

POLICY SERVICES

ADVISORY

Volume 20, Number 2

May 2021

CONTENTS

Policy Advisory No. 215JFB – Open Enrollment

Policy Advisory No. 216IHB – Special Instructional Programs
.....IHB-E – Special Instructional Programs

Policy Advisory No. 217BID – Board Member Compensation and Expenses

Policy Advisory No. 218DKC – Expense Authorization / Reimbursement

Policy Advisory No. 219JCLA – Physical Examinations of Students

Policy Advisory Discussion

Policy Advisory No. 215. JFB – Open Enrollment. Senate Bill 272 requires that NMSA 22-1-4 regarding open enrollment be modified to allow military families to enroll school-age children prior to their physical presence in the state under the first enrollment priority.

For those not familiar with why policy JFB (Open Enrollment) appears to be very complex, the following explanation is provided. Any application, reference to handicap condition or selection for open enrollment based upon a

NEW MEXICO SCHOOL BOARDS ASSOCIATION
Note: This material is written for informational purposes only, and not as legal advice. You may wish to consult an attorney for further explanation.

student's qualification for Special Education Services or Section 504 modifications would be a discriminatory act in violation of federal law on non-discrimination and equal opportunity in relation to disability as found in policy AC (Non-discrimination / Equal Opportunity). Students with disabilities under federal law are to be considered by grade level educational placement and not by disability, though special provisions for disability may be required. To avoid that circumstance, Policy Services has prepared a policy which places all resident and non-resident students (priorities being considered) within grade level groups and to be admitted upon the use of a random selection process. Contrary to what some may understand, a student may not be omitted from open enrollment simply because the district does not have a program to accommodate their disability. Considering the federal non-discrimination position and the open enrollment statute, the limits as to when applications can be made along with the random selection process in the suggested policy allows for some management of admission. The randomness of the policy ensures that a district with notable services in certain areas is not targeted by parents because of the service. Under the random selection process of the suggested policy there would be no opportunity for discrimination to take place. Also note that the policy includes the opportunity for students to enroll outside of the open enrollment period if there is still room based upon the availability of capacity.

Many districts have chosen to use a local open enrollment policy. Policy Services would caution against such action because it is likely that this will be challenged given the knowledge and perseverance of parents of student's with disabilities and their advocates. If these issues are not of concern to the district, a local policy can be established and maintained. Keep in mind, if a student is attending the district under open enrollment, the district must provide the special services necessary under the requirements of special education and Section 504.

The only changes to the model policy JFB are in the area of military family allowances per Senate Bill 272 and omission of a legal citation that has been repealed. Both Regulation JFB-R and Exhibit JFB-E have no changes but are required for the implementation of the policy. For those adopting this advisory, please consider the dates highlighted in the Section titled Information and Application on when applications are accepted and provide those along with the date of adoption upon approval by your Local Board of Education.

NEW MEXICO SCHOOL BOARDS ASSOCIATION

Note: This material is written for informational purposes only, and not as legal advice. You may wish to consult an attorney for further explanation.

Policy Services

2

Policy Advisory No. 216. IHB, IHB-E – Special Instructional Programs. House Bill 222 titled the Special Education Ombud Act places a requirement on school districts to post and distribute information regarding the new Ombud Act. Policy Services has provided the policy guidance for this requirement in both the policy and in the exhibit.

The policy IHB was originally developed several years ago following the Special Education Bureau posting requirements for school districts to modify and adopt an on-line model set of special education requirements. With the Bureau's approval, Policy Services referenced the Bureau's on-line model as modified by the local school district, a large document, rather than adding to the also large policy manual. The policy IHB is, in general, a summary document, outlining only minimal requirements of the Federal Act. The last paragraph of the policy references the State required document. The exhibit IHB-E contains the Federal Regulations at 34 C.F.R. 300.504 on Procedural Safeguards notice. The Ombud Act compliance information is contained as a heading following the Procedural Safeguards.

What districts should remember and take action to implement are the following directions required by the act:

- Post a notice regarding the "Ombud Act" containing a description of services, name, address and phone number of the office in a conspicuous location and on the school website (form to be approved by the Ombud Act office) as well as:
 - Distribute information regarding the state Ombud Act every school year.
 - Provide information as a part of the annual individual education plan process prior to each year's plan meeting.

Since the Ombud Act has not been codified (given a statutory numerical designation) by the New Mexico Compilation Commission at the time this advisory was written, the designation and link will be added to each policy upon adoption and submission to each district's on-line policy manual.

