

POLICY SERVICES

ADVISORY

Volume 10, Number 1

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Introductory Comments

The following advisories, information and discussions are regarding legislation passed by the legislature and signed by the governor following the 2013 legislative session. A large part of the legislation affecting school districts during this legislative session concerned procurement. Procurement is circumscribed by many specific and detailed statutes and parts of the administrative code. School districts should maintain an up to date copy of the procurement code contents and the requirements as expressed in the New Mexico Administrative code and pamphlets (PSAB) or circulars by the School Budget & Finance Analysis Bureau. Procurement is spoken to in School Board Policy by code reference but because procurement has its own set of specific guidelines, districts should maintain a

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written set of procedures within the procurement office (internal guidelines) subject to modification as the Public Education Department and its bureaus provide such changes.

Policy advisory discussion.

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IHBCA—Programs for Pregnant / Parenting Students

House Bill 300 added a new section of Chapter 22, Article 12 NMSA 1978, yet to be codified that provides excused absences and opportunities for make up work for pregnant and parenting students with documented pregnancies, and absences of a parenting student caring for the student's child who is under the age of thirteen. Districts have a policy in place that with an additional sentence will call attention to the legal citations and cross references of the policy. Administrators and attendance personnel can use the legal and cross references to find and implement the excused absences and make up work indicated by the new statute as found in new policy JIE- Pregnant / Parenting Student.

Policy Advisory No. 99

JIE—Pregnant / Parenting Student

House Bill 300 added a new section of Chapter 22, Article 12 NMSA 1978, yet to be codified, that provides excused absences for pregnant and parenting students for documented pregnancies, birth of a student's child, and absences of a parenting student caring for the student's child who is under the age of thirteen. It also provides for reasonable make up of work missed during those absences.

The Legislature, by mandating four days per semester of excused absence in addition to the number of excused absences for all students may have complicated both the truancy policies and attendance policies referring to minimum requirements for both course attendance and credit. Legal references and cross references at the bottom of the policy were added to assist in processing these types of absences. The cross references are to other policies that may need to be consulted when implementing the new laws.

Districts need to make attendance officers aware of the exception to attendance requirements given specifically to the Pregnant / Parenting Student. It will also be necessary to consult with the truant officer or office responsible for truancy enforcement to coordinate the implementation of this new legislation.

Policy Advisory No. 100

JJIB—Interscholastic Sports

Note: This material is written for informational purposes only, and not as legal advice. You may wish to consult an attorney for further explanation.

In review of policies related to Senate Bill 302 and allowing home schooled students to enroll in public school classes, it was noted that the Interscholastic Sports policy JJIB related to home schooled students participation needs updating to indicate that home school students may participate, if they meet eligibility requirements, in up to three activities per 22-8-23.8 NMSA 1978. This minimal change has been made to the policy and included in this advisory.

Important information regarding Bills approved in the 2013 legislative session.

In the legislative session just concluded there were several bills that rose to the level of important changes for school districts but which do not require policy modification in the district Policy Manual. In order of presentation they are Senate Bills 182, 443 and 464. Most of these bills are intended to implement changes in contracting and procurement, a field in which most activities are circumscribed by State statutes and Administrative Code leaving little or no room for the Board to exercise policy making authority.

Senate Bill 182 revises Section 13-1-98 EXEMPTIONS FROM THE PROCUREMENT CODE; Section 13-1-126 SOLE SOURCE PROCUREMENT; Section 13-1-127 EMERGENCY PROCUREMENT; Section 13-1-128 SOLE SOURCE AND EMERGENCY PROCUREMENT—PUBLICATION OF AWARD TO AGENCY WEB SITE AND SUNSHINE PORTAL; Section 13-1-199 PENALTIES, requiring additional procedures for sole source and emergency procurement, restricting who may make emergency procurements, and adding two (2) new sections to the procurement code by expanding who may protest a procurement award and requiring maintenance for three years of all records relating to the award of a contract through sealed bid or competitive sealed proposal process.

The School District procurement office should read the attached Senate Bill 182 and prepare internal procedures accordingly.

Senate Bill 302 relating to Home School Student enrollment in one or more classes. *This is a funding issue and no policy change is required.* This bill enacts a new section of the Public School Finance Act which makes an exception to 22-8-2 NMSA 1978 defining a qualified student as one who is regularly enrolled in one-half or more of the minimum course requirements approved by the Public Education Department for public school students. It permits home schooled students to take

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one or more classes in a public school of residence and authorizes home school student program units be paid to the school district. Program units are determined by the cost differential factor of 0.25 per class per student up to the enrollment required for the student to meet the definition of "qualified student" per 22-8-2 NMSA 1978.

Senate Bill 443 relating to procurement, provides that on or before January 1 of each year beginning in 2014 and every time a chief procurement officer is hired thereafter, the public body shall provide to the state purchasing agent the name of the public body's chief procurement officer. Further, on and after January 1, 2015, only certified chief procurement officers (certified by the state purchasing agent) may make determinations regarding exemptions to the Procurement Code; issue purchase orders and authorize small purchases pursuant to the Procurement Code; and approve procurement pursuant to the Procurement Code with the following *exception*. Persons using procurement cards may continue to issue purchase orders and authorize small purchases.

