

# POLICY SERVICES

## ADVISORY

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2019

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### **Policy   Advisory   Discussion**

**Policy Advisory 183- JLCD Administering Medicines to Students.** Senate Bill 204 and 406 passed in the 2019 Legislative Session enacted a new section of the Public School Code amending a section of the Lynn and Erin Compassionate Use Act and authorizing the possession, storage and administration of medical cannabis by required policy in certain school settings. Districts should be aware that there are prohibitions and provisions in the bill not included in this policy, regulation, or exhibit. Policy Services has concluded that it is not necessary to include these as they are in other policies recommended by Policy Services. They are: no self administration; administration of cannabis will not disturb the school setting; no discrimination in authorized cannabis administration. Many rules regarding drugs/medicines and their administration in schools are already in policies on conduct, tobacco use, administering and drug use. See the cross references at the bottom of the policy for this type of information. Districts are encouraged to have administration and staff read the content of the Senate Bill 204 and Senate Bill 406 so they make no errors on implementing or as they

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conclude their obligations and requirements. Senate Bill 204 and Senate Bill 406 have many of the same provisions but 204 is more specific regarding schools.

The immediate issue raised by this legislation is the conflict with Federal legislation such as 21 CFR 1308.11-15 defining Marijuana (Cannabis) as a prohibited hallucinogenic drug and 34 CFR 85.630 regarding the statement of assurances that federal fund grantees must make, assuring that they maintain a Drug Free Workplace. Policy Services does not have a definitive observation of the result of considering these legal issues but will provide some overview. For informational purposes the pharmacological listings can be found on the Drug Enforcement Administration website, at: <https://www.deadiversion.usdoj.gov/pubs/manuals/pharm2/index.html>.

The federal government continues to classify marijuana as a schedule I controlled substance. Drugs listed in schedule I have no currently accepted medical use in treatment and may not be prescribed, administered, or dispensed for medical use. Therefore, under federal law, no individuals, including pharmacists, can legally dispense medical marijuana, even in those states that have passed medical marijuana legislation.

Policy Services can say that there is some legislation at the Federal Level that prohibits the Department of Justice from spending funds to interfere with the implementation of state medical cannabis laws. Such a law is the Rohrbacher Farr amendment effective to September 30, 2019. Also the recently enacted 2018 Farm Bill which removed hemp (a specific cannabis plant) from the Controlled Substances Act and placed it as an agriculture product under the Department of Agriculture. As an agriculture product the production and manufacture of hemp will be controlled. These laws, however, would not prevent the U.S Department of Education from taking action as a grantor to rescind educational funding under the Drug Free Workplace, but no action of this nature has been observed in the recent past.

Most districts are using standard procedures for the acceptance and administration of medications in school. Those using the recommended policies and procedures of the New Mexico Policy Services will find that those documents discourage student possession and use of any and all medications unless they are to be self administered in accord with statutory authorization. What Administering Medicines to Students does as a policy and procedure is to provide the ground work for control of all medications coming into a school setting as a means of preventing the possession, sale or use of illicit drugs or medicines. Upon review of the new laws on cannabis administration in schools, policy services determined that with a few modifications the current policies and procedures would serve the purposes indicated in those new laws.

Having said this, Policy Services has made several revisions to policy regarding Administering Medicines to Students, added an exhibit and made some minor corrections in terminology and

regulation. Policy Services has placed medical cannabis in the same category as prescription medications, recognizing that no pharmacy can provide medical cannabis (it is unclear regarding CBD oils produced from Hemp at this time). Some of the changes are housekeeping and others are to facilitate the administration of medical cannabis if such is determined to be necessary in a New Mexico public school.

A change from the title Physician to a more generic health care professional was made to extend the persons who have authority to prescribe medications as this has occurred in recent years. The specified requirements in this policy as applied to cannabis includes a clause that circumscribes the parent's right to administer medical cannabis during school hours with additional requirements applicable to cannabis in the Exhibit JLDC-EB.

The medication protocol in JLCD-R was modified to recognize the parent provided documents that will be required in order to allow medical cannabis to be administered by school personnel. Also changed was the category of the employee that can be designated to administer medications. This was changed from a school employee to a "licensed school employee" per 22-1-2 NMSA which states "'licensed school employee" means teachers, school administrators and instructional support providers". That is further defined in part A of 22-10A-3 NMSA which was recently changed by House Bill 431 to say;

" Except as otherwise provided in this subsection, any person teaching, supervising an instructional program or providing instructional support services in a public school; any person administering in a public school; and any person providing health care and administering medications or performing medical procedures in a public school shall hold a valid license or certificate from the department authorizing the person to perform that function."

This definition could be interpreted to mean that only those persons medically licensed or certificated by the Public Education Department can administer medications in a school setting. Districts must be made aware that should this limitation be placed on administering medications there are some implications that need to be reviewed. Districts could be prohibited from administering medications to students if no properly licensed or certificated personnel are available whether this is prescription medication, medical cannabis or over the counter medication should the definition above be interpreted in the manner discussed. This could mean that those districts with health aids and those who may be administering health care and medication by other than a licensed or certificated employees may need to make adjustments in their practices.

JLCD-EB Administering Medical Cannabis to Students was added to provide the guidance for school personnel in procuring the required permissions, certifications and releases per Senate Bill 204 and 406.

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## Exception

Senate Bill 204 provides that school districts do not have to adopt policies and procedures to authorize cannabis possession, storage and administration of medical cannabis if the district reasonably determines that it would lose, or has lost, federal funding as a result of implementing these provisions. It is suggested that Districts consult their legal counsel if they intend to take this approach to the medical marijuana policy issue.

**Materials of a legal nature in support of this advisory may be found following the text of the policies.** If you have any questions, or requests call Policy Services at (505) 469-0193 or E-mail Dr. Donn Williams, Policy Services Director at [nmsbapolicy@cox.net].

