

1 SENATE BILL 163

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

4 Benny Shendo, Jr. And D. Wonda Johnson and Angel M. Charley  
5 and Cindy Nava  
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10 AN ACT

11 RELATING TO PUBLIC SCHOOLS; PERMITTING PUBLIC SCHOOL STUDENTS  
12 WHO ARE ENROLLED, OR ELIGIBLE FOR ENROLLMENT, IN FEDERALLY  
13 RECOGNIZED INDIAN NATIONS, TRIBES AND PUEBLOS TO WEAR TRIBAL  
14 REGALIA AT GRADUATION CEREMONIES OR PUBLIC SCHOOL EVENTS.  
15

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

17 SECTION 1. Section 22-5-4.3 NMSA 1978 (being Laws 1986,  
18 Chapter 33, Section 9, as amended by Laws 2021, Chapter 19,  
19 Section 1 and by Laws 2021, Chapter 37, Section 1 and also by  
20 Laws 2021, Chapter 51, Section 8) is amended to read:

21 "22-5-4.3. SCHOOL DISCIPLINE POLICIES--RACIAL SENSITIVITY  
22 AND ANTI-RACISM TRAINING--HOTLINE FOR REPORTING RACIALLY  
23 CHARGED INCIDENTS AND RACIALIZED AGGRESSION INVOLVING STUDENTS  
24 OR SCHOOL PERSONNEL--STUDENTS MAY SELF-ADMINISTER CERTAIN  
25 MEDICATIONS.--

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1           A. Local school boards shall establish student  
2 discipline policies and shall file them with the department.  
3 The local school board shall involve parents, school personnel  
4 and students in the development of these policies, and public  
5 hearings shall be held during the formulation of these policies  
6 in the high school attendance areas within each school district  
7 or on a district-wide basis for those school districts that  
8 have no high school. No local school board shall allow for the  
9 imposition of discipline, discrimination or disparate treatment  
10 against a student based on the student's race, religion or  
11 culture or because of the student's use of protective  
12 hairstyles or cultural or religious headdresses.

13           B. Each school district discipline policy shall  
14 establish rules of conduct governing areas of student and  
15 school activity, detail specific prohibited acts and activities  
16 and enumerate possible disciplinary sanctions, which sanctions  
17 may include in-school suspension, school service, suspension or  
18 expulsion. Corporal punishment shall be prohibited by each  
19 local school board and each governing body of a charter school.

20           C. An individual school within a school district  
21 may establish a school discipline policy, provided that  
22 parents, school personnel and students are involved in its  
23 development and a public hearing is held in the school prior to  
24 its adoption. If an individual school adopts a discipline  
25 policy in addition to the local school board's school district

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1 discipline policy, it shall submit its policy to the local  
2 school board for approval.

3 D. All school discipline policies shall define and  
4 include a specific prohibition against racialized aggression  
5 involving a student or school personnel. Every school district  
6 and every charter school shall provide links to the statewide  
7 hotline to report racially charged incidents or racialized  
8 aggression.

9 E. No school employee who in good faith reports any  
10 known or suspected violation of the school discipline policy or  
11 in good faith attempts to enforce the policy shall be held  
12 liable for any civil damages as a result of such report or of  
13 the employee's efforts to enforce any part of the policy.

14 F. All public school and school district discipline  
15 policies shall allow students to carry and self-administer  
16 asthma medication and emergency anaphylaxis medication that has  
17 been legally prescribed to the student by a licensed health  
18 care provider under the following conditions:

19 (1) the health care provider has instructed  
20 the student in the correct and responsible use of the  
21 medication;

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

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

6 (4) the student's parent has completed and  
7 submitted to the school any written documentation required by  
8 the school or the school district, including the treatment plan  
9 required in Paragraph (3) of this subsection and other  
10 documents related to liability.

