed by school authorities, who may use reasonable physical force to accomplish the removal. Alternately, a person who refuses and who then refuses a lawful request to leave school premises may be subject to arrest by law officers for criminal offenses including but not limited to criminal trespass, interference with the educational process or disorderly conduct. A person who does identify him/herself 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 officers if (s)he 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.

C. Statement of policy. A primary responsibility of the New Mexico public schools and their professional staffs shall be to instill in students an appreciation of our representative form of government, the rights and responsibilities of the individual or group and the legal processes whereby necessary changes are effected.

(1) The school is a community and the rules and regulations of a school are the laws of that community. All persons enjoying the rights of citizenship are subject to the laws of their community. Each carries with it a corresponding obligation.

(2) The right to attend public school is not absolute. It is conditioned on each student's acceptance of the obligation to abide by the lawful rules of the school community until and unless the rules are changed through lawful processes.

(3) Teachers, administrators and other school employees also have rights and duties. Teachers are required by law to maintain a suitable environment for teaming in their classes and to assist in maintaining school order and discipline. Administrators are responsible for maintaining and facilitating the educational program by ensuring an orderly, safe environment in the public schools. In discharging their duties, all school employees have the right to be free from intimidation or abuse and to have their lawful requests and instructions followed.

(4) Nothing in this rule shall be held to affect the due process rights of school employees or their use of any local school district grievance procedure. This rule does not address employment disputes.

D. Local school board authority: Local school boards have both the authority and the 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 above, and subject to the minimums prescribed in this rule, local boards have discretion to develop such rules, regulations, 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.

E. Severability: Any part of this rule found by adjudication before a competent tribunal to be contrary to law shall be stricken without effect to the remainder.

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. Requirements.

A. This section governs policies and programs to be adopted and implemented by local school boards addressing bullying and cyberbullying. Cyberbullying policies and programs must be in effect beginning with the 2013-2014 school year.

B. Each local school board shall develop and implement a policy that addresses and cyberbullying. Each local school board shall make any necessary revisions to its disciplinary policies to ensure that cyberbullying is addressed in accordance with the requirements of this rule.

C. The anti-bullying policy shall at least include, but shall not be limited to:

- (1) definitions;
- (2) an absolute prohibition against bullying and cyberbullying;
- (3) a method to ensure initial and annual dissemination of the anti-bullying and anti-cyberbullying policy to all students, parents, teachers, administrators and all other school or district employees;
- (4) procedures for reporting incidents of bullying and cyberbullying which ensure confidentiality to those reporting bullying or cyberbullying incidents and protection from reprisal, retaliation or false accusation against victims, witnesses or others with information regarding a bullying or cyberbullying incident;
- (5) consequences for bullying and cyberbullying which include consideration of compliance with state and federal IDEA requirements;
- (6) consequences for knowingly making false reports pursuant to the anti-bullying policy;
- (7) procedures for investigation by administration of incidents reported pursuant to the anti-bullying policy;
- (8) a requirement that teachers and other school staff report any incidents of bullying and cyberbullying; and
- (9) a requirement that anti-bullying is included as part of the health education curriculum as set forth in 6.30.2.19 NMAC ("content standards - health education").

D. The cyberbullying prevention policy shall require that:

- (1) all licensed school employees complete training on how to recognize signs of cyberbullying;
- (2) any licensed school employee who has information about or a reasonable suspicion of cyberbullying shall report the matter immediately to either or both the school principal and the local superintendent or to the head administrator of a charter school;
- (3) any school administrator or local superintendent who receives a report of cyberbullying take immediate steps to ensure prompt investigation of the report; and
- (4) school administrators take prompt disciplinary action in response to cyberbullying confirmed through investigation; disciplinary action taken pursuant to this subsection must be by the least restrictive means necessary to address a hostile environment on the school campus resulting from the confirmed cyberbullying and may include counseling, mediation and appropriate disciplinary action that is consistent with the legal rights of the involved students.

E. Every public school shall implement a bullying and cyberbullying prevention program.

F. Every local school board shall submit to the department, as directed by the department, assurances of:

- (1) adoption and implementation of a policy addressing bullying and cyberbullying; and
- (2) review and, if necessary, revision of disciplinary policies to ensure that the policies address cyberbullying; and
- (3) implementation of cyberbullying training for all licensed school employees.

G. Every local school board and every charter school shall submit to the department, as directed by the department, assurances of implementation of bullying and cyberbullying prevention programs.

6.11.2.9 Rules of conduct for New Mexico public schools.

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

A. Prohibited activities: The commission of or participation in the activities designated below is prohibited in all New Mexico public schools and is prohibited for students whenever they are subject to school control. Acts prohibited by this rule:

- (1) criminal or delinquent acts;
- (2) gang related activity;
- (3) sexual harassment;
- (4) disruptive conduct;
- (5) refusal to identify self; and
- (6) refusal to cooperate with school personnel.

B. Regulated activities: Beyond those activities designated above as prohibited, 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 above. Activities subject to local board regulation within legal limits include, but are not limited to:

- (1) school attendance;
- (2) use of and access to the public schools, including:
 - (a) restrictions on vehicular traffic on school property,
 - (b) prohibition of or conditions on the presence of non-school persons on school grounds or in school buildings while school is in session; and
 - (c) reasonable standards of conduct for all persons attending school- sponsored activities or other activities on school property;
- (3) students' dress and personal appearance;
- (4) use of controlled substances, alcohol and tobacco in the public schools;
- (5) speech and assembly within the public schools;
- (6) publications distributed in the public schools;
- (7) the existence, scope and conditions of availability of student privileges, including extracurricular activities and rules governing participation;
- (8) by statute, 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, 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; the special rule provisions of Subsection D. of 6.11.2.11 NMAC apply to students with disabilities;
- (9) the discipline of students for out-of-school conduct having a direct and immediate effect on school discipline or the general safety and welfare of the school.

Scope

LAWS

22-5A-2. Definitions.

As used in the School Alcohol-Free Zone Act:

- 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

6.11.2.7. Definitions.

Q. "Public school" means the campus of and any building, facility, vehicle or other item of property owned, operated, controlled by or in the possession of a local school district. For purposes of student discipline, the term also includes any non-school premises being used for school-sponsored activities.

6.11.2.8 General provisions.

A. Jurisdiction over students. All officials, employees and authorized agents of the public schools whose responsibilities include supervision of students shall have comprehensive authority within constitutional bounds to maintain order and discipline in school. In exercising this authority, such officials, employees and authorized agents of the public schools may exercise such powers of control, supervision, and correction over students as may be reasonably necessary to enable them to properly perform their duties and accomplish the purposes of education. This authority applies whenever students are lawfully subject to the schools' control, regardless of place. During such periods, public school authorities shall have the right to supervise and control the conduct of students, and students shall have the duty to submit to the schools' authority. The foregoing is intended to reflect the common law regarding the rights, duties and liabilities of public school authorities in supervising, controlling and disciplining students. Nothing herein shall be construed as enlarging the liability of public school authorities beyond that imposed by statute, common law or public education department rule.

B. School authority over non-students. In furtherance of the state's compelling interest in the orderly operation of the 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 of any person who refuses to identify him/herself and state a lawful purpose for entering. Any person who refuses may be removed by school authorities, who may use reasonable physical force to accomplish the removal. Alternately, a person who refuses and who then refuses a lawful request to leave school premises may be subject to arrest by law officers for criminal offenses including but not limited to criminal trespass, interference with the educational process or disorderly conduct. A person who does identify him/herself 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 officers if (s)he 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.

6.11.2.9. Rules of conduct for New Mexico public schools.

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

A. Prohibited activities: The commission of or participation in the activities designated below is prohibited in all New Mexico public schools and is prohibited for students whenever they are subject to school control. Acts prohibited by this rule:

- (1) criminal or delinquent acts;
- (2) gang related activity;
- (3) sexual harassment;
- (4) disruptive conduct;
- (5) refusal to identify self; and
- (6) refusal to cooperate with school personnel.

B. Regulated activities: Beyond those activities designated above as prohibited, 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 above. Activities subject to local board regulation within legal limits include, but are not limited to:

- (1) school attendance;
- (2) use of and access to the public schools, including:
 - (a) restrictions on vehicular traffic on school property,
 - (b) prohibition of or conditions on the presence of non-school persons on school grounds or in school buildings while school is in session; and
 - (c) reasonable standards of conduct for all persons attending school- sponsored activities or other activities on school property;
- (3) students' dress and personal appearance;
- (4) use of controlled substances, alcohol and tobacco in the public schools;
- (5) speech and assembly within the public schools;
- (6) publications distributed in the public schools;
- (7) the existence, scope and conditions of availability of student privileges, including extracurricular activities and rules governing participation;
- (8) by statute, 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, 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; the special rule provisions of Subsection D. of 6.11.2.11 NMAC apply to students with disabilities;
- (9) the discipline of students for out-of-school conduct having a direct and immediate effect on school discipline or the general safety and welfare of the school.

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.

Communication of policy

LAWS

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.

22-12A-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.

22-35-3. 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

6.12.4.8. 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. Requirements.

- A. This section governs policies and programs to be adopted and implemented by local school boards addressing bullying and cyberbullying. Cyberbullying policies and programs must be in effect beginning with the 2013-2014 school year.
- B. Each local school board shall develop and implement a policy that addresses and cyberbullying. Each local school board shall make any necessary revisions to its disciplinary policies to ensure that cyberbullying is addressed in accordance with the requirements of this rule.
- C. The anti-bullying policy shall at least include, but shall not be limited to:
 - (1) definitions;
 - (2) an absolute prohibition against bullying and cyberbullying;
 - (3) a method to ensure initial and annual dissemination of the anti-bullying and anti-cyberbullying policy to all students, parents, teachers, administrators and all other school or district employees;
 - (4) procedures for reporting incidents of bullying and cyberbullying which ensure confidentiality to those reporting bullying or cyberbullying incidents and protection from reprisal, retaliation or false accusation against victims, witnesses or others with information regarding a bullying or cyberbullying incident;
 - (5) consequences for bullying and cyberbullying which include consideration of compliance with state and federal IDEA requirements;
 - (6) consequences for knowingly making false reports pursuant to the anti-bullying policy;
 - (7) procedures for investigation by administration of incidents reported pursuant to the anti-bullying policy;
 - (8) a requirement that teachers and other school staff report any incidents of bullying and cyberbullying;and

(9) a requirement that anti-bullying is included as part of the health education curriculum as set forth in 6.30.2.19 NMAC ("content standards - health education").

D. The cyberbullying prevention policy shall require that:

- (1) all licensed school employees complete training on how to recognize signs of cyberbullying;
- (2) any licensed school employee who has information about or a reasonable suspicion of cyberbullying shall report the matter immediately to either or both the school principal and the local superintendent or to the head administrator of a charter school;
- (3) any school administrator or local superintendent who receives a report of cyberbullying take immediate steps to ensure prompt investigation of the report; and
- (4) school administrators take prompt disciplinary action in response to cyberbullying confirmed through investigation; disciplinary action taken pursuant to this subsection must be by the least restrictive means necessary to address a hostile environment on the school campus resulting from the confirmed cyberbullying and may include counseling, mediation and appropriate disciplinary action that is consistent with the legal rights of the involved students.

E. Every public school shall implement a bullying and cyberbullying prevention program.

F. Every local school board shall submit to the department, as directed by the department, assurances of:

- (1) adoption and implementation of a policy addressing bullying and cyberbullying; and
- (2) review and, if necessary, revision of disciplinary policies to ensure that the policies address cyberbullying; and
- (3) implementation of cyberbullying training for all licensed school employees.

G. Every local school board and every charter school shall submit to the department, as directed by the department, assurances of implementation of bullying and cyberbullying prevention programs.

In-School Discipline

Use of multi-tiered discipline approaches

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Teacher authority to remove students from classrooms

LAWS

No relevant laws found.

REGULATIONS

6.11.2.7. Definitions.

A. "Administrative authority" means the local school district superintendent, a principal or a person authorized by either to act officially in a matter involving school discipline or the maintenance of order. The term may include school security officers, but only to the extent of their authority as established under written local school board policies.

E. "Disciplinarian" means a person or group authorized to impose punishment after the facts have been determined by a hearing authority.