The Bill provides that all procurement for local public bodies shall be performed by a central purchasing office designated by the governing authority of the local public body except as otherwise provided in the Procurement Code. *From this statute and that of the Superintendent's hiring statute it would appear that the Local Board designates the membership and titles of the central purchasing office while the Superintendent hires the persons staffing such an office.*

The district should read Senate Bill 443 as attached and implement internal procedures to comply with the requirements.

Senate Bill 464 was a brief but important bill which for the 2013-2014 school year allows the Secretary of Public Education to waive requirements of the Public School Code and rules promulgated in accordance with that code. The areas that may be waived are:

1. Individual class load
2. Teaching load
3. Length of school day
4. Staffing patterns
5. Subject areas
6. Purchases of instructional materials.

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This temporary provision of Section 22-1-10 NMSA 1978 was provided to give flexibility to meet state fiscal solvency requirements and goes far beyond the current provision in 22-2-2.1 and 22-5-14 NMSA 1978 permitting waiver of Administrative Code rules.

Policy Services suggests school districts relate these areas to budget limitations and request waivers through the Secretary of Public Education as needed.

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IHBCA

**PROGRAMS FOR PREGNANT /
PARENTING STUDENTS**

Pregnant students should have the same educational opportunities as their peers. Such students may also need additional counseling and health services that are available through the public schools.

Pregnant students may elect to remain in the regular school program and shall not be involuntarily excluded from any part of the school program, provided, however, that reasonable safeguards are maintained both for the school's and the student's best interests.

Pregnant students shall notify school authorities of their status as soon as it is ascertained. Pregnant and parenting students shall be permitted additional excused absences for such purposes in accord with policy and statute. The Superintendent will establish procedures as necessary to implement this policy.

Parenting students shall not bring their children to school during the regular school day. Student's children will only be permitted in specified classes when requested by an instructor with the approval of the building administration. They are not to be in any other area of the school campus.

Adopted: date of manual adoption

LEGAL REF.: 22-12-2 NMSA (1978)
22-12-8 NMSA (1978)
22-12- NMSA (1978)

CROSS REF.: AD - Educational Philosophy/School District Mission
JIE - Pregnant / Parenting Student
IHBF - Homebound Instruction

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JIE

**PREGNANT / PARENTING
STUDENT**

A pregnant or parenting student (parenting a child under thirteen years of age) may be permitted excused absences for the pregnancy and for limited parenting purposes along with the opportunity to make-up work missed during the absence, provided the student communicates the pregnancy and parenting status to the appropriate school personnel.

- Ten days of excused absences will be permitted for a student who provides documentation of the birth of the student's child and additional days of excused absence shall be permitted if deemed medically necessary by the student's physician for the pregnancy or care of the birthed child and reported to the school attendance office.
- Four days per semester of excused absences, in addition to the number of allowed absences for all students (see cross referenced policies below) shall be permitted for students who provide appropriate documentation of pregnancy or that the student is the parent of a child under the age of thirteen needing care.
- Additionally, the pregnant or parenting student shall be allowed at least a time period to make up the work the student missed that equals the number of days the student was absent.

The school district shall provide a copy of this policy to all students in middle, junior high and high schools in the system.

Adopted: date of manual adoption

LEGAL REF.: 22-12-2 NMSA (1978)
22-12-8 NMSA (1978)
22-12- NMSA (1978)

CROSS REF.: IHBF - Homebound Instruction
IKEA - Make Up Opportunities
JE - Student Attendance
JHB - Truancy
JIE - Pregnant/Parenting Student

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JJIB

INTERSCHOLASTIC SPORTS
(School Athletic Activities)

General

School athletic activity means a sanctioned middle school, junior or senior high school function that the New Mexico activities association regulates.

The purpose of school athletic activities is both educational and recreational. The school sports program should encourage participation by as many students as possible and should always be conducted with the best interests of the participants as the first consideration. Districts shall provide comparable athletic opportunity in school athletic activities for both sexes. The district has the option of prohibiting participation by both sexes on the same team, where comparable or separate athletic opportunity exists for both sexes.

District participation in school athletic activities shall be subject to approval by the Board. This shall include approval of membership in any leagues, associations, or conferences, and of any new agreements with other schools for a series of games or events.

The following rules shall be observed for participation by individual students:

- For each type of sport in which the student engages, the parents or guardian must give written consent.
- The student must be determined by a physician to be physically fit for the sport.
- Before participation in school athletic activities, a brain injury information form shall be provided to a student athlete and the student athlete's parent or guardian. The school district shall receive signatures on the brain injury information form from the student athlete and the student athlete's parent or guardian before allowing participation in school athletics.
- The student must obtain or have catastrophic health or accident insurance.

The Superintendent shall set up other rules for participation, such as those governing academic standing, in accordance with policies of the District and

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pertinent regulations and recommendations of the state interscholastic athletic association.

Charter School Student Participation

Charter school students in grades seven (7) through twelve (12) may participate in School District extracurricular activities sanctioned by the New Mexico Activities Association in the School District attendance zone in which the student lives (participating in only one [1] public school program) if they meet eligibility requirements other than enrollment and if the charter school does not offer such activities sanctioned by the New Mexico Activities Association.

Home School Student Participation

Home school students may participate in ~~one~~ three (± 3) School District athletic activities sanctioned by the New Mexico Activities Association in the School District attendance zone in which the student lives if they meet the eligibility requirements other than enrollment in the school.

Health and Safety of Participants

The health and safety of participants in interscholastic athletic activities must receive careful consideration. Participants must be provided access to water at all times during practice sessions, games, or other interscholastic athletic activities.

