

LFC Requestor: Sunny Liu

2024 LEGISLATIVE SESSION
AGENCY BILL ANALYSIS

Section I: General

Chamber: Senate

Category: Bill

Number: 265

Type: Introduced

Date (of THIS analysis): February 1st, 2024

Sponsor(s): George Munoz

Short Title: Drug Related Incident Response Act

Reviewing Agency: Agency 665 - Department of Health

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Section II: Fiscal Impact

APPROPRIATION (dollars in thousands)

| Appropriation Contained | | Recurring or Nonrecurring | Fund Affected |
|-------------------------|-------|---------------------------|---------------|
| FY 24 | FY 25 | | |
| \$0 | \$0 | N/A | N/A |
| | | | |

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|-------|-------|---------------------------|---------------|
| FY 24 | FY 25 | FY 26 | | |
| \$0 | \$0 | \$0 | NA | NA |
| | | | | |

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY 24 | FY 25 | FY 26 | 3 Year Total Cost | Recurring or Non-recurring | Fund Affected |
|-------|-------|-------|-------|-------------------|----------------------------|---------------|
| Total | \$0 | \$0 | \$0 | \$0 | N/A | N/A |
| | | | | | | |

Section III: Relationship to other legislation

Duplicates: None

Conflicts with: None

Companion to: None

Relates to: None

Duplicates/Relates to an Appropriation in the General Appropriation Act: None

Section IV: Narrative

1. BILL SUMMARY

a) Synopsis

Senate Bill 265 (SB 265) would enact the Drug-Related Incident Response Act within the Public School Code and require school districts and governing bodies of charter schools to develop and implement school-based drug related incident response plans for nonviolent drug-related incidents involving students.

Is this an amendment or substitution? Yes No

Is there an emergency clause? Yes No

b) Significant Issues

Results from the 2021 national Youth Risk Behavior Survey (YRBS) allow comparisons between high school students in New Mexico (NM) and the United States (US). Compared to US high school students, NM students were more likely to skip school due to safety concerns; were more likely to experience frequent mental distress; were more likely to use e-cigarettes; were more likely to use marijuana; and were more likely to currently misuse prescription pain medicine. [2021 YRRS Connections Factsheet - US YRBS and NM YRRS Comparisons - New Mexico Youth Risk & Resiliency Survey](#)

New Mexico School Discipline Laws & Regulations: Substance Use

New Mexico's Public-School Code primarily addresses the use, possession, and abuse of alcohol, tobacco, and illicit drugs on school grounds; each local school board or governing body establishes their own policy that prohibits the use, possession, and distribution of these substances. Similarly, exclusionary discipline (i.e., suspension, expulsion) is determined by respective school districts. In the case of Albuquerque Public Schools, student expulsion is implemented "as an extreme last resort for disciplining students who exhibit unacceptable behaviors such as drug possession, drug sales ..." ([Suspension, Long-term Suspension, Expulsion and Due Process Procedures \[Exclusionary Discipline\], APS Student Code of Conduct \(aps.edu\)](#)). Existing laws under the Public-School Code also focus on reporting and penalties for alcohol and drug use, but do not provide a

comprehensive response plan for nonviolent drug-related incidents, nor other key elements of SB265 such as training for key school administration and personnel and non-judicial action.

Exclusionary discipline or removing students from a normal classroom environment has been shown to negatively affect the school culture, create home instability, and does little to correct student behavior. Rather, other discipline options are beneficial to both the school community and individual students. Options such as: trauma informed practices, socio emotional learning through all curriculum across disciplines, positive behavior support and restorative justice. The Regional Educational Laboratory Southwest states, “Research has shown that schools that implementing restorative justice programs with fidelity will have lowered reliance on detention and suspension, improved school climate, increased trust between teachers and students, and improved academic performance.” [Handout: Alternatives to Exclusionary Discipline \(ed.gov\)](#)

The negative consequences of using expulsions and suspensions are not limited to the expelled or suspended student. High rates of school suspensions are associated with lower scores on standardized tests and overall academic achievement of the entire student body. The Department of Education recommends that “schools should... explicitly reserve the use of out- of-school [punishments] for the most egregious disciplinary infractions that threaten school safety,” such as bringing a firearm to school. [Why Schools Should Implement Alternatives to Suspension for Use and Possession of Commercial Tobacco Products - MN Dept. of Health \(state.mn.us\)](#)

It is important to note that the appropriation for SB 265 is limited to a single year although the Public Education Department and schools would be responsible for training and implementation in perpetuity.

