

1 SENATE BILL 528

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

4 Gerald Ortiz y Pino

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10 AN ACT

11 RELATING TO PUBLIC EDUCATION; AMENDING SCHOOL DISCIPLINE POLICY
12 REQUIREMENTS; SEPARATING SCHOOL DISCIPLINE POLICY REQUIREMENTS
13 FROM THE REQUIREMENTS FOR STUDENT SELF-ADMINISTRATION OF
14 CERTAIN MEDICATIONS.

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 22-5-4.3 NMSA 1978 (being Laws 1986,
18 Chapter 33, Section 9, as amended) is amended to read:

19 "22-5-4.3. [~~SCHOOL DISCIPLINE POLICIES~~] STUDENTS MAY
20 SELF-ADMINISTER CERTAIN MEDICATIONS--LIMITATION OF LIABILITY.--

21 [~~A. Local school boards shall establish student~~
22 ~~discipline policies and shall file them with the department.~~
23 ~~The local school board shall involve parents, school personnel~~
24 ~~and students in the development of these policies, and public~~
25 ~~hearings shall be held during the formulation of these policies~~

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1 ~~in the high school attendance areas within each school district~~
2 ~~or on a district-wide basis for those school districts that~~
3 ~~have no high school.~~

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

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

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

24 ~~E.] A.~~ All public school and school district
25 [discipline] policies shall allow students to carry and self-

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1 administer asthma medication and emergency anaphylaxis
2 medication that has been legally prescribed to the student by a
3 licensed health care provider under the following conditions:

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

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

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

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

21 [~~F.~~] B. The parent of a student who is allowed to
22 carry and self-administer asthma medication and emergency
23 anaphylaxis medication may provide the school with backup
24 medication that shall be kept in a location to which the
25 student has immediate access in the event of an asthma or

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1 anaphylaxis emergency.

2 ~~[G-]~~ C. Authorized school personnel who in good
3 faith provide a person with backup medication as provided in
4 this section shall not be held liable for civil damages as a
5 result of providing the medication."

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

8 "[NEW MATERIAL] SCHOOL DISCIPLINE POLICIES.--

9 A. Each local school board and governing body of a
10 charter school shall establish a student discipline policy.
11 For the development of a new or revised school discipline
12 policy, the local school board or governing body shall seek
13 input from parents, school personnel and students and hold a
14 public hearing in the high school attendance area of the school
15 district or on a district-wide basis if there is no high school
16 in the school district. The local school board or governing
17 body shall file the discipline policy with the department.

18 B. Each school district discipline policy shall
19 establish rules of conduct governing areas of student and
20 school activity, specify prohibited acts and activities and
21 enumerate possible behavior intervention measures, such as
22 counseling or mentoring, and possible disciplinary actions,
23 such as in-school suspension, school service, suspension,
24 expulsion or alternative measures. Corporal punishment shall
25 be prohibited by each local school board and each governing

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1 body of a charter school.

2 C. Each school district or charter school
3 discipline policy shall:

4 (1) incorporate research-based behavior
5 intervention measures, positive behavioral supports and
6 disciplinary strategies proven to improve the behavior of
7 students and reduce the incidence of disciplinary actions;

8 (2) offer alternatives to long-term
9 suspension, expulsion or referral to law enforcement agencies,
10 except where those alternatives would pose a substantial threat
11 to school safety;

12 (3) not require the reporting of petty acts of
13 misconduct and misdemeanors to law enforcement agencies; and

14 (4) require prospective disciplinary actions
15 to be taken on a case-by-case basis, taking into account the
16 particular student, the student's history and the circumstances
17 of the student's acts or omissions, including but not limited
18 to whether:

19 (a) there have been prior incidents
20 involving the student;

21 (b) each alleged school discipline
22 policy violation was accidental, mistaken or involuntary; and

23 (c) the student has been identified or
24 could qualify as a student with disabilities eligible for
25 accommodations or special education.

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1 D. By May 30 of each year, each school district and
2 charter school shall submit a report to the department that
3 includes:

4 (1) the number of arrests, citations and
5 referrals to the children, youth and families department that
6 law enforcement officers, security guards, school resource
7 officers and school personnel made for any alleged offense on
8 school property;

9 (2) the alleged offenses on school property
10 for which students were arrested, cited or referred to the
11 children, youth and families department; and

12 (3) for students arrested, cited or referred
13 to the children, youth and families department for alleged
14 offenses on school property, statistics categorized by offense
15 and:

16 (a) age;
17 (b) race;
18 (c) gender; and
19 (d) if applicable, special education
20 eligibility category.

21 E. To promote equal treatment of all youth in New
22 Mexico, each year the department shall review the information
23 reported by the school districts and charter schools and
24 present to the legislative education study committee a report
25 analyzing whether there is a disparate impact on students who

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1 are arrested, cited or referred to the children, youth and
2 families department for alleged offenses based on the age,
3 race, gender or special education eligibility of such students.

4 F. Each local school board or governing body shall
5 enter into an agreement with its local county sheriff's office,
6 local police department and the juvenile justice division of
7 the children, youth and families department that shall be filed
8 with the public education department, made available to the
9 public and:

10 (1) require, at a minimum, that if the local
11 school board uses school resource officers, all school resource
12 officers must complete police academy basic training and
13 specific training on the:

14 (a) role of the school resource officer
15 in the school setting;

16 (b) requirements of the federal
17 Individuals with Disabilities Education Act as it relates to
18 school discipline;

19 (c) use of research-based strategies and
20 positive behavioral supports proven to decrease the number of
21 disciplinary referrals;

22 (d) research-based techniques and best
23 practices for interviewing children; and

24 (e) requirements of the Children's Code;

25 (2) include a specific complaint process,

1 available to any student taken into custody by a law
2 enforcement agency or referred to the children, youth and
3 families department for an alleged delinquent act that occurs
4 on a school campus, to file a formal complaint with the school
5 district or charter school, the public education department,
6 the law enforcement agency and the juvenile justice division of
7 the children, youth and families department concerning any
8 alleged misconduct by law enforcement or school resource
9 officers;

10 (3) specify the circumstances under which
11 school personnel or school resource officers are permitted or
12 required to handle school disciplinary incidents without filing
13 a report with a law enforcement agency; and

14 (4) specify the circumstances under which
15 school personnel or school resource officers are permitted or
16 required to report incidents to a law enforcement agency.

17 G. An individual school within a school district
18 may establish its own school discipline policy to supplement
19 the school district's school discipline policy, provided that
20 parents, school personnel and students are involved in its
21 development, a public hearing is held in the school prior to
22 its adoption to receive public input, the local school board
23 approves the policy and the policy is provided to students and
24 parents at the beginning of the school year.

25 H. No school employee who in good faith reports any

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1 known or suspected violation of the school discipline policy or
2 in good faith attempts to enforce the policy shall be held
3 liable for any civil damages as a result of such report or of
4 the employee's efforts to enforce any part of the policy."

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