Policy Advisory No. 217. BID – Board Member Compensation and Expenses. The changes to 10-8-3 and 10-8-4 by Senate Bill 345 relate to a new definition of attendance applying to Board members of a local public body, public officers or public officials who are appointed by a local public body and employees of the local public body. Non-salaried public officers or

NEW MEXICO SCHOOL BOARDS ASSOCIATION

Note: This material is written for informational purposes only, and not as legal advice. You may wish to consult an attorney for further explanation.

Policy Services

3

officials, which include Board members and those public officials appointed by the Board as defined in revised NMSA 10-8-3, are to be reimbursed for per diem and mileage rates per NMSA 10-8-4 as revised.

In accord with 6.20.2.19 NMAC each school district is instructed to establish and implement written policies and procedures for travel and training. Travel policies and procedures shall be in compliance with the Per Diem and Mileage Act, Sections 10-8-1 through 10-8-8, NMSA 1978, and department of finance and administration (DFA) regulations. To include all the requirements of 10-8 and the DFA regulations would entail inclusion of regulations that change almost yearly and are already provided in a Manual of Procedures titled PSAB Supplement 20 Training and Travel. Policy Services has chosen to highlight the requirements with references linked to the actual Statutes 10-8-1 through 10-8-8 and the Manual of Procedures titled PSAB Supplement 20 Training and Travel.

The changes to 10-8-3 and 10-8-4 by Senate Bill 345 relate to a new definition of attendance applying to Board members of a local public body, public officers or public officials who are appointed by a local public body and employees of the local public body. Non-salaried public officers or officials, which include Board members and those public officials appointed by the Board as defined in revised NMSA 10-8-3, are to be reimbursed for per diem and mileage rates per NMSA 10-8-4 as revised.

The significant changes are that a Board member, Public Officer or Public Official who attends a board or committee meeting for less than four (4) hours or a virtual meeting of any duration during a single calendar day, shall receive a per diem of forty-five dollars (\$45). If the officer physically attends a board or committee meeting for four (4) hours or more during a single calendar day they shall receive a per diem of ninety-five (\$95) dollars. At this point the statute indicates that mileage rate reimbursements are to be in accord with the Internal Revenue Service standard rate set January 1 of the previous year for miles traveled in a privately owned vehicle or eighty-eight cents (\$.88) in a privately owned airplane under certain conditions cited in NMSA 10-8-4 D. Thereafter, the statute indicates that reimbursement for actual meals and incidentals shall not exceed the maximum amounts for in-state and out-of-state travel established by the Department of Finance and Administration (DFA). The travel mileage is always subject to being calculated from the post of the Officer, Official or employee. The post of a Board Member is always their home while that of an employee is their assigned station.

NEW MEXICO SCHOOL BOARDS ASSOCIATION

Note: This material is written for informational purposes only, and not as legal advice. You may wish to consult an attorney for further explanation.

Policy Services

4

That having been the general changes of the two statutory sections, the policies will simply state these factors with a linked reference to the statutes and regulations as being a part of the policy by such reference. It is suggested that the business office or other office responsible for approval of travel in each district maintain copies of the latest versions of the statutes and regulations and make them available to Public Officers, Officials, and staff.

Policy Advisory No. 218. DKC – Expense Authorization and Expenses. The following explanation is similar to the previous explanation for Board members in Policy Advisory No. 217. The difference is that there are definitions changed by Senate Bill 345 that apply in policy BID that do not apply in policy DKC. Certain changes regarding meals and lodging have changed for both of these policies.

In accord with 6.20.2.19 NMAC, each school district shall establish and implement written policies and procedures for travel and training. Travel policies and procedures shall be in compliance with the Per Diem and Mileage Act, Sections 10-8-1 through 10-8-8, NMSA 1978, and department of finance and administration (DFA) regulations. To include all the requirements of 10-8 and the DFA regulations would entail inclusion of regulations that change almost yearly and are already provided in a Manual of Procedures titled PSAB Supplement 20 Training and Travel. Policy Services has chosen to highlight the requirements with references linked to the actual Statutes 10-8-1 through 10-8-8 and Manual of Procedures titled PSAB Supplement 20 Training and Travel.

Statute indicates that mileage rate reimbursements are to be in accord with the Internal Revenue Service standard rate set January 1 of the previous year for miles traveled in a privately owned vehicle or eighty-eight cents (\$.88) in a privately owned airplane under certain conditions cited in NMSA 10-8-4 D. Thereafter, the statute indicates that reimbursement for actual meals and incidentals shall not exceed the maximum amounts for in-state and out-of-state travel established by the Department of Finance and Administration (DFA). The policies will simply state these factors with a linked reference to the statutes and regulations and that all are part of the policy by such reference. It is suggested that the business office or other office responsible for approval of travel in each district maintain copies of the latest versions of the statutes and regulations and make them available to Public Officers, Officials, and staff.