A coach shall not allow a student athlete to participate in a school athletic activity on the same day a coach, a school official or a student athlete reports, observes or suspects that a student athlete exhibits signs, symptoms or behaviors consistent with a brain injury or has been diagnosed with a brain injury.

A coach may allow a student athlete who has been prohibited from participating in a school athletic activity to participate in a school athletic activity no sooner than one (1) week after the student athlete has received a brain injury and only after the student athlete:

- no longer exhibits any sign, symptom or behavior consistent with a brain injury; and
- receives a medical release from a licensed health care professional.

Each school athletic activities coach is required to have training on brain injury recognition and follow-up provided by the New Mexico activities association.

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The Superintendent shall require that regulations for health and safety of participants in school athletic activities be developed, implemented, and enforced. Such regulations may, at the discretion of the Superintendent, be incorporated into this policy as an administrative regulation.

Adopted: date of manual adoption

LEGAL REF.: 22-2-2 NMSA (1978)
22-8-18 NMSA (1978)
22-8C-8 NMSA (1978)
22-8-23.8 (1978)
22-13-31 NMSA (1978)
22-31-1 et seq. NMSB (1978)
6.13.4.8 NMAC

CROSS REF.: JJJ - Extracurricular Activity Eligibility
JLCA- Physical Examination of Students

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Relevant Bills and Statutory or Regulatory Information

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Introductory Comments

The following advisories and discussions are regarding legislation passed by the legislature and signed by the Governor following the 2013 legislative session. The first three of the advisories refer to the Inspection of Public Records Act (IPRA) change from making a school board agenda available twenty-four (24) hours before a Board meeting to making the agenda available seventy-two (72) hours before a Board meeting. Keep in mind as you read the changes to each policy that an agenda specifies the items to be discussed and the actions to be taken at a Board meeting while notice of the meeting is simply to inform the public that a meeting will be held on a certain date and at a certain time.

Policy advisory discussion

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Policy Advisory No. 101

BE—School Board Meetings

Policy BE contains the Boards determination of the date of the required monthly meeting which is published in the annual records notice. Providing this information, designating a date certain throughout the year, is one way of satisfying the notice in a manner which is consistent and memorable. Each district should make sure the blank is completed to contain the date of the monthly meeting(s). This is usually stated, for example, as the third Tuesday of the month or some such previously determined date.

House bill 21 of the 2013 regular legislative session, modifies Section 10-15-1 (F) NMSA of the Inspection of Public Records Act (IPRA) by requiring an agenda be posted seventy-two (72) hours before a Board meeting on the Board's web site, if there is one, instead of the current requirement of twenty-four (24) hours. In addition to the change in posting the agenda, the change to 10-15-1 (F) NMSA requires a report to the attorney general's office in case of action taken at an emergency meeting and the emergency circumstances that caused the meeting, defining an emergency meeting. The underlined and strike over words indicate these change.

A new heading, shown as underlined, was added for emergency meetings. In the past an emergency meeting was handled like any special Board meeting. With the addition of the requirement to report emergency meeting actions and causes to the attorney general's office, a separate heading was added to the policy to emphasis the changes to an emergency meetings. The normal notice and posting of an agenda along with the requirement of discussing only agenda items is not required when the Board declares an emergency in accord with the statutory definition. Notice and posting an agenda twenty-four (24) hours prior to the meeting is expected unless the emergency precludes such notice.

Policy Advisory No. 102

BEDA—Notification of Board Meetings

Policy BEDA was modified to incorporate the emergency meeting notice required to be given to Board members. This policy has two purposes; to establish that the required notice to the public is placed in a location that is available and visible twenty-four (24) hours a day to satisfy the requirements of public notice that a meeting is being held and to specify what notice is required for Board members to know when a meeting is being held. The underlined and stricken items indicate the changes made to the policy. A notice that a meeting is being held is not the same as providing an agenda specifying the items to be discussed or actions to be taken.

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Policy Advisory No. 103

BEDBA—Agenda Preparation and Dissemination

Policy BEDBA is being modified in three different ways to accommodate the changes to Section 10-15-1 (F) NMSA of the Inspection of Public Records Act (IPRA). Each change is indicated by strike through and underlined text. Keep in mind that the agenda is prepared to provide the items to be discussed and the actions to be taken by the Board. The first change recommended is not a requirement of law but establishes a period of time after the Board provides items for the agenda allowing the Administration to study items, gather information and prepare that information for presentation to the Board at least three (3) days before the date of the meeting. The time suggested is a minimum of five (5) days for administrative preparation before the delivery of the information three (3) days prior to the Board meeting. This can be modified at the discretion of the Board, but this should be done with the understanding that adequate preparation and presentation of materials to the Board minimizes conflict and enriches discussion. The role of the Superintendent and his staff is to provide the information available on items being considered and discussed by the Board and which are required to be on an agenda seventy hours before the meeting. If all Board members have well prepared and adequate information on a topic, it is easier to arrive at consensus.

Another change made to BEDBA is regarding the seventy-two (72) hour posting and availability of the agenda replacing the former twenty-four (24) hour availability of the agenda.

The last change is to explain the emergency agenda exception to the required posting and availability of the agenda. The change is found below the added side heading titled Emergency Meetings.

