

# POLICY SERVICES ADVISORY

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### **Policy Advisory Discussion**

The 2023 New Mexico Legislature adopted several new statutes and statutory amendments warranting the consideration of the following new or amended local school board policies.

***Policy Advisory No. 233 – [New] Policy A-0350 / ACB - Nondiscrimination related to reproductive or gender-affirming health care.*** House Bill 7 adds sections to Chapter 24, NMSA 1978 the effect of which is to prohibit public bodies (including school districts) from discriminating against persons based on their use or non-use of reproductive or gender-affirming care. This is a new policy issued to comply with statutory amendments.

***Policy Advisory No. 234 – [New] Policy A-0400 / ACBB - Protections for Gender and Gender Identity under the New Mexico Human Rights Act.*** House Bill 207 makes changes to the Human Rights Act (NMSA 1978 Sections 28-1-1 et seq.) to add government agencies (including school districts) as among those who cannot discriminate against a person based on a wide variety of personal characteristics including gender identity and gender. This is a new policy issued to comply with statutory amendments.

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***Policy Advisory No. 235 – [New] Policy B-0025 / B - School Board Elections – School Holiday.*** House Bill 4 makes numerous updates and changes to the Election Code, including making every general and regular local election a school holiday. This provision’s effective date is January 1, 2024. This is a new policy issued to comply with statutory amendments.

***Policy Advisory No. 236 – [Amended] Policy E-3100 / EF - Food Services Amended Regulation E-3111 / EF-R.*** Senate Bill 4 changes the name of the original act to the Healthy Hunger-Free Students' Bill Of Rights Act and amends the act to ensure free, healthy school meals for all students and prescribes duties of school districts and public education department. The corresponding regulation is updated accordingly. This is an amended policy and regulation issued to comply with statutory amendments.

***Policy Advisory No. 237 – [Amended] Policy J-1050 / JFB Open Enrollment.*** Senate Bill 120 clarifies provisions for military families who anticipate moving to any attendance area and allows a student to enroll in schools in that attendance area prior to establishing a residence. This is an amended policy issued to comply with statutory amendments.

If you have any questions, please call Policy Services at (505) 469-0193 or email John Kennedy, Policy Services Director at [jfkpolicyservice@gmail.com].

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# ADVISORY 233

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**NONDISCRIMINATION RELATED TO REPRODUCTIVE  
OR GENDER AFFIRMING HEALTH CARE**

Neither a public body nor a person or entity acting on behalf of or within the scope of authority of a public body shall discriminate against or interfere with a person's rights or ability to access or provide reproductive or gender-affirming health care within the recognized medical standard of care.

Adopted:     date of manual adoption

LEGAL REF.:Laws of New Mexico 2023, Chapter 11

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# ADVISORY 234

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**HUMAN RIGHTS ACT PROTECTION**  
**GENDER OR GENDER IDENTITT**

The New Mexico Human Rights Act provides that a governmental entity (which includes local school boards) may not refuse or otherwise limit or place conditions on services provided to a person because of gender or gender identity (among other listed conditions).

Adopted:     date of manual adoption

LEGAL REF.:     NMSA 1978 Section 28-1-7M  
                          [Laws of New Mexico 2023, Ch. 29]

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# ADVISORY 235

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**SCHOOL BOARD ELECTIONS / HOLIDAY**

Effective July 1, 2024, the School Board declares that every general election and regular local election shall be a school holiday for students and staff at each public school in this District. The administration shall establish and implement plans and procedures to carry out this mandate.

Adopted: date of manual adoption

LEGAL REF.: Laws of New Mexico 2023, Ch. 4, Sec. 22F

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# ADVISORY 236

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## FOOD SERVICES

~~The District may operate a school breakfast or lunch program for each school.~~

~~Food services will include lunches, and may include breakfasts, through participation in the National School Lunch Program.~~

~~The Board will approve the prices set for school meals.~~

~~As required for participation in the National School Lunch Program, the Board prescribes:~~

- ~~• That a school lunch be made available to students.~~
- ~~• That free and reduced price lunches be provided students who qualify under federal guidelines.~~

~~Students will also be permitted to bring their lunches from home and to purchase beverages.~~

The Superintendent shall develop and implement procedures as necessary, which are designed to meet the necessary requirements for participation in the National School Lunch Program and for control of students using the cafeteria.

