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**LEGISLATIVE EDUCATION STUDY COMMITTEE**  
**BILL ANALYSIS**  
**57th Legislature, 2nd Session, 2026**

<b>Bill Number</b>	<u>HB185</u>	<b>Sponsor</b>	<u>Herrera/Baca/Garratt/Sariñana</u>
<b>Tracking Number</b>	<u>.232641.2</u>	<b>Committee Referrals</b>	<u>HEC/HGEIC</u>
<b>Short Title</b>	<u>PED Secretary &amp; Local School Board Members</u>		
<b>Analyst</b>	<u>Montoya</u>	<b>Original Date</b>	<u>2/3/2026</u>
		<b>Last Updated</b>	<u></u>

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**FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE**

**BILL SUMMARY**

Synopsis of Bill

House Bill 185 (HB185) authorizes the Public Education Department (PED) secretary to suspend individual school board members who violate the Public School Code, or any other laws and rules under the secretary's authority.

The bill establishes the grounds and process parameters for intervention and suspension of individual school board members. HB185 requires written notice to be sent to the affected school board member, local school board, and superintendent. The bill requires the written notice to outline the statute or rule the school board member is out of compliance with, the remedial actions to be taken by the school board member, and the timeline for remedial action, which shall be no less than 30 days. Failure to take the stated remedial actions within the timeline set in HB185 would result in the suspension of the school board member.

HB185 also requires the process and procedures created by the secretary to be compliant with the Administrative Procedures Act and include an avenue for the reinstatement of the suspended board member. Suspended school board members would also have the ability to appeal any decision made by the PED secretary to the respective district court, pursuant to Section 39-3-1.1 NMSA 1978.

The bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or May 20, 2026.

**FISCAL IMPACT**

This bill does not contain an appropriation.

## SUBSTANTIVE ISSUES

Local school boards are composed of publicly elected officials and are statutorily responsible for governing their school districts in policy adoption, budget approval, hiring and evaluating superintendents, and aligning district priorities with state requirements and community needs. School board officials and their decisions can have a significant impact on students, teachers, staff, and administration, as well as families and the local community in a school district. Section 22-5-4 NMSA 1978 outlines the statutory roles and responsibilities of local school board members which include:

1. Creating and implementing district policies consistent with PED rules;
2. Hiring a superintendent and setting their salary;
3. Reviewing and adopting the district's annual operating budget;
4. Acquiring, leasing, and disposing of district property;
5. Acting as a legal entity with authority to sue and be sued;
6. Acquiring property through eminent domain following state procedures;
7. Authorizing and issuing general obligation bonds for district projects;
8. Overseeing repair and maintenance of all district property;
9. Subpoenaing witnesses and documents, with court approval, for hearings;
10. Contracting for expenditures (excluding salaries) in accordance with the Procurement Code;
11. Establishing rules to administer board powers and duties;
12. Accepting or rejecting charitable gifts, grants, or bequests as district assets;
13. Authorizing rewards for information leading to prosecution or discipline for vandalism or theft of school property; and
14. Giving prior approval for any educational programs conducted or sponsored by private organizations within district schools.

**Current Public Education Department Statutory Authority.** HB185 would expand the PED secretary's authority under Section 22-2-14 NMSA 1978 by allowing the PED secretary to suspend individual school board members. Currently, the PED secretary may only suspend entire local school boards, individual superintendents, or individual principals when a district or school fails to comply with state laws, educational standards, or department rules. Under current statute, the PED secretary must provide written notice of deficiencies and allow the affected party an opportunity to correct the issues or submit a remedial plan. If compliance is not achieved, the PED secretary may issue a suspension, assume the legal authority of the board, superintendent, or principal, and fulfill associated responsibilities until compliance is restored. The PED secretary must provide notice of a public hearing, at which affected parties may contest the suspension, and finalize, modify, or withdraw the order within five days after the hearing. In cases involving local school boards, the PED secretary consults with the Public Education Commission (PEC), which may recommend alternative actions. Parties may appeal the PED secretary's decision to district court under Section 39-3-1.1 NMSA 1978.

**Proposed Changes to Public Education Department Authority.** HB185 authorizes the PED secretary to suspend an individual local school board member for willful failure to comply with the Public School Code or other applicable laws under the PED secretary's authority, while allowing the local school board to continue operations. The bill adds a new section to statute mirroring the existing suspension framework for local school boards, superintendents and principals, including due process protections, sufficient notice, and clear avenues for appeal. HB185 extends this established process to individual school board members, providing a narrowly

tailored accountability tool to minimize disruption to district governance. HB185 also limits state intervention to what is necessary to maintain continuity of operations. It does this by restricting the PED secretary's role during the suspension of a school board member by allowing the secretary or a designee to act in the member's place only for the narrow purpose of breaking a deadlock in the approval of a school district's annual budget.