2. PERFORMANCE IMPLICATIONS

- Does this bill impact the current delivery of NMDOH services or operations?
 Yes No
- Is this proposal related to the NMDOH Strategic Plan? Yes No
 - Goal 1:** We expand equitable access to services for all New Mexicans
 - Goal 2:** We ensure safety in New Mexico healthcare environments
 - Goal 3:** We improve health status for all New Mexicans
 - Goal 4:** We support each other by promoting an environment of mutual respect, trust, open communication, and needed resources for staff to serve New Mexicans and to grow and reach their professional goals

3. FISCAL IMPLICATIONS

- If there is an appropriation, is it included in the Executive Budget Request?
 Yes No N/A
- If there is an appropriation, is it included in the LFC Budget Request?
 Yes No N/A
- Does this bill have a fiscal impact on NMDOH? Yes No

It is possible that the training required by the DOH to certify both school nurses and health assistants, would need to be updated to include the use of a response team for nonviolent drug related incidents.

4. ADMINISTRATIVE IMPLICATIONS

Will this bill have an administrative impact on NMDOH? Yes No

It is possible that the training required by the DOH to certify both school nurses and health assistants, would need to be updated to include the use of a response team for nonviolent drug related incidents.

5. DUPLICATION, CONFLICT, COMPANIONSHIP OR RELATIONSHIP

None

6. TECHNICAL ISSUES

Are there technical issues with the bill? Yes No

7. LEGAL/REGULATORY ISSUES (OTHER SUBSTANTIVE ISSUES)

- Will administrative rules need to be updated or new rules written? Yes No
- Have there been changes in federal/state/local laws and regulations that make this legislation necessary (or unnecessary)? Yes No
- Does this bill conflict with federal grant requirements or associated regulations?
 Yes No
- Are there any legal problems or conflicts with existing laws, regulations, policies, or programs? Yes No

The Family Educational Rights and Privacy Act (FERPA) cites that school must have written permission from the parent or eligible student in order to release any information from a student's education record, except under the following circumstances:

- School officials with legitimate educational interest;
- Other schools to which a student is transferring;
- Specified officials for audit or evaluation purposes;
- Appropriate parties in connection with financial aid to a student;
- Organizations conducting certain studies for or on behalf of the school;
- Accrediting organizations;
- To comply with a judicial order or lawfully issued subpoena;
- Appropriate officials in cases of health and safety emergencies; and
- State and local authorities, within a juvenile justice system, pursuant to specific State law.

It is unclear whether the privacy and confidentiality section of the bill conflicts with the provisions in the FERPA. [Family Educational Rights and Privacy Act \(FERPA\)](#)

As a new section of the Public School Code will be enacted and cited as the "Drug-Related Incident Response Act"; laws and regulations pertaining to reporting of drug-related incidents within the Public School Code may need to be updated so as not to conflict with SB265.

8. DISPARITIES ISSUES

SB265 serves K-12 students attending public school in New Mexico who experience a drug-related incident on school campus, and the key administration and personnel responsible for administering response plans.

During 2019 in New Mexico, opioid misuse was roughly doubled compared to 2017 (18.9% vs. 8.5%) among AI/AN students who reported low social support ([A trend analysis of the prevalence of opioid misuse, social support, and suicide attempt among American Indian/Alaska native high school students in New Mexico: 2009–2019 Youth Risk Resiliency Survey \(YRRS\), BMC Public Health \(bmcpublihealth.com\)](#)). In 2021, 10% of students in New Mexico Public Schools were Native American and 62% of students were Hispanic ([Serving Hispanic Students Guidance Handbook, State of New Mexico](#)).