Policy Advisory No. 219. JLCA – Physical Examinations of Students. House Bill 308, **passed by the legislature in 2019**, required the preparation of rules by the Public Education Department (PED) to implement a requirement for dental examinations for all new enrollees in the New Mexico schools after July 1, 2021. The policy provides the basic information of the Statute and Rule. There are some parts of the implementation that will require other actions by the districts.

Keep in mind that the collection of satisfactory evidence of dental examination or the waiver is for the initial registration of the student in a New Mexico school or district. It is not required for continuing students after first time enrollment. Thus, this information will have to be forwarded to other schools when a student transfers, otherwise there will be confusion regarding this issue from school to school.

The rules provide an exception for an informed opt-out process based on parent or guardian understanding of the risks associated with not having a dental examination. The department is to provide extensive education statewide for parents and guardians explaining the requirements for dental examination and providing information regarding where they may receive referrals to dental health care professionals statewide who are authorized to perform dental examinations in accordance with those rules.

The statute requires satisfactory evidence and a form signed by the parent or guardian that the risk is understood and that the parents opt not to obtain the dental examination. The rule, on the other hand, requires that the districts have the parents sign a "student dental examination waiver" which is to be a **designated field within a school district's enrollment application**. This addition to the statutory requirement is logical because of the issue of transfers among districts and even schools within a district. The rule also requires that the information be collected, stored and reported for newly enrolled students only with the end of year student data by enrolled 'with evidence' or enrolled 'with waiver opted.' The enrollment application requirement may require extensive changes to the enrollment forms and procedures which schools have systemized and many have placed on line. There may also be difficulty and additional time required to retrieve information from a larger document than a separate standard form. Policy services suggests that this is something the school nurse should accumulate from the records.

Be prepared to hand out information and refuse enrollment of a student who is enrolling in a New Mexico school for the first time based upon this new law. It may cause additional work and financial concern in follow up and lost days of student attendance.

Materials of a legal nature in support of this advisory may be found following the text of the policies or at the websites cited. If you have any questions, or requests call Policy Services at (505) 469-0193 or E-mail Dr. Donn Williams, Policy Services Director at [nmsbapolicy@cox.net].

Advisory 215

NEW MEXICO SCHOOL BOARDS ASSOCIATION

Note: This material is written for informational purposes only, and not as legal advice. You may wish to consult an attorney for further explanation.

Policy Services

OPEN ENROLLMENT

The District has an open-enrollment program as set forth in 22-1-4 NMSA 1978.

Enrollment Options

District resident pupils may enroll in another school district or in another school within this District. Pupils may enroll in schools within this District, subject to the procedures that follow.

Information and Application

The Superintendent shall prepare and distribute the District's application process, standards for acceptance or rejection, and policies, regulations, and procedures for open enrollment. The packet will be made available to everyone who requests it.

For non-Title I schools, notice provided to parents must incorporate the open enrollment provision that students from schools identified for improvement are considered to have higher priority when considering transfer requests. If funding from non-federal (state or local sources) is not available, parents should also be notified that funding of transportation is not possible.

Any eligible New Mexico resident may seek open enrollment by completing and submitting an enrollment application form. Applicants may be selected or receive early placement on the waiting list for enrollment if their applications are received between **March 1 and April 30** prior to the beginning of each school year. Those applications received after this period will be added to a waiting list in the order that they are received and may be considered following the placement of students already on waiting lists by grade and enrollment preference categories. All nonresident transfer pupils enrolled and pupils seeking enrollment must reapply yearly.

Transfers shall be made at the beginning of a semester. If an emergency arises or reasonable justification can be provided, the school principal will review a request for variance. In the event the principal negates the

request, the matter may be presented to the Superintendent and ultimately to the Board for a decision. Transfer students will be expected to remain in the school of their choice until the close of the semester in which they are enrolled. Nothing in this open enrollment policy shall prevent the District from placing a pupil at any time in a school based upon the best interest of the student and school provided capacity is available.