**Reinstatement and the Secretary's Role During Suspension.** HB185 requires the PED secretary to create a reinstatement process for an individual school board member, and limits the PED secretary's role during the suspension of a school board member to vote in the member's place solely to resolve a voting deadlock on the school district's annual budget; the PED secretary could not vote in lieu of the member on any other matters. These provisions in HB185 provide an intermediary step before the suspension of an entire school board, allowing school boards and their respective school districts to continue functioning and performing in their role while maintaining appropriate separation of powers and minimizing potential conflicts of interest.

**Need for an Intermediate Step.** Allowing PED to suspend an individual school board member, rather than the entire school board as currently allowed by statute, provides more proportional and specified mechanisms for addressing violations in school governance. The proposed addition to Section 22-2-14 NMSA 1978 would allow the PED secretary to intervene without disrupting the functions and responsibilities of the school board, thus preserving local governance and elected representation. These revisions also uphold oversight capacity from the PED secretary by establishing transparent remedial actions and guidance that minimally interfere with district operations or guidance, and community input. HB185 would not affect the PED secretary's current authority to suspend entire school boards, superintendents, and principals.

**School Board Suspensions.** PED has rarely exercised its authority to suspend school boards over the last decade, with some recent examples illustrating PED's statutory authority to intervene when serious legal, financial, or operational deficiencies threaten a district's ability to provide education. Over the past 10 years, PED has used this authority four times, with notable examples, including:

- Full suspension of a school board in 2021 for persistent violations of procurement laws, the Open Meetings Act, and the Public School Code, as well as conduct impairing the educational process;
- Full board suspension in 2019 due to governance failures, including denial of special education services; and
- Suspension of a school board's financial authority in 2016 for repeated budget deficiencies, improper expenditure records, delayed budgets, and recurring audit findings.

**New Mexico Administrative Procedures Act.** The New Mexico Administrative Procedures Act (Sections 12-8-1 through 12-8-25 NMSA 1978) establishes transparent processes state agencies must follow when adopting rules, conducting hearings, and issuing decisions pertaining to the rights, duties, or privileges of persons. These processes include notice requirements to the public and affected parties, due-process protections for individuals and entities subject to agency action, and avenues for appeal for aggrieved parties. See **Figure 1: New Mexico Administrative Procedures Act** for a brief outline of the act.

**Figure 1: New Mexico Administrative Procedures Act**

**Rulemaking and Adjudication**

Applies when procedure or process affects:

- Rights;
- Duties; or
- Privileges of a person or entity.

**Core APA Protections**

- Notice to affected parties and the public;
- Opportunity to be heard (hearing or adjudicatory process);
- Record-based decision making; and
- Documented findings and conclusions.