Policy Advisory No. 104

JICD—Harassment / Bullying / Cyberbullying Prevention

This is an entirely new policy developed to meet the requirements of the additions to 22-2-21 NMSA made by House Bill (HB) 54, in the 2013 Legislative Session. Please read the attached copy of HB 54. You will find that all issues required in the bill are covered by the policy. Of significance is the fact that New Mexico School Boards Association Policy Services has chosen to title the policy Harassment / Bullying / Cyberbullying Prevention. This title was chosen to prevent confusion in the implementation of the reporting, investigation, and actions taken upon the occurrence of each of these very similar circumstances. By incorporating each of these very similar topics in the same policy, requiring the same procedures and policies be followed for disciplinary action, confusion will be prevented and there will be less opportunity for a claim of special treatment or argument that the

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incident in question falls in a different area of discipline code. Those district's with policy JII (Student Concerns, Complaints, and Grievances) will find that the procedures to be taken and steps to follow in this new policy are very similar and the preventive function of each policy will have value to the other.

Note that there is a time limit for reporting any incident by the professional staff to the administration. All discipline is conducted with respect for the rights of the student and within the same disciplinary standards established by the district's adopted policies. There are steps to protect the privacy rights of those involved. The Superintendent's directions to the staff are found in the regulation supporting the policy, and a form for reporting any incident is found as an exhibit to the policy.

If you have any questions, call Policy Services at (505) 469-0193. Ask for Donn Williams, Policy Services Director, or E-mail to the following address [nmsbapolicy@cox.net}.

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Policy Advisory No. 101

B-1400—BE

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BE

SCHOOL BOARD MEETINGS

The Board shall determine, at least annually in a public meeting, what notice for a public meeting is reasonable when applied to the School District.

The Board shall transact all business at official meetings of the Board. These may be either regular, ~~or special,~~ or emergency meetings, defined as follows:

- Regular meeting - a meeting of the members of a local school board at which at least a quorum is present, about which notice has been published, and at which normal school district business is transacted.
- Special meeting - an official legal-action meeting called between scheduled regular meetings to consider only specifically identified topics.
- Emergency meeting - an official legal-action meeting called due to unforeseen circumstances that, if not addressed immediately by the public body, will likely result in injury or damage to persons or property or substantial financial loss to the public body.

A local school board shall hold at least one (1) regular meeting each month of the calendar year.

Every meeting of the Board, regular, ~~or special~~ or emergency, shall be open to the public except for an executive session that is held in accordance with state law. A "meeting" is defined as the gathering of a quorum of members of a public body to propose or take legal action, including any deliberations with respect to such action, that has been properly noticed, pursuant to law.

Regular Board Meetings

The _____ of each calendar month is designated as the regular Board meeting date.

A regular meeting may be rescheduled by agreement of a majority of the Board.

Written notice of the date, hour, place, and subject (agenda) of each regular meeting of the Board shall be given as follows:

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- Notice shall be posted at least ten (10) days preceding the scheduled time of the meeting, with the exception of an actual emergency, in which case such notice as is appropriate to the circumstances shall be given.
- Notice shall be posted in prominent places, convenient to the public, and available for reading at all time during the posting.
- The notice shall include an agenda or information as to when and where an agenda can be obtained at least ~~twenty-four (24)~~ seventy-two (72) hours prior to the meeting and posted on the District's web site, if one is available.

Every regular meeting of the Board shall be open to the public to listen and observe the actions of the Board.

Special Board Meetings

Special meetings may be called whenever deemed necessary by the Board President or when requested by a majority of the Board. Written or telephoned notice of all special meetings shall be given to the members of the Board, and written notice shall be posted, at least three (3) days prior to the time stated for the meeting to convene. The notice shall include an agenda or information as to when and where an agenda can be obtained. The agenda shall be made available to the public at least ~~twenty-four (24)~~ seventy-two (72) hours prior to the special meeting and posted on the District's web site, if one is available. The Superintendent's office shall transmit copies of the written notice to those broadcast stations licensed by the federal communications commission (FCC) and newspapers of general circulation that have made written request for notice of public meetings. No business other than the matters specified in the notice shall be transacted at such meeting.

Special meetings shall be open to the public to listen and observe the actions of the Board.

Emergency Meetings

An "emergency" refers to unforeseen circumstances that, if not addressed immediately by the public body, will likely result in injury or damage to persons or property or substantial financial loss to the public body.

An emergency meeting may be called as necessary. The normal notice and posting of an agenda along with the requirement of discussing only agenda items is not required when the Board declares an emergency in accord with the statutory definition, but notice twenty-four (24) hours prior to the meeting is expected unless

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the emergency precludes such notice. The District must, within ten days of taking action on an emergency matter, report to the attorney general's office the action taken and the circumstances creating the emergency. The requirement to report to the attorney general is waived upon the declaration of a state or national emergency.

In addition to the information specified above, all notices shall include the following language.

“If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Superintendent of schools, at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Superintendent’s Office, if a summary or other type of accessible format is needed.”

Adopted: date of manual adoption

LEGAL REF.: 10-15-1 NMSA *et seq.*
22-5-12 NMSA

CROSS REF.: BEC - Executive Sessions/Open Meetings
BEDA - Notification of Board Meetings
BEDB - Agenda
BEDC - Quorum

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Policy Advisory No. 102

B-1650—BEDA

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BEDA

NOTIFICATION OF BOARD MEETINGS

The posting place for all notices of meetings shall be in an area available to the public twenty-four (24) hours per day, well lighted and with at least one (1) of the locations reasonably close to the District office.

