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SENATE MEMORIAL 68

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

Linda M. Lopez

A MEMORIAL

REQUESTING THE DEVELOPMENTAL DISABILITIES COUNCIL TO CONVENE A WORKING GROUP TO ADDRESS RESTRAINT AND SECLUSION TECHNIQUES IN NEW MEXICO PUBLIC SCHOOLS.

WHEREAS, "restraint" and "seclusion" in schools are defined in Section 22-5-4.12 NMSA 1978 and include the use of physical force, any device or material to restrict the free movement of a student's body and the involuntary confinement of a student alone in a room; and

WHEREAS, according to federal guidance, these methods are meant as a last resort, when a student is believed to be a danger to the student's self or others; and

WHEREAS, nationwide data shows that these practices are overwhelmingly used on students with disabilities; and

WHEREAS, a July 30, 2021 memorandum to superintendents,
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1 charter schools and administrators, special education directors
2 and regional education cooperative directors, Deborah
3 Dominguez-Clark, New Mexico director of special education, and
4 Greg Frostad, director of the safe and healthy schools bureau,
5 addressed staff use of restraint and seclusion techniques with
6 students; and

7 WHEREAS, the memorandum notes that the use of restraint
8 and seclusion is limited and that Section 22-5-4.12 NMSA 1978
9 requires districts to adopt the use of restraint and seclusion
10 techniques on any student only if both of the following apply:

11 A. the student's behavior presents an imminent
12 danger of serious physical harm to the student or others; and

13 B. less restrictive interventions appear
14 insufficient to mitigate the imminent danger of serious
15 physical harm; and

16 WHEREAS, before resorting to the use of restraint or
17 seclusion, school staff must use positive behavior supports and
18 de-escalation strategies to actively avoid the use of restraint
19 and seclusion; and

20 WHEREAS, each school is required to establish policies and
21 procedures, as approved by the local school board or governing
22 body of a charter school, for the use of restraint and
23 seclusion techniques and for the documentation and reporting of
24 restraint and seclusion incidents; and

25 WHEREAS, New Mexico lacks uniform statewide guidelines

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1 for:

2 A. the use of restraint and seclusion techniques;

3 B. consistent reporting and documentation of
4 restraint and seclusion incidents;

5 C. adequate notice and information provided to
6 parents or guardians when such incidents occur;

7 D. required reviews of each incident to prevent
8 future incidents from occurring; and

9 E. comprehensive training to school staff on the
10 use of positive behavior supports and de-escalation strategies;

11 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE
12 OF NEW MEXICO that the developmental disabilities council be
13 requested to convene a working group to address restraint and
14 seclusion techniques in New Mexico public schools; and

15 BE IT FURTHER RESOLVED that the working group be composed
16 of representatives of the public education department, the
17 early childhood education and care department, school boards
18 and superintendents from rural and urban school districts and
19 school districts that serve Native American students, teachers,
20 education advocacy agencies, disability advocacy agencies, the
21 children, youth and families department, the legislative
22 education study committee, students, parents, legislators, law
23 enforcement, special education service providers, tribal law
24 enforcement and charter schools; and

25 BE IT FURTHER RESOLVED that the working group report its

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1 findings and recommendations to the legislative health and
2 human services committee, the legislative education study
3 committee and the interim committee dealing with courts,
4 corrections and justice issues by November 1, 2023; and

5 BE IT FURTHER RESOLVED that copies of this memorial be
6 transmitted to the individuals identified by the developmental
7 disabilities council to serve on the working group.

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