**This Material is written for information only and is not intended as legal advice. Please consult your attorney if legal explanations are needed.**

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# Advisory 184

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### ADMINISTERING MEDICINES TO STUDENTS

Under certain circumstances, when it is necessary for a student to take medicine during school hours, the District will cooperate with the ~~family physician~~ health care professional and the parents if the following requirements are met:

- For prescription medication and medical cannabis ~~There~~ there must be a written order from the ~~physician~~ authorized health care professional stating the name of the medicine, the dosage, and the time it is to be given.
- Any order or plan for administering medications shall only be valid during the school year provided and while the student is enrolled.
- There must be written permission from the parent to allow the school or the student to administer the prescription medication, cannabis or over the counter medicine. Appropriate forms are available from the school office.
- The medicine must come to the school office in the prescription container or, if it is over-the-counter medication or cannabis, in the original container with all warnings and directions intact.
- A student should not carry medication to and from school unless authorized by the district to self-administer.
- Any and all medications left at the end of the current school year must be inventoried and picked up by the parents within the week following the end of school or they will be destroyed. Clean-up and witnessed destruction of any medical spillage or destruction must be accomplished within the same day in which destruction, spillage or waste occurs.

A responsible adult should bring medications to the school office if necessary. If medications are necessary for emergency use during transportation a written health management plan shall

be prepared in consultation with the parents and school authorities indicating where the medication will be located during transportation and who will administer the medication.

In the case of medical cannabis, should there be no licensed school employee who is willing upon designation or licensed to administer medication, a written health management plan shall be prepared in consultation with the parents and school authorities indicating the conditions under which the parent may be present to administer the medication. This will include directions on where and how as well as when the medication may be administered.

The District reserves the right, in accordance with procedures established by the Superintendent, to circumscribe or disallow the use or administration of any medication on school premises if the threat of abuse or misuse of the medicine may pose a risk of harm to a member or members of the student population.

This policy and any related policies or amendments to such policies shall be forwarded to the District liability insurance carrier for review.

*Adopted:*    date of manual adoption

LEGAL REF.:        22-1-2 NMSA  
                         22-5-4.3 NMSA  
                         26-2B-1 et seq NMSA  
                         22-10A-3 NMSA  
                         6.12.2.9 NMAC  
                         6.12.10.1 et seq NMAC  
                         6.41.4.9 NMAC

CROSS REF.:        EBC-RC - Emergencies (First Aid)  
                         EEAB - Special Education Student Transportation (Students with Special  
                         Transportation Needs)  
                         GBEC - Drug Free Workplace  
                         GBECA - Non Medical Use or Abuse of Drugs or Alcohol  
                         JICG - Tobacco Use by Students JICG  
                         JIC - Student Conduct  
                         KI - Visitors to Schools

## REGULATION

## REGULATION

## ADMINISTERING MEDICINES TO STUDENTS

### (Medication Procedures)

#### Prescription Drugs And Medical Cannabis

For occasions when it is necessary for a student to receive a prescription drug or medical cannabis during the school day, the following procedure has been established to ensure the protection of the school and the student and to assure compliance with existing rules and regulations:

#### ***Administration by school personnel:***

- The medication must be prescribed by ~~a physician~~ an authorized health care professional.
- The parent or guardian must provide written permission to administer the medicine to the student (additionally, for medical cannabis a written treatment plan, a copy of written certification for use of cannabis, and a signed release of school liability). Appropriate forms or directions are available from the school office.
- The medication must come to the school office in the ~~prescription~~ original container as put up by the pharmacist or provider. Written directions from the ~~physician~~ authorized health care professional or pharmacist must state the name of the patient, the name of the medicine, the dosage, the time it is to be given and in the case of asthma, ~~or anaphylaxis episodes,~~ or cannabis, a written treatment plan for management ~~ing asthma or anaphylaxis episodes~~ of the ~~student~~ student's medications to or from school or school-sponsored activities.
- An administrator may designate and train a licensed school employee to administer, possess and store the medication.
- Each administration of ~~prescription drugs~~ medications must be documented, making a record of the student having received the medication, the time and dosage administered.



- Drugs must be kept in their original containers in a locked medicine cabinet with access limited to administratively designated personnel.

***Self-administration:***

- When the ~~physician~~ authorized health care professional feels it is necessary for the student to carry and self-administer the medication, the physician shall provide written recommendations, to be attached to the signed parent permission form (not available for cannabis).
- The parent or guardian must provide written permission for the student to self-administer and carry the medication. Appropriate forms are available from the school office.
- The child must demonstrate the ability to self administer to the medication provider and school nurse or other school personnel.
- The medication must come in the prescription container as put up by the pharmacist.

***Asthma medication and emergency anaphylaxis self administration:***

- When the physician feels it is necessary for the student to carry and self-administer either of these medications, the physician shall provide written recommendations, to be attached to the signed parent permission form, including a written treatment plan for managing asthma or anaphylaxis episodes; and
- Backup medication may be provided by the parent. Such medication must come in the prescription container as prepared by the pharmacist with a written permission to administer on an emergency basis from a parent and shall be kept in a locked area in the office.

**Over-the-Counter Medication**

When it is necessary for a student to receive a medicine that does not require a prescription order but is sold, offered, promoted, and advertised to the general public, the following procedure has been established to ensure the protection of the school and the student:

***Administration by school personnel:***

- Written permission must be provided by the parent or guardian for the administration of specific over-the-counter ~~drugs~~ medication .

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- Any over-the-counter ~~drug or~~ medicine sent by the parent to be administered to a student must come to the school office in the original manufacturer's packaging with all directions, dosages, compound contents, and proportions clearly marked.
- An administrator may designate a licensed school employee to administer a specific over-the-counter ~~drug~~ medication.
- Each instance of administration of an over-the-counter ~~drugs~~ medication must be documented in the daily log.
- Over-the-counter ~~drugs~~ medication must be kept in their original containers in a locked medicine cabinet.