Notice of regular meetings shall be posted throughout the community at the following locations:

- District office;
- All District schools; and
- Other locations as appropriate.

At least ten (10) days notice shall be given for any regular meeting and three (3) days for any special meeting time and place with the exception of an actual emergency, in which case such notice as is appropriate to the circumstances shall be given (usually twenty-four (24) hours). Notice shall be provided to Board members at least ten (10) days prior to the regular meeting, ~~and~~ three (3) days prior to the special meeting and as appropriate to the circumstances for emergency meetings of time and place so that they may make plans to be present.

Adopted: date of manual adoption

LEGAL REF.: 10-15-1 NMSA (1978)

CROSS REF.: BE - School Board Meetings
BEC - Executive Sessions/Open Meetings

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Policy Advisory No. 103

B-1750—BEDBA

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BEDBA

AGENDA PREPARATION AND DISSEMINATION

Regular Meetings

The Superintendent will prepare Board meeting agendas in consultation with the Board President.

The Superintendent or Board members may place items on the agenda. Any Board member desiring to place an item on the agenda will notify the Superintendent of the particular item of business at least five (5) central office working days before the meeting agenda is finalized (at least ~~six (6)~~ eight (8) days prior to the meeting). Inclusion on the next agenda will depend upon the amount of time necessary to provide information to the Board for deliberation and decision making. The Superintendent will make this decision in consultation with the Board President.

The agenda and supporting materials shall be distributed to the Board members not less than ~~twenty-four (24)~~ seventy-two (72) hours prior to the meeting.

Meeting notices shall include the date, time and place of the meeting and an agenda containing a list of specific items of business to be discussed or transacted at the meeting or information on how the public may obtain a copy of such an agenda. Except in the case of an emergency, the agenda shall be available to the public at least ~~twenty-four (24)~~ seventy-two (72) hours prior to the meeting. Reasonable public notice of a meeting shall be by a notice given at least ten (10) days before a scheduled meeting and distributed to broadcast stations licensed by the federal communications commission (FCC) and newspapers of general circulation that have provided a written request for such notice.

Special Meetings

~~Whenever possible, t~~ The procedures for agenda preparation and dissemination used for regular meetings will be used for special meetings.

~~These procedures may be altered by the Superintendent during an emergency or when compliance would be impractical. However, the Superintendent shall comply with all legal requirements in scheduling special meetings.~~

Emergency Meetings

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Agenda preparation for an emergency meeting shall be as appropriate for the circumstances, since normal notice of an agenda along with the requirement of discussing only agenda items is not required when the Board declares an emergency in accord with the statutory definition. Notice of the meeting being held twenty-four (24) hours prior to the meeting is expected unless the emergency precludes such notice.

Adopted: date of manual adoption

LEGAL REF.: 10-15-1 NMSA (1978)

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J-2550—JICD

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STUDENT HARASSMENT / BULLYING /
CYBERBULLYING PREVENTION

Cyberbullying, as defined below, is prohibited when such bullying creates or is certain to create a hostile environment on the school campus that is so severe or pervasive as to substantially interfere with the targeted student's educational benefits, opportunities, or performance.

Bullying and harassment is prohibited in the school, on school grounds, in school vehicles, at a designated bus stop, or at school activities or sanctioned events. Anti-bullying shall be included as a part of the health education curriculum as set forth in 6.29.6.8 NMAC.

Definitions

- "Harassment" means knowingly pursuing a pattern of conduct that is intended to annoy, alarm or terrorize another person.
- "Bullying" by another student means any repeated and pervasive written, verbal or electronic expression, physical act or gesture, or a pattern thereof, that is intended to cause distress upon one (1) or more students in the school, on school grounds, in school vehicles, at a designated bus stop, or at school activities or sanctioned events. Bullying includes, but is not limited to, hazing, harassment, intimidation or menacing acts of a student which may, but need not be based on the student's race, color, sex, ethnicity, national origin, religion, disability, age or sexual orientation.
- "Cyberbullying" means electronic communication that:
 - targets a specific student;
 - is published with the intention that the communication be seen by or disclosed to the targeted student;
 - is in fact seen by or disclosed to the targeted student; and
 - creates or is certain to create a hostile environment on the school campus that is so severe or pervasive as to substantially interfere with the targeted student's educational benefits, opportunities or performance.

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Licensed school employees 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.

A licensed 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.

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 disciplinary 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 on the school campus resulting from confirmed harassment, bullying or cyberbullying that include:

- counseling.
- mediation.
- discipline up to expulsion, in addition to other civil and criminal prosecution. These punishments may be in addition to any customary discipline that the District presently dispenses.

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

Adopted: date of manual adoption

LEGAL REF.: 22-2-21 NMSA
28-1-2 NMSA *et seq.*
6.12.7.8 NMAC
6.29.6.8 NMAC

CROSS REF.: AC - Nondiscrimination/Equal Opportunity
ACA - Sexual Harassment
JB - Equal Educational Opportunities
JIC - Student Conduct
JII - Student Concerns, Complaints, and Grievances
JK - Student Discipline
JKD - Student Suspension/Expulsion
KE - Public Concerns and Complaints

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REGULATION

REGULATION

STUDENT HARASSMENT / BULLYING
CYBERBULLYING PREVENTION

When a professional staff member receives the information regarding a suspected offense, the staff member will transmit it to the school administrator not later than the next school day 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 licensed employee shall provide the identifying information on the suspected 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 offense report should be signed by the licensed employee. However, an unsigned form will be processed in the same manner as a signed form.