First Priority Placement and Excess Capacity

The Superintendent shall annually estimate how much excess capacity may exist to accept transfer pupils. The estimate of excess capacity shall be made for each school and grade level and shall take into consideration:

- District resident pupils in assigned school attendance areas.
- Pupils who were enrolled in the school the previous year and relocated because their parents were deployed as active duty members of the United States armed forces or national guard or children of a military family who will be attending school in the district during the upcoming year.
 - Those children of military families relocated to New Mexico by official order may enroll their children in public school prior to their actual physical presence in the district.
 - The school district shall accept electronic applications for enrollment in any school or program.
 - The school district shall provide the applicant with relevant materials regarding attendance and participation.
 - The school district shall preregister the student in anticipation of the student's enrollment provided the student's parent provides proof of residence in the district within forty-five (45) days of published arrival.
- Homeless pupils who were enrolled in the school as a school of origin (A school of origin means the school that the student attended when permanently housed or the school in which the student was last enrolled.)
- The enrollment of eligible children of certificated employees. (In order to encourage qualified certificated employees to join the staff, children

of certificated employees will be enrolled if space is available per 22-12-5 NMSA.)

The estimate of excess capacity shall be made for each school and grade level and shall be based upon 22-10A-20 NMSA 1978 regarding teacher/student ratios with consideration for school growth factors.

The determination of excess capacity shall be made following class size estimates of expected enrollment of those residents within each school attendance area the previous semester and those listed bullets found above.

Enrollment Priorities

If the Superintendent has determined that there is excess capacity to enroll additional pupils, such pupils shall be selected on the basis of designated priority categories by grade from the pool of pupils:

- Who have properly completed and submitted applications; *and*
- Who meet admission standards.

Enrollment priorities and procedures for selection shall be in the order and in accordance with the following:

- Second (2nd) enrollment priority shall be given to pupils who request a transfer from a public school through the process adopted by regulation of the Superintendent and placed in classes or on a waiting list in order of selection.
- Third (3rd) enrollment priority shall be given to those who previously attended the public school or on a waiting list in order of selection.
- Fourth (4th) enrollment priority shall be given to all other applicants. If capacity is not available, selection shall be in order of selection.
- A student who falls in enrollment priorities of previously attended the public school or a private school shall be given each of the following circumstances subject to capacity available:
 - after-school child-care for students;
 - child-care for siblings of students attending the public school;
 - children of non-certificated employees employed at the public school;
 - extreme hardship;
 - location of a student's previous school;

NEW MEXICO SCHOOL BOARDS ASSOCIATION

Note: This material is written for informational purposes only, and not as legal advice. You may wish to consult an attorney for further explanation.

Policy Services

- siblings of students already attending the public school; and
- student safety.
- Enrollment shall be given to out-of-state residents after all others and tuition shall be charged only if indicated by application of NMSA 22-12-5.

Admission Standards

A student who has been expelled during the last twelve (12) months by any school district or private school in the United States or who has exhibited behavior detrimental to the welfare or safety of other students or school employees imposed by any other school or school district in the United States within the last twelve (12) months shall not be admitted. Acceptance for enrollment may be revoked re-enrollment denied upon finding the existence of any of these conditions.

Notification

Notification shall be given prior to the beginning of the semester if possible, for those selected on the basis of (1) the student's enrollment priority category by grade, and then (2) the order of the student's entry on the waiting list.

The District shall notify the emancipated pupil, parent, or legal guardian in writing whether the applicant has been accepted, placed on a waiting list pending the availability of capacity, or denied enrollment. If the applicant is placed on a waiting list, the notification shall inform the emancipated pupil, parent, or legal guardian of the time when it will be determined whether there is capacity for additional enrollment in a school. If the pupil's application is rejected, the reason for the rejection may be stated in the notification.

Exception

Should there be excess capacity by grade level remaining for which no applications were submitted by the dates established for initial applications, the Superintendent shall authorize additional enrollment of pupils:

- Up to the determined capacity.
- On the basis of the order of the completed applications submitted after the notification of

- Without regard to enrollment preference.
- As long as admission standards are met.

Hearing and Appeal Procedure for Denial of Enrollment

A student may appeal the denial of enrollment or re-enrollment for attendance by requesting a hearing with the Superintendent of Schools within ten (10) days of receiving notification. Such hearing shall be on an informal basis, providing the student the opportunity to present factual information that would contradict the information leading to the denial. An electronic record shall be made of the hearing. Upon completion of the hearing the Superintendent shall render a decision in writing. The student may request that the decision of the Superintendent be reviewed by the Board within five (5) days of receipt of the Superintendent's decision. The Board shall receive the request and review the record to determine if the Superintendent's decision to deny enrollment was based upon reasonable information of expulsion or detrimental behavior as provided for in 22-1-4 NMSA 1978. A determination by the Board that the reasons were within statutory guidelines would affirm the Superintendent's decision, a determination to the contrary would allow the enrollment or re-enrollment if the student based upon the priorities of this policy.

