

From the Schoolhouse to the Roundhouse



*Presented by Dennis J. Roch
Superintendent of Logan Municipal Schools
Former State Representative (District 67)*

Constitution as Authority

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Constitution of the State of New Mexico

ADOPTED JANUARY 21, 1911

PREAMBLE

We, the people of New Mexico, grateful to Almighty God for the blessings of liberty, in order to secure the advantages of a state government, do ordain and establish this constitution.

PREAMBLE

ARTICLE I Name and Boundaries

- > ARTICLE II Bill of Rights
- > ARTICLE III Distribution of Powers
- > ARTICLE IV Legislative Department
- > ARTICLE V Executive Department
- > ARTICLE VI Judicial Department
- > ARTICLE VII Elective Franchise
- > ARTICLE VIII Taxation and Revenue
- > ARTICLE IX State, County and Municipal Indebtedness
- > ARTICLE X County and Municipal Corporations
- > ARTICLE XI Corporations Other Than Municipal
- > ARTICLE XII Education
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- > ARTICLE XV Agriculture and Conservation
- > ARTICLE XVI Irrigation and Water Rights

ARTICLE XII Education

- > Section 1. [Free public schools.]
- > Sec. 2. [Permanent school fund.]
- > Sec. 3. [Control of constitutional educational institutions; u...]
- > Sec. 4. [Current school fund.]
- > Sec. 5. [Compulsory school attendance.]
- > Sec. 6. [Public education department; public education co...]
- > Sec. 7. [Investment of permanent school fund.]
- > Sec. 7. (Proposed.) [Investment of permanent school fund.]
- > Sec. 8. [Teachers to learn English and Spanish.]
- > Sec. 9. [Religious tests in schools.]
- > Sec. 10. [Educational rights of children of Spanish descent.]
- > Sec. 11. [State educational institutions.]
- > Sec. 12. [Acceptance and use of Enabling Act educational ...]
- > Sec. 13. [Board of regents for educational institutions.]
- > Sec. 14. [Recall of local school board members.]
- > Sec. 15. [Local school boards having seven single-membe...]



Section 1. [Free public schools.]

A uniform system of free public schools sufficient for the education of, and open to, all the children of school age in the state shall be established and maintained.

Constitutional provision supersedes law

> **Sec. 14. [Recall of local school board members.]**

Any elected local school board member is subject to recall by the voters of the school district from which elected. A petition for a recall election must cite grounds of malfeasance or misfeasance in office or violation of the oath of office by the member concerned. The recall petition shall be signed by registered voters not less in number than thirty-three and one-third percent of those who voted for the office at the last preceding election at which the office was voted upon. Procedures for filing petitions and for determining validity of signatures shall be as provided by law. If at the special election a majority of the votes cast on the question of recall are in favor thereof, the local school board member is recalled from office and the vacancy shall be filled as provided by law. (As added November 6, 1973; and as amended November 4, 1986.)

NM Statutes

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Current New Mexico Statutes

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25	Chapter 24 - Health and Safety Current New Mexico Statutes Annotated 1978 - Chapter 24 NMSA 1978



Digging Deeper into the Statutes

ARTICLE 5 Local School Boards
ARTICLE 5A School Alcohol-Free Zone
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ARTICLE 10A School Personnel
ARTICLE 10B Teacher Residency
ARTICLE 10C National Board Certification Scholarship

ARTICLE 10A School Personnel

- > 22-10A-1. Short title.
- > 22-10A-2. Definitions.
- > 22-10A-3. License or certificate required; application fee; g...
- > 22-10A-4. Teachers and school administrators; profession...
- > 22-10A-5. Background checks; known convictions; alleged...
- > 22-10A-5.1. Duty to report ethical misconduct; responsibilit...
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- > 22-10A-6. Educational requirements for licensure.
- > 22-10A-7. Level one licensure.
- > 22-10A-8. Alternative level one license.
- > 22-10A-8. Alternative level one license. (Effective July 1, 2...
- > 22-10A-8.1. Saving clause. (Effective July 1, 2022.)
- > 22-10A-9. Teacher mentorship program for beginning teac...
- > 22-10A-10. Level two licensure.
- > 22-10A-11. Level three licensure; tracks for teachers.

How to Read a Statute

22-5-6. Nepotism prohibited.

A. A local superintendent shall not initially employ or approve the initial employment in any capacity of a person who is the spouse, father, father-in-law, mother, mother-in-law, son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister or sister-in-law of a member of the local school board or the local superintendent. The local school board may waive the nepotism rule for family members of a local superintendent.