#### ***Self-administration:***

- Written permission must be provided by the parent or guardian for the administration of specific over-the-counter ~~drugs~~ medication by the student.
- Over-the-counter ~~drugs or~~ medicine sent by the parent to be administered by the student must be kept by the student in the original manufacturer's packaging, with all directions, dosages, compound contents, and proportions clearly marked.
- *Necessity* for self-administration of an over-the-counter ~~drug or~~ medicine shall be determined by the student's physician and must be verified by a signed physician's statement attached to the parent or guardian permission form, indicating the specific ~~drug or~~ medicine.

#### **Protection of Students**

Use or administration of medication on school premises may be disallowed or strictly limited if it is determined by the Superintendent, in consultation with medical personnel, that a threat of abuse or misuse of the medicine may pose a risk of harm to a member of the student population.

The student shall take extraordinary precautions to keep secure any medication or drug, and under no circumstances shall make available, provide, or give the item to another person. The student shall immediately report the loss or theft of any medication brought onto school campus. Violation of this regulation may subject the student to disciplinary action.

EXHIBIT

EXHIBIT

**ADMINISTERING MEDICINE  
TO STUDENTS**

## REQUEST FOR GIVING MEDICINE AT SCHOOL

Name \_\_\_\_\_ Grade \_\_\_\_\_

Teacher \_\_\_\_\_ School \_\_\_\_\_

Medication \_\_\_\_\_

Diagnosis/reason for giving \_\_\_\_\_

Time to be given \_\_\_\_\_ a.m. Time to be given \_\_\_\_\_ p.m.

Dates from \_\_\_\_\_ to \_\_\_\_\_

Prescription medication must be in the original container as prepared by a pharmacist and labeled, including the patient name, name of medication, dosage, and time to be given. An over-the-counter medication must be in the original packaging, with all directions, dosages, compound contents, and proportions clearly marked. Student misuse of medication being self-administered may result in seizure and disciplinary action.

\_\_\_\_\_  
Parent's or Guardian's Signature\_\_\_\_\_  
Date

A signed physician's statement indicating the necessity must accompany any request for self-administration of medicine, whether it is prescription or over-the-counter medicine.

EXHIBIT

EXHIBIT

# ADMINISTERING MEDICAL CANNABIS TO STUDENTS

## REQUEST FOR GIVING MEDICAL CANNABIS AT SCHOOL

Student Name \_\_\_\_\_ Grade \_\_\_\_\_

Teacher \_\_\_\_\_ or Counselor \_\_\_\_\_ School \_\_\_\_\_

Specific Medication Name \_\_\_\_\_

(Must be non-aerosol, cannot be smoked or inhaled as a vapor or by burning)

Time to be given \_\_\_\_\_ a.m. Time to be given \_\_\_\_\_ p.m.

Dates from \_\_\_\_\_ to \_\_\_\_\_

Medication must be in the original packaging, with all directions, dosages, compound contents, and proportions clearly marked.

Attached to this request must be:

- a copy of the qualified student's written certification for use of medical cannabis pursuant to the Lynn and Erin Compassionate Use Act
- a written treatment plan for administration of medical cannabis agreed to and signed by the school principal, qualified student's parent or legal guardian and certifying medical professional.
- a written statement from the qualified student's parents or legal guardian releasing the school and personnel from liability as follows:
- releases from civil liability the following persons and entities for acting in accordance with the provisions of Chapter 261, Laws of 2019 and this rule, as well as the Lynn and Erin Compassionate Use Act and applicable department of health rules:

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- school districts, school district personnel and volunteers, schools, school personnel and volunteers, local school boards, and local school board members;
- charter schools, charter school personnel and volunteers, governing bodies of charter schools, and governing body members;
- releases the persons and entities from any liability and reimbursement claims for costs associated with accidental spillage or waste of medical cannabis;
- acknowledge that the qualified student shall not be entitled to the implementation of the provisions of Chapter 261, Laws of 2019 and this rule, as well as the Lynn and Erin Compassionate Use Act and applicable department of health rules, outside of this state

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Parent's or Guardian's Signature

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Date

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Parent's or Guardian's Printed Name

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## RELEVANT STATUES, RULES AND CITATIONS

The referenced Senate Bills can be found by entering the following web addresses into the Browser search line in your preferred search engine.

SENATE BILL 406 CAN BE FOUND AT THE FOLLOWING WEB LOCATION

<http://sos.state.nm.us/uploads/files/CH261-SB204-2019.pdf>

SENATE BILL 204 CAN BE FOUND AT THE FOLLOWING WEB LOCATION

<http://sos.state.nm.us/uploads/files/CH261-SB204-2019.pdf>

### **PROPOSED PUBLIC EDUCATION DEPARTMENT RULE 6.12.10 NMAC, Medical Cannabis in Schools**

Copies of the proposed new rule may be accessed through the page titled "Rule Notification" on the PED's website at <http://webnew.ped.state.nm.us/bureaus/policy-innovation-measurement/rule-notification/>, or may be obtained from the Policy Division at (505) 827-7889 during regular business hours.

# **POLICY SERVICES ADVISORY**

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**August**

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and Training**

**Policy Advisory No. 199 ..... GDH - Support Staff Orientation  
and Training**

**Policy Advisory No. 200 ..... IJNDB - Use of Technology Resources  
In Instruction**

**Policy Advisory No. 201 ..... JICD - Student Harassment / Bullying /  
Cyberbullying Prevention**

**..... JICD-R - Student Harassment / Bullying /  
Cyberbullying Prevention**

**..... JICD-E - Student Harassment / Bullying /  
Cyberbullying Prevention**

**Policy Advisory No. 202 ..... JK - Student Discipline**

### **Policy Advisory Discussion**

The following advisory information is provided in response to the enactment of The Safe Schools for All Students Act per Senate Bill 288 of the 2019 New Mexico Legislative Session effective July 1, 2019 and requiring the enforcement of the adopted policies by January 1, 2020.