Source: LESC Files and NMSA 1978

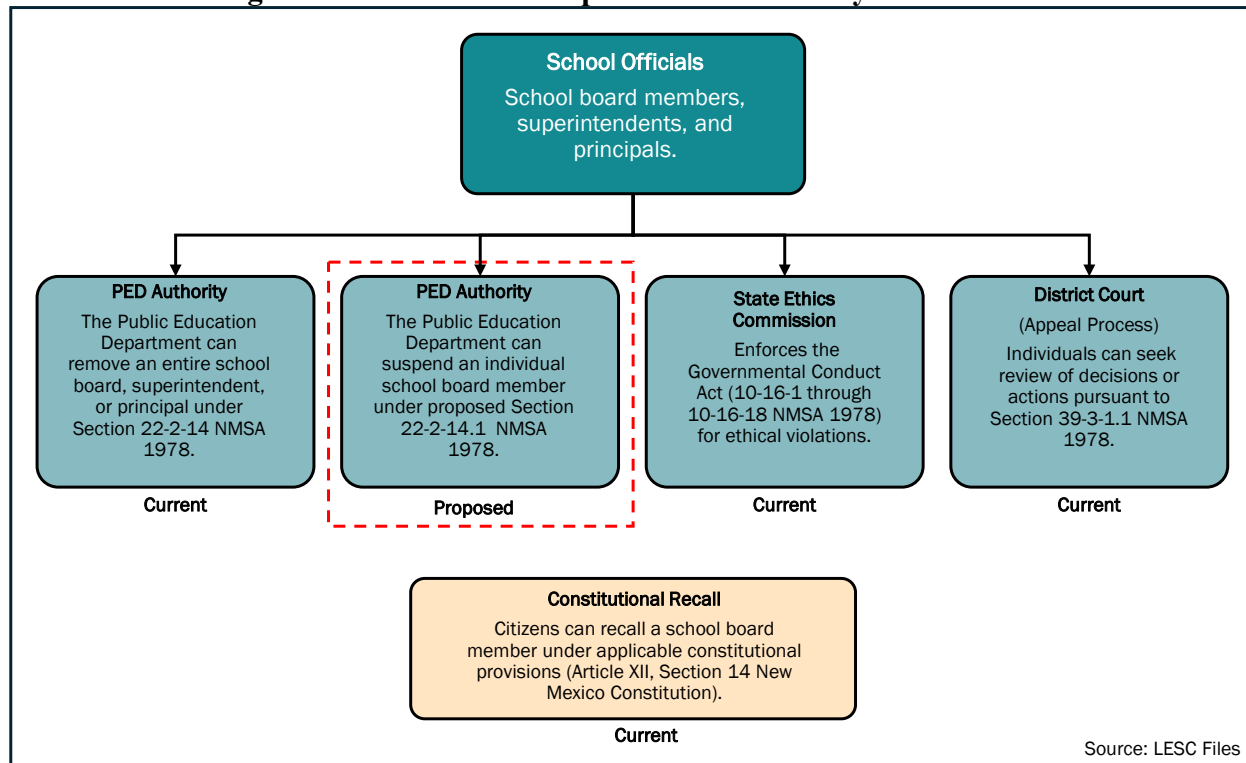
**Process for Additional Appeal.** Section 39-3-1 NMSA 1978 provides the procedure for appealing a final decision of a state agency to district court, specifying how and when an aggrieved party may seek judicial review. This statutory right of appeal already applies to the removal of school boards, superintendents, and principals under Section 22-2-14 NMSA 1978. This statutory mechanism provides an important check on the PED secretary's authority by ensuring that the suspension process remains subject to judicial review and bound to established legal procedures.

**Additional Statutory Accountability Mechanisms.** Beyond PED oversight, other statutory mechanisms hold school boards and public officials accountable. Current statute (Section 10-4 NMSA 1978) outlines the removal process for public officials convicted of a felony or misdemeanor involving moral turpitude, gross incompetence, or gross negligence. The State Ethics Commission enforces the Governmental Conduct Act (Sections 10-16-1 through 10-16-18 NMSA 1978), which establishes standards of ethical behavior for public officials and employees, prohibits conflicts of interest and misuse of public office, and empowers the Commission to investigate, issue findings, and impose penalties for violations. See **Figure 2: Current and Proposed Accountability Mechanisms**, located on the next page, for an overview of current and proposed measures.

**Constitutional Recall of Local School Board Members.** HB185 authorizes the secretary of PED to temporarily suspend a local school board member for cause. Article XII, Section 14 of the New Mexico Constitution provides for the recall of local school board members and establishes the criteria and procedures by which voters in the school board member's school district may initiate a recall, which include:

- A petition for a recall election must cite grounds of:
  - Malfeasance;
  - Misfeasance in office; or
  - Violation of the oath of office.
- The recall petition must be signed by registered voters equal to at least 33.3 percent of the votes cast for that office in the most recent election.
  - Petition filing procedures and signature verification are conducted according to law.
- A special recall election is held if the petition is deemed valid.
- If a majority of votes cast favor recall, the member is removed from office.
- Any resulting vacancy is filled in accordance with law.

**Figure 2: Current and Proposed Accountability Mechanisms**



## ADMINISTRATIVE IMPLICATIONS

HB185 would require PED to expand or modify existing processes and procedures already in place for the PED secretary’s authority to suspend entire school boards, superintendents, and principals. This includes the issuance of notices to school boards, individual members, and superintendents on outlining school members compliance issuance with school board members, tracking compliance with mandated remedial actions required of individual school board members, managing suspensions and reinstatement of affected members, and conducting hearings under the New Mexico Administrative Procedures Act. HB185 would have minimal impact on PED and school district budget and operations.

It is worth noting PED has existing processes and procedures for the removal of local school boards and superintendents in place as outlined in statute (Sections 22-2-2 and 22-2-14 NMSA 1978). PED would also need to promulgate new rule or update existing New Mexico Administrative Code (NMAC 6.30.6) to reflect the proposed provisions of HB185.

## SOURCES OF INFORMATION

- LESC Files
- Regional Education Cooperatives (RECs)
- State Ethics Commission (SEC)

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