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SENATE BILL 737

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

Nancy Rodriguez

AN ACT

RELATING TO EDUCATION; REQUIRING SCHOOL DISTRICTS TO ESTABLISH
A PRESCRIPTION MEDICATION POLICY MEETING CERTAIN MINIMUM
REQUIREMENTS; MAKING AN APPROPRIATION.

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

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

"22-5-4.3. SCHOOL DISCIPLINE POLICIES--SCHOOL MEDICATION
POLICIES--STUDENTS MAY SELF-ADMINISTER CERTAIN MEDICATIONS.--

A. Local school boards shall establish student
discipline policies and shall file them with the department.
The local school board shall involve parents, school personnel
and students in the development of these policies, and public
hearings shall be held during the formulation of these policies
in the high school attendance areas within each school district

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1 or on a district-wide basis for those school districts that
2 have no high school.

3 B. Each school district discipline policy shall
4 establish rules of conduct governing areas of student and
5 school activity, detail specific prohibited acts and activities
6 and enumerate possible disciplinary sanctions, which sanctions
7 may include corporal punishment, in-school suspension, school
8 service, suspension or expulsion.

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

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

22 E. A school district shall establish a prescription
23 medication policy that provides for creation and maintenance of
24 a student file for a prescription medication dispensed by
25 school personnel to a student. The file shall contain a

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1 consent form signed by the student, teacher, principal, parent
2 and prescribing physician for each prescription medication to
3 be dispensed. The attorney general may apply to the district
4 court to enjoin a public school from dispensing a prescription
5 drug in violation of the provisions of this section.

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

11 (1) the health care provider has instructed
12 the student in the correct and responsible use of the
13 medication;

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

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

23 (4) the student's parent has completed and
24 submitted to the school any written documentation required by
25 the school or the school district, including the treatment plan

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1 required in Paragraph (3) of this subsection and other
2 documents related to liability.

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

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

13 Section 2. APPROPRIATION.--One hundred thousand dollars
14 (\$100,000) is appropriated from the general fund to the public
15 education department for expenditure in fiscal year 2007 to
16 ensure that school districts create and maintain files required
17 pursuant to Section 22-5-4.3 NMSA 1978. Any unexpended or
18 unencumbered balance remaining at the end of fiscal year 2007
19 shall revert to the general fund.