11 G. The parent of a student who is allowed to carry  
12 and self-administer asthma medication and emergency anaphylaxis  
13 medication may provide the school with backup medication that  
14 shall be kept in a location to which the student has immediate  
15 access in the event of an asthma or anaphylaxis emergency.

16 H. Authorized school personnel who in good faith  
17 provide a person with backup medication as provided in this  
18 section shall not be held liable for civil damages as a result  
19 of providing the medication.

20 I. Local school boards and governing bodies of  
21 charter schools shall not prohibit a student who is enrolled,  
22 or eligible for enrollment, in a federally recognized Indian  
23 nation, tribe or pueblo from wearing tribal regalia or objects  
24 of cultural significance along with or attached to a cap or  
25 gown or wearing tribally significant footwear or other items of

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1 apparel under a gown at graduation ceremonies or public school  
2 events.

3 [~~F.~~] J. As used in this section:

4 (1) "cultural or religious headdresses"  
5 includes hijabs, head wraps or other headdresses used as part  
6 of [~~an individual's~~] a person's personal cultural or religious  
7 beliefs;

8 (2) "protective hairstyles" includes such  
9 hairstyles as braids, locs, twists, tight coils or curls,  
10 cornrows, bantu knots, afros, weaves, wigs or head wraps; and

11 [~~(3) "race" includes traits historically~~  
12 ~~associated with race, including hair texture, length of hair,~~  
13 ~~protective hairstyles or cultural or religious headdresses]~~

14 (3) "tribal regalia" means a tribe's  
15 traditional dress or recognized objects of religious or  
16 cultural significance, including tribal symbols, jewelry,  
17 beading and feathers."

18 SECTION 2. Section 22-8B-4 NMSA 1978 (being Laws 1999,  
19 Chapter 281, Section 4, as amended) is amended to read:

20 "22-8B-4. CHARTER SCHOOLS' RIGHTS AND RESPONSIBILITIES--  
21 OPERATION.--

22 [~~A. A charter school shall be subject to all~~  
23 ~~federal and state laws and constitutional provisions~~  
24 ~~prohibiting discrimination on the basis of disability, physical~~  
25 ~~or mental handicap, serious medical condition, race, creed,~~

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1 ~~color, sex, gender identity, sexual orientation, spousal~~  
2 ~~affiliation, national origin, religion, ancestry or need for~~  
3 ~~special education services and shall not allow for the~~  
4 ~~imposition of discipline, discrimination or disparate treatment~~  
5 ~~against a student based on the student's race, religion or~~  
6 ~~culture or because of the student's use of protective~~  
7 ~~hairstyles or cultural or religious headdresses.~~

8 ~~B.]~~ A. A charter school shall be governed by a  
9 governing body in the manner set forth in the charter contract;  
10 provided that a governing body shall have at least five  
11 members; and provided further that no member of a governing  
12 body for a charter school that is initially approved on or  
13 after July 1, 2005 or whose charter is renewed on or after July  
14 1, 2005 shall serve on the governing body of another charter  
15 school. No member of a local school board shall be a member of  
16 a governing body for a charter school or employed in any  
17 capacity by a locally chartered charter school located within  
18 the local school board's school district during the term of  
19 office for which the member was elected or appointed.

20 ~~[C.]~~ B. A charter school shall be responsible for:  
21 (1) its own operation, including preparation  
22 of a budget, subject to audits pursuant to the Audit Act; and  
23 (2) contracting for services and personnel  
24 matters.

25 ~~[D.]~~ C. A charter school may contract with a school

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1 district, a university or college, the state, another political  
2 subdivision of the state, the federal government or one of its  
3 agencies, a tribal government or any other third party for the  
4 use of a facility, its operation and maintenance and the  
5 provision of any service or activity that the charter school is  
6 required to perform in order to carry out the educational  
7 program described in its charter contract. Facilities used by  
8 a charter school shall meet the standards required pursuant to  
9 Section 22-8B-4.2 NMSA 1978.

