

1 SENATE BILL 85

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024**

3 INTRODUCED BY

4 Harold Pope

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10 AN ACT

11 RELATING TO SCHOOLS; ENACTING THE SEIZURE SAFE SCHOOLS ACT TO
12 PROVIDE FOR SEIZURE DISORDER MANAGEMENT AND CARE BY SCHOOL
13 PERSONNEL; PROVIDING FOR RULEMAKING; LIMITING LIABILITY.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. A new section of the Public School Code is
17 enacted to read:

18 "[NEW MATERIAL] SHORT TITLE.--This act may be cited as the
19 "Seizure Safe Schools Act"."

20 SECTION 2. A new section of the Public School Code is
21 enacted to read:

22 "[NEW MATERIAL] DEFINITIONS.--As used in the Seizure Safe
23 Schools Act:

24 A. "governing body" means:

25 (1) the school board of a school district;

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1 (2) the entity that governs a state-chartered
2 or locally chartered charter school; or

3 (3) the entity that governs a private school;

4 B. "school" means an elementary, secondary, middle,
5 junior high or high school or any combination of those,
6 including a public school, state-chartered or locally chartered
7 charter school or private school that students attend in
8 person;

9 C. "school employee" means a person employed by a
10 school or a person employed by the department who is assigned
11 to a school;

12 D. "school nurse" means a person who:

13 (1) is authorized pursuant to the Nursing
14 Practice Act to practice as a professional registered nurse;

15 (2) is licensed by the department and the
16 board of nursing as a school nurse; and

17 (3) provides services as a school nurse at a
18 school;

19 E. "seizure action plan" means a written,
20 individualized health plan designed to acknowledge and prepare
21 for the health care needs of a student diagnosed with a seizure
22 disorder; and

23 F. "seizure care personnel" means a school employee
24 who volunteers to be trained and is trained in accordance with
25 Section 3 of the Seizure Safe Schools Act."

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1 SECTION 3. A new section of the Public School Code is
2 enacted to read:

3 "[NEW MATERIAL] SEIZURE CARE--SEIZURE CARE PERSONNEL--
4 TRAINING.--

5 A. By December 31, 2024, the department shall adopt
6 and promulgate rules for the training of school employees and
7 bus drivers on the management of students with seizure
8 disorders. Each governing body shall ensure that a seizure
9 safety training approved by the department is provided annually
10 to all school employees and bus drivers. At a minimum, the
11 seizure safety training programs shall include information on:

12 (1) seizure disorders;

13 (2) recognition of the signs and symptoms of
14 seizures and the appropriate steps to be taken to respond to
15 these symptoms; and

16 (3) seizure first aid.

17 B. The department shall, in consultation with the
18 department of health and New Mexico school nurses association,
19 adopt and promulgate rules for the training of school nurses
20 and seizure care personnel on providing care for students with
21 seizure disorders. Each governing body shall ensure that each
22 school attended by a student with a seizure disorder has at
23 least two school employees, including school nurses or seizure
24 care personnel, trained annually in the administration and use
25 of:

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- 1 (1) seizure rescue medications; and
2 (2) medications and devices prescribed to
3 treat seizure disorder symptoms, including vagus nerve
4 stimulation devices and responsive neurostimulation devices.

5 C. If a school attended by a student with a seizure
6 disorder does not have two employees who are trained pursuant
7 to Subsection B of this section, the school principal or other
8 school administrator shall distribute a written notice to all
9 school employees that the school is seeking volunteers to serve
10 as seizure care personnel. The notice shall inform all school
11 employees:

12 (1) that the school is required to provide
13 seizure disorder care to one or more students with a seizure
14 disorder;

15 (2) of the tasks to be performed by seizure
16 care personnel;

17 (3) that participation is voluntary and no
18 school, school district or governing body will take action
19 against any school employee who does not volunteer;

20 (4) that training will be provided to school
21 employees who volunteer to provide seizure care; and

22 (5) of the identity of the person whom school
23 employees should contact in order to volunteer to be seizure
24 care personnel.

25 D. A governing body shall not require the seizure

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1 care personnel to be health care practitioners.