F. "Disruptive conduct" means willful conduct which:

(1) materially and in fact disrupts or interferes with the operation of the public schools or the orderly conduct of any public school activity, including individual classes; or

(2) leads an administrative authority reasonably to forecast that such disruption or interference is likely to occur unless preventive action is taken.

J. "Immediate removal" means the removal of a student from school for one school day or less under emergency conditions and without a prior hearing.

R. "Refusal to cooperate with school personnel" means a student's willful refusal to obey the lawful instructions or orders of school personnel whose responsibilities include supervision of students.

X. "School personnel" means all members of the staff, faculty and administration employed by the local school board. The term includes school security officers, school bus drivers and their aides, and also authorized agents of the schools, such as volunteers or chaperons, whose responsibilities include supervision of students.

Y. "Student" means a person who is enrolled in one or more classes at a public school or a person who was a student during the previous school year and is participating in a school sponsored activity connected with his or her prior status as a student.

AA. "Temporary suspension" means the removal of a student from school for a specified period of 10 school days or less after a rudimentary hearing.

6.11.2.12. Procedure for detention, suspension 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. But it 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 the 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. [...]

A. Post-suspension placement of students. Any student suspended from school shall be delivered directly by a school official to the student's parent(s), legal guardian or an adult designated by the parent(s) or the legal guardian, or kept on school grounds until the usual end of the school day.

B. Students with disabilities. This section does not apply to long-term suspension or expulsion of students who are disabled pursuant to the IDEA or Section 504. The procedures for long-term suspension or expulsion of disabled students are set forth in Section 6.11.2.11 NMAC above. School personnel under this section may remove a student with a disability who violates a rule of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied to students without disabilities), and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement under Subsection G of 6.11.2.11 NMAC..

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).

(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.

(1) A local school board may limit temporary suspensions to periods shorter than ten (10) school days.

(2) A student facing temporary suspension shall first be informed of the charges against him or her and, if (s)he denies them, shall be told what evidence supports the charge(s) and be given an opportunity to present his or her 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, this 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) (s)he is accused of committing, shall be given an explanation of the evidence supporting the accusation(s) and shall then

be given the opportunity to explain his or her version of the facts. The administrative authority is not required to divulge the identity of informants, although (s)he should not withhold such information without good cause. (S)he is required to disclose the substance of all evidence on which (s)he 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.

(e) The school shall exert reasonable efforts to inform the student's parent of the charges against the student and their possible or actual consequence as soon as practicable. If the school has not communicated with the parent 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.

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 an in-school suspension which exceeds ten (10) school days must be provided with an instructional program that meets both state and local educational requirements. Student privileges, however, may be restricted for longer than ten (10) school days.

(2) In-school suspensions of any length shall be accomplished according to the procedures for a temporary suspension as set forth above. A local school board may limit the length of in-school suspensions which may be accomplished under temporary suspension procedures. No in-school suspension student 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 it does not entail removing the student from any of his or her 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. No detained student shall be denied an opportunity to eat lunch or reasonable opportunities to go to the restroom. Reasonable periods of detention may be imposed in accordance with the procedures for temporary suspension.

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 must be returned to school pending the final outcome unless the provisions of Subsection G, Paragraph (4), Subparagraphs (j) and (k) of Section 6.11.2.12 NMAC below apply.

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

(3) Each local school board shall establish, or shall authorize appropriate administrative authorities to establish, appropriate processes for handling long-term suspensions and expulsions. Unless the terms expressly indicate otherwise, nothing in the procedures below shall be construed as directing that any

required decision be made by any particular person or body or at any particular level of administrative organization.

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

(a) Hearing authority; disciplinarian. The same person or group may, but need not, perform the functions of both hearing authority and disciplinarian. Where the functions are divided, the hearing authority's determination of the facts is conclusive on the disciplinarian, but the disciplinarian may reject any punishment 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 a harsher punishment. A review authority shall be bound by a hearing authority's factual determinations except as provided in Subsection G, Paragraph (4), Subparagraph (o) of Section 6.11.2.12 NMAC below.

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

(d) Local board participation. A local board may act as hearing authority, disciplinarian or review authority for any cases involving proposed long-term suspensions or expulsions. Whenever a quorum of the local board acts in any such capacity, however, the Open Meetings Act, Section 10-15-1 et seq., NMSA 1978, 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 board policies, scheduling a formal hearing in consultation with the hearing authority and preparing and serving a written notice meeting the requirements of Subsection G, Paragraph (4), Subparagraph (h) of Section 6.11.2.12 NMAC below.

(f) Service of notice. The written notice shall be addressed to the student, through his or her 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 (5) nor later than ten (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 Subsection G, Paragraph (4), Subparagraph (i) of Section 6.11.2.12 NMAC below.

(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 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 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 seventy-two (72) hours before the hearing with the contact person named pursuant to Subsection G, Paragraph (4), Subparagraph (h), Sub-subparagraph (vi) of Section 6.11.2.12 NMAC below;

- (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 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) Students 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 Subsection G, Paragraph (4), Subparagraph (k) of Section 6.11.2.12 NMAC below apply, or
 - (ii) the student and parent(s) have knowingly and voluntarily waived the students 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 his or her 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. It is an administrative hearing designed to ensure a calm, 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 his or her parent 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 has 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,

received notice of the hearing. If so, the hearing authority shall review the schools' evidence to determine whether it is sufficient to support the charges(s) of misconduct.

(v) A hearing authority who is also a disciplinarian shall impose an appropriate sanction if (s)he finds that the allegations of misconduct have been proved under the standards of either Subsection G, Paragraph (4), Subparagraph (I), Sub-subparagraph (iii) or Sub-subparagraph (iv) of Section 6.11.2.12 NMAC above. A hearing authority who is not a disciplinarian shall report its 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, a written decision within five (5) 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 his or her 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, within five (5) 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 has done so and if the hearing authority announces a decision at the close of the hearing, the disciplinarian may also announce his or her decision at that time.

(x) The disciplinarian's decision shall take effect immediately upon initial notification to the parent, either at the close of the hearing or upon receipt of the written decision. If initial notification is by mail, the parent 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 its decision is final and not reviewable administratively. A student request for review must be submitted to the review authority within ten (10) school days after the student is informed of the disciplinarian's decision.

(o) Conduct of review. Unless the local 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 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 his or her representative, and school authorities may present their respective views in person. Where a conference or hearing is granted, the record-keeping requirements of Subsection G., Paragraph (4), Sub-paragraph (l), Sub-paragraph (vi) of Section 6.11.2.12 NMAC above apply.

(q) Timing of review. Except in extraordinary circumstances, a review shall be concluded no later than fifteen (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, within ten (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.

Alternatives to suspension

LAWS

22-35-2. 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;
- (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

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.

D. "Detention" means requiring a student to remain inside or otherwise restricting his or her liberty at times when other students are free for recess or to leave school.

K. "In-school suspension" means suspending a student from one or more regular classes while requiring the student to spend the time in a designated area at the same school or elsewhere.

6.11.2.12. Procedure for detention, suspension 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

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 an in-school suspension which exceeds ten (10) school days must be provided with an instructional program that meets both state and local educational requirements. Student privileges, however, may be restricted for longer than ten (10) school days.

(2) In-school suspensions of any length shall be accomplished according to the procedures for a temporary suspension as set forth above. A local school board may limit the length of in-school suspensions which may be accomplished under temporary suspension procedures. No in-school suspension student 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 it does not entail removing the student from any of his or her 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. No detained student shall be denied an opportunity to eat lunch or reasonable opportunities to go to the restroom. Reasonable periods of detention may be imposed in accordance with the procedures for temporary suspension.

Use of 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 and each governing body of a charter school 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.

Use of student and locker searches

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 the public schools are subject to search, and items found are subject to seizure, in accordance with the requirements below.

(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 below. An authorized person who is conducting a search may request the assistance of some other person(s), who upon consent become(s) an authorized person for the purpose of that search only.

(3) When search 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; 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.

(c) Physical searches of a student's person may be conducted only by an authorized person who is 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 must 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.

Other in-school disciplinary approaches

LAWS

No relevant laws found.

REGULATIONS

6.11.2.7. Definitions.

D. "Detention" means requiring a student to remain inside or otherwise restricting his or her liberty at times when other students are free for recess or to leave school.

K. "In-school suspension" means suspending a student from one or more regular classes while requiring the student to spend the time in a designated area at the same school or elsewhere.

6.11.2.12 Procedure for detentions, suspensions, and expulsions.

This section prescribes minimum requirements for detention, in-school suspension and temporary, long-term or permanent removal of students from the 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 ten (10) consecutive school days in accordance with Subsection B of Section 22-8-2 NMSA 1978. Nothing in this section should 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. [...]

B. Students with disabilities. This section does not apply to long-term suspension or expulsion of students who are disabled pursuant to the IDEA or Section 504. The procedures for long-term suspension or expulsion of disabled students are set forth in Section 6.11.2.11 NMAC above. School personnel under this section may remove a student with a disability who violates a rule of student conduct from his or her

current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied to students without disabilities), and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement under Subsection G of 6.11.2.11 NMAC above). [...]

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 an in-school suspension which exceeds ten (10) school days must be provided with an instructional program that meets both state and local educational requirements. Student privileges, however, may be restricted for longer than ten (10) school days.

(2) In-school suspensions of any length shall be accomplished according to the procedures for a temporary suspension as set forth above. A local school board may limit the length of in-school suspensions which may be accomplished under temporary suspension procedures. No in-school suspension student 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 it does not entail removing the student from any of his or her 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. No detained student shall be denied an opportunity to eat lunch or reasonable opportunities to go to the restroom. Reasonable periods of detention may be imposed in accordance with the procedures for temporary suspension. [...]

Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

LAWS

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;

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.

REGULATIONS

No relevant regulations found.

Grounds for mandatory 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.

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-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;

REGULATIONS

6.11.2.7. Definitions.

L. "Legal limits" include the requirements of the federal and state constitutions and governing statutes, standards and regulations, and also include the fundamental common-law requirement that rules of student conduct be reasonable exercises of the schools' authority in pursuance of legitimate educational and related functions. There are special limitations arising from constitutional guarantees of protected free speech and expression which must be balanced against the schools need to foster an educational atmosphere free from undue disruptions to appropriate discipline.

BB. "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.

B. Regulated activities: Beyond those activities designated above as prohibited, 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 above. Activities subject to local board regulation within legal limits include, but are not limited to: [...]

- (8) by statute, 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, 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; the special rule provisions of Subsection D. of 6.11.2.11 NMAC apply to students with disabilities;

Limitations, conditions or exclusions for use of suspension and 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

6.11.2.7. Definitions.

- A. "Administrative authority" means the local school district superintendent, a principal or a person authorized by either to act officially in a matter involving school discipline or the maintenance of order. The term may include school security officers, but only to the extent of their authority as established under written local school board policies.
- B. "Criminal acts" are acts defined as criminal under federal and state law, and any applicable municipal or county criminal ordinances.
- C. "Delinquent acts" are acts so defined in Subsection A of Section 32A-2-3 NMSA 1978 of the Delinquency Act.
- D. "Detention" means requiring a student to remain inside or otherwise restricting his or her liberty at times when other students are free for recess or to leave school.
- E. "Disciplinarian" means a person or group authorized to impose punishment after the facts have been determined by a hearing authority.
- F. "Disruptive conduct" means willful conduct which:
- (1) materially and in fact disrupts or interferes with the operation of the public schools or the orderly conduct of any public school activity, including individual classes; or
 - (2) leads an administrative authority reasonably to forecast that such disruption or interference is likely to occur unless preventive action is taken.
- G. "Expulsion" means the removal of a student from school either permanently or for an indefinite time exceeding 10 school days or a locally established lesser period.
- H. "Gang related activity" is disruptive conduct.
- I. "Hearing authority" means a person or group designated to hear evidence and determine the facts of a case at the required formal hearing.
- J. "Immediate removal" means the removal of a student from school for one school day or less under emergency conditions and without a prior hearing.
- K. "In-school suspension" means suspending a student from one or more regular classes while requiring the student to spend the time in a designated area at the same school or elsewhere.
- L. "Legal limits" include the requirements of the federal and state constitutions and governing statutes, standards and regulations, and also include the fundamental common-law requirement that rules of student conduct be reasonable exercises of the schools' authority in pursuance of legitimate educational and related functions. There are special limitations arising from constitutional guarantees of protected free speech and expression which must be balanced against the schools need to foster an educational atmosphere free from undue disruptions to appropriate discipline.
- M. "Long-term suspension" means the removal of a student from school for a specified time exceeding either 10 school days or any lesser period a local school board may set as a limit on temporary suspension.
- N. "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.