The person 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 licensed professional 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 incident will be investigated by the school administrator or a supervising administrator. The procedures to be followed are:

- An investigation of the reported suspected offense or activity shall be made within ten (10) school days 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 meet with 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 process of making such a report.

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- The investigator shall prepare a written report of the findings and a copy of the report shall be provided to the Superintendent.

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

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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: _____

Class year: _____

Person or Persons suspected of harassing, bullying, or
cyberbullying:

Name of person(s), or other identifying information:

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, and places.

Date of the of the incident or offense(s): _____

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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

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

Signature of Licensed Staff member Date Signed

Administrator/Professional Staff Member Date Received
Receiving Complaint

The investigating administrator shall give one (1) copy to the reporting staff member and retain one (1) copy for the file.

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Relevant Bills and Statutory or Regulatory Information

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AN ACT RELATING TO THE OPEN MEETINGS ACT;
REQUIRING AGENDAS TO BE AVAILABLE TO THE PUBLIC AT LEAST SEVENTY-TWO HOURS
PRIOR TO A PUBLIC MEETING; REQUIRING THE ATTORNEY GENERAL TO REVIEW A PUBLIC
BODY'S ACTION ON EMERGENCY MATTERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO: **SECTION 1.** Section 10-15-1 NMSA 1978 (being Laws 1974, Chapter 91, Section 1, as amended) is amended to read: "10-15-1. FORMATION OF PUBLIC POLICY--PROCEDURES FOR OPEN MEETINGS--EXCEPTIONS AND PROCEDURES FOR CLOSED MEETINGS.--A. In recognition of the fact that a representative government is dependent upon an informed electorate, it is declared to be public policy of this state that all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of those officers and employees who represent them. The formation of public policy or the conduct of business by vote shall not be conducted in closed meeting. All meetings of any public body except the legislature and the courts shall be public meetings, and all persons so desiring shall be permitted to attend and listen to the deliberations and proceedings. Reasonable efforts shall be made to accommodate the use of audio and video recording devices. HB 21 Page 1

B. All meetings of a quorum of members of any
any member of the public body who speaks during the meeting.
discussed or transacted at the meeting or information on how
absent, the substance of the proposals considered and a record
(3) deliberations by a public body in
from one source is discussed and that portion of meetings at

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board, commission, administrative adjudicatory body or other policymaking body of any state agency or any agency or authority of any county, municipality, district or political subdivision, held for the purpose of formulating public policy, including the development of personnel policy, rules, regulations or ordinances, discussing public business or taking any action within the authority of or the delegated authority of any board, commission or other policymaking body are declared to be public meetings open to the public at all times, except as otherwise provided in the constitution of New Mexico or the Open Meetings Act. No public meeting once convened that is otherwise required to be open pursuant to the Open Meetings Act shall be closed or dissolved into small groups or committees for the purpose of permitting the closing of the meeting. C. If otherwise allowed by law or rule of the public body, a member of a public body may participate in a meeting of the public body by means of a conference telephone or other similar communications equipment when it is otherwise difficult or impossible for the member to attend the meeting in person, provided that each member participating by conference telephone can be identified when speaking, all participants are able to hear each other at the same time and members of the public attending the meeting are able to hear HB 21 Page 2

D. Any meetings at which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs and at which a majority or quorum of the body is in attendance, and any closed meetings, shall be held only after reasonable notice to the public. The affected body shall determine at least annually in a public meeting what notice for a public meeting is reasonable when applied to that body. That notice shall include broadcast stations licensed by the federal communications commission and newspapers of general circulation that have provided a written request for such notice. E. A public body may recess and reconvene a meeting to a day subsequent to that stated in the meeting notice if, prior to recessing, the public body specifies the date, time and place for continuation of the meeting and, immediately following the recessed meeting, posts notice of the date, time and place for the reconvened meeting on or near the door of the place where the original meeting was held and in at least one other location appropriate to provide public notice of the continuation of the meeting. Only matters appearing on the agenda of the original meeting may be discussed at the reconvened meeting. F. Meeting notices shall include an agenda containing a list of specific items of business to be HB 21 Page 3

the public may obtain a copy of such an agenda. Except in the case of an emergency or in the case of a public body that ordinarily meets more frequently than once per week, at least seventy-two hours prior to the meeting, the agenda shall be available to the public and posted on the public body's web site, if one is maintained. A public body that ordinarily meets more frequently than once per week shall post a draft agenda at least seventy-two hours prior to the meeting and a final agenda at least thirty-six hours prior to the meeting. Except for emergency matters, a public body shall take action only on items appearing on the agenda. For purposes of this subsection, "emergency" refers to unforeseen circumstances that, if not addressed immediately by the public body, will likely result in injury or damage to persons or property or substantial financial loss to the public body. Within ten days of taking action on an emergency matter, the public body shall report to the attorney general's office the action taken and the circumstances creating the emergency; provided that the requirement to report to the attorney general is waived upon the declaration of a state or national emergency. G. The board, commission or other policymaking body shall keep written minutes of all its meetings. The minutes shall include at a minimum the date, time and place of the meeting, the names of members in attendance and those HB 21 Page 4