B. Nothing in this section shall prohibit the continued employment of a person employed on or before July 1, 2008.

History: 1953 Comp., § 77-4-3.1, enacted by Laws 1971, ch. 199, § 1; 1981, ch. 86, § 1; 2003, ch. 153, § 22; 2009, ch. 195, § 1.



ANNOTATIONS

The 2009 amendment, effective June 19, 2009, in Subsection A, after "daughter-in-law", added "brother, brother-in-law, sister or sister-in-law" and in Subsection B, changed March 1, 2003 to July 1, 2008.

The 2003 amendment, effective April 4, 2003, in Subsection A substituted "superintendent" for "school board" following "local" near the beginning and inserted "or the local superintendent. The local school board may waive the nepotism rule for family members of a local superintendent." at the end; and substituted "2003" for "1981" at the end of Subsection B.

Object of section is to prevent nepotism in initial hiring of school employees. The hiring of a teacher closely related to a member of the school board justifiably arouses public suspicion that the teacher was hired on the basis of relationship rather than merit. Such suspicions, however, relate only to the initial hiring of the teacher. There is no reason to suspect nepotism in the continued employment of a tenured teacher whose competency has been established by years of service, merely because a family member is elected to the school board at some time during the teacher's career. *N.M. State Bd. of Educ. v. Board of Educ.*, 1981-NMSC-031, 95 N.M. 588, 624 P.2d 530 (decided prior to 1981 amendment).

NM Regulations

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NMAC TITLES

TITLE 1	GENERAL GOVERNMENT ADMINISTRATION
TITLE 2	PUBLIC FINANCE
TITLE 3	TAXATION
TITLE 4	CULTURAL RESOURCES
TITLE 5	POST-SECONDARY EDUCATION
TITLE 6	PRIMARY AND SECONDARY EDUCATION
TITLE 7	HEALTH

TITLE 6 - PRIMARY AND SECONDARY EDUCATION

CHAPTER 1	STATE BOARD OF EDUCATION [RESERVED]
CHAPTER 2	STATE BOARD OF EDUCATION COMMISSIONS AND ADVISORY BOARDS
CHAPTERS 3 - 5	[RESERVED]
CHAPTERS 6 - 9	STATE DEPARTMENT OF PUBLIC EDUCATION [RESERVED]
CHAPTER 10	PUBLIC SCHOOL ADMINISTRATION - PROCEDURAL REQUIREMENTS
CHAPTER 11	PUBLIC SCHOOL ADMINISTRATION - STUDENT RIGHTS AND RESPONSIBILITIES
CHAPTER 12	PUBLIC SCHOOL ADMINISTRATION - HEALTH AND SAFETY
CHAPTER 13	PUBLIC SCHOOL ADMINISTRATION - INTERSCHOLASTIC ACTIVITIES
CHAPTERS 14 - 18	[RESERVED]
CHAPTER 19	PUBLIC SCHOOL ACCOUNTABILITY

How to read regulations (ie, administrative code)

TITLE 6 **PRIMARY AND SECONDARY EDUCATION**
CHAPTER 41 **TRANSPORTATION - SCHOOL BUS SAFETY**
PART 2 **SCHOOL BUS INSPECTIONS**

- 6.41.2.8** **REQUIREMENTS OF THE PUBLIC EDUCATION DEPARTMENT:** The department, working cooperatively with other agencies, shall
- A. randomly audit district school bus maintenance and inspections records;
 - B. conduct random school bus inspections as a division, or through joint power agreements with other agencies, or contract with other agencies;
 - C. conduct random school bus inspections in compliance with the department's guide for school bus maintenance and safety audit program;
 - D. maintain records of the school districts inspection and safety audits.

[12-31-98; 6.41.2.8 NMAC - Rn, 6 NMAC 9.5.1.8 & A, 07-31-01; A, 11-13-09]

- 6.41.2.9** **REQUIREMENTS OF SCHOOL DISTRICTS:** School districts shall ensure that all school buses are inspected semi-annually by the department or its authorized representative.
- A. School districts must maintain the following:
 - (1) maintenance records in accordance with the department's guide for school bus maintenance and safety audit program;
 - (2) semi-annual inspection records completed by the contractor or in the case of owned operations, the local school district supervisor;
 - (3) pre-and-post trip records of daily inspections for the school year completed by the contractor or school district transportation manager;
 - (4) inspection records of random inspections conducted by inspectors or auditor authorized by the department.
 - B. School districts must certify to the department that semi-annual inspections and daily driver inspections have been conducted.