THE FOLLOWING INFORMATION AND SET OF ADVISORIES MAY BE SUBJECT TO THE NEW MEXICO PUBLIC EDUCATION DEPARTMENT (PED) PROVIDING WRITTEN INTERPRETATIONS OR ADOPTING REGULATIONS (NMAC) IN THE FUTURE. HOWEVER, POLICY SERVICES FELT THAT "THE SAFE SCHOOLS FOR ALL STUDENTS ACT" (THE ACT) NEEDED TO BE INTERPRETED AND POLICIES AVAILABLE AS EARLY AS POSSIBLE IN THE SCHOOL YEAR 2019-2020 TO INSURE DISTRICTS HAVE THE OPPORTUNITY FOR COMPLIANCE BEFORE THE JANUARY DEADLINE .

### Action other than policy adoption

Below you will find the points made in the e-mail from PED by Dean Hopper on August 23, 2019 relative to the Senate Bill 288. Policy Services has chosen to point out where the requirements cited are located in the new policy and to repeat the 'outside of policy activities' that will be needed to conform to Senate Bill 288.

In addition to the required policy and procedures, each school district is required to include the bullying prevention policy and procedures for reporting in student handbooks using developmentally and culturally appropriate language. Following adoption of the bullying prevention policy, each district shall establish a bullying prevention program for students that will align with the new Mexico Health Education Content Standards with Benchmarks and Performance Standards  
(<https://webnew.ped.state.nm.us/bureaus/safe-healthy-schools/school-health-resources/>).

Bullying prevention training shall also be incorporated into new employee training, as well as provided annually, following adoption of the local policy, to all employees and volunteers who have significant contact with students. Bullying prevention policies and the point of contact information shall be posted on the district website and updated annually.

### The Act in Policy

The Act requires school districts and charter schools to adopt and enforce a policy by January 1, 2020 that:

- Prevents instances of bullying and cyberbullying on its property, at school or district sponsored events and on school sponsored transportation inclusive of electronic communication. (See page 1 of JICD.)
- Includes definitions as set forth in the Act. (See page 1 **Definitions** of JICD.)
- Includes a statement prohibiting bullying and a statement prohibiting retaliation against those who report or witness bullying. (See second paragraph under **Reporting and Investigating** in JICD.)
- Sets forth procedures for reporting bullying and for reporting instances of retaliation for reporting an act of bullying. Reports may be made orally, in the preferred language of the



reporter, anonymously, and by parents in written form. (See **Reporting and Investigation** in JICD.)

District policies should also include procedures for the prompt investigation of reported bullying, cyberbullying, and retaliation that:

- Are to be the responsibility of a school or district administrator who investigates or supervises investigation of all reports. (See **Reporting and Investigation** in JICD.)
- Include procedures for notification to parents/guardians of students alleged to have committed an act of bullying and the students targeted by the alleged act. (See **Investigation** in Regulation JICD-R.) School employees who witness bullying or who receive reports of bullying are required to notify the designated administrator within two calendar days. (See **Reporting and Investigation** in JICD.)
- Include an appeal process for both the student accused of bullying and the student who is the target of bullying should either be unsatisfied with the investigation outcome. (See **Appeal** in Regulation JICD-R.)
- Develop a student safety support plan for students who are identified as the targets of bullying to be developed in order to protect the students from further acts of bullying. (See paragraph 5 of **Reporting and Investigation** of Policy JICD)

**The policies that follow are recommended for adoption by policy services.**

**Policy Advisory No. 198.....GCH - Professional Staff Orientation and Training.** The addition to this policy was that orientation would include bullying prevention and reporting for new teachers and that some training would be provided to all professional staff annually as required by The Act and other laws.

**Policy Advisory No. 199.....GDH - Support Staff Orientation and Training.** The addition to this policy was that orientation would include bullying prevention and reporting for new support staff and volunteers and that some training would be provided to all support staff and volunteers.

**Policy Advisory No. 200.....IJNDB - Use of Technology Resources In Instruction.** For purposes of emphasizing the prohibition of bullying a sentence was added to this policy defining the prohibited behavior.

**Policy Advisory No. 201.....JICD - Student Harassment / Bullying / Cyberbullying Prevention.** Please note that the content of Policy, Regulation and Exhibit JICD has been completely reorganized because of The Safe Schools For All Students Act (The Act). First The Act repealed Section 22-2-21 NMSA 1978, which was the basis for the former Policy JICD. The Act substituted a new Section 22-35-1 et seq. NMSA 1978 with different definitions and

requirements from the repealed Section. Policy Services has used the Memo from the Public Education Department regarding The Act to provide guidance in reviewing the new policy and procedures. Districts are encouraged, however, to read the The Act prior to reading the proposed Policy, Regulation and Exhibit. Districts should note that the underlying purpose of this policy and The ACT is to try to identify and correct bullying behavior through non-punitive means that would keep the perpetrators in the school setting.

**Policy Advisory No. 202.....JK - Student Discipline.** Policy JK was modified only to include the citation of The Safe Schools For All Students Act. The regulation JK-R was changed, however, to add harassment, bullying or cyberbullying as prohibited activities, to incorporate the definition of of the prohibited cyberbullying activity, and to correct the content of the side heading Student Disciplinary Proceeding.

**Materials of a legal nature in support of these advisories may be found below.** If you have any questions or requests please call Policy Services at (505) 469-0193 or E-mail Dr. Donn Williams, Policy Services Director at [nmsbapolicy@cox.net].

