

SENATE BILL 163

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Benny Shendo, Jr. And D. Wonda Johnson and Angel M. Charley
and Cindy Nava

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO PUBLIC SCHOOLS; PERMITTING PUBLIC SCHOOL STUDENTS WHO ARE ENROLLED, OR ELIGIBLE FOR ENROLLMENT, IN FEDERALLY RECOGNIZED INDIAN NATIONS, TRIBES AND PUEBLOS TO WEAR TRIBAL REGALIA AT GRADUATION CEREMONIES OR PUBLIC SCHOOL EVENTS **SEC**; **DECLARING AN EMERGENCY**←SEC .

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 22-5-4.3 NMSA 1978 (being Laws 1986, .229661.1SAAIC February 17, 2025 (3:43pm)

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Chapter 33, Section 9, as amended by Laws 2021, Chapter 19, Section 1 and by Laws 2021, Chapter 37, Section 1 and also by Laws 2021, Chapter 51, Section 8) is amended to read:

"22-5-4.3. SCHOOL DISCIPLINE POLICIES--RACIAL SENSITIVITY AND ANTI-RACISM TRAINING--HOTLINE FOR REPORTING RACIALLY CHARGED INCIDENTS AND RACIALIZED AGGRESSION INVOLVING STUDENTS OR SCHOOL PERSONNEL--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. No local school board shall allow for the imposition of discipline, discrimination or disparate treatment against a student based on the student's race, religion or culture or because of the student's use of protective hairstyles or cultural or religious headdresses.

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

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

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

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

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

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

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care provider under the following conditions:

(1) the health care provider has instructed the student in the correct and responsible use of the medication;

(2) the student has demonstrated to the health care provider and the school nurse or other school official the skill level necessary to use the medication and any device that is necessary to administer the medication as prescribed;

(3) the health care provider formulates a written treatment plan for managing asthma or anaphylaxis episodes of the student and for medication use by the student during school hours or school-sponsored activities, including transit to or from school or school-sponsored activities; and

(4) the student's parent has completed and submitted to the school any written documentation required by the school or the school district, including the treatment plan required in Paragraph (3) of this subsection and other documents related to liability.

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

H. Authorized school personnel who in good faith provide a person with backup medication as provided in this

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section shall not be held liable for civil damages as a result of providing the medication.

I. Local school boards and governing bodies of charter schools shall not prohibit a student who is enrolled, or eligible for enrollment, in a federally recognized Indian nation, tribe or pueblo from wearing tribal regalia or objects of cultural significance along with or attached to a cap or gown or wearing tribally significant footwear or other items of apparel under a gown at graduation ceremonies or public school events.

[F.] J. As used in this section:

(1) "cultural or religious headdresses" includes hijabs, head wraps or other headdresses used as part of ~~[an individual's]~~ a person's personal cultural or religious beliefs;

(2) "protective hairstyles" includes such hairstyles as braids, locs, twists, tight coils or curls, cornrows, bantu knots, afros, weaves, wigs or head wraps; and

~~[(3) "race" includes traits historically associated with race, including hair texture, length of hair, protective hairstyles or cultural or religious headdresses]~~

(3) "tribal regalia" means a tribe's traditional dress or recognized objects of religious or cultural significance, including tribal symbols, jewelry, beading and feathers."

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SECTION 2. Section 22-8B-4 NMSA 1978 (being Laws 1999, Chapter 281, Section 4, as amended) is amended to read:

"22-8B-4. CHARTER SCHOOLS' RIGHTS AND RESPONSIBILITIES--
OPERATION.--

~~[A. A charter school shall be subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, physical or mental handicap, serious medical condition, race, creed, color, sex, gender identity, sexual orientation, spousal affiliation, national origin, religion, ancestry or need for special education services and shall not allow for the imposition of discipline, discrimination or disparate treatment against a student based on the student's race, religion or culture or because of the student's use of protective hairstyles or cultural or religious headdresses.~~

B.] A. A charter school shall be governed by a governing body in the manner set forth in the charter contract; provided that a governing body shall have at least five members; and provided further that no member of a governing body for a charter school that is initially approved on or after July 1, 2005 or whose charter is renewed on or after July 1, 2005 shall serve on the governing body of another charter school. No member of a local school board shall be a member of a governing body for a charter school or employed in any capacity by a locally chartered charter school located within

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the local school board's school district during the term of office for which the member was elected or appointed.

[G-] B. A charter school shall be responsible for:

- (1) its own operation, including preparation of a budget, subject to audits pursuant to the Audit Act; and
- (2) contracting for services and personnel matters.

[D-] C. A charter school may contract with a school district, a university or college, the state, another political subdivision of the state, the federal government or one of its agencies, a tribal government or any other third party for the use of a facility, its operation and maintenance and the provision of any service or activity that the charter school is required to perform in order to carry out the educational program described in its charter contract. Facilities used by a charter school shall meet the standards required pursuant to Section 22-8B-4.2 NMSA 1978.

[E-] D. A conversion school chartered before July 1, 2007 may choose to continue using the school district facilities and equipment it had been using prior to conversion, subject to the provisions of Subsection [F] E of this section.