[12-31-98; 6.41.2.9 NMAC - Rn, 6 NMAC 9.5.1.9 & A, 07-31-01; A, 11-13-09]

All regulations must derive from and align with statutory authority!

22-16-11. Regulations relative to school buses.

A. The state transportation director, appointed as provided in Section 22-16-1 NMSA 1978, shall adopt and enforce regulations adopted by the state board [department] not inconsistent with the Motor Vehicle Code [Articles 1 to 8 of Chapter 66 [except 66-7-102.1] NMSA 1978] to govern the design and operation of all school buses, used for the transportation of school children, when owned and operated by any school district or privately owned and operated under contract with any school district in this state, and the regulations shall by reference be made a part of any such contract with a school district. Every school district, its officers and employees and every person employed under contract by a school district shall be subject to the regulations.

B. Any officer or employee of any school district who violates any of the regulations or fails to include obligation to comply with the regulations in any contract executed by him on behalf of a school district is guilty of misconduct and subject to removal from office or employment. Any person operating a school bus, under contract with a school district, who fails to comply with any of the regulations is guilty of breach of contract, and the contract may be canceled after notice and hearing by the state transportation director acting in conjunction with the responsible officers of the school district.

C. Any driver of a school bus who fails to comply with any of the regulations is guilty of a misdemeanor.

History: 1953 Comp., § 64-7-365, enacted by Laws 1978, ch. 35, § 469; 1978 Comp., § 66-7-365, recompiled as § 22-16-11 by Laws 1993, ch. 226, § 53; 1995, ch. 208, § 9.

Questionable: Proposed revisions to 6.10.5

- C. Beginning with the 2024-2025 school year:
- (1) all public school calendars shall include at least 180 instructional days per school year, exclusive of teacher professional work hours;
 - (2) all public schools shall schedule more than fifty percent of school weeks as five-day school weeks; and
 - (3) all public schools shall be deemed to operate on five-day school weeks for the purposes of K-12 plus program funding calculations in Section 9 of this rule.

*Appears to unlawfully expand statute in 22-2-8.1 by requiring “days” instead of “hours” and by eliminating professional work time in the calculation of days

*Also appears to contradict statute in 22-8-23.14, which specifically authorizes local school boards to elect to operate on either 4-day or 5-day weeks

Questionable: Proposed revisions to 6.10.5

22-2-8.1. School year; length of school day; minimum.

A. Except as otherwise provided in this section, students shall be in school programs, exclusive of lunch, for a minimum of **one thousand one hundred forty instructional hours per year**, except half-day kindergarten, which shall have five hundred fifty instructional hours per year

B... (Definition of "instructional hour")

C. **Up to sixty instructional hours per school year for elementary grades and thirty instructional hours for middle and high school grades may be used for professional work hours**, which may be embedded during the course of a normal school day. A "professional work hour" means time during which a teacher participates in professional work aligned to challenging academic content and performance standards, including:

- (1) home visiting or parent-teacher conferences;
- (2) educator training or professional development; and
- (3) mentorship, coaching and collaboration between school employees.

Questionable: Proposed revisions to 6.10.5

22-8-23.14. K-12 plus program units; additional program units.

A. A public school operating on a **five-day calendar** that provides more than one hundred eighty days of instruction, and a public school operating on a **four-day calendar** that provides more than one hundred fifty-five days of instruction, shall be considered a "K-12 plus school". Each school district or charter school with a K-12 plus school shall be eligible to receive program units for students in that public school.

Possible Outcomes

- The Public Education Department, in response to largely unified opposition to this proposed regulatory revision, abandons the draft or modifies it significantly to align with existing statute.
- If not, and the current draft is finalized as is, the legislature could:
 - Pass a bill that removes all rule-making authority from the PED; or
 - Pass a bill that specifically revises the existing school calendar statute to prohibit the PED from requiring a minimum number of days; or
 - Insert governing language in HB 2 (FY 25 GAA) to prohibit the enforcement of this new regulation
 - Pass a resolution asking voters to approve an amendment to the constitution which eliminates the PED while restoring the former model, a State Board of Education.
- Aggrieved parties could also file suit, challenging the legality of the regulation and asking the courts to issue an injunction against it.

Lawmaker for a day: An analysis of HB 190

- In the 2016 regular legislative session, House Bill 190 was introduced by Representative Jim Smith and Senator Bill O’Neill.
- It sought to prohibit– or at least severely limit– the use of restraint or seclusion in NM public schools.
- However, the legislation failed to advance beyond the House Education Committee. Let’s analyze the bill together to see why.