Adopted: date of manual adoption

LEGAL REF.: 22-1-4 NMSA (1978)
 22-10A-20 NMSA (1978)
~~22-12-5 NMSA (1978)~~
 6.10.3.1 NMAC *et seq.*
 6.42.2.8 NMAC
 42 U.S.C. 11301, McKinney-Vento Homeless Assistance
 Act of 2001, as amended by the Every Student
 Succeeds Act (ESSA) of 2015

CROSS REF.: EEAA - Walkers and Riders
 JF - Student Admissions
 JFAA - Admission of Resident Students
 JFAB - Admission of Nonresident Students
 JFABD - Admission of Homeless Students
 JG - Assignment of Students to Classes and Grade Levels

NEW MEXICO SCHOOL BOARDS ASSOCIATION

Note: This material is written for informational purposes only, and not as legal advice. You may wish to consult an attorney for further explanation.

Policy Services

REGULATION**REGULATION****OPEN ENROLLMENT****Selection Process**

All applicants will be accepted if there is sufficient capacity. If there is insufficient capacity, applicants will be selected from the submitted applications for enrollment in a school in accordance with a random selection process by enrollment priority and grade level except where policy may indicate otherwise. After June 1, pupils shall be selected for enrollment from the waiting list by enrollment priority in the order in which the pupils were placed on the waiting list through the random selection process, or as otherwise provided by policy.

Procedure

The procedure for selection shall be as follows:

- The applicants will be divided by priority categories and grade level, have their names placed on separate pieces of paper and the papers placed in a container. Names will be drawn by priority categories and numbered in the order in which they are drawn. All applications properly submitted will be drawn and numbered for enrollment consideration. The applicants whose names are selected in order, up to the capacity limitations established, shall be permitted to enroll in the school and grade level. All others drawn will be placed on a waiting list with priority in accord with the lowest number.

EXHIBIT

EXHIBIT

OPEN ENROLLMENT

ATTENDANCE APPLICATION

File this application at the School District office

Student's name

_____ Last First M.I.

Current grade _____ Birth date _____ Home phone _____

Work phone _____ Message phone _____

Parent's name

_____ Last First M.I.

Home address _____

City _____ Street _____ Zip _____

(P.O. Box is not acceptable as an address)

E-mail address _____

The above-named student:

- resides outside the School District but within NM; *or*
- resides within the School District

Present school of attendance

School _____ District _____

NEW MEXICO SCHOOL BOARDS ASSOCIATION
Note: This material is written for informational purposes only, and not as legal advice. You may wish to consult an attorney for further explanation.

City _____ County _____

Request assignment to: _____
School

Is the above-named student:

Expelled or long-term suspended from any school or school district within the last twelve (12) months?

Yes No

Subject to expulsion or long-term suspension from a school or school district within the last twelve (12) months?

Yes No

In compliance with a condition of disciplinary action in any school or school district within the last twelve (12) months?

Yes No N/A

Note: The following conditions apply to the open-enrollment program:

1. An attendance application must be completed and submitted.
2. Enrollment is subject to the capacity limit established for the school and/or its grade levels.
3. The parent or legal guardian will be notified in writing whether the application has been accepted, rejected, or placed on a waiting list.
4. *Transportation* for the student shall be the responsibility of the parent or legal guardian.
5. Providing false information on this form may result in the application being denied or admission being revoked.

The signatory affirms that the student will abide by the rules, standards, and policies of the school and the District if enrolled.

Signature of Parent or Legal Guardian

Date

FOR DISTRICT USE ONLY ♦ DO NOT WRITE BELOW THIS LINE

NEW MEXICO SCHOOL BOARDS ASSOCIATION

Note: This material is written for informational purposes only, and not as legal advice. You may wish to consult an attorney for further explanation.

Policy Services

16

Student number _____

Date stamp

Filing Date

Accepted Placed on waiting list

Principal

Date

Rejected - Reason for rejection _____

Copies sent by school to applicant and Superintendent's office.

Date sent _____

NEW MEXICO SCHOOL BOARDS ASSOCIATION

Note: This material is written for informational purposes only, and not as legal advice. You may wish to consult an attorney for further explanation.

Policy Services

Advisory 216

NEW MEXICO SCHOOL BOARDS ASSOCIATION

Note: This material is written for informational purposes only, and not as legal advice. You may wish to consult an attorney for further explanation.

Policy Services

SPECIAL INSTRUCTIONAL PROGRAMS

A long-range plan will be the basis for providing special education services for students with exceptional needs and education requirements. These services may include specialized programs, personnel, facilities, materials, and equipment needed to promote the individual physical, social, intellectual, and emotional growth of exceptional students.