**This Material is written for information only and is not intended as legal advice. Please consult your attorney if legal explanations are needed.**

# **Advisory 198**

## PROFESSIONAL STAFF ORIENTATION AND TRAINING

The Superintendent will establish a program to provide orientation for all new District employees. Those new staff members not present at the orientation/training will be given a program of the same or similar content on or immediately after employment by their immediate supervisor. All staff are required to participate in annual training as underlined per statute. ~~At a minimum, t~~ The orientation and training ~~will~~ may cover the following items and will include all statutorily required training as determined by the Superintendent:

- Goals, objectives, and programs of the District.
- Personnel policies.
- Terms of employment.
- Disciplinary and conduct rules and procedures.
  - Annually, train staff regarding behavioral supports or behavioral management and the use of restraint and seclusion techniques.
  - Provide activities that create an awareness among staff of homeless student behaviors and direct them toward strategies and support so that out of school suspension or expulsion would be used only as a last resort.
- Bullying prevention and reporting.
- Salary and fringe-benefit plans.
- Self-improvement opportunities.
- The evaluation program and name(s) of evaluator(s).
- Handling of body fluids.
- Child abuse reporting responsibilities.

*Adopted:*    date of manual adoption

LEGAL REF.:        22-35-1 NMSA *et seq.* NMSA  
                          6.11.2.10 NMAC

29 U.S.C. 653

42 U.S.C. 11301, McKinney-Vento Homeless Assistance  
Act of 2001, as amended by the Every Student  
Succeeds Act (ESSA) of 2015

CROSS REF.: GBEBB - Staff Conduct with Students  
GBGC - Employee Assistance  
JICD - Harassment / Bullying / Cyberbullying Prevention  
JK - Student Discipline  
JLF - Child Abuse / Child Protection  
JLI - Student Safety

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# **Advisory 199**

### SUPPORT STAFF ORIENTATION AND TRAINING

The Superintendent will establish a program to provide orientation for all new District employees and volunteers. Those new staff members not present at the orientation/training will be given a program of the same or similar content on or immediately after employment by their immediate supervisor. All staff are required to participate in the underlined training annually per statute. At a minimum, t The orientation and training ~~will~~ may cover the following items and will include all statutorily required training as determined by the Superintendent:

- Goals, objectives, and programs of the District.
- Personnel policies.
- Terms of employment.
- General disciplinary rules and procedures.
- Bullying prevention and reporting.
- Salary and fringe benefit plans.
- Self-improvement opportunities.
- The evaluation program and name(s) of evaluator(s).
- Handling of body fluids.

*Adopted:* date of manual adoption

LEGAL REF.: 22-35-1 *et seq.* NMSA  
6.11.2.10 NMAC  
29 U.S.C. 653  
42 U.S.C. 11301, McKinney-Vento Homeless Assistance  
Act of 2001, as amended by the Every Student  
Succeeds Act (ESSA) of 2015

CROSS REF.: GBEBB - Staff Conduct with Students  
GBGC - Employee Assistance  
JICD - Harassment / Bullying / Cyberbullying Prevention

JK - Student Discipline  
JLF - Child Abuse / Child Protection  
JLI - Student Safety

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# **Advisory 200**



## USE OF TECHNOLOGY RESOURCES IN INSTRUCTION

### **Appropriate Use of Electronic Information Services**

The District may provide electronic information services (EIS) to qualified students, teachers, and other personnel who attend or who are employed by the District. Electronic information services include networks (e.g., LAN, WAN, Internet), databases, and any computer-accessible source of information, whether from hard drives, tapes, compact disks (CDs), floppy disks, flash drives, memory cards or other electronic sources. The use of the services shall be in support of education, research, and the educational goals of the District. To assure that the EIS is used in an appropriate manner and for the educational purposes intended, the District will require anyone who uses the EIS to receive instruction in and follow its guidelines and procedures for appropriate use. Instruction in appropriate online behavior shall include how to interact with other individuals on social networking websites and in chat rooms and cyberbullying awareness and response. Anyone who misuses, abuses, or chooses not to follow the EIS guidelines and procedures will be denied access to the District's EIS and may be subject to disciplinary action.

Each user will be required to sign an EIS user agreement. The District may log the use of all systems and monitor all system utilization. Accounts may be closed and files may be deleted at any time. The District is not responsible for any service interruptions, changes, or consequences. The District reserves the right to establish rules and regulations as necessary for the efficient operation of the electronic information services.

The District does not assume liability for information retrieved via EIS, nor does it assume any liability for any information lost, damaged, or unavailable due to technical or other difficulties.

### **Web and Internet Publishing**

Documents created for the Web must have a purpose that falls within at least one of the following two categories: (1) Support of curriculum, instruction, and learning, and (2) Communication with parents and the community.

All information must accurately reflect the mission, goals, policies, program, and activities of the School District. All subject matter should relate to curriculum, instruction, and general information that is appropriate, or it should relate to activities of the District or the schools within the District.

### **Filtering and Internet Safety**

The District shall provide for technology protection measures that protect against Internet access by both adults and minors to visual depictions that are obscene, child pornography, or, with respect to use of the computers by students, harmful to students. The protective measures shall also include monitoring the online activities of students.

Limits, controls, and prohibitions shall be placed on student:

- Access to inappropriate matter.
- Safety and security in direct electronic communications.
- Unauthorized online access or activities.
- Unauthorized disclosure, use and dissemination of personal information.

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 are prohibited.

The Superintendent is responsible for establishing and enforcing the District's electronic information services guidelines and procedures for appropriate technology protection measures (filters), monitoring, and use.

*Adopted:*    date of manual adoption

LEGAL REF.:        22-35-1 *et seq.* NMSA  
                         20 U.S.C. 9134, The Children's Internet Protection Act  
                         47 U.S.C. 254, Communications Act of 1934 (The Children's  
   Internet Protection Act)

CROSS REF.:        EGD - Use of Technology in Office Services

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# **Advisory 201**

## STUDENT HARASSMENT / BULLYING / CYBERBULLYING PREVENTION

Harassment, bullying and cyberbullying are prohibited on school property:

- including electronic communication on or with the use of its property;
- at sponsored functions; and
- on its to-and-from-school transportation or transportation by the District to or from any school-sponsored event.