1 HOUSE BILL 190

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016**

3 INTRODUCED BY

4 James E. Smith and Bill B. O'Neill

5
6
7
8 FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

9
10 AN ACT

11 RELATING TO PUBLIC SCHOOLS; LIMITING THE USE OF RESTRAINT AND
12 SECLUSION; PROVIDING FOR NOTICE TO PARENTS; PROVIDING FOR
13 ANNUAL REPORTS.

Lawmaker for a day: An analysis of HB 190

22	(1) "aversive intervention" means any device
23	or intervention, consequences or procedure intended to cause
24	pain or unpleasant sensations, including interventions causing
25	physical pain, tissue damage, physical illness or injury;

Q: Considering this proposed definition on page 1, line 22-23, what might be the unintended consequences of prohibiting any "intervention, consequences, or procedure" in this proposed statute?

Lawmaker for a day: An analysis of HB 190

2	(6) "physical restraint" means the use of
3	physical force without the use of any device or material that
4	restricts the free movement of all or a portion of a student's
5	body, but "physical restraint" does not include physical
6	escort;

Q: When might “physical restraint” as defined here on page 3, line 2-6, be advisable in a school setting?

Lawmaker for a day: An analysis of HB 190

2	(4) physical restraint and seclusion are
3	prohibited, except in the event of emergency situations, and

Q: Given this language on page 4, line 3, identify any risks associated with allowing the use of restraint or seclusion in “emergency situations.”

Lawmaker for a day: An analysis of HB 190

14	(5) restraint and seclusion may be used in an
15	emergency situation only to the extent necessary to protect a
16	student or another person from imminent, serious physical harm,
17	using the least amount of force necessary to protect the
18	student or another person from harm, and only when another less
19	intrusive, nonphysical intervention has failed or been
20	determined ineffective;

Q: Given this language on page 4, lines 19-20, identify the limitations of the requirement that “another less intrusive, non-physical intervention has failed or been determined ineffective.”

Lawmaker for a day: An analysis of HB 190

19	(10) the parent of a student who has been
20	subject to seclusion or restraint shall be provided notice
21	within twenty-four hours in person or by phone, whenever
22	possible, of any use of restraint or seclusion and provided
23	written notice within five business days. The notice shall
24	include:

Q: In response to this language on page 5, line 21, examine the pro's and con's of providing a notice to parents "within twenty four hours."

Lawmaker for a day: An analysis of HB 190

9	C. School districts and charter schools shall
10	report annually to the department all uses of chemical
11	restraint, mechanical restraint, physical restraint and
12	seclusion on students in a uniform manner determined by the
13	department. The department may accept reports required by
14	other laws as long as such reports meet the requirements of
15	this section. School district reports shall not identify a
16	student who was restrained or secluded. The reports shall be
17	published on the department's website."

Lawmaker for a day: An analysis of HB 190

Q: Given the reporting requirement in Subsection C on page 6, evaluate whether the report will be worth the work necessary to produce it.

(Consider who benefits from such a report and whether a requirement other than a report might better prevent reoccurrence.)

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Today is Wednesday, November 29, 2023

Accessibility Accommodations

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The banner shows a photograph of the capitol building with trees in autumn colors. The text "2023 Interim Committee Calendar" is centered in white, with "Click here to view" below it. Navigation arrows are on the left and right, and a progress indicator is at the bottom center.

2023 Interim Committee Calendar

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House Education Committee

Committee Members

Title	Name	District	Party	Role
Representative	G. Andrés Romero	10	D	Chair
Representative	Joy Garratt	29	D	Vice Chair
Representative	Jack Chatfield	67	R	Ranking Member
Representative	Brian G. Baca	8	R	Member
Representative	Candy Spence Ezzell	58	R	Member
Representative	Yanira Gurrola	16	D	Member
Representative	Susan K. Herrera	41	D	Member
Representative	T. Ryan Lane	3	R	Member
Representative	Raymundo Lara	34	D	Member
Representative	Willie D. Madrid	53	D	Member
Representative	Tanya Mirabal Moya	7	R	Member
Representative	Patricia Roybal Caballero	13	D	Member

Senate Education Committee

Committee Members

Title	Name	District	Party	Role
Senator	William P. Soules	37	D	Chair
Senator	Harold Pope	23	D	Vice Chair
Senator	Steven P. Neville	2	R	Ranking Member
Senator	Craig W. Brandt	40	R	Member
Senator	Martin Hickey	20	D	Member
Senator	Antonio Maestas	26	D	Member
Senator	Shannon D. Pinto	3	D	Member