O. "Parent" means the natural parent, a guardian or other person or entity having custody and control of a student who is subject to the Compulsory School Attendance Law, Section 22-12-1 et seq. NMSA 1978, or the student if the student is not subject to compulsory attendance.

P. "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.

Q. "Public school" means the campus of and any building, facility, vehicle or other item of property owned, operated, controlled by or in the possession of a local school district. For purposes of student discipline, the term also includes any non-school premises being used for school-sponsored activities.

R. "Refusal to cooperate with school personnel" means a student's willful refusal to obey the lawful instructions or orders of school personnel whose responsibilities include supervision of students.

S. "Refusal to identify self" means a person's willful refusal, upon request from school personnel known or identified as such to the person, to identify himself or herself accurately.

T. "Restraint" when not otherwise modified means mechanical or physical restraint.

U. "Review authority" is a person or group authorized by the local board to review a disciplinarian's final decision to impose a long-term suspension or expulsion.

V. "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.

W. "Sexual harassment", regarding students, means unwelcome or unwanted conduct of a sexual nature (verbal, non-verbal or physical) when:

(1) submission to such conduct is made either explicitly or implicitly a term or condition of the advancement of a student in school programs or activities;

(2) submission to or rejection of such conduct by a student is used as the basis for decisions/opportunities affecting the student;

(3) such conduct substantially interferes with a student's learning or creates an intimidating, hostile or offensive learning environment.

X. "School personnel" means all members of the staff, faculty and administration employed by the local school board. The term includes school security officers, school bus drivers and their aides, and also authorized agents of the schools, such as volunteers or chaperons, whose responsibilities include supervision of students.

Y. "Student" means a person who is enrolled in one or more classes at a public school or a person who was a student during the previous school year and is participating in a school sponsored activity connected with his or her prior status as a student.

Z. "Student experiencing homelessness" means children and youth as defined by Section 725(2) of the federal McKinney-Vento Act.

AA. "Temporary suspension" means the removal of a student from school for a specified period of 10 school days or less after a rudimentary hearing.

BB. "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.

6.11.2.10. Enforcing rules of conduct.

I. Discipline of students with disabilities: Students with disabilities are not immune from school disciplinary processes, nor are they entitled to remain in a particular educational program when their behavior substantially impairs the education of other children in the program. However, the public schools are required by state law and regulations to meet the individual educational needs of students with disabilities to the extent that current educational expertise permits. Public school personnel may consider any unique circumstances on a case-by-case basis when determining whether a change of placement, consistent with the other requirements of 6.11.2.11 NMAC, is appropriate for a student with a disability who violates a code of conduct as provided in 34 CFR Sec. 300.530.

(1) Long-term suspensions or expulsions of students with disabilities shall be governed by the procedures set forth in 6.11.2.11 NMAC below.

(2) Temporary suspensions of students with disabilities may be imposed in accordance with the normal procedures prescribed in Subsection D of 6.11.2.12 NMAC below, provided that the student is returned to the same educational placement after the temporary suspension and unless a temporary suspension is prohibited under the provisions of Paragraph (3) of Subsection I of 6.11.2.10 NMAC below.

(3) Program prescriptions. A student with a disability's individualized education program (IEP), under the Individuals with Disabilities Education Improvement Act of 2004 (IDEA), need not affirmatively authorize disciplinary actions which are not otherwise in conflict with this rule. However, the IEP team may prescribe or prohibit specified disciplinary measures for an individual student with a disability by including appropriate provisions in the student's IEP. Administrative authorities shall adhere to any such provisions contained in a student with a disability's IEP, except that an IEP team may not prohibit the initiation of proceedings for long-term suspension or expulsion which are conducted in accordance with this rule.

(4) Immediate removal. Immediate removal of students with disabilities may be done in accordance with the procedures of Subsection C of 6.11.2.12 NMAC below.

(5) A student who has not been determined to be eligible for special education and related services under 6.31.2 NMAC and who has engaged in behavior that violated a code of student conduct may assert any of the protections provided for in this subsection if the conditions set forth in 34 CFR Sec. 300.534 have been met.

(6) Referral to and action by law enforcement and judicial authorities.

(a) Nothing in these rules of conduct prohibits an administrative authority from reporting a crime committed by a student with a disability to appropriate authorities or prevents state law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and state law to crimes committed by a student with a disability.

(b) Transmittal of records.

(i) An administrative authority reporting a crime committed by a student with a disability must ensure that copies of the special education and disciplinary records of the student are transmitted, for consideration by the appropriate authorities, to whom the administrative authority reports the crime.

(ii) An administrative authority reporting a crime under this section may transmit copies of the student's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act.

6.11.2.11. Disciplinary removals of students with disabilities.

A. General. The following rules shall apply when a student with a disability under IDEA violates a rule of conduct as set forth in this rule which may result in:

- (1) long-term suspension or expulsion; or
- (2) any other disciplinary change of the student's current educational placement as specified in the federal regulations implementing IDEA at 34 CFR Secs. 300.530 through 300.536 and these or other public education department rules and standards.

B. When behavior is not a manifestation of disability. For disciplinary changes in placement that would exceed 10 consecutive school days, if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child's disability pursuant to Subsection C of this section, school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities, except as provided in Subsection I of this section.

C. Manifestation determination.

(1) Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a rule of student conduct, the administrative authority, the parent and relevant members of the child's IEP team (as determined by the parent and the administrative authority) must review all relevant information in the student's file, including the child's IEP, any teacher observations and any relevant information provided by the parents to determine:

- (a) if the conduct in question was caused by, or had a direct and substantial relationship to the child's disability; or
- (b) if the conduct in question was the direct result of the administrative authority's failure to implement the IEP.

(2) The conduct must be determined to be a manifestation of the child's disability if the administrative authority, the parent and relevant members of the child's IEP team determine that a condition in either Subparagraph (a) or (b) of Paragraph (1) of Subsection C of 6.11.2.11 NMAC was met.

(3) If the administrative authority, the parent and relevant members of the child's IEP team determine the condition described in Subparagraph (b) of Paragraph (1) of Subsection C of 6.11.2.11 NMAC was met, the administrative authority must take immediate steps to remedy those deficiencies.

D. Determination that behavior is manifestation of disability. If the administrative authority, the parent and relevant members of the IEP team make the determination that the conduct was a manifestation of the child's disability, the IEP team must comply within 34 CFR Sec. 300.530(f).

E. Special circumstances. School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child's behavior involves one of the special circumstances listed in 34 CFR Sec. 300.530(g). For purposes of this subsection, the definitions provided in 34 CFR Sec. 300.530(i) shall apply.

F. Determination of setting. The student's IEP team determines the interim alternative educational setting for services under Subsections B and E of this section.

G. Change of placement because of disciplinary removals. For purposes of removals of a student with a disability from the child's current educational placement under 6.11.2.11 and 6.11.2.12 NMAC, a change of placement occurs if the conditions provided in 34 CFR Sec. 300.536 are met.

H. Parental notification. On the date on which the decision is made to make a removal that constitutes a change of placement of a student with a disability because of a violation of a code of student conduct, the

administrative authority must notify the parents of that decision, and provide the parents the procedural safeguards notice described in 34 CFR Sec. 300.504.

I. Services. A student with a disability who is removed from the student's current placement pursuant to this section must continue to receive special education and related services as provided in 34 CFR Sec. 300.530(d).

J. Appeal.

(1) The parent of a student with a disability who disagrees with any decision regarding the placement or the manifestation determination under this section, or an administrative authority that believes that maintaining the current placement of the student is substantially likely to result in injury to the student or others, may appeal the decision by requesting a hearing. The hearing is requested by filing a complaint pursuant to Subsection I of 6.31.2.13 NMAC.

(2) A hearing officer who hears a matter under Paragraph (1) of Subsection J of 6.11.2.11 NMAC, has the authority provided in 34 CFR Sec. 300.532(b).

(3) When an appeal under this subsection has been made by either the parent or the administrative authority, the student must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period specified in Subsections B or E of this section, whichever ever occurs first, unless the parent and the administrative authority agree otherwise.

Administrative procedures related to suspension and expulsion

LAWS

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 for excessively absent students.

B. If unexcused absences continue after written notice of excessive absenteeism as provided in Section 11 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. 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.

REGULATIONS

6.11.2.7. Definitions.

- A. "Administrative authority" means the local school district superintendent, a principal or a person authorized by either to act officially in a matter involving school discipline or the maintenance of order. The term may include school security officers, but only to the extent of their authority as established under written local school board policies.
- B. "Criminal acts" are acts defined as criminal under federal and state law, and any applicable municipal or county criminal ordinances.
- C. "Delinquent acts" are acts so defined in Subsection A of Section 32A-2-3 NMSA 1978 of the Delinquency Act.
- D. "Detention" means requiring a student to remain inside or otherwise restricting his or her liberty at times when other students are free for recess or to leave school.
- E. "Disciplinarian" means a person or group authorized to impose punishment after the facts have been determined by a hearing authority.
- F. "Disruptive conduct" means willful conduct which:
- (1) materially and in fact disrupts or interferes with the operation of the public schools or the orderly conduct of any public school activity, including individual classes; or
 - (2) leads an administrative authority reasonably to forecast that such disruption or interference is likely to occur unless preventive action is taken.
- G. "Expulsion" means the removal of a student from school either permanently or for an indefinite time exceeding 10 school days or a locally established lesser period.
- H. "Gang related activity" is disruptive conduct.
- I. "Hearing authority" means a person or group designated to hear evidence and determine the facts of a case at the required formal hearing.
- J. "Immediate removal" means the removal of a student from school for one school day or less under emergency conditions and without a prior hearing.
- K. "In-school suspension" means suspending a student from one or more regular classes while requiring the student to spend the time in a designated area at the same school or elsewhere.
- L. "Legal limits" include the requirements of the federal and state constitutions and governing statutes, standards and regulations, and also include the fundamental common-law requirement that rules of student conduct be reasonable exercises of the schools' authority in pursuance of legitimate educational and related functions. There are special limitations arising from constitutional guarantees of protected free speech and expression which must be balanced against the schools need to foster an educational atmosphere free from undue disruptions to appropriate discipline.
- M. "Long-term suspension" means the removal of a student from school for a specified time exceeding either 10 school days or any lesser period a local school board may set as a limit on temporary suspension.
- N. "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.
- O. "Parent" means the natural parent, a guardian or other person or entity having custody and control of a student who is subject to the Compulsory School Attendance Law, Section 22-12-1 et seq. NMSA 1978, or the student if the student is not subject to compulsory attendance.

P. "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.

Q. "Public school" means the campus of and any building, facility, vehicle or other item of property owned, operated, controlled by or in the possession of a local school district. For purposes of student discipline, the term also includes any non-school premises being used for school-sponsored activities.

R. "Refusal to cooperate with school personnel" means a student's willful refusal to obey the lawful instructions or orders of school personnel whose responsibilities include supervision of students.

S. "Refusal to identify self" means a person's willful refusal, upon request from school personnel known or identified as such to the person, to identify himself or herself accurately.

T. "Restraint" when not otherwise modified means mechanical or physical restraint.

U. "Review authority" is a person or group authorized by the local board to review a disciplinarian's final decision to impose a long-term suspension or expulsion.

V. "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.

W. "Sexual harassment", regarding students, means unwelcome or unwanted conduct of a sexual nature (verbal, non-verbal or physical) when:

(1) submission to such conduct is made either explicitly or implicitly a term or condition of the advancement of a student in school programs or activities;

(2) submission to or rejection of such conduct by a student is used as the basis for decisions/opportunities affecting the student;

(3) such conduct substantially interferes with a student's learning or creates an intimidating, hostile or offensive learning environment.

X. "School personnel" means all members of the staff, faculty and administration employed by the local school board. The term includes school security officers, school bus drivers and their aides, and also authorized agents of the schools, such as volunteers or chaperons, whose responsibilities include supervision of students.

