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HOUSE BILL 43

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

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AN ACT

RELATING TO PUBLIC EDUCATION; ENACTING THE BLACK EDUCATION ACT;
CREATING A DEPARTMENT LIAISON; CREATING AN ADVISORY COUNCIL;
PROVIDING POWERS AND DUTIES; REQUIRING RACIAL SENSITIVITY AND
ANTI-RACISM TRAINING OR PROFESSIONAL DEVELOPMENT FOR SCHOOL
PERSONNEL; REQUIRING THE PUBLIC EDUCATION AND HIGHER EDUCATION
DEPARTMENTS TO COOPERATE IN DEVELOPING PROGRAMS, CURRICULA AND
INSTRUCTIONAL MATERIALS THAT RECOGNIZE AND TEACH BLACK CULTURE
AND ANTI-RACISM AND TO IMPROVE JOB OPPORTUNITIES FOR BLACK
PEOPLE IN PUBLIC AND HIGHER EDUCATION; REQUIRING AN ANNUAL
STATEWIDE STATUS REPORT; MAKING AN APPROPRIATION.

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

SECTION 1. A new section of the Public School Code is
enacted to read:

"[NEW MATERIAL] SHORT TITLE.--Sections 1 through 7 of this

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1 act may be cited as the "Black Education Act".

2 SECTION 2. A new section of the Public School Code is
3 enacted to read:

4 "[NEW MATERIAL] DEFINITIONS.--As used in the Black
5 Education Act:

6 A. "council" means the Black education advisory
7 council; and

8 B. "liaison" means the Black education liaison."

9 SECTION 3. A new section of the Public School Code is
10 enacted to read:

11 "[NEW MATERIAL] BLACK EDUCATION ADVISORY COUNCIL
12 APPOINTED.--

13 A. The "Black education advisory council" is
14 created as an advisory council to the secretary. The secretary
15 shall appoint no more than twenty-three members to the council
16 who are knowledgeable about and interested in the education of
17 Black students, including representatives of public schools;
18 post-secondary education and teacher preparation programs;
19 parents; the office on African American affairs; Black
20 cultural, community and business organizations; other community
21 and business organizations; and other interested persons. The
22 secretary shall give due regard to geographic representation.
23 Members shall serve at the pleasure of the secretary.

24 B. The council shall elect a chair and such other
25 officers as it deems necessary.

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1 C. The council shall meet as necessary, but at
2 least twice each year.

3 D. Members of the council are entitled to receive
4 per diem and mileage but shall receive no other compensation,
5 perquisite or allowance for their service on the council."

6 SECTION 4. A new section of the Public School Code is
7 enacted to read:

8 "[NEW MATERIAL] COUNCIL DUTIES.--The council shall advise
9 the secretary, school districts and charter schools on matters
10 related to improving public school education for Black
11 students, increasing parent involvement and community
12 engagement in the education of Black students and increasing
13 the number of Black high school graduates who succeed in
14 post-secondary academic, professional or vocational education."

15 SECTION 5. A new section of the Public School Code is
16 enacted to read:

17 "[NEW MATERIAL] BLACK EDUCATION LIAISON CREATED--DUTIES.--

18 A. The "Black education liaison" is created in the
19 department.

20 B. The liaison shall:

21 (1) focus on issues related to Black education
22 and advise the secretary and the council on the development and
23 implementation of public policy regarding the education of
24 Black students;

25 (2) advise the department and the commission

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1 on the development and implementation of the five-year
2 strategic plan for public elementary and secondary education in
3 the state as the plan relates to Black student education;

4 (3) assist and be assisted by other staff in
5 the department and in the higher education department to
6 improve elementary, secondary and post-secondary educational
7 outcomes for Black students;

8 (4) maintain and update information on the
9 department's website or a separate website that includes:

10 (a) links to school district and charter
11 school hotlines for reporting racially charged incidents;

12 (b) links to the department's Black
13 education white papers as well as other pertinent research; and

14 (c) information on and links to
15 historically Black colleges and universities;

16 (5) serve as a resource to enable school
17 districts and charter schools to provide equitable and
18 culturally relevant learning environments, educational
19 opportunities and culturally relevant instructional materials
20 for Black students enrolled in public schools;

21 (6) support and consult with the council; and

22 (7) support school districts and charter
23 schools to recruit parents on site-based and school district
24 committees that represent the ethnic diversity of the
25 community."

1 SECTION 6. A new section of the Public School Code is
2 enacted to read:

3 "[NEW MATERIAL] ADDITIONAL DUTIES OF LIAISON AND COUNCIL--
4 REPORT TO SECRETARY AND OTHERS.--

5 A. As part of their duties pursuant to the Black
6 Education Act, the liaison and the council shall study and
7 prepare white papers on current research on methods and
8 practices that will improve educational outcomes and school
9 experiences for Black students by:

10 (1) identifying best practices for
11 strengthening educational outcomes for Black students;

12 (2) addressing the Black student achievement
13 gap in a holistic and systemic manner that includes clearly
14 articulated measures to improve public education for Black
15 students that result in substantially improved graduation
16 rates, college or career readiness and higher education
17 completion rates at the undergraduate and graduate levels;

18 (3) combating discrimination and racism in the
19 public school system, including creating and sustaining
20 equitable and culturally responsive learning environments;

21 (4) recommending curricula and instructional
22 materials that include the history and culture of Black people
23 in America; and

24 (5) providing mechanisms for parents,
25 community and business organizations, public schools, public

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1 post-secondary educational institutions and state and local
2 policymakers to work together to improve educational
3 opportunities for Black students.