The Superintendent shall develop procedures that provide educational opportunities for individuals with disabilities and that accomplish District compliance with federal laws including the Individuals with Disabilities Education Act (IDEA), the New Mexico revised statutes, and the lawful regulations of the Secretary of Public Education. Such procedures shall include, but not be limited to, the following provisions:

- All children with disabilities aged birth (0) through twenty-one (21) years within the District's jurisdiction are to be identified, located, and evaluated including children attending religious or private schools who are in need of special education and related services.
- A free appropriate public education (FAPE) shall be available to all children with disabilities aged three (3) through twenty-one (21) years within the District's jurisdiction, including children advancing from grade to grade, those who have been suspended or expelled from school in accordance with the applicable IDEA rules and regulations, and any child with a disability the District has placed in or referred to a private school or facility. The District may refer to and contract with approved public or private agencies as necessary to ensure the provision of FAPE for children with disabilities.
- A full individual evaluation encompassing existing and additional data shall be conducted for each child to determine if the child is a child with a disability and the educational needs of the child before the initial provision of special education and related services. A reevaluation of each child shall be conducted at least every third year.

- An individualized education program (IEP) shall be developed and implemented for each eligible child served by the District and for each eligible child the District places in or refers to a private school or facility. An IEP or an individualized family service plan (IFSP) will be in place for each child with a disability prior to the provision of FAPE.
- To the maximum extent appropriate, opportunities for the least restrictive setting, inclusion in educational exercises with regular program students, and for interaction with the total school environment will be provided to exceptional students, the exception to be only when the student's condition, with supplementary aids and services, make such regular class education unsatisfactory.
- All required procedural safeguards must be guaranteed to the exceptional students and their parents. The parents will be provided with notices of procedural safeguards in each specified instance and all due process conditions will be satisfied with respect to the provision of a free appropriate public education.
- Post a notice regarding the "Ombud Act" containing a description of services, name, address and phone number of the office in a conspicuous location and on the school website (form to be approved by the Ombud Act office) as well as:
 - Distribute information regarding the state Ombud act every school year.
 - Provide information as a part of the annual individual education plan process prior to each year's plan meeting.
- The District shall follow the established state and federal standards to protect the confidentiality of personally identifiable information at the collection, storage, disclosure, and destruction stages.
- To the extent essential to provide FAPE to children with disabilities aged three (3) through twenty-one (21), extended school year (ESY) services shall be made available and implemented as necessary.
- Criteria for the graduation of exceptional students, including accomplishment in reading, writing, and mathematics, shall be as specified in the District policy on graduation requirements. Such

standards shall be equivalent to or greater than those established by the Secretary of Public Education.

- Each year conduct a review of the reasonable and acceptable ratio of students per teacher for each disability category.
- The discipline of exceptional students, and unevaluated students suspected of having a qualifying disability, is to be conducted in such a manner as to comply with FAPE and requirements of the IDEA.

The Superintendent is authorized and directed to establish procedures for the implementation of the New Mexico Policies and Procedures prepared by the Public Education Department Special Education Bureau and as modified for local circumstances, and to document District compliance with the law and this policy. The New Mexico Policy and Procedures will be made available to staff members and to parents as necessary to enhance compliance.

Adopted: date of manual adoption

LEGAL REF.: Special Education Ombud Act
22-13-6 NMSA (1978)
20 U.S.C. 1400 *et seq.*, Individuals with Disabilities
Education Act
29 U.S.C. 794, Rehabilitation Act of 1973, Section 504

CROSS REF.: IIB - Class Size
IKE - Promotion, Retention, and Acceleration of Students
IKF - Graduation Requirements
JKD - Student Suspension/Expulsion
JR *et seq.* - Student Record
IHBC - Programs for at Risk Disadvantage Students

EXHIBIT**EXHIBIT****SPECIAL INSTRUCTIONAL PROGRAMS****PROCEDURAL SAFEGUARDS NOTICE**

The Federal Regulations at 34 C.F.R. 300.504 on Procedural safeguards notice read as follows:

"Sec. 300.504 Procedural safeguards notice.

- (a) General. A copy of the procedural safeguards available to the parents of a child with a disability must be given to the parents, at a minimum--
 - (1) Upon initial referral for evaluation;
 - (2) Upon each notification of an IEP meeting;
 - (3) Upon reevaluation of the child; and
 - (4) Upon receipt of a request for due process under Sec. 300.507.
- (b) Contents. The procedural safeguards notice must include a full explanation of all of the procedural safeguards available under Secs. 300.403, 300.500-300.529, and 300.560-300.577, and the State complaint procedures available under Secs. 300.660-300.662 relating to--
 - (1) Independent educational evaluation;
 - (2) Prior written notice;
 - (3) Parental consent;
 - (4) Access to educational records;
 - (5) Opportunity to present complaints to initiate due process hearings;
 - (6) The child's placement during pendency of due process proceedings;
 - (7) Procedures for students who are subject to placement in an interim alternative educational setting;

NEW MEXICO SCHOOL BOARDS ASSOCIATION

Note: This material is written for informational purposes only, and not as legal advice. You may wish to consult an attorney for further explanation.