Y. "Student" means a person who is enrolled in one or more classes at a public school or a person who was a student during the previous school year and is participating in a school sponsored activity connected with his or her prior status as a student.

Z. "Student experiencing homelessness" means children and youth as defined by Section 725(2) of the federal McKinney-Vento Act.

AA. "Temporary suspension" means the removal of a student from school for a specified period of 10 school days or less after a rudimentary hearing.

BB. "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.

6.11.2.12 Procedure for detention, suspension and expulsions.

This section prescribes minimum requirements for detention, in-school suspension and temporary, long-term or permanent removal of students from the 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 ten (10) consecutive school days in accordance with Subsection B of Section 22-8-2 NMSA 1978. Nothing in this section should 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. [...]

A. Post-suspension placement of students. Any student suspended from school shall be delivered directly by a school official to the student's parent(s), legal guardian or an adult designated by the parent(s) or the legal guardian, or kept on school grounds until the usual end of the school day.

B. Students with disabilities. This section does not apply to long-term suspension or expulsion of students who are disabled pursuant to the IDEA or Section 504. The procedures for long-term suspension or expulsion of disabled students are set forth in Section 6.11.2.11 NMAC above. School personnel under this section may remove a student with a disability who violates a rule of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied to students without disabilities), and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement under Subsection G of 6.11.2.11 NMAC above).

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).

(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.

(1) A local school board may limit temporary suspensions to periods shorter than ten (10) school days.

(2) A student facing temporary suspension shall first be informed of the charges against him or her and, if (s)he denies them, shall be told what evidence supports the charge(s) and be given an opportunity to present his or her 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, this 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) (s)he is accused of committing, shall be given an explanation of the evidence supporting the accusation(s) and shall then be given the opportunity to explain his or her version of the facts. The administrative authority is not required to divulge the identity of informants, although (s)he should not withhold such information without good cause. (S)he is required to disclose the substance of all evidence on which (s)he 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.

(e) The school shall exert reasonable efforts to inform the student's parent of the charges against the student and their possible or actual consequence as soon as practicable. If the school has not communicated with the parent 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 must be returned to school pending the final outcome unless the provisions of Subsection G, Paragraph (4), Subparagraphs (j) and (k) of Section 6.11.2.12 NMAC below apply.

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

(3) Each local school board shall establish, or shall authorize appropriate administrative authorities to establish, appropriate processes for handling long-term suspensions and expulsions. Unless the terms expressly indicate otherwise, nothing in the procedures below shall be construed as directing that any required decision be made by any particular person or body or at any particular level of administrative organization.

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

(a) Hearing authority; disciplinarian. The same person or group may, but need not, perform the functions of both hearing authority and disciplinarian. Where the functions are divided, the hearing authority's determination of the facts is conclusive on the disciplinarian, but the disciplinarian may reject any punishment 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 a harsher punishment. A review authority shall be bound by a hearing authority's factual determinations except as provided in Subsection G, Paragraph (4), Subparagraph (o) of Section 6.11.2.12 NMAC below.

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

(d) Local board participation. A local board may act as hearing authority, disciplinarian or review authority for any cases involving proposed long-term suspensions or expulsions. Whenever a quorum of the local board acts in any such capacity, however, the Open Meetings Act, Section 10-15-1 et seq., NMSA 1978 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 board policies, scheduling a formal hearing in consultation with the hearing authority and preparing and serving a written notice meeting the requirements of Subsection G, Paragraph (4), Subparagraph (h) of Section 6.11.2.12 NMAC below.

(f) Service of notice. The written notice shall be addressed to the student, through his or her 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 (5) nor later than ten (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 Subsection G, Paragraph (4), Subparagraph (i) of Section 6.11.2.12 NMAC below.

(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 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 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 seventy-two (72) hours before the hearing with the contact person named pursuant to Subsection G, Paragraph (4), Subparagraph (h), Sub-subparagraph (vi) of Section 6.11.2.12 NMAC below;

(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 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) Students 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 Subsection G, Paragraph (4), Subparagraph (k) of Section 6.11.2.12 NMAC below apply, or

(ii) the student and parent(s) have knowingly and voluntarily waived the students 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 his or her 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. It is an administrative hearing designed to ensure a calm, 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 his or her parent 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 students behalf within a reasonable time after the announced time for the hearing, the hearing authority shall determine whether the student, through the parent, received notice of the hearing. If so, the hearing authority shall review the schools' evidence to determine whether it is sufficient to support the charges(s) of misconduct.

(v) A hearing authority who is also a disciplinarian shall impose an appropriate sanction if (s)he finds that the allegations of misconduct have been proved under the standards of either Subsection G, Paragraph (4), Subparagraph (l), Sub-subparagraph (iii) or Sub-subparagraph (iv) of Section 6.11.2.12 NMAC above. A hearing authority who is not a disciplinarian shall report its 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, a written decision within five (5) 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 his or her 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, within five (5) 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 has done so and if the hearing authority announces a decision at the close of the hearing, the disciplinarian may also announce his or her decision at that time.

(x) The disciplinarian's decision shall take effect immediately upon initial notification to the parent, either at the close of the hearing or upon receipt of the written decision. If initial notification is by mail, the parent 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 its decision is final and not reviewable administratively. A student request for review must be submitted to the review authority within ten (10) school days after the student is informed of the disciplinarian's decision.

(o) Conduct of review. Unless the local 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 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 his or her representative, and school authorities may present their respective views in person. Where a conference or hearing is granted, the record-keeping requirements of Subsection G., Paragraph (4), Sub-paragraph (I), Sub-sub-paragraph (vi) of Section 6.11.2.12 NMAC above apply.

(q) Timing of review. Except in extraordinary circumstances, a review shall be concluded no later than fifteen (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, within ten (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.

In-school suspension

LAWS

No relevant laws found.

REGULATIONS

6.11.2.7. Definitions.

D. "Detention" means requiring a student to remain inside or otherwise restricting his or her liberty at times when other students are free for recess or to leave school.

K. "In-school suspension" means suspending a student from one or more regular classes while requiring the student to spend the time in a designated area at the same school or elsewhere.

6.11.2.12 Procedure for detention, suspension 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. [...]

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 an in-school suspension which exceeds ten (10) school days must be provided with an instructional program that meets both state and local educational requirements. Student privileges, however, may be restricted for longer than ten (10) school days.

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

Return to school following removal

LAWS

No relevant laws found.

REGULATIONS

6.11.2.7. Definitions.

AA. "Temporary suspension" means the removal of a student from school for a specified period of 10 school days or less after a rudimentary hearing.

6.11.2.10. Enforcing rules of conduct.

I. Discipline of students with disabilities: Students with disabilities are not immune from school disciplinary processes, nor are they entitled to remain in a particular educational program when their behavior substantially impairs the education of other children in the program. However, the public schools are required by state law and regulations to meet the individual educational needs of students with disabilities to the extent that current educational expertise permits. Public school personnel may consider any unique circumstances on a case-by-case basis when determining whether a change of placement, consistent with the other requirements of 6.11.2.11 NMAC, is appropriate for a student with a disability who violates a code of conduct as provided in 34 CFR Sec. 300.530.

(2) Temporary suspensions of students with disabilities may be imposed in accordance with the normal procedures prescribed in Subsection D of 6.11.2.12 NMAC below, provided that the student is returned to the same educational placement after the temporary suspension and unless a temporary suspension is prohibited under the provisions of Paragraph (3) of Subsection I of 6.11.2.10 NMAC below.

Use of 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

6.11.2.10. Enforcing Rules of Conduct.

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

- (1) Schools shall establish and review annually policies and procedures, as approved by the local school board or governing body, for the use of restraint and seclusion techniques. Such policies and procedures shall require and describe appropriate training for school personnel and shall include requirements in relation to the use of restraint and seclusion techniques.
 - (a) A school may permit the use of restraint and seclusion techniques on any student pursuant to the requirements in Section 22-5-4.12 NMSA 1978.
 - (b) Less restrictive interventions, including positive behavioral intervention supports or other comparable behavior management techniques, shall be implemented prior to the use of restraint and seclusion techniques.
 - (c) 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, pursuant to the requirements in Section 22-5-4.12 NMSA 1978.
- (2) Districts or charter schools shall develop and implement an annual training for designated school personnel regarding positive behavioral intervention supports or comparable behavior management techniques and the use of restraint and seclusion techniques. In the event that new designated school personnel are employed within the school after the provision of the annual training, the principal of the school, or a person authorized to act officially in a matter involving school discipline or the maintenance of order within the school, shall ensure that a training is provided to new designated school personnel within 60 days of employment.
- (3) Schools shall update school safety plans.
 - (a) A school safety plan pursuant to requirements of Paragraph (7) of Subsection D of 6.12.6.8 NMAC shall include additional minimum requirements.
 - (i) The school safety plan shall not be specific to any individual student.
 - (ii) The school safety planning team shall include at least one of each of the following: administrator, educator, and special education expert and may include a counselor or social worker, nurse, and school resource officer or security staff.
 - (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 as determined by the department. Notice of school safety plan submittal will be provided by the department to local education agencies 90 days prior to the due date.
- (4) Schools shall establish reporting and documentation 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 20 U.S.C. § 1232g; 34 CFR Part 99,

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

(5) Exemptions to the requirements prescribed in Subsection E of 6.11.2.10 NMAC shall be pursuant to Subsections G and H of Section 22-5-4.12 NMSA 1978.

Alternative placements

LAWS

22-12A-3. Right to education.

A school-age person in the state shall have a right to a free public education as follows:

A. except for a school-age person who is detained in a state or local detention center or enrolled or residing in a state institution, other than a school-age person provided for in Subsection C of this section, a school-age person has a right to attend public school within the school district in which the school-age person resides;

B. except as provided in Subsection C of this section, a state or local detention center or state institution in which a school-age person is detained, enrolled or residing shall be responsible for providing educational services for the school-age person; and

C. a school-age person who is a client as defined in Section 43-1-3 NMSA 1978 in a state institution under the authority of the secretary of human services shall have a right to attend public school in the school district in which the institution in which the school-age person is a client is located if the school-age person has been recommended for placement in a public school:

(1) by the educational appraisal and review committee of the school district in which the institution is located; or

(2) as a result of the appeal process as provided in the special education rules of 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

6.11.2.7. Definitions.

M. "Long-term suspension" means the removal of a student from school for a specified time exceeding either 10 school days or any lesser period a local school board may set as a limit on temporary suspension.

6.11.2.12. Procedure for detention, suspension and expulsions.

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 district during the period of the exclusion from school. A local school board may provide alternative arrangements, including correspondence courses at the student's or parent's expense pursuant to public education department requirements, if the board deems such arrangements appropriate.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Gun-Free Schools Act)

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.

30-7-2.1. Unlawful carrying of a deadly weapon on school premises.

A. Unlawful carrying of a deadly weapon on school premises consists of carrying a deadly weapon on school premises except by:

- (1) a peace officer;
- (2) school security personnel;
- (3) a student, instructor or other school-authorized personnel engaged in army, navy, marine corps or air force reserve officer training corps programs or state-authorized hunter safety training instruction;
- (4) a person conducting or participating in a school-approved program, class or other activity involving the carrying of a deadly weapon; or
- (5) a person older than nineteen years of age on school premises in a private automobile or other private means of conveyance, for lawful protection of the person's or another's person or property.

B. As used in this section, "school premises" means:

- (1) the buildings and grounds, including playgrounds, playing fields and parking areas and any school bus of any public elementary, secondary, junior high or high school in or on which school or school-related activities are being operated under the supervision of a local school board; or
- (2) any other public buildings or grounds, including playing fields and parking areas that are not public school property, in or on which public school-related and sanctioned activities are being performed.

C. Whoever commits unlawful carrying of a deadly weapon on school premises is guilty of a fourth degree felony.

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.

G. "Expulsion" means the removal of a student from school either permanently or for an indefinite time exceeding 10 school days or a locally established lesser period.

BB. "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

B. Regulated activities: Beyond those activities designated above as prohibited, 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 above. Activities subject to local board regulation within legal limits include, but are not limited to:

- (8) by statute, 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, 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; the special rule provisions of Subsection D. of 6.11.2.11 NMAC apply to students with disabilities;

Other weapons

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.