Public school districts and charter schools operating the National School Lunch Program and school breakfast program shall establish a program to offer high-quality meals at no charge. All participating school food authorities shall offer one (1) breakfast and one (1) lunch at no cost to students during each school day to any student who requests a meal without consideration of the student's eligibility for a federally funded free or reduced-price meal, with a maximum of one (1) free meal for each meal service period.

Students will also be permitted to bring their lunches from home, and may receive milk or other beverages without charge.

The Superintendent shall develop and implement procedures as necessary, which are designed to meet the necessary requirements for participation in the National School Lunch Program and for control of students using the cafeteria.

*Adopted:* date of manual adoption

LEGAL REF.: 22-13-13 NMSA  
6.20.2.23 NMAC  
Laws of NM 2023, Chapter 30,  
Sections 22-13C-1 to 7 NMSA (1978)  
42 U.S.C. 1771 et seq., The Child Nutrition Act  
Title 7, Vol 4, Section 245.6d C.F.R

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**REGULATION****REGULATION****FOOD SERVICES**

The District food service program will comply with the following:

- Any student may eat in a school cafeteria at no charge.
- A student may bring a sack lunch; milk ~~may be purchased~~ or other beverage may be provided at no cost to the student.
- Meal prices for ~~students and~~ adults will be recommended by the food service supervisor, with approval by the Board, at the beginning of each school year.
- Meal prices for adults, including employees, parents or school visitors will be posted in each cafeteria.
- Under federal law, a school that operates on a commodity program is prohibited from serving free meals to adults or employees of the District from the commodity products. All meals for adults where federal commodities are used must be paid for when served.
- A guest must be cleared through the food service supervisor by the host to be eligible to eat in the cafeteria. The host must make arrangements to pay the full price of the meal.
- Food service employees have the right to refuse to serve anyone who is not either employed by the District or cleared through the food service supervisor.
- The cafeteria laundry facilities will be used only for school-sanctioned purposes.
- Facilities used and food service provided to ~~by~~ outside organizations or individuals must have prior written approval of from the Superintendent, including any conditions and arrangements for use and payment.
- If outside organizations or individuals use the food service facilities, a staff member must be on duty.
- The food service supervisor will develop in-service training programs, approved by the Superintendent, for the food service staff.

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# ADVISORY 237

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## 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.

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## 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 or who will be residing within the school district if the pupil is a child in a military family who will be attending public school in the school district during the upcoming school year, and within the attendance area of a public school and pupils who had resided in the attendance area prior to a parent who is an active duty member of the armed forces of the United States or member of the national guard being deployed and whose deployment has required the pupil to relocate outside the attendance area for custodial care.
- 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 previously attended the public school or are children of a military family living in temporary housing and are assigned, awaiting placement or pending a move to permanent housing in a different attendance area where the pupils' family seeks enrollment of the pupils in either their current school attendance area or the school attendance area of the permanent housing.
  - 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.)

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- 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 school ranked as a school that needs improvement or one subject to corrective action. If capacity is not sufficient to enroll all of these pupils, they shall be selected through a random selection 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. If capacity is not sufficient to enroll all of these pupils, they shall be selected through a random selection process adopted by regulation of the Superintendent and placed in classes or on a waiting list in order of selection.
- Fourth (4th) enrollment priority shall be given to all other applicants. If capacity is not sufficient to enroll all of these pupils, they shall be selected through a random selection process adopted by regulation of the Superintendent and placed in classes or on a waiting list in order of selection.

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- A student who falls in enrollment priorities of previously attended the public school or any other applicant as found above may be given additional enrollment preference within that enrollment priority by the Superintendent upon request by the applicant and in consideration of 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;
  - 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 or reenrollment 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.

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## **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 date established in this policy.
- 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 reenrollment 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 reenrollment of 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)  
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

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