Electronic communication is prohibited if it is:

- directed at a student,
- published with the intent that it be seen by or disclosed to that student and others, and
- substantially interferes with the student's ability to participate in or benefit from the services, activities or privileges provided by the public school.

Anti-bullying and prevention shall be included as a part of the health education curriculum as set forth in the New Mexico Administrative Code and incorporated annually in the instruction for all students.

**Definitions** for purposes of this policy:

- "Harassment" means knowingly pursuing a pattern of conduct that is intended to annoy, alarm or terrorize another person.
- "Bullying" means any severe, pervasive or persistent act or conduct that targets a student, whether physically, electronically or verbally, and that:
  - 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
  - can be reasonably predicted to:

- ▲ place a student in reasonable fear of physical harm to the student's person or property;
  - ▲ cause a substantial detrimental effect on a student's physical or mental health;
  - ▲ substantially interfere with a student's academic performance or attendance; or
  - ▲ 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.
- "Cyberbullying" means any bullying that takes place through electronic communication.
- "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.
- "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.
- "Local school board" includes the governing body of a charter school.
- "Physical or cognitive disability" means a physical or cognitive impairment that substantially limits one or more of a student's major life activities.
- "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:
  - meeting with the student and the student's parents;
  - reflective activities, such as requiring the student to write an essay about the student's misbehavior;
  - counseling;
  - anger management;
  - health counseling or intervention;

- mental health counseling;
  - participation in skill-building and resolution activities, such as social-emotional cognitive skills building, resolution circles and restorative conferencing;
  - community service; and
  - in-school detention or suspension, which may take place during lunchtime, after school or during weekends.
- "Sexual orientation" means heterosexuality, homosexuality or bisexuality, whether actual or perceived."

### **Reporting and Investigation**

School employees and volunteers having significant contact with students shall complete training on how to recognize signs that a person is being harassed, bullied or cyberbullied and shall be responsible for reading and understanding this policy.

Any student, parent or person may report an allegation of bullying by contacting a school employee with information that will allow the administration to contact those who may be involved. A school employee who has information about or a reasonable suspicion that a person is being harassed, bullied or cyberbullied shall report immediately to the school principal, an administrator, the superintendent or any of these school officers. Retaliation for witnessing or reporting bullying is prohibited and the person initiating such retaliation is subject to disciplinary action. Reports of retaliation shall be made in the same manner as those for bullying.

The employee shall elicit from a student, parent or person the particulars determined by the Superintendent to be necessary for the allegation to be investigated. When the allegation is submitted in a manner other than on a prescribed form, the particulars of the allegation must be written on the form as immediately as possible after receipt by the employee. The employee may assist the student, parent or person in completing the information form or may enter the information needed from any provided verbal or other source. A student, parent or person making an allegation should sign and date the information provided, however, unsigned forms are to be processed in the same manner as signed forms. No formal disciplinary measures may be taken based solely upon an anonymously submitted complaint. A school staff member, support staff member or volunteer shall report behavior that falls within this policy, on the forms provided, upon becoming aware of such behavior.

When the school staff member receiving the information or observing the act is other than a school administrator, it shall be the responsibility of the staff member to inform a school administrator as soon as feasible, but not later than two (2) days after the staff member receives or observes the allegation of bullying. If a school administrator is included in the

allegation, the information shall be transmitted to the next higher administrative supervisor. A failure by the school staff member to timely inform the school administrator or next higher administrative supervisor of the allegation may subject the staff member to disciplinary action. The professional staff member shall preserve the confidentiality of the subject, disclosing it only to the appropriate school administrator or next higher administrative supervisor or as otherwise required by law.

The Superintendent shall designate a school administrator at each campus to investigate all reports of bullying and shall supervise the investigation of all reports of bullying. Any school administrator who receives a report of harassment, bullying, or cyberbullying shall take immediate steps to ensure a prompt investigation of the report and shall take prompt action in response to these acts upon confirmation of the occurrence through such investigation. Such action may include the least restrictive means necessary to address a hostile environment resulting from harassment, bullying or cyberbullying that may include:

- counseling;
- mediation;
- development of a student safety support plan for protection of the targeted student;
- discipline up to but not including expulsion (see "progressive discipline" in **Definitions** above).

Where disciplinary action is necessary, District policies and regulations pertaining to permissible penalties and procedures shall be followed as in policy. Reference policy JK for implementation of permissible penalties within the context of progressive discipline referent to all of the surrounding circumstances including:

- the nature of the incident;
- the developmental age of the student who is bullying as well as the student who has been bullied; and
- any history of problem behavior from the student who is bullying.

The district shall document reports and investigations of bullying by school and shall maintain those records for no less than four years making such reports as shall be necessary to both state and federal authorities.

To assure that students and staff are aware of its content and intent, a notice of this policy and procedure shall be:

- posted conspicuously in each school building;



- made a part of the student handbook in such form and such language as may provide the best understanding for the student and parent population ; and
- posted on the district web site.

Forms for submitting complaints are to be available to students, parents, other persons, and staff in the school offices.

Reports or investigative information relative to harassment, bullying and cyberbullying shall be maintained by staff and the District and shared only in accord with the Family Education Rights and Privacy Act and conforming District discipline and conduct policies. Records of investigation and reported information sufficient to meet both state and federal reporting requirements on these topics shall be maintained.

*Adopted:*    date of manual adoption

LEGAL REF.:        22-35-1 *et seq.* NMSA  
                          28-1-2    *et seq.* NMSA  
                          6.12.7.8 NMAC  
                          6.29.6.8 NMAC

CROSS REF.:        AC - Nondiscrimination/Equal Opportunity  
                          ACA - Sexual Harassment  
                          IJNDB - Use of Technology Resources in Instruction  
                          JB - Equal Educational Opportunities  
                          JIC - Student Conduct  
                          JII - Student Concerns, Complaints, and Grievances  
                          JK - Student Discipline  
                          JKD - Student Suspension/Expulsion  
                          JR - Student Records  
                          KE - Public Concerns and Complaints

## REGULATION

## REGULATION

**STUDENT HARASSMENT / BULLYING  
CYBERBULLYING PREVENTION**

Procedures When a school staff member receives the information regarding a suspected bullying offense, the staff member will transmit it to the school administrator not later than two (2) days following the day the staff member receives the information or observes the incident. If the incident involves the school administrator, the professional staff member shall forward the information to the next administrative level.