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of any decisions and votes taken that show how each member voted. All minutes are open to public inspection. Draft minutes shall be prepared within ten working days after the meeting and shall be approved, amended or disapproved at the next meeting where a quorum is present. Minutes shall not become official until approved by the policymaking body. H. The provisions of Subsections A, B and G of this section do not apply to: (1) meetings pertaining to issuance, suspension, renewal or revocation of a license, except that a hearing at which evidence is offered or rebutted shall be open. All final actions on the issuance, suspension, renewal or revocation of a license shall be taken at an open meeting; (2) limited personnel matters; provided that for purposes of the Open Meetings Act, "limited personnel matters" means the discussion of hiring, promotion, demotion, dismissal, assignment or resignation of or the investigation or consideration of complaints or charges against any individual public employee; provided further that this paragraph is not to be construed as to exempt final actions on personnel from being taken at open public meetings, nor does it preclude an aggrieved public employee from demanding a public hearing. Judicial candidates interviewed by any commission shall have the right to demand an open interview; HB 21 Page 5

connection with an administrative adjudicatory proceeding. For purposes of this paragraph, "administrative adjudicatory proceeding" means a proceeding brought by or against a person before a public body in which individual legal rights, duties or privileges are required by law to be determined by the public body after an opportunity for a trial-type hearing. Except as otherwise provided in this section, the actual administrative adjudicatory proceeding at which evidence is offered or rebutted and any final action taken as a result of the proceeding shall occur in an open meeting; (4) the discussion of personally identifiable information about any individual student, unless the student or the student's parent or guardian requests otherwise; (5) meetings for the discussion of bargaining strategy preliminary to collective bargaining negotiations between the policymaking body and a bargaining unit representing the employees of that policymaking body and collective bargaining sessions at which the policymaking body and the representatives of the collective bargaining unit are present; (6) that portion of meetings at which a decision concerning purchases in an amount exceeding two thousand five hundred dollars (\$2,500) that can be made only HB 21 Page 6

which the contents of competitive sealed proposals solicited pursuant to the Procurement Code are discussed during the contract negotiation process. The actual approval of purchase of the item or final action regarding the selection of a contractor shall be made in an open meeting; (7) meetings subject to the attorney-client privilege pertaining to threatened or pending litigation in which the public body is or may become a participant; (8) meetings for the discussion of the purchase, acquisition or disposal of real property or water rights by the public body; (9) those portions of meetings of committees or boards of public hospitals where strategic and long-range business plans or trade secrets are discussed; and (10) that portion of a meeting of the gaming control board dealing with information made confidential pursuant to the provisions of the Gaming Control Act. I. If any meeting is closed pursuant to the exclusions contained in Subsection H of this section: (1) the closure, if made in an open meeting, shall be approved by a majority vote of a quorum of the policymaking body; the authority for the closure and the subject to be discussed shall be stated with reasonable specificity in the motion calling for the vote on a closed HB 21 Page 7

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meeting; the vote shall be taken in an open meeting; and the vote of each individual member shall be recorded in the minutes. Only those subjects announced or voted upon prior to closure by the policymaking body may be discussed in a closed meeting; or (2) if a closure is called for when the policymaking body is not in an open meeting, the closed meeting shall not be held until public notice, appropriate under the circumstances, stating the specific provision of the law authorizing the closed meeting and stating with reasonable specificity the subject to be discussed is given to the members and to the general public. J. Following completion of any closed meeting, the minutes of the open meeting that was closed or the minutes of the next open meeting if the closed meeting was separately scheduled shall state that the matters discussed in the closed meeting were limited only to those specified in the motion for closure or in the notice of the separate closed meeting. This statement shall be approved by the public body under Subsection G of this section as part of the minutes." HB 21 Page 8

AN ACT RELATING TO PUBLIC EDUCATION; REQUIRING
LOCAL SCHOOL BOARDS TO PROMULGATE CYBERBULLYING PREVENTION POLICIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO: **SECTION 1.** Section 22-2-21 NMSA 1978 (being Laws 2011, Chapter 50, Section 1) is amended to read: "22-2-21. BULLYING AND CYBERBULLYING PREVENTION PROGRAMS.--A. The department shall establish guidelines for bullying prevention policies to be promulgated by local school boards. Every local school board shall promulgate a bullying prevention policy by August 2011. Every public school shall implement a bullying prevention program by August 2012. B. Every local school board shall promulgate a specific cyberbullying prevention policy by August 2013. Cyberbullying prevention policies shall require that: (1) all licensed school employees complete training on how to recognize signs that a person is being cyberbullied; (2) any licensed school employee who has information about or a reasonable suspicion that a person is being cyberbullied report the matter immediately to the school principal or the local superintendent or both; (3) any school administrator or local HB 54 Page 1

superintendent who receives a report of cyberbullying take immediate steps to ensure prompt investigation of the report; and

(4) school administrators take prompt disciplinary action in response to cyberbullying confirmed through investigation. Disciplinary action taken pursuant to this subsection must be by the least restrictive means necessary to address a hostile environment on the school campus resulting from the confirmed cyberbullying and may include counseling, mediation and appropriate disciplinary action that is consistent with the legal rights of the involved students.

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C. Each local school board shall make any necessary revisions to its disciplinary policies to ensure compliance with the provisions of this section.

D. As used in this section, "cyberbullying" means electronic communication that:

(1) targets a specific student;

(2) is published with the intention that the communication be seen by or disclosed to the targeted student;

(3) is in fact seen by or disclosed to the targeted student; and

(4) creates or is certain to create a hostile environment on the school campus that is so severe or pervasive as to substantially interfere with the targeted HB 54

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student's educational benefits, opportunities or performance."

