

LFC Requester:

Sunny Liu

**AGENCY BILL ANALYSIS - 2026 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**

**[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)**

***(Analysis must be uploaded as a PDF)***

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

**Date Prepared:** 1/29/2026

*Check all that apply:*

**Bill Number:** HB 120

Original  Correction

Amendment  Substitute

**Sponsor:** Yanira Gurrola  
E. Diane Torres-Velásquez  
Natalie Figueroa

**Agency Name and Code Number:** New Mexico Public Schools Insurance Authority-34200

**Person Writing Analysis:** Dominique Williams

**Short Title:** LIMITING STUDENT RESTRAINT & SECLUSION

**Phone:** 505-469-5541 **Email:** Dominique.williams@psia.nm.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
none			none

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
none				none

(Parenthesis ( ) indicate revenue decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected

<b>Total</b>	<b>none</b>					<b>none</b>
--------------	-------------	--	--	--	--	-------------

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
 Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis:

HB 120 amends NMSA §22-5-4.12 to simplify and strengthen protections for students by strictly limiting when and how public schools in New Mexico may use physical restraint or seclusion. The bill prohibits the use of chemical restraints, mechanical restraints, prone restraints, and seclusion without continuous, direct visual supervision. The bill allows physical restraint or seclusion *only if* the student poses an immediate danger or serious physical harm to themselves or others, or when less restrictive options, such as positive behavior intervention or de-escalation, are insufficient. The bill also notes that elopement does not justify restraint unless the aforementioned conditions are met; a physical escort may be used instead.

HB 120 specifies the rules for when restraint or seclusion are used, to include required continuous visual monitoring, it must stop as soon as the danger ends, it can only be done by trained staff (except in true emergencies), it cannot interfere with breathing or communication, it must be appropriate for the student’s age, size, and health needs. Training requirements noted in the bill are that designated staff must be trained at least every two years, that training covers de-escalation tactics, alternatives to restraint, proper use, and documentation. A requirement that each district must have a department-approved school safety plan.

Other key points in the bill note that parent notification is required the same day (or within 24 hours), parents have the right to request an Individualized Education Program (IEP), behavior plan, or student assistance team meetings, and detailed written documentation must be provided to parents within three school days. Schools must review cases when restraint or seclusion is used more than once in a school year. Time-out cannot be used as punishment per this bill; nor does it apply to juvenile detention facilities, and it does not regulate law enforcement or first responders.

**FISCAL IMPLICATIONS**

School Districts and charter schools will incur additional costs to develop policy, develop training programs, train school personnel, and interface with PED for required approvals and oversight.

NMPSIA may be well-positioned to develop training programs and to participate in or deliver school personnel training programs and updates. If NMPSIA and POMS were to develop and deliver training programs, additional funding would be needed.

**SIGNIFICANT ISSUES**

HB 120 is the result of multiple-year work by LESC and constituent groups to consider improvements to seclusion and restraint policies and practices. Currently, 1978 NMSA § 22-5-4.12, and importantly NMAC 6.11.2.10, lay out the techniques, requirements, reporting, and training for seclusion and restraint currently required.

HB 120 prohibits seclusion without continuous line-of-sight supervision, chemical restraint, mechanical restraint, and prone restraint. This provides clarity in the statute and rules.

The PED-developed form described in this Bill, provided to parents after an event, will standardize the communication to parents, with a goal of improving information about the event.

A parent of a regular education student is not entitled to an IEP (individualized education plan) or a BIP (Behavioral Intervention Plan). If the intent is to expand this to regular education students, there should be criteria established for which students and the plan(s) should be named differently, along with specific processes for the development of such plans.

### **PERFORMANCE IMPLICATIONS**

The bill places requirements on all School Boards and Governing Bodies to develop policies and procedures, school safety plans, training, reporting, and oversight. The bill also requires PED to issue guidance and approve safety plans, approve training, and develop an incident report form.

Consider whether to add requirements for PED to develop guidance, training, and forms, in NMSA §9-24-1 et. seq., since the bill only places requirements on School Boards and Governing Bodies. Also consider adding a time period for PED to approve or reject **and provide clear response to correct deficiencies** in safety plans and training programs. It would be unfair to the schools and complicated for insurer NMSPIA if an event occurred after a school submitted their plans but before PED approved the plan.

### **ADMINISTRATIVE IMPLICATIONS**

School boards and governing bodies may seek additional input and recommendations from third parties when developing their policies and training programs. Some policies may run afoul of current federal directives on DEI, since a school's culture may be implicated in positive behavioral interventions. Organizations offer assistance with developing and implementing positive behavioral interventions. See, for example:

[www.pbis.org](http://www.pbis.org).

[www.nea.org](http://www.nea.org).

<https://www.ebSCO.com/research-starters/psychology/positive-behavioral-interventions-and-supports-pbis>

Updated rulemaking, including revisions to NMAC 6.11.2.10 by PED, may be necessary to implement and detail the requirements of HB 120. The PED-developed and issued reporting form could be reflected in updated STARS discipline reporting categories to enable schools to provide more detailed and accurate reporting data.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Federal law, namely the Individuals with Disabilities Education Act (IDEA) and related federal regulations, provides a legal foundation for functional behavioral assessments and behavioral interventions for students with IEPs. New Mexico laws and regulations provide additional guidance and requirements. (see generally NMAC 6.31.2.10). Federal law, State law, and regulations (and case law) already have requirements on specific behavioral interventions and communication requirements with parents and guardians. HB120 seems to work in conjunction with those requirements.

## **TECHNICAL ISSUES**

The definition of “less restrictive intervention” (page 2 line 13-14) defines what it does, not what it is. More specificity in the definition is necessary to give guidance to all involved (school boards, governing bodies, teachers, PED, and insurer) on what is expected. Otherwise, it could increase litigation. Positive behavior interventions use an empirical model that integrates evidence-based practices to enhance both academic and behavioral results for all students. Providing better detail to the definition would improve compliance and success. It would also be beneficial to anticipate insurance claims and settlements.

Consider whether the “imminent danger” consideration in the exception on page 7, line 19, should be “actual danger”. Imminent danger is a judgment call, which requires training of specified staff. Since this paragraph describes the exception (when untrained staff is allowed to use physical restraint or seclusion), this places additional liability on untrained staff to decide in the moment. Staff can determine if there has been actual danger more easily.

Consider adding the requirement that school safety plans designate school personnel who are required to be trained in positive behavior intervention and supports, de-escalation, and restraint techniques (page 5)

## **OTHER SUBSTANTIVE ISSUES**

The bill requires PED to issue guidance for behavior management techniques, de-escalation, training, and the use of positive behavior interventions. (page 5, lines 17-18). The bill also requires PED approval of the board or governing body’s plan (page 6, line 9), which may run afoul of NMSA §22-5-4.

## **ALTERNATIVES**

None noted at this time.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

This bill provides important guidance on managing complicated and potentially harmful behaviors in schools. Without these updates, the schools will continue to operate under the current statutory structure.

## **AMENDMENTS**

None noted at this time.