At a minimum, the school employee shall provide the identifying information on the suspected bullying offense in writing and with such specificity of names, places and times as to permit an investigation to be carried out by the administration. The written suspected bullying offense report should be signed by the person providing the information and the school employee. However, an anonymous report will be processed in the same manner as a signed form but no formal disciplinary measures may be taken based solely on the anonymous submission.

The staff member reporting the suspected offense shall preserve the confidentiality of the subjects, disclosing names only to the appropriate school administrator or next higher administrative supervisor, or as otherwise required. A failure by the staff member to timely inform the school administrator or next higher administrative supervisor of the allegation may subject the staff member to disciplinary action.

Investigation The incident will be investigated by the designated school administrator. Confidentiality of records and student information shall be observed in the process. The procedures to be followed are:

- An investigation of the reported suspected offense or activity shall be made within five (5) school days of the date of the report when school is in session or within fifteen (15) days during which the school offices are open for business when school is not in session. Extension of the time line may only be by necessity as determined by the Superintendent.
- The investigator shall prepare a written report of the findings and a copy of the report shall be provided to the Superintendent.
- The investigator shall initiate appropriate action pursuant to the investigation to safeguard the welfare of the targeted student and circumscribe any further actions by the perpetrator through proper disciplinary or informal means.

- The investigator shall meet with the student and parent of the student who is the target of the suspected offense at or before the end of the time period and shall discuss the conclusions and actions to be taken as a result of the investigation. Confidentiality of records and student information shall be observed in the discussion. If the investigating administrator believes from information gathered in his professional capacity that notifying the parents would endanger the health or well-being of the student, notification may be delayed as appropriate. Such action shall include:
  - notifying the parent telephonically, by e-mail, or in writing by mail or personal service;
  - providing the date, time and place for a meeting to be held with the student, parent and administrator;
  - identifying appropriate specialized supports needed to help the student; and
  - enlisting the parents' support in preventing further bullying,
- The investigator shall contact the parents of the student alleged to have committed the act as soon as possible to seek cooperation in alleviating the suspected bullying. Confidentiality of records and student information shall be observed in the process of making such contact. Such action shall include:
  - notify the parent telephonically, by e-mail, or in writing by mail or personal service;
  - providing the date, time and place for a meeting to be held with the parent and administrator;
  - Identifying appropriate specialized supports needed to help the student address the underlying causes of the actions with the parents;
  - establishing nonpunitive consequences for the student at the school level, if possible, considering the circumstances; and
  - apprising the student and the parent of the consequences of violations of student rules of conduct.

*Appeal* Upon conclusion of the investigation should either the student accused of bullying or the target of the bullying take exception to the outcome of the investigation, an appeal may be made to the Superintendent of schools in writing. The Superintendent will review the actions taken based upon the application of appropriate school policy and procedure. The Superintendent will review the report and procedures and may refer the actions for further consideration, affirm the action or make such changes as may be in accord with current policy and procedure. The determination of the Superintendent is final.

Where disciplinary action is necessary, District policies and regulations pertaining to permissible penalties and procedures shall be followed as in policy JIC, JK and JKD..

The district shall document reports and investigations of bullying by each school and shall maintain those records for no less than four years making such reports as may be required to the state and federal authorities.

EXHIBIT

EXHIBIT

**STUDENT HARASSMENT / BULLYING  
CYBERBULLYING PREVENTION**

(To be filed with the school administrator, the administrator's supervisor,  
or with the Superintendent)

*Additional pages may be attached if more space is needed.*

Targeted Student Name: \_\_\_\_\_  
\_\_\_\_\_

Date:

Grade : \_\_\_\_\_

Person or Persons alleged to be harassing, bullying, or  
cyberbullying:

\_\_\_\_\_

Specify the suspected offense by stating the problem as you see it. Describe the incident, the participants, the background to the incident, and any attempts you have made to solve the problem. Be sure to note relevant dates, times, people, and places.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date of the of the incident or offense(s): \_\_\_\_\_

Provide what you would expect as an outcome to the incident reported.

\_\_\_\_\_  
\_\_\_\_\_

If there is anyone who could provide more information regarding this, please list name(s), address(es), and telephone number(s).

Name

Address

Telephone Number

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I certify that this information is correct to the best of my knowledge.

\_\_\_\_\_  
Signature of Student/Parent/Other Person

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Staff Member  
Receiving Complaint

\_\_\_\_\_  
Date Received

\_\_\_\_\_  
Signature of Investigating Administrator

\_\_\_\_\_  
Date Signed

*The investigating administrator shall give one (1) copy to the Superintendent and retain one (1) copy for the file.*

## **Advisory 202**

## STUDENT DISCIPLINE

Parents, school personnel and students shall be involved in the development of policies, and public hearings before the Board shall be held during the formulation of these policies in the high school attendance areas within each district or on a district-wide basis for those districts that have no high school. The Superintendent shall prepare and recommend the final format of discipline policies and develop procedures for the discipline of students that comply with state laws and regulations. These policies and procedures will apply to all students traveling to, attending, and returning from school, and while visiting another school or at a school-sanctioned activity and may be imposed if the student's behavior affects the school order. When suspension or expulsion is involved, notice, hearing, and appeal procedures shall conform to applicable legal requirements.

Information concerning a student's disciplinary record will be held in the strictest confidence.

Disciplinary actions taken will be recorded in an administrative log, and all types of suspensions or expulsions will be recorded in a separate file for each student.

