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SENATE BILL 418

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

INTRODUCED BY

Gerald Ortiz y Pino

AN ACT

RELATING TO EDUCATION; AMENDING A SECTION OF THE PUBLIC SCHOOL CODE TO PROVIDE FOR DEFINITION OF SCHOOL DISCIPLINARY RISKS AND PROCEDURES.

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--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. Each school district discipline policy shall:

10 (1) define acts that pose a substantial threat  
11 to school safety justifying arrest; and

12 (2) define petty acts of misconduct that  
13 should be treated as disciplinary infractions.

14 D. School districts shall develop policies that  
15 offer alternatives to long-term suspension, expulsion or  
16 referral to law enforcement agencies, except where those  
17 alternatives would pose a substantial threat to school safety.

18 E. A school discipline policy shall not require the  
19 reporting of petty acts of misconduct and misdemeanors to law  
20 enforcement agencies, including:

21 (1) disorderly conduct;

22 (2) interference with the educational process;

23 (3) simple assault or battery;

24 (4) theft of less than two hundred fifty

25 dollars (\$250);

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- 1                                   (5) trespassing; and
- 2                                   (6) vandalism of property that results in less
- 3 than five hundred dollars (\$500) in damages.

4                                   F. Each school discipline policy shall require that

5 any disciplinary action taken against a student who violates a

6 school discipline policy be based on the individual student and

7 the particular circumstances of the student's acts or

8 omissions.

9                                   G. Each year, a school district shall submit a

10 report to the department that includes:

11                                   (1) the number of arrests, citations and

12 referrals to the children, youth and families department that

13 law enforcement officers, security guards, school resource

14 officers and other school employees have made for any alleged

15 delinquent act on school property;

16                                   (2) the offenses for which students were

17 arrested, cited or referred to the children, youth and families

18 department for an alleged delinquent act on school property;

19 and

20                                   (3) for students arrested, cited or referred

21 to the children, youth and families department for an alleged

22 delinquent act, statistics categorized by offense regarding the

23 student's:

- 24                                   (a) age;
- 25                                   (b) race;

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- 1                                   (c) gender; and
- 2                                   (d) if applicable, special education
- 3 eligibility category.

4                                   H. A local school board shall enter into an  
5 agreement with its local county sheriff's office and local  
6 police department that shall:

7                                   (1) specify guidelines for determining which  
8 acts are not petty acts of misconduct or misdemeanors that will  
9 be considered to pose a substantial threat to students, staff  
10 or school safety, whether committed by a student or an adult;

11                                  (2) specify the procedures for reporting acts  
12 that are not petty acts of misconduct or misdemeanors to law  
13 enforcement agencies;

14                                  (3) specify any role for school resource  
15 officers in reporting incidents;

16                                  (4) specify circumstances in which school  
17 officials may handle incidents without filing a report with a  
18 law enforcement agency;

19                                  (5) require, at a minimum, that school  
20 resource officers complete basic police academy training and  
21 specific training on interviewing children and the requirements  
22 of the Children's Code; and

23                                  (6) be reported to the department and made  
24 available to the public.

25                                  [~~G.~~] I. An individual school within a school

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1 district may establish a school discipline policy, provided  
2 that parents, school personnel and students are involved in its  
3 development and a public hearing is held in the school prior to  
4 its adoption and make the adoption of the discipline policy  
5 public knowledge to parents and students by providing them with  
6 the policy in writing and at public assemblies for students and  
7 parents at the beginning of the school year. If an individual  
8 school adopts a discipline policy in addition to the local  
9 school board's school district discipline policy, it shall  
10 submit its policy to the local school board for approval and  
11 the policy shall be circulated to parents and students in the  
12 same manner as district-wide policies.

13 ~~[D-]~~ J. No school employee who in good faith  
14 reports any known or suspected violation of the school  
15 discipline policy or in good faith attempts to enforce the  
16 policy shall be held liable for any civil damages as a result  
17 of such report or of the employee's efforts to enforce any part  
18 of the policy.

19 ~~[E-]~~ K. All public school and school district  
20 discipline policies shall allow students to carry and  
21 self-administer asthma medication and emergency anaphylaxis  
22 medication that has been legally prescribed to the student by a  
23 licensed health care provider under the following conditions:

24 (1) the health care provider has instructed  
25 the student in the correct and responsible use of the

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1 medication;

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

6 (3) the health care provider formulates a  
7 written treatment plan for managing asthma or anaphylaxis  
8 episodes of the student and for medication use by the student  
9 during school hours or school-sponsored activities, including  
10 transit to or from school or school-sponsored activities; and

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

16 [~~F~~] L. The parent of a student who is allowed to  
17 carry and self-administer asthma medication and emergency  
18 anaphylaxis medication may provide the school with backup  
19 medication that shall be kept in a location to which the  
20 student has immediate access in the event of an asthma or  
21 anaphylaxis emergency.

22 [~~G~~] M. Authorized school personnel who in good  
23 faith provide a person with backup medication as provided in  
24 this section shall not be held liable for civil damages as a  
25 result of providing the medication."

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