Policy Services

22

- (8) Requirements for unilateral placement by parents of children in private schools at public expense;
 - (9) Mediation;
 - (10) Due process hearings, including requirements for disclosure of evaluation results and recommendations;
 - (11) State-level appeals (if applicable in that State);
 - (12) Civil actions;
 - (13) Attorneys' fees; and
 - (14) The State complaint procedures under Secs. 300.660-300.662, including a description of how to file a complaint and the timelines under those procedures.
- (c) Notice in understandable language. The notice required under paragraph (a) of this section must meet the requirements of Sec. 300.503(c)."

The following is a summary of sources for procedures that may be found in law, regulation and District policy other than the P.E.D. sample:

- An opportunity for parent of a child with a disability to examine all records § 34 C.F.R. 300.501, Policy JR and Regulation JR-R (Student Records).
- Procedures to protect the rights of the child whenever the parents of the child are not known § 34 CFR 300.501.
- Prior written notice to the parents is to be provided upon specific instances § 34 C.F.R. 300.503.
- Procedures designed to ensure the prior written notice is in the native language of the parents, unless it clearly is not feasible to do so. If the district is unable after making an effort, to provide the notice in the native language of the parent, then the Public Education Department (P.E.D.) should be contacted for assistance. See § 34 C.F.R. 300.503.
- Procedures for mediation shall be provided. Contact the P.E.D. for a list of mediators. See § 34 C.F.R. 300.507 *et seq.*
- An explanation of the State complaint procedure shall be provided § 34 C.F.R. 300.660 *et seq.*
- Due process procedures are to be included § 34 C.F.R. 300.507.

NEW MEXICO SCHOOL BOARDS ASSOCIATION

Note: This material is written for informational purposes only, and not as legal advice. You may wish to consult an attorney for further explanation.

Policy Services

23

- Procedures that require the parent of a child with a disability, or the attorney representing the child, to provide notice within certain guidelines (it shall remain confidential) § 34 C.F.R. 300.507.
- Discipline procedures should be explained § 34 C.F.R. 300.507, and Policy JKD (Student Suspension/Expulsion).

POSTING AND DISTRIBUTION OF OMBUD INFORMATION

Every public school providing special education services shall post in a conspicuous location in the public school a notice regarding the office that contains a brief description of the services provided by the office and the name, address and phone number of the office and shall also post it online on the public school's website, if applicable. The public school providing special education services shall distribute information regarding the state Ombud at the beginning of every school year, in addition to providing the information as part of the annual individual education plan process prior to scheduling the first individual education plan meeting of each school year. The form of the notice shall be approved by the Ombud office.

Advisory 217

NEW MEXICO SCHOOL BOARDS ASSOCIATION

Note: This material is written for informational purposes only, and not as legal advice. You may wish to consult an attorney for further explanation.

Policy Services
25

**BOARD MEMBER COMPENSATION
AND EXPENSES**

Board members shall serve without compensation.

Board members may be reimbursed for expenses incurred in connection with any school business authorized by the Board.

Reimbursement amounts shall not exceed the maximum amounts established pursuant to 6.20.2.19 NMAC.

~~The Board may grant approval for a Board member to be reimbursed actual expenses in lieu of per diem. Reimbursement for meals is limited to a maximum of thirty dollars (\$30) per day instate and forty five dollars (\$45) per day out of state provided that the Board member submits receipts for the actual expenses incurred. Reimbursement for lodging is limited to actual lodging costs provided the Board member submits receipts for the actual expenses incurred.~~

Board member's who attend a board or committee meeting for less than four (4) hours or a virtual meeting of any duration during a single calendar day shall receive a per diem of forty-five dollars (\$45). If the officer physically attends a board or committee meeting for four (4) hours or more during a single calendar day they shall receive a per diem of ninety-five (\$95) dollars. Mileage rate reimbursements are to be in accord with the Internal Revenue Service standard rate set January 1 of the previous year for miles traveled in a privately owned vehicle or eighty-eight cents (\$.88) in a privately owned airplane under certain conditions cited in NMSA 10-8-4 D. Reimbursement for actual meals and incidentals shall not exceed the maximum amounts for in-state and out-of-state travel established by the Department of Finance and Administration (DFA). The latter is always subject to the mileage being calculated from the post of the Officer or Official.