*Adopted:* date of manual adoption

LEGAL REF.: 22-35-3 NMSA (1978)  
22-5-4.3 NMSA (1978)  
6.11.2.7 NMAC  
6.11.2.8 NMAC  
6.11.2.9 NMAC  
6.11.2.10 NMAC  
6.11.2.11 NMAC  
6.11.2.12 NMAC

CROSS REF.: JIC - Student Conduct  
JKA - Corporal Punishment  
JKD - Student Suspension/Expulsion  
JR - Student Records



**REGULATION****REGULATION****STUDENT DISCIPLINE**

The following are prohibited activities:

- Criminal or delinquent acts;
- Gang related activity;
- Sexual harassment
- Disruptive conduct;
- Refusal to identify self; and
- Refusal to cooperate with school personnel; and,
- Harassment, bullying or cyberbullying

A student may be subject to disciplinary action when the student engages in the above or those below:

- Engages in conduct that is disorderly, i.e., intentionally causing public inconvenience, annoyance, or alarm, or recklessly creating a risk thereof, by:
  - Fighting or engaging in violent behavior.
  - Making unreasonable noise.
  - Using abusive or obscene language or gestures.
  - Obstructing vehicular or pedestrian traffic.
  - Creating a hazardous or physically offensive condition by any act that serves no legitimate purpose.
- Engages in conduct that is insubordinate, i.e., failing to comply with the lawful directions of a teacher, school administrator, or other school employee in charge of the student.
- Endangers the safety, morals, health, or welfare of others by any act, including but not limited to:

- Selling, distributing, using, or possessing alcohol, drugs, or other controlled substances or drug paraphernalia;
  - Selling, distributing, using, or possessing weapons, fireworks, or other dangerous instruments or contraband;
  - Selling, using, or possessing obscene materials;
  - Using profane, vulgar, or abusive language (including ethnic slurs);
  - Gambling;
  - Hazing;
  - Engaging in lewd behavior;
  - Engaging in harassing, cyberbullying or bullying of another student.
- Engages in any of the following forms of academic misconduct:
    - Lateness for, missing, or leaving school or class without permission or excuse;
    - Cheating (including but not limited to copying, using unauthorized assistance in any form ~~help sheets and the like~~, illegally obtaining tests in advance, substituting for a test-taker, and other forms of unauthorized collusion);
    - Plagiarism.
  - Engages in conduct violative of the Board's rules and regulations for the maintenance of public order on school property.
  - Uses 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.
  - Has a record of excessive absenteeism.
  - Is believed to have or actually has committed a crime.

Reasonableness of use of physical force in self-defense, defense of others, and defense of property will be considered as a mitigating factor in determining penalties for misconduct. The threat or use of physical force by a student is not reasonable (i) when made in response to verbal provocation alone, (ii) when assistance from a school staff member is a reasonable alternative, or (iii) when the degree of physical force used is disproportionate to the

circumstances or exceeds that necessary to avoid injury to oneself or to others or to preserve property at risk.

### **Permissible Penalties**

The range of penalties that may be imposed for violations of student discipline rules include, but are not limited to, the following:

- Parent-student disciplinary conference.
- Directed reflective activities.
- Anger management training referral.
- Verbal warning.
- Written warning.
- Written notification to parents.
- Probation.
- Detention.
- Suspension from transportation.
- Suspension from athletic participation.
- Suspension from social or extracurricular activities.
- Suspension of other privileges.
- Exclusion from a particular class.
- In-school suspension.
- Involuntary transfer.
- Community service.
- Suspension.
- Expulsion.

Depending upon the nature of the violation, and the surrounding circumstances, student discipline may be progressive, i.e., generally, a student's first violation should merit a lighter penalty than subsequent violations. A District employee or agent should take into account all

other relevant factors in determining an appropriate penalty. The above penalties may be imposed either alone or in combination.

### **Student Disciplinary Proceeding**

Any ~~teacher, administrator, Board member, parent, student~~ or other person may report a violation of student disciplinary rules to ~~an~~ school staff member or administrator. The employee will then report this to an administrator who ~~The administrator~~ will then make an investigation of the charges as deemed appropriate and will institute appropriate proceedings.

This information for the maintenance of public order on school property will be publicized on the district web site, in student handbooks and explained to all students and provided in writing to parents as requested. In order to promote effectiveness of student discipline, the assistance of parents in enforcing rules for student discipline shall be invited and encouraged.

### **Involving Staff Members**

The principal is responsible for involving staff members of the school in the development of a positive plan for student discipline. All staff members are responsible for implementing the plan of student discipline for the school.

## RELEVANT STATUTES, RULES AND CITATIONS

**Please be aware that the formatting on the citation is not as intended by the Compilation Commission web site because of the method of transfer. You may find the citation at <https://nmonesource.com/nmos/en/nav.do> , enter 22-35-1**

### **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".

**History:** Laws 2019, ch. 181, § 1.

## **ANNOTATIONS**

**Effective dates.** — Laws 2019, ch. 181, § 7 made Laws 2019, ch. 181 effective July 1, 2019.

### **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.

**History:** Laws 2019, ch. 181, § 2.

### **ANNOTATIONS**

**Effective dates.** — Laws 2019, ch. 181, § 7 made Laws 2019, ch. 181 effective July 1, 2019.

#### **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.

**History:** Laws 2019, ch. 181, § 3.

### **ANNOTATIONS**

**Effective dates.** — Laws 2019, ch. 181, § 7 made Laws 2019, ch. 181 effective July 1, 2019.

#### **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.

**History:** Laws 2019, ch. 181, § 4.

### **ANNOTATIONS**

**Effective dates.** — Laws 2019, ch. 181, § 7 made Laws 2019, ch. 181 effective July 1, 2019.

#### **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.

**History:** Laws 2019, ch. 181, § 5.

### **ANNOTATIONS**

**Effective dates.** — Laws 2019, ch. 181, § 7 made Laws 2019, ch. 181 effective July 1, 2019.