4 B. The liaison and advisory council shall develop
5 or recommend anti-racism and cultural sensitivity training and
6 professional development programs for all school personnel.

7 C. The department, through the liaison and advisory
8 council, shall establish a formal cooperative relationship with
9 the higher education department and public post-secondary
10 educational institutions in the state to help:

11 (1) improve the education of Black students in
12 the kindergarten through sixteen educational system in New
13 Mexico, including the recruitment and retention of Black
14 teachers, educational support providers, faculty and
15 educational and administrative leaders in the system; and

16 (2) improve teacher preparation programs by
17 recruiting Black students and including curricula that
18 demonstrate cultural awareness and sensitivity to matters of
19 race and promote anti-racism.

20 D. White papers shall be submitted to the
21 secretary, the commission, the governor, the legislature,
22 school districts, charter schools, the higher education
23 department, public post-secondary educational institutions and
24 interested persons."

25 SECTION 7. A new section of the Public School Code is

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1 enacted to read:

2 "[NEW MATERIAL] BLACK EDUCATION STATEWIDE STATUS REPORT.--

3 A. The department, in collaboration with the higher
4 education department, shall submit an annual preschool through
5 post-secondary statewide Black education status report no later
6 than November 15 to the governor and the legislature through
7 the legislative education study committee. A copy shall be
8 provided to the legislative library in the legislative council
9 service.

10 B. The status report shall include the following
11 information, by school district, by charter school and
12 statewide, which may be compiled from data otherwise required
13 to be submitted to the department, and which is disaggregated
14 by ethnicity and highlights Black student data:

15 (1) ethnicity by grade by school;

16 (2) number and type of bilingual and
17 multicultural programs in each school district and charter
18 school;

19 (3) attendance and truancy for all grades;

20 (4) student achievement by ethnicity at all
21 grades measured by a statewide test approved by the department;
22 and

23 (5) graduation rates by ethnicity.

24 C. The status report shall include the following
25 information, by public post-secondary educational institution,

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1 which may be compiled from data otherwise required to be
2 submitted to the higher education department, and which is
3 disaggregated by ethnicity and highlights Black student or
4 faculty data:

5 (1) enrollment by institution and by main or
6 branch campus, if applicable;

7 (2) student retention by class;

8 (3) student completion rates;

9 (4) degrees or certificates earned by
10 ethnicity;

11 (5) faculty hired in tenure-track positions by
12 ethnicity;

13 (6) adjunct faculty hired by ethnicity;

14 (7) number of tenured faculty by ethnicity;

15 and

16 (8) faculty or administration leadership
17 positions by ethnicity."

18 SECTION 8. Section 22-5-4.3 NMSA 1978 (being Laws 1986,
19 Chapter 33, Section 9, as amended) is amended to read:

20 "22-5-4.3. SCHOOL DISCIPLINE POLICIES--RACIAL SENSITIVITY
21 AND ANTI-RACISM TRAINING--HOTLINE FOR REPORTING RACIALLY
22 CHARGED INCIDENTS AND RACIALIZED AGGRESSION INVOLVING STUDENTS
23 OR SCHOOL PERSONNEL--STUDENTS MAY SELF-ADMINISTER CERTAIN
24 MEDICATIONS.--

25 A. Local school boards shall establish student

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1 discipline policies and shall file them with the department.
2 The local school board shall involve parents, school personnel
3 and students in the development of these policies, and public
4 hearings shall be held during the formulation of these policies
5 in the high school attendance areas within each school district
6 or on a district-wide basis for those school districts that
7 have no high school.

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

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

23 D. All school discipline policies shall define and
24 include a specific prohibition against racialized aggression
25 involving a student or school personnel. Every school district

1 and every charter school shall have a hotline to report
2 racially charged incidents or racialized aggression.

3 ~~[D-]~~ E. No school employee who in good faith
4 reports any known or suspected violation of the school
5 discipline policy or in good faith attempts to enforce the
6 policy shall be held liable for any civil damages as a result
7 of such report or of the employee's efforts to enforce any part
8 of the policy.

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

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

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

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

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

6 ~~[F.]~~ G. The parent of a student who is allowed to
7 carry and self-administer asthma medication and emergency
8 anaphylaxis medication may provide the school with backup
9 medication that shall be kept in a location to which the
10 student has immediate access in the event of an asthma or
11 anaphylaxis emergency.

12 ~~[G.]~~ H. Authorized school personnel who in good
13 faith provide a person with backup medication as provided in
14 this section shall not be held liable for civil damages as a
15 result of providing the medication."

16 **SECTION 9.** A new section of the School Personnel Act is
17 enacted to read:

18 "[NEW MATERIAL] ANTI-RACISM AND RACIAL SENSITIVITY
19 TRAINING AND PROFESSIONAL DEVELOPMENT.--Each year, all school
20 personnel shall successfully complete an online anti-racism,
21 racial awareness and sensitivity training or professional
22 development approved by the department that addresses race,
23 racism and racialized aggression and demonstrates how to create
24 and foster an equitable and culturally responsive learning
25 environment for racial minority students."

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1 **SECTION 10. APPROPRIATION.**--Two hundred thousand dollars
2 (\$200,000) is appropriated from the general fund to the public
3 education department for expenditure in fiscal years 2022 and
4 2023 to carry out the purposes of the Black Education Act. Any
5 unexpended or unencumbered balance remaining at the end of
6 fiscal year 2023 shall revert to the general fund.

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