2 E. The training required pursuant to Subsection B
3 of this section shall be provided by:

4 (1) a school nurse, if the school has a school
5 nurse; or

6 (2) a health care practitioner with expertise
7 in seizure disorders."

8 SECTION 4. A new section of the Public School Code is
9 enacted to read:

10 "[NEW MATERIAL] SEIZURE ACTION PLAN.--

11 A. The parent or guardian of a student with a
12 seizure disorder who seeks seizure disorder care while at
13 school shall submit to the school a seizure action plan. The
14 parent or guardian may submit a new seizure action plan as
15 necessary when the student's health status changes. Each
16 seizure action plan shall include:

17 (1) written orders from the student's
18 physician or advanced practice nurse outlining the student's
19 seizure disorder care needs;

20 (2) the symptoms of the seizure disorder for
21 that particular student and recommended care;

22 (3) accommodations for school trips, after-
23 school activities, class parties, sports, exercise and other
24 school-related activities;

25 (4) medical and treatment issues that may

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1 affect the educational process of the student with the seizure
2 disorder;

3 (5) the student's ability to manage and level
4 of understanding of the student's seizure disorder;

5 (6) contact information for the student's
6 parent or guardian and the student's health care team; and

7 (7) a release signed by the student's parent
8 or guardian authorizing the school nurse or seizure care
9 personnel to share the student's medical information with
10 health care providers, school employees and school bus drivers.

11 B. Each seizure action plan shall be reviewed and
12 implemented by a school nurse or seizure care personnel.

13 C. Each school employee and bus driver responsible
14 for the supervision or care of a student diagnosed with a
15 seizure disorder shall be given notice of the student's seizure
16 action plan."

17 SECTION 5. A new section of the Public School Code is
18 enacted to read:

19 "[NEW MATERIAL] SEIZURE DISORDER CARE AT SCHOOL.--

20 A. A governing body shall ensure that all students
21 with seizure disorders receive appropriate and needed seizure
22 disorder care as specified in students' seizure action plans.

23 In accordance with the request of a parent or guardian of a
24 student with a seizure disorder and the student's seizure
25 action plan, a school nurse or, in the absence of a school

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1 nurse, seizure care personnel shall perform seizure disorder
2 care functions that shall include, at a minimum:

3 (1) administration or assisted self-
4 administration of medication prescribed to treat seizure
5 disorder symptoms;

6 (2) administration of seizure rescue
7 medication when needed; and

8 (3) assisted use of devices that treat seizure
9 disorder symptoms.

10 B. A school nurse or at least one seizure care
11 personnel shall be available to provide care to each student
12 with a seizure disorder as provided pursuant to Subsection A of
13 this section during regular school hours and during all
14 school-sponsored activities, trips, extended off-site
15 excursions and extracurricular activities in which a student
16 with a seizure disorder is a participant and on buses where the
17 bus driver has not been trained in seizure disorder care and a
18 student with a seizure disorder is a passenger."

19 SECTION 6. A new section of the Public School Code is
20 enacted to read:

21 "[NEW MATERIAL] APPLICATION OF OTHER LAWS.--

22 A. The provisions of Subsection B of Section 5 of
23 the Seizure Safe Schools Act shall not constitute the practice
24 of nursing, and seizure care personnel shall be exempted from
25 all applicable statutory or regulatory provisions that restrict

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1 which activities can be delegated to or performed by a person
2 who is not a health care practitioner.

3 B. Nothing in the Seizure Safe Schools Act shall
4 diminish the rights of students with seizure disorders or the
5 obligations of school districts under the federal Individuals
6 with Disabilities Education Act, Section 504 of the federal
7 Rehabilitation Act of 1973 or the federal Americans with
8 Disabilities Act of 1990."

9 SECTION 7. A new section of the Public School Code is
10 enacted to read:

11 "[NEW MATERIAL] IMMUNITY FROM LIABILITY.--A school
12 employee, including a school nurse or bus driver, shall not be
13 held civilly or professionally liable for any act or omission
14 that is made in good faith and is consistent with the
15 provisions of the Seizure Safe Schools Act. An act or omission
16 is not in good faith if it is the result of willful misconduct,
17 gross negligence or recklessness."