The Superintendent or the Superintendent's designee may grant travel advances. The traveler must submit required forms to receive advancement. The advancement will be processed at eighty percent (80%) of the total reimbursable trip cost. If a trip is not taken following advancement for such

NEW MEXICO SCHOOL BOARDS ASSOCIATION
Note: This material is written for informational purposes only, and not as legal advice. You may wish to consult an attorney for further explanation.

trip, all legal means will be employed to ensure proper reimbursement to the District.

Adopted: date of manual adoption

LEGAL REF.: 10-8-1 NMSA *et seq.*
22-5-5 NMSA
6.20.2.19 NMAC
PSAB Supplement 20 Training and Travel

CROSS REF.: DKC - Expense Authorization/Reimbursement

Advisory 218

NEW MEXICO SCHOOL BOARDS ASSOCIATION

Note: This material is written for informational purposes only, and not as legal advice. You may wish to consult an attorney for further explanation.

Policy Services

28

D-3150
EXPENSE AUTHORIZATION /
REIMBURSEMENT

©

DKC

School Board members and employees who incur expenses in carrying out their authorized duties shall be reimbursed by the District upon submission of allowable supporting receipts, provided that prior authorization has been granted.

Reimbursement amounts shall not exceed the maximums established pursuant to 10-8-1 through 10-8-8 and as subject to 6.20.2.19.

The statute indicates that mileage rate reimbursements are to be in accord with the Internal Revenue Service standard rate set January 1 of the previous year for miles traveled in a privately owned vehicle or eighty-eight cents (\$.88) in a privately owned airplane under certain conditions cited in NMSA 10-8-4 D. Reimbursement for actual meals and incidentals shall not exceed the maximum amounts for in-state and out-of-state travel established by the Department of Finance and Administration (DFA).

Adopted: date of manual adoption

LEGAL REF.: 10-8-1 NMSA *et seq.*
6.20.2.19 NMAC
PSAB Supplement 20 Training and Travel

CROSS REF.: EEB - Business and Personnel Transportation Services

NEW MEXICO SCHOOL BOARDS ASSOCIATION

Note: This material is written for informational purposes only, and not as legal advice. You may wish to consult an attorney for further explanation.

Policy Services

29

Advisory 219

NEW MEXICO SCHOOL BOARDS ASSOCIATION

Note: This material is written for informational purposes only, and not as legal advice. You may wish to consult an attorney for further explanation.

Policy Services

30

PHYSICAL EXAMINATIONS OF STUDENTS

Each student participating in high school and junior high school interscholastic athletics is required to submit to a physical examination when required by the New Mexico Activities Association or to submit evidence of being physically fit, as verified by competent medical personnel.

Dental Examination Requirements

Beginning July 1, 2021, a student shall not initially enroll in a school district or charter school (first time enrollment in New Mexico) unless the parent or guardian has provided satisfactory evidence, as determined by the school district or charter school, of having received a dental examination (by a licensed dental health care provider) within the past year. Alternatively, a student dental examination waiver (a designated field within a school district's enrollment application signed by a parent or guardian).

Such a dental examination shall be obtained at the expense of the enrollee/parent or guardian.

Adopted: date of manual adoption

LEGAL REF.: 22-1-14 NMSA *et seq.*
6.12.3.1 NMAC
New Mexico Activities Association Handbook

Relevant Statutes and Citations

Manual of Procedures titled PSAB Supplement 20 Training and Travel
https://webnew.ped.state.nm.us/wp-content/uploads/2017/12/SBFAB_Manual-of-Procedures-PSAB_PSAB20_Training-Travel.pdf

Senate Bill 272 (Reg. Session 2021)

<https://nmlegis.gov/Sessions/21%20Regular/final/SB0272.pdf>

House Bill 222 (Reg. Session 2021)

<https://nmlegis.gov/Sessions/21%20Regular/final/HB0222.pdf>

Senate Bill 345 (Reg. Session 2021)

<https://nmlegis.gov/Sessions/21%20Regular/final/SB0345.pdf>

House Bill 308 (Reg. Session 2019) [HB0308HCS \(nmlegis.gov\)](https://nmlegis.gov/Sessions/19%20Regular/final/HB0308.pdf)

<https://nmlegis.gov/Sessions/19%20Regular/final/HB0308.pdf>

Should the above string links leading to the bills being discussed not go directly to the bill, copy the string which follows the bill number, enter it into your browser and press enter. The browser should take you to the bill.