REGULATIONS

6.11.2.7. Definitions.

G. "Expulsion" means the removal of a student from school either permanently or for an indefinite time exceeding 10 school days or a locally established lesser period.

BB. "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.

6.11.2.10. 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 the public schools are subject to search, and items found are subject to seizure, in accordance with the requirements below.

- (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.

Students with chronic disciplinary issues

LAWS

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, 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 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-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 for excessively absent students.

B. If unexcused absences continue after written notice of excessive absenteeism as provided in Section 11 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. 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.

REGULATIONS

No relevant regulations found.

Attendance and truancy

LAWS

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, 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 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.

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.

A. "Attendance" means students who are in class or in a school-approved activity. If a student is in attendance up to one half the total instructional time during a school day, the student will be counted as having attended one-half of a school day. If the student attends school for more than one-half of the total instructional time, the student will be counted as having attended for the full day.

B. "Early identification" means the process by which school districts including charter schools promptly determine and identify students who have excessive absences and tardiness from an instructional day. Early identification includes the school district's, individual school's or charter school's defined system for

recording, reporting, and summarizing daily attendance of its students and then providing that data to the district's or charter school's central administration.

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

D. "Home school" means the operation by the parent of a school-age person of a home study program of instruction that provides a basic academic educational program, including reading, language arts, mathematics, social studies and science.

E. "Home school truant" means a school age child whose parent(s)/guardian(s) have filed a home school notification about that child with the department but the child has failed or refused to participate in, or is no longer being offered, any home-study program of instruction.

F. "Intervention" means the partnering that schools engage in with other agencies to implement administrative remedies, provide services and provide support programs that aggressively reduce if not eliminate truancy in a school district or charter school.

G. "Prevention" means school-based innovative or proven successful programs, including alternative programs whether school-based or non-school based, that encourage regular and on-time attendance for students.

H. "School-age person" means a person who is at least five years of age prior to 12:01 a.m. on September 1 of the school year and who has not received a high school diploma or its equivalent. A maximum age of twenty-one shall be used for a person who is classified as special education membership as defined in Section 22-8-21 NMSA 1978 or as a resident of a state institution.

I. "Student in need of early intervention" means a student who has accumulated five unexcused absences within a school year.

J. "Tribe" means an Indian nation, tribe or pueblo located within New Mexico.

K. "Unexcused absence" means an absence from school or a class for which the student does not have an allowable excuse pursuant to the compulsory school attendance law or rules of the local school board, governing authority of a private school, or governing board of a charter school.

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 complies 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.

6.10.8.11 Home schools.

Upon receipt of verified information that a school age child whose parent(s)/guardian(s) have previously filed a home school notification about that child with the department but that child has failed or refused to participate in, or is no longer being offered, any home-study program of instruction, the department may obtain a reasonable assurance from the parent(s) or guardian that the child is actually engaged in a home-study program of instruction. In addition to any other remedies permitted by the compulsory school attendance law or the children's code, upon a determination that a home school student is repeatedly not (or no longer) engaged in a home-study program of instruction, the department may order that the home school habitual truant attend a public school, or at the election of his parent/guardian, a private school. Prior to pursuing these other remedies, the public education department shall make a reasonable effort to accommodate the parents'/guardians' preference for maintaining their child in a home school.

6.10.8.12 Failure to comply with this rule.

Failure to comply with this rule may be good and just grounds for the suspension or revocation of a department-issued license or certificate, may result in notification by the department to the local school board, superintendent, school principal or governing body of a charter school that they have failed to meet requirements as prescribed by law or rules promulgated by the department, and may be grounds for seeking a court order to ensure compliance with the requirements of this rule.

6.11.2.7. Definitions.

A. "Administrative authority" means the local school district superintendent, a principal or a person authorized by either to act officially in a matter involving school discipline or the maintenance of order. The term may include school security officers, but only to the extent of their authority as established under written local school board policies.

6.11.2.10 Enforcing rules of conduct.

A. Enforcing attendance requirements. Formal enforcement action under the Compulsory School Attendance Law, supra, and the Family Services Act, Section 32A-3A-1 et seq. NMSA 1978 shall be initiated whenever a student's absences indicate that the law is being violated. An administrative authority who has reason to believe a student is violating local school board attendance policies may take whatever further disciplinary action is deemed appropriate under local policies.

Substance use

LAWS

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:

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-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.

22-10A-32. Licensed school employees; required training program.

A. All licensed school employees shall be required to complete training in the detection and reporting of child abuse and neglect and substance abuse. This requirement shall be completed within the licensed school employee's first year of employment by a school district.

B. Pursuant to the policy and rules adopted by the state board, the department shall develop a training program, including training materials and necessary training staff, to meet the requirement of Subsection A of this section to make the training available in every school district. The department shall coordinate the development of the program with appropriate staff at the human services department and the department of health.

C. The training program developed pursuant to this section shall be made available by the department to the deans of every college of education in New Mexico for use in providing such training to students seeking elementary and secondary education licensure.

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

A. Prohibited activities: The commission of or participation in the activities designated below is prohibited in all New Mexico public schools and is prohibited for students whenever they are subject to school control. Acts prohibited by this rule:

- (1) criminal or delinquent acts;
- (2) gang related activity;
- (3) sexual harassment;
- (4) disruptive conduct;
- (5) refusal to identify self; and

(6) refusal to cooperate with school personnel.

B. Regulated activities: Beyond those activities designated above as prohibited, 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 above. Activities subject to local board regulation within legal limits include, but are not limited to:

- (1) school attendance;
- (2) use of and access to the public schools, including:
 - (a) restrictions on vehicular traffic on school property,
 - (b) prohibition of or conditions on the presence of non-school persons on school grounds or in school buildings while school is in session; and
 - (c) reasonable standards of conduct for all persons attending school- sponsored activities or other activities on school property;
- (3) students' dress and personal appearance;
- (4) use of controlled substances, alcohol and tobacco in the public schools;
- (5) speech and assembly within the public schools;
- (6) publications distributed in the public schools;
- (7) the existence, scope and conditions of availability of student privileges, including extracurricular activities and rules governing participation;
- (8) by statute, 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, 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; the special rule provisions of Subsection D. of 6.11.2.11 NMAC apply to students with disabilities;
- (9) the discipline of students for out-of-school conduct having a direct and immediate effect on school discipline or the general safety and welfare of the school.

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.

Bullying, harassment, or hazing

LAWS

22-35-1. Short title.

This act [22-35-1 through 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:

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;

(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; 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 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 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 through 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;
- (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

6.11.2.7. Definitions.

W. "Sexual harassment", regarding students, means unwelcome or unwanted conduct of a sexual nature (verbal, non-verbal or physical) when:

- (1) submission to such conduct is made either explicitly or implicitly a term or condition of the advancement of a student in school programs or activities;
- (2) submission to or rejection of such conduct by a student is used as the basis for decisions/opportunities affecting the student;
- (3) such conduct substantially interferes with a student's learning or creates an intimidating, hostile or offensive learning environment.

6.12.7.6. Objective.

This rule establishes requirements for local school boards and public schools, including charter schools, to address bullying of students by adopting and implementing policies and prevention programs.

6.12.7.7. Definitions.

A. "Bullying" means any repeated and pervasive written, verbal or electronic expression, physical act or gesture, or a pattern thereof, that is intended to cause distress upon one or more students in the school, on school grounds, in school vehicles, at a designated bus stop, or at school activities or sanctioned events. Bullying includes, but is not limited to, hazing, harassment, intimidation or menacing acts of a student which may, but need not be based on the student's race, color, sex, ethnicity, national origin, religion, disability, age or sexual orientation.

B. "Cyberbullying" means electronic communication that:

- (1) targets a specific student;
- (2) is published with the intention that the communication be seen by or disclosed to the targeted student;
- (3) is in fact seen by or disclosed to the targeted student; and
- (4) creates or is certain to create a hostile environment on the school campus that is so severe or pervasive as to substantially interfere with the targeted student's educational benefits, opportunities or performance.

C. "Department" means the public education department.

D. "Harassment" means knowingly pursuing a pattern of conduct that is intended to annoy, alarm or terrorize another person.

E. "IDEA" means the federal Individuals with Disabilities Education Act, 20 USC Secs. 1401 and following, including future amendments.

F. "Local school board" means the governing body of a school district.

G. "Public school" means a school as defined by Section 22-1-2 NMSA 1978, including charter schools.

6.12.7.8 Requirements.

A. This section governs policies and programs to be adopted and implemented by local school boards addressing bullying and cyberbullying. Cyberbullying policies and programs must be in effect beginning with the 2013-2014 school year.

B. Each local school board shall develop and implement a policy that addresses and cyberbullying. Each local school board shall make any necessary revisions to its disciplinary policies to ensure that cyberbullying is addressed in accordance with the requirements of this rule.

C. The anti-bullying policy shall at least include, but shall not be limited to:

- (1) definitions;
- (2) an absolute prohibition against bullying and cyberbullying;
- (3) a method to ensure initial and annual dissemination of the anti-bullying and anti-cyberbullying policy to all students, parents, teachers, administrators and all other school or district employees;
- (4) procedures for reporting incidents of bullying and cyberbullying which ensure confidentiality to those reporting bullying or cyberbullying incidents and protection from reprisal, retaliation or false accusation against victims, witnesses or others with information regarding a bullying or cyberbullying incident;
- (5) consequences for bullying and cyberbullying which include consideration of compliance with state and federal IDEA requirements;

- (6) consequences for knowingly making false reports pursuant to the anti-bullying policy;
- (7) procedures for investigation by administration of incidents reported pursuant to the anti-bullying policy;
- (8) a requirement that teachers and other school staff report any incidents of bullying and cyberbullying; and
- (9) a requirement that anti-bullying is included as part of the health education curriculum as set forth in 6.30.2.19 NMAC ("content standards - health education").

D. The cyberbullying prevention policy shall require that:

- (1) all licensed school employees complete training on how to recognize signs of cyberbullying;
- (2) any licensed school employee who has information about or a reasonable suspicion of cyberbullying shall report the matter immediately to either or both the school principal and the local superintendent or to the head administrator of a charter school;
- (3) any school administrator or local superintendent who receives a report of cyberbullying take immediate steps to ensure prompt investigation of the report; and
- (4) school administrators take prompt disciplinary action in response to cyberbullying confirmed through investigation; disciplinary action taken pursuant to this subsection must be by the least restrictive means necessary to address a hostile environment on the school campus resulting from the confirmed cyberbullying and may include counseling, mediation and appropriate disciplinary action that is consistent with the legal rights of the involved students.

E. Every public school shall implement a bullying and cyberbullying prevention program.

F. Every local school board shall submit to the department, as directed by the department, assurances of:

- (1) adoption and implementation of a policy addressing bullying and cyberbullying; and
- (2) review and, if necessary, revision of disciplinary policies to ensure that the policies address cyberbullying; and
- (3) implementation of cyberbullying training for all licensed school employees.

G. Every local school board and every charter school shall submit to the department, as directed by the department, assurances of implementation of bullying and cyberbullying prevention programs.

Other special infractions or conditions

LAWS

No relevant laws found.

REGULATIONS

6.11.2.7. Definitions.

B. "Criminal acts" are acts defined as criminal under federal and state law, and any applicable municipal or county criminal ordinances.

C. "Delinquent acts" are acts so defined in Subsection A of Section 32A-2-3 NMSA 1978 of the Delinquency Act.

F. "Disruptive conduct" means willful conduct which:

- (1) materially and in fact disrupts or interferes with the operation of the public schools or the orderly conduct of any public school activity, including individual classes; or

(2) leads an administrative authority reasonably to forecast that such disruption or interference is likely to occur unless preventive action is taken.

H. "Gang related activity" is disruptive conduct.

L. "Legal limits" include the requirements of the federal and state constitutions and governing statutes, standards and regulations, and also include the fundamental common-law requirement that rules of student conduct be reasonable exercises of the schools' authority in pursuance of legitimate educational and related functions. There are special limitations arising from constitutional guarantees of protected free speech and expression which must be balanced against the schools need to foster an educational atmosphere free from undue disruptions to appropriate discipline.

R. "Refusal to cooperate with school personnel" means a student's willful refusal to obey the lawful instructions or orders of school personnel whose responsibilities include supervision of students.

S. "Refusal to identify self" means a person's willful refusal, upon request from school personnel known or identified as such to the person, to identify himself or herself accurately.