10 ~~[E-]~~ D. A conversion school chartered before July  
11 1, 2007 may choose to continue using the school district  
12 facilities and equipment it had been using prior to conversion,  
13 subject to the provisions of Subsection ~~[F]~~ E of this section.

14 ~~[F-]~~ E. A school district that has available land  
15 or one or more available facilities not currently used for  
16 other educational purposes shall make facilities and may make  
17 land available for lease, lease-purchase or purchase to the  
18 charter schools located in the school district for the charter  
19 schools' operations and shall notify the charter schools of  
20 that availability no later than May 1 of each year. The public  
21 school facilities authority shall annually ensure that each  
22 school district with available land or one or more available  
23 facilities has provided that notification. A school district  
24 may develop a facility prioritization plan that identifies  
25 which charter schools may lease, lease-purchase or purchase

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1 available school district facilities. School-district-owned  
2 land shall not be considered available to a charter school if  
3 the school district has justified future use of that land  
4 through its five-year facilities master plan. An agreement for  
5 the use of school district facilities by a charter school may  
6 provide for reasonable lease payments; provided that the  
7 payments do not exceed the sum of the lease reimbursement rate  
8 provided in Paragraph (1) of Subsection I of Section 22-24-4  
9 NMSA 1978 plus any reimbursement for actual direct costs  
10 incurred by the school district in providing the facilities;  
11 and provided further that any lease payments received by a  
12 school district may be retained by the school district and  
13 shall not be considered to be cash balances in any calculation  
14 pursuant to Section 22-8-41 NMSA 1978. The available  
15 facilities provided by a school district to a charter school  
16 shall meet all occupancy standards as specified by the public  
17 school capital outlay council. As used in this subsection,  
18 "other educational purposes" includes health clinics, daycare  
19 centers, teacher training centers, school district  
20 administration functions and other ancillary services related  
21 to a school district's functions and operations.

22 ~~[G.]~~ F. A locally chartered charter school may pay  
23 the costs of operation and maintenance of its facilities or may  
24 contract with the school district to provide facility operation  
25 and maintenance services.

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1           [~~H.~~] G. Locally chartered charter school facilities  
2 are eligible for state and local capital outlay funds and shall  
3 be included in the school district's five-year facilities plan.

4           [~~F.~~] H. A locally chartered charter school shall  
5 negotiate with a school district to provide transportation to  
6 students eligible for transportation under the provisions of  
7 the Public School Code. The school district, in conjunction  
8 with the charter school, may establish a limit for student  
9 transportation to and from the charter school site not to  
10 extend beyond the school district boundary.

11           [~~J.~~] I. A charter school shall be a nonsectarian,  
12 nonreligious and non-home-based public school.

13           [~~K.~~] J. Except as otherwise provided in the Public  
14 School Code, a charter school shall not charge tuition or have  
15 admission requirements.

16           [~~E.~~] K. With the approval of the chartering  
17 authority, a single charter school may maintain separate  
18 facilities at two or more locations within the same school  
19 district; but, for purposes of calculating program units  
20 pursuant to the Public School Finance Act, the separate  
21 facilities shall be treated together as one school.

22           [~~M.~~] L. A charter school shall be subject to the  
23 provisions of Section 22-2-8 NMSA 1978 and the Assessment and  
24 Accountability Act.

25           [~~N.~~] M. Within constitutional and statutory limits,

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1 a charter school may acquire and dispose of property; provided  
2 that, upon termination of the charter, all assets of the  
3 locally chartered charter school shall revert to the local  
4 school board and all assets of the state-chartered charter  
5 school shall revert to the state, except that, if all or any  
6 portion of a state-chartered charter school facility is  
7 financed with the proceeds of general obligation bonds issued  
8 by a local school board, the facility shall revert to the local  
9 school board.

10 ~~[O.]~~ N. The governing body of a charter school may  
11 accept or reject any charitable gift, grant, devise or bequest;  
12 provided that no such gift, grant, devise or bequest shall be  
13 accepted if subject to any condition contrary to law or to the  
14 terms of the charter. The particular gift, grant, devise or  
15 bequest shall be considered an asset of the charter school to  
16 which it is given.