The negative impacts associated with exclusionary discipline are strongest among Black youth, students from low-income households, and students with disabilities ([Disparities and Discrimination in Student Discipline by Race and Family Income, The Journal of Human Resources \(jhr.org\)](#)). At the school-level, discipline and arrest rates are higher in districts with higher proportions of Black students and higher levels of disadvantage ([Distribution, Composition and Exclusion: How School Segregation Impacts Racist and Disciplinary Patterns, Race and Social Problems \(springer.com\)](#)). Research has found that Black, Hispanic, and Multiethnic adolescents demonstrate statistically significant disparities in consequences for substance-related infractions in schools; utilizing school-based substance use interventions are an efficacious means to decreasing ethnic health disparities in substance use consequences ([The Effectiveness of a School-Based Intervention for Adolescents in Reducing Disparities in the Negative Consequences of Substance Use Among Ethnic Groups, Journal of Racial and Ethnic Health Disparities \(springer.com\)](#)

9. HEALTH IMPACT(S)

Enacting SB0265 could affect children influenced by drug-related incidents that attend Public and Charter schools.

It is important to note that the appropriation for SB 265 is limited to a single year, although the Public Education Department and schools would be responsible for training and implementation in perpetuity.

While adolescent health consequences of exclusionary discipline are largely underexplored, the disparate social outcomes stemming from exclusionary discipline for drug-related infractions can negatively affect health. For example, there is a strong link between experiencing certain types of school discipline and a variety of key early adult outcomes. That is, high school students who are disciplined are more likely to be charged and convicted of a crime, incarcerated, receive Supplemental Nutrition Assistance Program (SNAP) benefits by age 26, and have household incomes that are below the federal poverty line at age 27; they are also less likely to graduate from college by age 23 and less likely to be employed ([School Discipline and Racial Disparities in Early Adulthood, American Educational Research Association \(sagepub.com\)](#)). Research has found that the prevalence of exclusionary school discipline and school-based police contact are associated with higher school-average levels of student substance use, depressed feelings, social support, and developmental risk factors in the following year. Exposure to high levels of exclusionary discipline and policing in schools likely produces and reproduces material and psychosocial conditions that increase the risk of adolescent substance use and mental [health problems](#), and erode social supports and healthy

development ([The Effect of Arrest and Justice System Sanctions on Subsequent Behavior: Findings from Longitudinal and Other Studies \(springer.com\)](#)). Additionally, exclusionary discipline can initiate or exacerbate conditions that increase subsequent criminal legal exposure, including alienation/disconnection from peers and educational staff, decreased perceptions of safety at school, and lower rates of academic attainment or achievement—especially among minoritized youth ([Aggressive Policing and the Educational Performance of Minority Youth, American Sociological Review \(sagepub.com\)](#)).

Alternatives to exclusionary discipline proposed under SB265, such as ongoing school counseling and professional health counseling referrals, substance use mentorship, and drug use treatment also improve health outcomes for youth who use drugs. Treatment for alcohol and drugs among adolescents has shown to reduce use of these substances four years after treatment ([Four-Year Outcomes from Adolescent Alcohol and Drug Treatment, Journal of Studies on Alcohol \(researchgate.net\)](#)). School-based substance use treatment has shown promise to be associated with a reduction in behavioral incidents and improved class attendance ([Associations Between School-Based Substance Use Treatment and Academic Outcomes, Journal of Adolescent Psychopharmacology \(nih.gov\)](#)). School counselors are uniquely positioned to improve student health outcomes through substance use interventions given their role in addressing myriad aspects of students' lives as research indicates that school, home, and community aspects of students' lives need to be addressed together to promote prevention ([The School Counselor's role with Students At-Risk for Substance Abuse \(counseling.org\)](#)).

10. ALTERNATIVES

The activities outlined in SB 265 may be able to be included in schools' existing crisis management teams or their school safety teams. Assuring that the requirements are met without specifying the creation of a response team may benefit schools.

11. WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

If SB 265 is not passed, the Drug-Related Incident Response Act within the Public School Code that would require school districts and governing bodies of charter schools to develop and implement school based drug related incident response plans for nonviolent drug related incidents involving students, would not be enacted. \$1,000,000 will not be appropriated from the general fund to the Public Education Department.

12. AMENDMENTS

None