W. "Sexual harassment", regarding students, means unwelcome or unwanted conduct of a sexual nature (verbal, non-verbal or physical) when:

(1) submission to such conduct is made either explicitly or implicitly a term or condition of the advancement of a student in school programs or activities;

(2) submission to or rejection of such conduct by a student is used as the basis for decisions/opportunities affecting the student;

(3) such conduct substantially interferes with a student's learning or creates an intimidating, hostile or offensive learning environment.

6.11.2.9. Rules of conduct for New Mexico public schools.

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

A. Prohibited activities: The commission of or participation in the activities designated below is prohibited in all New Mexico public schools and is prohibited for students whenever they are subject to school control. Acts prohibited by this rule:

(1) criminal or delinquent acts;

(2) gang related activity;

(3) sexual harassment;

(4) disruptive conduct;

(5) refusal to identify self; and

(6) refusal to cooperate with school personnel.

B. Regulated activities: Beyond those activities designated above as prohibited, 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 above. Activities subject to local board regulation within legal limits include, but are not limited to:

(1) school attendance;

(2) use of and access to the public schools, including:

(a) restrictions on vehicular traffic on school property,

- (b) prohibition of or conditions on the presence of non-school persons on school grounds or in school buildings while school is in session; and
- (c) reasonable standards of conduct for all persons attending school- sponsored activities or other activities on school property;
- (3) students' dress and personal appearance;
- (4) use of controlled substances, alcohol and tobacco in the public schools;
- (5) speech and assembly within the public schools;
- (6) publications distributed in the public schools;
- (7) the existence, scope and conditions of availability of student privileges, including extracurricular activities and rules governing participation;
- (8) by statute, 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, 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; the special rule provisions of Subsection D. of 6.11.2.11 NMAC apply to students with disabilities;
- (9) the discipline of students for out-of-school conduct having a direct and immediate effect on school discipline or the general safety and welfare of the school.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

LAWS

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 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.

REGULATIONS

No relevant regulations found.

Behavioral interventions and student support services

LAWS

22-2D-1. Short title.

Sections 64 through 68 [22-2D-1 to 22-2D-5 NMSA 1978] of this act may be cited as the "Family and Youth Resource Act".

22-2D-2. Advisory committee; members; meetings; duties.

A. The "family and youth resource advisory committee" is created. Members of the committee are:

- (1) the state superintendent [secretary] or his designee;
- (2) the secretary of health or his designee;
- (3) the secretary of human services or his designee;
- (4) the secretary of children, youth and families or his designee; and
- (5) the following members appointed by the state board [department]:
 - (a) one representative each from four different local community-based organizations, including faith-based providers, involved with the provision of health or social services to families; and
 - (b) one local superintendent or his designee from a school district in which there are more than two schools eligible to participate in the family and youth resources program.

B. The members of the committee shall appoint the chairman and such other officers as they deem necessary.

C. The committee shall meet as frequently as it deems appropriate or necessary, but at least once a year. The chairman may call special meetings as he deems necessary and shall convene special meetings at the request of a majority of the members.

D. A majority of the committee constitutes a quorum.

E. Members who are not state officers may be reimbursed for per diem and mileage expenses as provided in the Per Diem and Mileage Act [10-8-1 through 10-8-8 NMSA 1978].

F. The department shall staff the committee.

G. The committee shall:

- (1) recommend to the department guidelines for the creation, implementation and operation of programs;
- (2) recommend to the department standards and criteria for awarding grants and the form and content of grant applications; and
- (3) review applications for grants and make recommendations to the department within ninety days of receipt of the grant applications.

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:

- (1) assess student and family needs and match those needs with appropriate public or private providers, including civic and corporate sponsors;
- (2) make referrals to health care and social service providers;
- (3) collaborate and coordinate with health and social service agencies and organizations through school-based and off-site delivery systems;
- (4) recruit 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) establish partnerships between the school and community organizations such as civic, business and professional groups and organizations; and recreational, social and after-school programs such as boys' and girls' clubs and boy and girl scouts;
- (6) identify and coordinate 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) promote family support and parent education programs; and
- (8) seek out other services or goods a student or the student's family needs to assist the student to stay in school and succeed.

D. A public school or group of public schools that has received a grant to establish a family and youth resources program may continue to be eligible for funding if its percentage of students eligible for the free or reduced-fee price lunch program drops below eighty percent, so long as it maintains an average of eighty percent or more for any three-year period.

22-2D-4. Family and youth resource programs; grants; department duties.

A. Subject to the availability of funding, grants are available to a public school or group of public schools that meets department eligibility requirements.

B. Applications for grants shall be in the form prescribed by the department and shall include the following information:

- (1) a statement of need, including demographic and socioeconomic information about the area to be served by the program;
- (2) goals and expected outcomes of the program;
- (3) services and activities to be provided by the program;
- (4) written agreements for the provision of services by public and private agencies, community groups and other parties;
- (5) a work plan and budget for the program, including staffing requirements and the expected availability of staff;
- (6) hours of operation;
- (7) strategies for dissemination of information about the program to potential users;
- (8) training and professional development plans;
- (9) plans to ensure that program participants are not stigmatized for their use of the program;
- (10) a physical description of the place in the school or adjacent to the school in which the program will be located;
- (11) letters of endorsement and commitment from community agencies and organizations and local governments; and
- (12) any other information the department requires.

C. Grants shall not be awarded for applications submitted that supplant funding and other resources that have been used for purposes similar to the program.

22-2D-5. Family and youth resource fund.

The "family and youth resource fund" is created in the state treasury. The fund shall consist of appropriations, gifts, grants, donations and earnings from investment of the fund. The fund shall not be transferred to any other fund at the end of a fiscal year. The fund shall be administered by the department, and money in the fund is appropriated to the department to carry out the purposes of the Family and Youth Resource Act. Money in the fund shall be disbursed on warrants issued by the secretary of finance and administration pursuant to vouchers signed by the state superintendent [secretary] or his authorized representative.

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, 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 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-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 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.

22-32-1. Short title.

Chapter 22, Article 32 NMSA 1978 may be cited as the "Community Schools Act".

22-32-2. Purpose.

The Community Schools Act is enacted to provide a strategy to organize the resources of a community to ensure student success while addressing the needs of the whole student; to partner federal, state and local entities with private community-based organizations to improve the coordination, delivery, effectiveness and efficiency of services provided to children and families; and to coordinate resources, in order to align and leverage community resources and integrate funding streams.

22-32-3. Community schools initiatives; school improvement functions; requirements.

- A. A community schools initiative may be created in any public school in the state.
- B. A community schools initiative shall include the following core set of strategies and opportunities to strengthen behavior for all students:
- (1) extended learning programs, including after-school programs and summer programs;
 - (2) school-based or school-linked health care;
 - (3) opportunities for families to acquire skills to promote early learning and childhood development;
 - (4) school and community-resource partnerships with an integrated focus on academics and other social, health and familial support;
 - (5) social, health, nutrition and mental health services and support for children, family members and community members; and
 - (6) case management for students in need of comprehensive support in academics, attendance and behavior.
- C. A community schools initiative shall include the following:
- (1) a lead partner agency, including a public or private agency or community-based organization, to help coordinate programs and services;
 - (2) an assessment of community resources informed by students, families and community and school leaders that relates to the effective delivery of core services on site; and
 - (3) the implementation of an independently evaluated, evidence-based or results-based model of integrated student services and comprehensive supports that is proven to increase student achievement.

22-32-4. Community schools' initiatives; administrative costs; grants; school district, group of public schools or public school duties; requirements.

- A. A school district shall bear any administrative costs associated with the establishment and implementation of a community school within the school district.
- B. Subject to the availability of funding, grants for community schools initiatives are available to a school district, a group of public schools or a public school that has demonstrated partnerships with any lead agency and local, private and public agencies for the purpose of establishing, operating and sustaining community schools and that meets department eligibility requirements.
- C. Applications for grants for community schools' initiatives shall be in the form prescribed by the department and shall include the following information:
- (1) a statement of need, including demographic and socioeconomic information about the area to be served by the community schools initiative;
 - (2) goals and expected outcomes of the initiative;
 - (3) services and activities to be provided by the initiative;
 - (4) written agreements for the provision of services by public and private agencies, community groups and other parties;
 - (5) a work plan and budget for the initiative, including staffing requirements and the expected availability of staff;
 - (6) days and hours of operation;
 - (7) strategies for dissemination of information about the initiative to potential users;
 - (8) training and professional development plans;

(9) letters of endorsement and commitment from community agencies and organizations and local governments; and

(10) any other information the department requires.

D. A school district, a group of public schools or a public school that uses funds under this section to transform a school into a research- and evidence-based community schools initiative shall:

(1) use rigorous, transparent, equitable and evidence-based evaluation systems to assess the effectiveness of the implementation of the community school's initiative;

(2) provide ongoing, high-quality professional development to staff that:

(a) aligns with the school's instructional program;

(b) facilitates effective teaching and learning; and

(c) supports the implementation of school reform strategies; and

(3) give the school sufficient operational flexibility in programming, staffing, budgeting and scheduling so that the school can fully implement a comprehensive strategy designed to focus on improving school climate, student achievement and growth in reading and mathematics, attendance, behavior, parental engagement and, for high schools, graduation rates and readiness for college or a career.

REGULATIONS

No relevant regulations found.

Professional development

LAWS

22-10A-32. Licensed school employees; required training program.

A. All licensed school employees shall be required to complete training in the detection and reporting of child abuse and neglect and substance abuse. This requirement shall be completed within the licensed school employee's first year of employment by a school district.

B. Pursuant to the policy and rules adopted by the state board, the department shall develop a training program, including training materials and necessary training staff, to meet the requirement of Subsection A of this section to make the training available in every school district. The department shall coordinate the development of the program with appropriate staff at the human services department and the department of health.

C. The training program developed pursuant to this section shall be made available by the department to the deans of every college of education in New Mexico for use in providing such training to students seeking elementary and secondary education licensure.

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.

REGULATIONS

No relevant regulations found.

Monitoring and Accountability

Formal incident reporting of conduct violations

LAWS

22-10A-33. Violence; vandalism; reporting.

A. A school administrator, teacher or other school employee who observes or has direct knowledge from a participant or victim of an act of violence upon a school administrator, teacher or other school employee in the lawful discharge of his duties or vandalism to public school property shall file an incident report describing the incident pursuant to procedures established by the department.

B. A person who files an incident report pursuant to this section shall not be discriminated against in any manner or discharged by a local superintendent because he has filed that report.

C. The department shall establish uniform reporting procedures for incidents of violence or vandalism described in Subsection A of this section. The procedures shall include requirements for:

- (1) incidents to be reported, incident description and report on action taken in response to the reported incident;
- (2) annual incident reports by local superintendents of all reported incidents to local school boards;
- (3) annual incident reports by local school boards of all reported incidents to the state superintendent [secretary]; and
- (4) annual incident reports by the state superintendent of all reported incidents to the state board [department]. The annual incident report filed with that board shall be summarized and submitted to an appropriate interim committee of the legislature with recommendations to decrease the incidence of violence and vandalism in the public schools.

REGULATIONS

6.12.7.8. Requirements.

A. This section governs policies and programs to be adopted and implemented by local school boards addressing bullying and cyberbullying. Cyberbullying policies and programs must be in effect beginning with the 2013-2014 school year.

B. Each local school board shall develop and implement a policy that addresses and cyberbullying. Each local school board shall make any necessary revisions to its disciplinary policies to ensure that cyberbullying is addressed in accordance with the requirements of this rule.

C. The anti-bullying policy shall at least include, but shall not be limited to:

- (1) definitions;
- (2) an absolute prohibition against bullying and cyberbullying;
- (3) a method to ensure initial and annual dissemination of the anti-bullying and anti-cyberbullying policy to all students, parents, teachers, administrators and all other school or district employees;
- (4) procedures for reporting incidents of bullying and cyberbullying which ensure confidentiality to those reporting bullying or cyberbullying incidents and protection from reprisal, retaliation or false accusation against victims, witnesses or others with information regarding a bullying or cyberbullying incident;
- (5) consequences for bullying and cyberbullying which include consideration of compliance with state and federal IDEA requirements;
- (6) consequences for knowingly making false reports pursuant to the anti-bullying policy;

- (7) procedures for investigation by administration of incidents reported pursuant to the anti-bullying policy;
- (8) a requirement that teachers and other school staff report any incidents of bullying and cyberbullying; and
- (9) a requirement that anti-bullying is included as part of the health education curriculum as set forth in 6.30.2.19 NMAC (“content standards - health education”).