17 ~~[P.]~~ O. The governing body may contract and sue and  
18 be sued. A local school board shall not be liable for any acts  
19 or omissions of the charter school.

20 ~~[Q.]~~ P. A charter school shall comply with all  
21 state and federal health and safety requirements applicable to  
22 public schools, including those health and safety codes  
23 relating to educational building occupancy.

24 ~~[R.]~~ Q. A charter school is a public school that  
25 may contract with a school district or other party for

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1 provision of financial management, food services,  
2 transportation, facilities, education-related services or other  
3 services. The governing body shall not contract with a for-  
4 profit entity for the management of the charter school.

5 ~~[S.]~~ R. To enable state-chartered charter schools  
6 to submit required data to the department, an accountability  
7 data system shall be maintained by the department.

8 ~~[F.]~~ S. A charter school shall comply with all  
9 applicable state and federal laws and rules related to  
10 providing special education services. Charter school students  
11 with disabilities and their parents retain all rights under the  
12 federal Individuals with Disabilities Education Act and its  
13 implementing state and federal rules. Each charter school is  
14 responsible for identifying, evaluating and offering a free  
15 appropriate public education to all eligible children who are  
16 accepted for enrollment in that charter school. The state-  
17 chartered charter school, as a local educational agency, shall  
18 assume responsibility for determining students' needs for  
19 special education and related services. The division may  
20 promulgate rules to implement the requirements of this  
21 subsection

22 ~~[U. As used in this section:~~

23 ~~(1) "cultural or religious headdresses"~~  
24 ~~includes hijabs, head wraps or other headdresses used as part~~  
25 ~~of an individual's personal cultural or religious beliefs;~~

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1                   ~~(2) "protective hairstyles" includes such~~  
2 ~~hairstyles as braids, loes, twists, tight coils or curls,~~  
3 ~~cornrows, bantu knots, afros, weaves, wigs or head wraps; and~~

4                   ~~(3) "race" includes traits historically~~  
5 ~~associated with race, including hair texture, length of hair,~~  
6 ~~protective hairstyles or cultural or religious headdresses]."~~

7           SECTION 3. A new section of the Charter Schools Act is  
8 enacted to read:

9           "[NEW MATERIAL] POLICY OF NON-DISCRIMINATION.--

10           A. A charter school shall be subject to all federal  
11 and state laws and constitutional provisions prohibiting  
12 discrimination on the basis of disability, physical or mental  
13 handicap, serious medical condition, race, creed, color, sex,  
14 gender identity, sexual orientation, spousal affiliation,  
15 national origin, religion, ancestry or need for special  
16 education services and shall not allow for the imposition of  
17 discipline, discrimination or disparate treatment against a  
18 student based on the student's race, religion or culture or  
19 because of the student's use of protective hairstyles or  
20 cultural or religious headdresses.

21           B. Governing bodies of charter schools shall not  
22 prohibit a student who is enrolled, or eligible for enrollment,  
23 in a federally recognized Indian nation, tribe or pueblo from  
24 wearing tribal regalia or objects of cultural significance  
25 along with or attached to a cap or gown or wearing tribally

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1 significant footwear or other items of apparel under a gown at  
2 graduation ceremonies or public school events.

3 C. As used in this section:

4 (1) "cultural or religious headdresses"  
5 includes hijabs, head wraps or other headdresses used as part  
6 of a person's personal cultural or religious beliefs;

7 (2) "protective hairstyles" includes such  
8 hairstyles as braids, locs, twists, tight coils or curls,  
9 cornrows, bantu knots, afros, weaves, wigs or head wraps; and

10 (3) "tribal regalia" means a tribe's  
11 traditional dress or recognized objects of religious or  
12 cultural significance, including tribal symbols, jewelry,  
13 beading and feathers."