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POLICY SERVICES

ADVISORY

Volume 10, Number 4

November 2013

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Policy Advisory No. 105... GBED — Tobacco Use By Staff Members / Smoking

Policy Advisory No. 106..... JICG — Tobacco Use by Students / Smoking

Policy Advisory No. 107..KFAA — Tobacco Use / Smoking on School Premises

Policy Advisory Discussion

Recently there have been challenges to the tobacco/smoking ban in school policies. It is probably enough to say that anything that promotes an unhealthy life style mimicking smoking or tobacco use on school property is within the schools prerogative to ban. There has been an effort on the part of some districts, however, to implement specific language in policy that disallows use of e-cigarettes. It is Policy Services position that the current policies of most districts are sufficient. Using e-cigarettes promotes the appearance of smoking and thus aggrandizes the use of an unhealthy legally banned organic product, tobacco. Many districts have prohibited the new e-cigarettes from being used because it is an unhealthy practice and promotes a prohibited act.

Policy Services did find one very apparent missing concept in policy: the prohibition of smoking. The current law only prevents use or possession of tobacco, making the assumption that this would be the only product that someone might smoke. As

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we all now know there are other things that may be "smoked" including marijuana and crack cocaine, among other things.

Policy Services looked for and found a supporting argument for banning or prohibiting smoking. An attorney general opinion written in 1994 says simply, "The state board of education and local school boards have the authority to ban smoking on public school campuses if they choose." 1994 Op. Att'y Gen. No. 94-03, 1994 N.M. AG LEXIS 4. Using this authority, Policy Services has modified the model policies on Tobacco by changing the titles of three policies GBED, JICG, and KFAA along with minor changes to their content. The policies, in the order indicated, prohibited tobacco use and possession and as changed also prohibit smoking by staff, students and the public on school owned real and personal properties, and other land used for school purposes.

Policy JICG, the student tobacco prohibition, was changed more extensively. There is a particular reason the language in JICG now states "possession or use of tobacco products, man-made tobacco derivatives and products or smoking of any kind is prohibited" while the two others only speak to tobacco products and smoking. There are many adults who are using tobacco derivatives for cessation of a smoking habit or for a myriad of other medical reasons. Some of these persons may be employees and parents. All of the policies prohibit use of tobacco products and smoking but the student policy speaks to other derivatives and allows for less ambiguity in interpretation of prohibited substances.

The suggested changes to policies are recommended and not required. There are no statutes or rules that would make the changes mandatory and therefore it is a local decision as to whether or not to make the Policy Services recommended changes to the policies indicated..

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

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G-1100

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GBED

TOBACCO USE BY STAFF MEMBERS / SMOKING

The possession or use of tobacco products or smoking of any kind is prohibited in the following locations:

- School grounds.
- School buildings.
- School parking lots.
- School playing fields.
- School buses and other District vehicles.
- Off-campus school-sponsored events.

The prohibitions do not apply to an adult when possession or use of the tobacco products are for demonstration purposes as a necessary instructional component of a tobacco prevention or cessation program that is:

- Approved by the school.
- Established in accord with New Mexico Revised Statute.

Adopted: date of manual adoption

LEGAL REF.: 6.12.4.8 NMAC
1994 Op. Att'y Gen. No. 94-03, 1994 N.M. AG LEXIS 4.
20 U.S.C. 6083

CROSS REF.: JICG - Tobacco Use by Students
KFAA - Tobacco Use on School Premises at Public Functions

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J-3000

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JICG

TOBACCO USE BY STUDENTS / SMOKING

The possession or use of tobacco products, man-made tobacco derivatives and products or smoking of any kind is prohibited in the following locations:

- School grounds.
- School buildings.
- School parking lots.
- School playing fields.
- School buses and other District vehicles.
- Transportation pick up areas.
- Off-campus school-sponsored events.

The Superintendent may establish procedures necessary to implement this policy. Disciplinary penalties for smoking, the possession or use of tobacco or similar products may include, but are not limited to, suspension of the student from school or a recommendation for expulsion when there is evidence of repeated and continuous violation of this policy.

Adopted: date of manual adoption

LEGAL REF.: 6.12.4.8 NMAC
1994 Op. Att'y Gen. No. 94-03, 1994 N.M. AG LEXIS 4.
20 U.S.C. 6083

CROSS REF.: GBED - Tobacco Use by Staff Members
KFAA - Tobacco Use on School Premises at Public Functions

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Policy Services

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K-1750

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KFAA

TOBACCO USE / SMOKING ON SCHOOL PREMISES

The use of tobacco products or smoking is prohibited in the following locations:

- School grounds.
- School buildings.
- School parking lots.
- School playing fields.
- School buses and other District vehicles.
- Off-campus school-sponsored events.

The prohibitions do not apply to an adult when possession or use of the tobacco products are for demonstration purposes as a necessary instructional component of a tobacco prevention or cessation program that is approved by the school.

Adopted: date of manual adoption

LEGAL REF.: 6.12.4.8 NMAC
6.11.2.9 NMAC
1994 Op. Att'y Gen. No. 94-03, 1994 N.M. AG LEXIS 4.
20 U.S.C. 6083

CROSS REF.: GBED - Tobacco Use by Staff Members
JICG - Tobacco Use by Students

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RELEVANT SUPPORT MATERIALS

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