D. The cyberbullying prevention policy shall require that:

- (1) all licensed school employees complete training on how to recognize signs of cyberbullying;
- (2) any licensed school employee who has information about or a reasonable suspicion of cyberbullying shall report the matter immediately to either or both the school principal and the local superintendent or to the head administrator of a charter school;
- (3) any school administrator or local superintendent who receives a report of cyberbullying take immediate steps to ensure prompt investigation of the report; and
- (4) school administrators take prompt disciplinary action in response to cyberbullying confirmed through investigation; disciplinary action taken pursuant to this subsection must be by the least restrictive means necessary to address a hostile environment on the school campus resulting from the confirmed cyberbullying and may include counseling, mediation and appropriate disciplinary action that is consistent with the legal rights of the involved students.

E. Every public school shall implement a bullying and cyberbullying prevention program.

F. Every local school board shall submit to the department, as directed by the department, assurances of:

- (1) adoption and implementation of a policy addressing bullying and cyberbullying; and
- (2) review and, if necessary, revision of disciplinary policies to ensure that the policies address cyberbullying; and
- (3) implementation of cyberbullying training for all licensed school employees.

G. Every local school board and every charter school shall submit to the department, as directed by the department, assurances of implementation of bullying and cyberbullying prevention programs.

Parental notification

LAWS

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;
 - (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

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.

REGULATIONS

6.11.2.12 Procedure for detention, suspension and expulsions.

D. Temporary suspension.

(1) A local school board may limit temporary suspensions to periods shorter than ten (10) school days.

(2) A student facing temporary suspension shall first be informed of the charges against him or her and, if (s)he denies them, shall be told what evidence supports the charge(s) and be given an opportunity to present his or her version of the facts. The following rules apply.

(e) The school shall exert reasonable efforts to inform the student's parent of the charges against the student and their possible or actual consequence as soon as practicable. If the school has not communicated with the parent 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.

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

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

Reporting and referrals between schools and law enforcement

LAWS

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 for excessively absent students.

B. If unexcused absences continue after written notice of excessive absenteeism as provided in Section 11 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. 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.

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

A. As used in this section:

(1) "foster care" means twenty-four-hour substitute care for a student placed away from the student's parents or guardians and for whom the children, youth and families department has placement and care responsibility, including placements in foster family homes, foster homes of relatives, group homes, emergency shelters, treatment foster homes, residential facilities, child care institutions and pre-adoptive homes. For the purposes of this section, a student is in foster care regardless of whether the foster care facility is licensed and payments are made by the state, tribal or local agency for the care of the student, whether adoption subsidy payments are being made prior to the finalization of an adoption or whether there is federal matching of any payments that are made; and

(2) "involved in the juvenile justice system" means a student who has been referred to the children, youth and families department due to allegations that the student has committed a delinquent offense and voluntary or involuntary conditions have been imposed on the student, including a student who is participating in a diversion program, is under a consent decree or time waiver, is currently supervised

by the children, youth and families department, has recently entered or left a juvenile or criminal justice placement or is on supervised release or parole.

B. Each school district and charter school authorized by the department shall designate an individual to serve as a point of contact for students in foster care and students involved in the juvenile justice system. Charter schools authorized by school districts shall use the district's point of contact. Multiple school districts or charter schools authorized by the department may share a single designated point of contact with approval from the department and from the children, youth and family's department.

C. For students transferring into the school district or charter school authorized by the department, the point of contact person shall be responsible for:

- (1) ensuring that a student is immediately enrolled regardless of whether the records normally required for enrollment are produced by the last school the student attended or by the student;
- (2) ensuring that the enrolling school communicates with the last school attended by a transferring student to obtain relevant academic and other records within two business days of the student's enrollment;
- (3) ensuring that the enrolling school performs a timely transfer of credits that the student earned in the last school attended; and
- (4) collaborating with the education program staff in a juvenile or criminal justice placement and the educational decision maker appointed by the children's court to create and implement a plan for assisting the transition of a student to the school district or charter school authorized by the department to minimize disruption to the student's education.

D. For students transferring out of the school district or charter school authorized by the department, the point of contact person shall be responsible for providing all records to the new school within two business days of receiving a request from the receiving school.

E. For students in foster care, the point of contact person shall be responsible for:

- (1) complying with state policies and developing school district or charter school policies in collaboration with the children, youth and family's department for:
 - (a) best interest determinations about whether the student will remain in the school of origin;
 - (b) transportation policies to ensure that students receive transportation to their school of origin if it is in their best interest to remain in the school of origin; and
 - (c) dispute resolution;
- (2) convening or participating in best interest determination meetings in collaboration with the children, youth and family's department pursuant to state policies and the school district's or charter school authorized by the department's policies; and
- (3) ensuring that transportation occurs to the student's school of origin pursuant to the school district's or charter school authorized by the department's policies and in compliance with state policies.

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

- (1) ensuring that a student has equal opportunity to participate in sports and other extracurricular activities, career and technical programs or other special programs for which the student qualifies;
- (2) ensuring that a student in high school receives timely and ongoing assistance and advice from counselors to improve the student's college and career readiness;
- (3) ensuring that a student receives all special education services and accommodations to which the student is entitled under state and federal law;

(4) identifying school staff at each school site who can ensure that students are appropriately supported throughout their enrollment;

(5) supporting communication among the school; the children, youth and family's department; the student; the student's educational decision maker appointed by the children's court; caregivers; and other supportive individuals that the student identifies to ensure that the responsibilities listed in this subsection are implemented; and

(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.

G. The children, youth and family's department shall notify a school when a student in the school enters foster care or a student in foster care enrolls in a school.

H. The student or the student's educational decision maker may notify a school that the student is involved in the juvenile justice system to obtain support and services from the point of contact.

32A-4-35. Appointment or change of educational decision maker.

A. In all matters involving children alleged by the state to be abused or neglected, including proceedings to terminate parental rights, the children's court shall appoint an educational decision maker in every case.

B. The children's court shall appoint an educational decision maker at the custody hearing; provided that the children's court:

(1) may change the appointment of an educational decision maker upon motion of a party at any stage of the proceedings; and

(2) shall review at each subsequent stage of the proceedings whether to continue or change the appointment of an educational decision maker for the child.

C. The children's court shall appoint a respondent as the child's educational decision maker, unless the children's court determines that doing so would be contrary to the best interests of the child. If the children's court determines that no respondent should be appointed as the child's educational decision maker, the children's court shall appoint another qualified individual, taking into account the following:

(1) whether the individual knows the child and is willing to accept responsibility for making educational decisions;

(2) whether the individual has any personal or professional interests that conflict with the interests of the child; and

(3) whether the individual is permitted to make all necessary educational decisions for the child, including decisions related to whether the child is a child with a disability under the federal Individuals with Disabilities Education Act.

REGULATIONS

6.11.2.10 Enforcing rules of conduct.

A. Enforcing attendance requirements. Formal enforcement action under the Compulsory School Attendance Law, supra, and the Family Services Act, Section 32A-3A-1 et seq. NMSA 1978 shall be initiated whenever a student's absences indicate that the law is being violated. An administrative authority who has reason to believe a student is violating local school board attendance policies may take whatever further disciplinary action is deemed appropriate under local policies.

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

(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 below. An authorized person who is conducting a search may request the assistance of some other person(s), who upon consent become(s) an authorized person for the purpose of that search only.

(3) When search 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; 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.

(c) Physical searches of a student's person may be conducted only by an authorized person who is 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 must 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.

C. Basis for disciplinary action: A student may appropriately be disciplined by administrative authorities in the following circumstances:

(1) for committing any act which endangers the health or safety of students, school personnel or others for whose safety the public school is responsible, or for conduct which reasonably appears to threaten such dangers if not restrained, regardless of whether an established rule of conduct has been violated;

- (2) for violating valid rules of student conduct established by the local school board or by an administrative authority to whom the board has delegated rulemaking authority, when the student knew or should have known of the rule in question or that the conduct was prohibited; or
- (3) for committing acts prohibited by this rule, when the student knew or should have known that the conduct was prohibited.

D. Selection of disciplinary sanctions: Within legal limits as defined in Subsection L of 6.11.2.7 NMAC above, local school boards have discretion to determine the appropriate sanction(s) to be imposed for violations of rules of student conduct, or to authorize appropriate administrative authorities to make such determinations.

- (1) School discipline and criminal charges: Appropriate disciplinary actions may be taken against students regardless of whether criminal charges are also filed in connection with an incident.
- (2) Nondiscriminatory enforcement: Local school boards and administrative authorities shall not enforce school rules or impose disciplinary punishments in a manner which discriminates against any student on the basis of race, religion, color, national origin, ancestry, sex, or disability, except to the extent otherwise permitted or required by law or regulation. This statement shall not be construed as requiring identical treatment of students for violation of the same rule; it shall be read as prohibiting differential treatment, which is based on race, religion, color, national origin, ancestry, sex, or disability rather than on other differences in individual cases or students.

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

- (1) Schools shall establish and review annually policies and procedures, as approved by the local school board or governing body, for the use of restraint and seclusion techniques. Such policies and procedures shall require and describe appropriate training for school personnel and shall include requirements in relation to the use of restraint and seclusion techniques.
 - (a) A school may permit the use of restraint and seclusion techniques on any student pursuant to the requirements in Section 22-5-4.12 NMSA 1978.
 - (b) Less restrictive interventions, including positive behavioral intervention supports or other comparable behavior management techniques, shall be implemented prior to the use of restraint and seclusion techniques.
 - (c) 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, pursuant to the requirements in Section 22-5-4.12 NMSA 1978.
- (2) Districts or charter schools shall develop and implement an annual training for designated school personnel regarding positive behavioral intervention supports or comparable behavior management techniques and the use of restraint and seclusion techniques. In the event that new designated school personnel are employed within the school after the provision of the annual training, the principal of the school, or a person authorized to act officially in a matter involving school discipline or the maintenance of order within the school, shall ensure that a training is provided to new designated school personnel within 60 days of employment.
- (3) Schools shall update school safety plans.
 - (a) A school safety plan pursuant to requirements of Paragraph (7) of Subsection D of 6.12.6.8 NMAC shall include additional minimum requirements.
 - (i) The school safety plan shall not be specific to any individual student.

(ii) The school safety planning team shall include at least one of each of the following: administrator, educator, and special education expert and may include a counselor or social worker, nurse, and school resource officer or security staff.

(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 as determined by the department. Notice of school safety plan submittal will be provided by the department to local education agencies 90 days prior to the due date.

(4) Schools shall establish reporting and documentation 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 20 U.S.C. § 1232g; 34 CFR Part 99, Family Educational Rights and Privacy Act, as well as any other applicable federal or state laws or rules governing the privacy of such documents.

(5) Exemptions to the requirements prescribed in Subsection E of 6.11.2.10 NMAC shall be pursuant to Subsections G and H of Section 22-5-4.12 NMSA 1978.

F. Corporal punishment: Corporal punishment shall be prohibited by each local school board and each governing body of a charter school 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.

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, below. 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 below.

H. Discipline of students experiencing homelessness: Removing students experiencing homelessness from school shall be used only as a last resort, pursuant to the requirements in 42 U.S.C. 11431 et seq., the McKinney-Vento Homelessness Assistance Act.

(1) Public schools shall develop discipline policies and procedures that are reviewed at least annually and align with local school board or governing body policies. Policies and procedures shall:

(a) through professional development activities, create an awareness among educators and administrators of the types of behaviors that students experiencing homelessness may exhibit due to homelessness and provide strategies and supports to address the behaviors through the student assistance team process in accordance with Subsection D of 6.29.1.9 NMAC;

(b) take into account the issues related to a student's homelessness by talking with the student and applicable staff and families prior to taking disciplinary action;

(c) consult with school behavior response teams or other applicable personnel to assign appropriate discipline related to the behavior;

(d) implement discipline alternatives to out of school suspensions or expulsions or classroom removals, if possible; and

(e) connect students with mental health services as needed.