[F-] E. A school district that has available land or one or more available facilities not currently used for other educational purposes shall make facilities and may make land available for lease, lease-purchase or purchase to the

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charter schools located in the school district for the charter schools' operations and shall notify the charter schools of that availability no later than May 1 of each year. The public school facilities authority shall annually ensure that each school district with available land or one or more available facilities has provided that notification. A school district may develop a facility prioritization plan that identifies which charter schools may lease, lease-purchase or purchase available school district facilities. School-district-owned land shall not be considered available to a charter school if the school district has justified future use of that land through its five-year facilities master plan. An agreement for the use of school district facilities by a charter school may provide for reasonable lease payments; provided that the payments do not exceed the sum of the lease reimbursement rate provided in Paragraph (1) of Subsection I of Section 22-24-4 NMSA 1978 plus any reimbursement for actual direct costs incurred by the school district in providing the facilities; and provided further that any lease payments received by a school district may be retained by the school district and shall not be considered to be cash balances in any calculation pursuant to Section 22-8-41 NMSA 1978. The available facilities provided by a school district to a charter school shall meet all occupancy standards as specified by the public school capital outlay council. As used in this subsection,

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"other educational purposes" includes health clinics, daycare centers, teacher training centers, school district administration functions and other ancillary services related to a school district's functions and operations.

[G.] F. A locally chartered charter school may pay the costs of operation and maintenance of its facilities or may contract with the school district to provide facility operation and maintenance services.

[H.] G. Locally chartered charter school facilities are eligible for state and local capital outlay funds and shall be included in the school district's five-year facilities plan.

[I.] H. A locally chartered charter school shall negotiate with a school district to provide transportation to students eligible for transportation under the provisions of the Public School Code. The school district, in conjunction with the charter school, may establish a limit for student transportation to and from the charter school site not to extend beyond the school district boundary.

[J.] I. A charter school shall be a nonsectarian, nonreligious and non-home-based public school.

[K.] J. Except as otherwise provided in the Public School Code, a charter school shall not charge tuition or have admission requirements.

[L.] K. With the approval of the chartering authority, a single charter school may maintain separate

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facilities at two or more locations within the same school district; but, for purposes of calculating program units pursuant to the Public School Finance Act, the separate facilities shall be treated together as one school.

~~[M.]~~ L. A charter school shall be subject to the provisions of Section 22-2-8 NMSA 1978 and the Assessment and Accountability Act.

~~[N.]~~ M. Within constitutional and statutory limits, a charter school may acquire and dispose of property; provided that, upon termination of the charter, all assets of the locally chartered charter school shall revert to the local school board and all assets of the state-chartered charter school shall revert to the state, except that, if all or any portion of a state-chartered charter school facility is financed with the proceeds of general obligation bonds issued by a local school board, the facility shall revert to the local school board.

~~[O.]~~ N. The governing body of a charter school may accept or reject any charitable gift, grant, devise or bequest; provided that no such gift, grant, devise or bequest shall be accepted if subject to any condition contrary to law or to the terms of the charter. The particular gift, grant, devise or bequest shall be considered an asset of the charter school to which it is given.

~~[P.]~~ O. The governing body may contract and sue and

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be sued. A local school board shall not be liable for any acts or omissions of the charter school.

[Q.] P. A charter school shall comply with all state and federal health and safety requirements applicable to public schools, including those health and safety codes relating to educational building occupancy.

[R.] Q. A charter school is a public school that may contract with a school district or other party for provision of financial management, food services, transportation, facilities, education-related services or other services. The governing body shall not contract with a for-profit entity for the management of the charter school.

[S.] R. To enable state-chartered charter schools to submit required data to the department, an accountability data system shall be maintained by the department.

[T.] S. A charter school shall comply with all applicable state and federal laws and rules related to providing special education services. Charter school students with disabilities and their parents retain all rights under the federal Individuals with Disabilities Education Act and its implementing state and federal rules. Each charter school is responsible for identifying, evaluating and offering a free appropriate public education to all eligible children who are accepted for enrollment in that charter school. The state-chartered charter school, as a local educational agency, shall

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assume responsibility for determining students' needs for special education and related services. The division may promulgate rules to implement the requirements of this subsection

~~[U. As used in this section:~~

~~(1) "cultural or religious headdresses" includes hijabs, head wraps or other headdresses used as part of an individual's personal cultural or religious beliefs;~~

~~(2) "protective hairstyles" includes such hairstyles as braids, loes, twists, tight coils or curls, cornrows, bantu knots, afros, weaves, wigs or head wraps; and~~

~~(3) "race" includes traits historically associated with race, including hair texture, length of hair, protective hairstyles or cultural or religious headdresses]."~~

SECTION 3. A new section of the Charter Schools Act is enacted to read:

"[NEW MATERIAL] POLICY OF NON-DISCRIMINATION.--

A. A charter school shall be subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, physical or mental handicap, serious medical condition, race, creed, color, sex, gender identity, sexual orientation, spousal affiliation, national origin, religion, ancestry or need for special education services and shall not allow for the imposition of discipline, discrimination or disparate treatment against a

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student based on the student's race, religion or culture or because of the student's use of protective hairstyles or cultural or religious headdresses.

B. Governing bodies of charter schools shall not prohibit a student who is enrolled, or eligible for enrollment, in a federally recognized Indian nation, tribe or pueblo from wearing tribal regalia or objects of cultural significance along with or attached to a cap or gown or wearing tribally significant footwear or other items of apparel under a gown at graduation ceremonies or public school events.

C. As used in this section:

(1) "cultural or religious headdresses" includes hijabs, head wraps or other headdresses used as part of a person's personal cultural or religious beliefs;

(2) "protective hairstyles" includes such hairstyles as braids, locs, twists, tight coils or curls, cornrows, bantu knots, afros, weaves, wigs or head wraps; and

(3) "tribal regalia" means a tribe's traditional dress or recognized objects of religious or cultural significance, including tribal symbols, jewelry, beading and feathers."

SEC→SECTION 4. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.←SEC