(2) Public schools shall review school discipline records and data of students experiencing homelessness in order to identify any patterns in disciplinary actions that indicate an unfair bias against the students. The collection and review of such records shall be in compliance with the Family Educational Rights and Privacy Act, as well as any other applicable federal or state laws or rules governing the privacy of such documents.

I. Discipline of students with disabilities: Students with disabilities are not immune from school disciplinary processes, nor are they entitled to remain in a particular educational program when their behavior substantially impairs the education of other children in the program. However, the public schools are required by state law and regulations to meet the individual educational needs of students with disabilities to the extent that current educational expertise permits. Public school personnel may consider any unique circumstances on a case-by-case basis when determining whether a change of placement, consistent with the other requirements of 6.11.2.11 NMAC, is appropriate for a student with a disability who violates a code of conduct as provided in 34 CFR Sec. 300.530.

(1) Long-term suspensions or expulsions of students with disabilities shall be governed by the procedures set forth in 6.11.2.11 NMAC below.

(2) Temporary suspensions of students with disabilities may be imposed in accordance with the normal procedures prescribed in Subsection D of 6.11.2.12 NMAC below, provided that the student is returned to the same educational placement after the temporary suspension and unless a temporary suspension is prohibited under the provisions of Paragraph (3) of Subsection I of 6.11.2.10 NMAC below.

(3) Program prescriptions. A student with a disability's individualized education program (IEP), under the Individuals with Disabilities Education Improvement Act of 2004 (IDEA), need not affirmatively authorize disciplinary actions which are not otherwise in conflict with this rule. However, the IEP team may prescribe or prohibit specified disciplinary measures for an individual student with a disability by including appropriate provisions in the student's IEP. Administrative authorities shall adhere to any such provisions contained in a student with a disability's IEP, except that an IEP team may not prohibit the initiation of proceedings for long-term suspension or expulsion which are conducted in accordance with this rule.

(4) Immediate removal. Immediate removal of students with disabilities may be done in accordance with the procedures of Subsection C of 6.11.2.12 NMAC below.

(5) A student who has not been determined to be eligible for special education and related services under 6.31.2 NMAC and who has engaged in behavior that violated a code of student conduct may assert any of the protections provided for in this subsection if the conditions set forth in 34 CFR Sec. 300.534 have been met.

(6) Referral to and action by law enforcement and judicial authorities.

(a) Nothing in these rules of conduct prohibits an administrative authority from reporting a crime committed by a student with a disability to appropriate authorities or prevents state law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and state law to crimes committed by a student with a disability.

(b) Transmittal of records.

(i) An administrative authority reporting a crime committed by a student with a disability must ensure that copies of the special education and disciplinary records of the student are transmitted, for consideration by the appropriate authorities, to whom the administrative authority reports the crime.

(ii) An administrative authority reporting a crime under this section may transmit copies of the student's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act.

Disclosure of school records

LAWS

22-2C-11.1. Student identification number unique to that student.

The student identification number required pursuant to Section 22-2C-11 NMSA 1978 shall be unique to each student and shall not be used or assigned to another student. That number shall be on all forms, student records, transcripts and databases in which a student is identified by name. A student shall be assigned only one identification number. It shall be the responsibility of every school district and charter school in the state to determine if the student has ever enrolled previously in a public school in New Mexico, and school districts and charter schools shall use the original student identification number.

REGULATIONS

6.11.2.10. Enforcing rules of conduct.

I. Discipline of students with disabilities: Students with disabilities are not immune from school disciplinary processes, nor are they entitled to remain in a particular educational program when their behavior substantially impairs the education of other children in the program. However, the public schools are required by state law and regulations to meet the individual educational needs of students with disabilities to the extent that current educational expertise permits. Public school personnel may consider any unique circumstances on a case-by-case basis when determining whether a change of placement, consistent with the other requirements of 6.11.2.11 NMAC, is appropriate for a student with a disability who violates a code of conduct as provided in 34 CFR Sec. 300.530.

(6) Referral to and action by law enforcement and judicial authorities.

(b) Transmittal of records.

(i) An administrative authority reporting a crime committed by a student with a disability must ensure that copies of the special education and disciplinary records of the student are transmitted, for consideration by the appropriate authorities, to whom the administrative authority reports the crime.

(ii) An administrative authority reporting a crime under this section may transmit copies of the student's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act.

Data collection, review, and reporting of disciplinary policies and actions

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.

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

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

(9) encourages and supports compliant data sharing, pursuant to the federal Family Educational Rights and Privacy Act of 1974, 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 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.

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 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-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.

22-35-3. 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.

A. The department shall:

- (1) issue guidance for bullying prevention programs and policies in accordance with the Safe Schools for All Students Act; 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.

REGULATIONS

No relevant regulations found.

School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Certification or training

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

MOUs, authorization, and/or funding

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

State Education Agency Support

State model policies and implementation support

LAWS

REGULATIONS

No relevant regulations found.

Funding appropriations

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:

- (1) assess student and family needs and match those needs with appropriate public or private providers, including civic and corporate sponsors;
- (2) make referrals to health care and social service providers;
- (3) collaborate and coordinate with health and social service agencies and organizations through school-based and off-site delivery systems;
- (4) recruit 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) establish partnerships between the school and community organizations such as civic, business and professional groups and organizations; and recreational, social and after-school programs such as boys' and girls' clubs and boy and girl scouts;
- (6) identify and coordinate 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) promote family support and parent education programs; and
- (8) seek out other services or goods a student or the student's family needs to assist the student to stay in school and succeed.

D. A public school or group of public schools that has received a grant to establish a family and youth resources program may continue to be eligible for funding if its percentage of students eligible for the free

or reduced-fee price lunch program drops below eighty percent, so long as it maintains an average of eighty percent or more for any three-year period.

22-2D-4. Family and youth resource programs; grants; department duties.

A. Subject to the availability of funding, grants are available to a public school or group of public schools that meets department eligibility requirements.

B. Applications for grants shall be in the form prescribed by the department and shall include the following information:

- (1) a statement of need, including demographic and socioeconomic information about the area to be served by the program;
- (2) goals and expected outcomes of the program;
- (3) services and activities to be provided by the program;
- (4) written agreements for the provision of services by public and private agencies, community groups and other parties;
- (5) a work plan and budget for the program, including staffing requirements and the expected availability of staff;
- (6) hours of operation;
- (7) strategies for dissemination of information about the program to potential users;
- (8) training and professional development plans;
- (9) plans to ensure that program participants are not stigmatized for their use of the program;
- (10) a physical description of the place in the school or adjacent to the school in which the program will be located;
- (11) letters of endorsement and commitment from community agencies and organizations and local governments; and
- (12) any other information the department requires.

C. Grants shall not be awarded for applications submitted that supplant funding and other resources that have been used for purposes similar to the program.

22-2D-5. Family and youth resource fund.

The "family and youth resource fund" is created in the state treasury. The fund shall consist of appropriations, gifts, grants, donations and earnings from investment of the fund. The fund shall not be transferred to any other fund at the end of a fiscal year. The fund shall be administered by the department, and money in the fund is appropriated to the department to carry out the purposes of the Family and Youth Resource Act. Money in the fund shall be disbursed on warrants issued by the secretary of finance and administration pursuant to vouchers signed by the state superintendent [secretary] or his authorized representative.

22-32-4. Community schools' initiatives; administrative costs; grants; school district, group of public schools or public school duties; requirements.

A. A school district shall bear any administrative costs associated with the establishment and implementation of a community school within the school district.

B. Subject to the availability of funding, grants for community schools initiatives are available to a school district, a group of public schools or a public school that has demonstrated partnerships with any lead agency and local, private and public agencies for the purpose of establishing, operating and sustaining community schools and that meets department eligibility requirements.

C. Applications for grants for community schools' initiatives shall be in the form prescribed by the department and shall include the following information:

- (1) a statement of need, including demographic and socioeconomic information about the area to be served by the community schools initiative;
- (2) goals and expected outcomes of the initiative;
- (3) services and activities to be provided by the initiative;
- (4) written agreements for the provision of services by public and private agencies, community groups and other parties;
- (5) a work plan and budget for the initiative, including staffing requirements and the expected availability of staff;
- (6) days and hours of operation;
- (7) strategies for dissemination of information about the initiative to potential users;
- (8) training and professional development plans;
- (9) letters of endorsement and commitment from community agencies and organizations and local governments; and
- (10) any other information the department requires.

D. A school district, a group of public schools or a public school that uses funds under this section to transform a school into a research- and evidence-based community schools initiative shall:

- (1) use rigorous, transparent, equitable and evidence-based evaluation systems to assess the effectiveness of the implementation of the community school's initiative;
- (2) provide ongoing, high-quality professional development to staff that:
 - (a) aligns with the school's instructional program;
 - (b) facilitates effective teaching and learning; and
 - (c) supports the implementation of school reform strategies; and
- (3) give the school sufficient operational flexibility in programming, staffing, budgeting and scheduling so that the school can fully implement a comprehensive strategy designed to focus on improving school climate, student achievement and growth in reading and mathematics, attendance, behavior, parental engagement and, for high schools, graduation rates and readiness for college or a career.

32A-25-1. Short title.

This act 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 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 through 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;
- (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.

Other or Uncategorized

Professional immunity or liability

LAWS

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

D. 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.

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.

REGULATIONS

No relevant regulations found.

Community input or involvement

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.

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 through 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.

REGULATIONS

6.11.2.8 General provisions.

D. Local school board authority: Local school boards have both the authority and the 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 above, and subject to the minimums prescribed in this rule, local boards have discretion to develop such rules, regulations, 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.

Other or Uncategorized

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>		
New Mexico Public Education Department, Response to Intervention (RTI)	Provides an overview on Response to Intervention (RTI) and links to resources such as state guidance manual, sample forms, fidelity of implementation tools, and model of student intervention. Response to Intervention (Rti): organizational framework by which schools assess student needs, strategically allocate resources, and design and deliver instruction to all students withing the school. In school year 19-20, the agency will be piloting a Multi-Layered Systems of Support model to select districts across the state.	https://webnew.ped.state.nm.us/bureaus/safe-healthy-schools/response-to-intervention-rti/
New Mexico Public Education Department, Bullying Prevention	Provides information on bullying, including cyberbullying. Website has information/resources on bullying prevention programs and strategies and effective means to respond to bullying. In school year 19-20, the PED will promulgate rules for a model policy for local school boards on bullying prevention in accordance with Safe Schools for All Students Act and will provide resources supporting this Act. By January 1, 2020, each school district is to establish a bullying prevention program for students reflective of the parameters of the Act and reflective of New Mexico's Health Education Content Standards with Benchmarks and Performance Standards.	http://ped.state.nm.us/ped/PEDAnti-Bullying.html
New Mexico Public Education Department, Safe Schools	Provides information and resources for safe schools' plans, training/webinars, best practices, school threat, and hazard assessment worksheets.	http://webnew.ped.state.nm.us/officesandprograms/safe-healthy-schools/safe-schools/

Title	Description	Website address (if applicable)
New Mexico Public Education Department, Wellness Policies	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.	https://webnew.ped.state.nm.us/bureaus/safe-healthy-schools/wellness-policy/ http://164.64.110.134/parts/title06/06.012.0006.html
<i>Documents</i>		
School District Anti-Bullying Policy Guidance Document, New Mexico Public Education Department	Guidance document addressing school district anti-bullying policy.	https://webnew.ped.state.nm.us/wp-content/uploads/2017/12/SHSB_Anti-Bullying.Policy.Guidance.Document.pdf
New Mexico Response to Intervention Framework (December 2014), New Mexico Public Education Department	Manual details the instructional framework and guidance on the Response to Intervention (RtI) process in New Mexico that includes a section on each of the three instructional tiers, a glossary of key terms, sample forms to assist with the Student Assistance Team (SAT) process, and key resources for teachers.	https://webnew.ped.state.nm.us/wp-content/uploads/2018/03/RtI-Manual-most-updated-2.15.pdf
<i>Other Resources</i>		
New Mexico Public Education Department, Supportive School Discipline (PowerPoint)	Supportive School Discipline Initiative PowerPoint presentation.	https://webnew.ped.state.nm.us/wp-content/uploads/2017/12/SHSB_Supportive-School-Discipline-Initiative.ppsx