Tracking bills

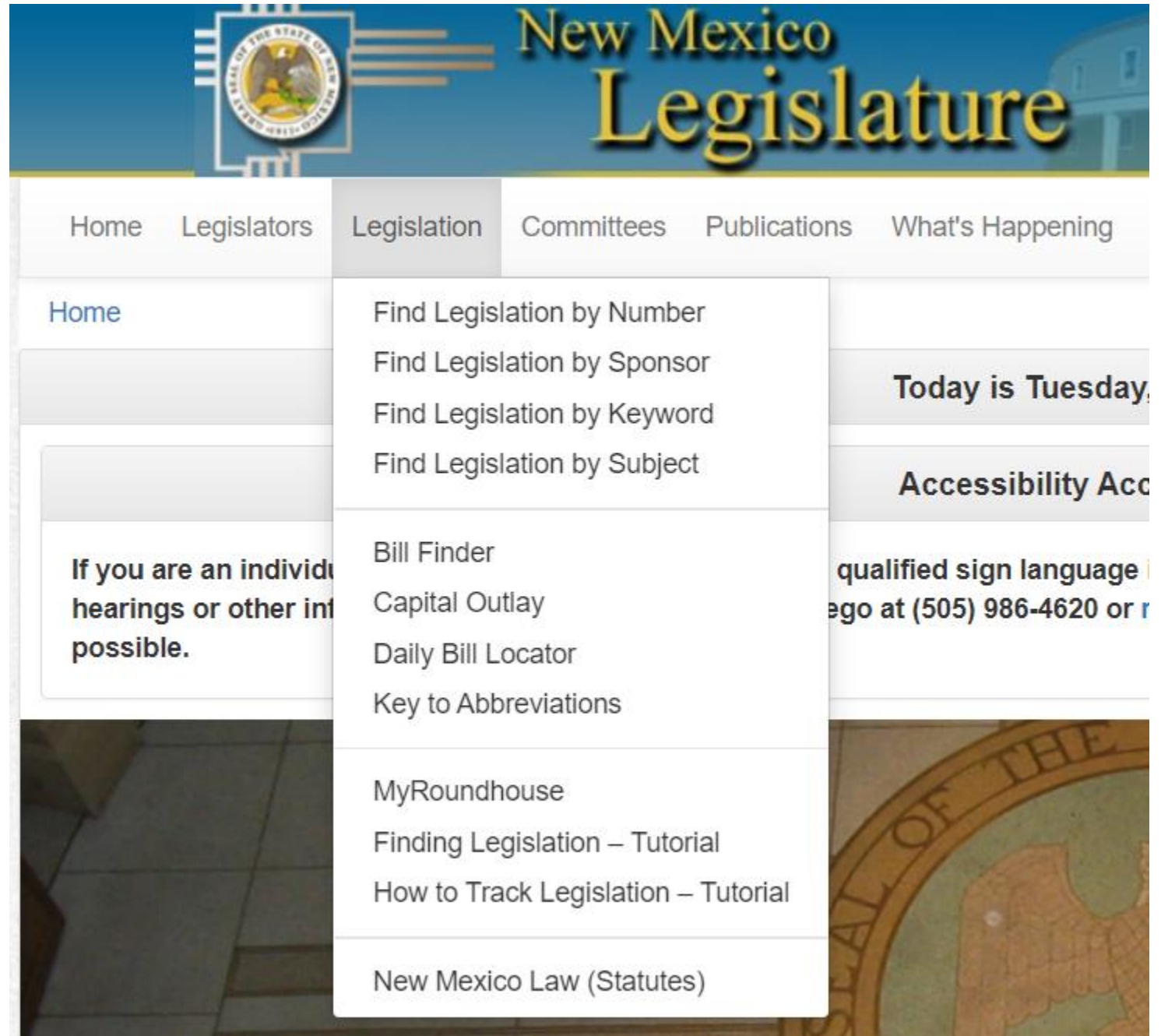
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-subject



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- Capital Outlay
- Daily Bill Locator
- Key to Abbreviations
- MyRoundhouse
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- How to Track Legislation – Tutorial
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Other visible elements include a "Home" link, a date indicator "Today is Tuesday," and an "Accessibility Acc" link. A partial text box on the left reads: "If you are an individual... hearings or other information... possible."

ID

HB 75

Title

LIMIT SCHOOL USE OF RESTRAINT & SECLUSION

Sponsor

James E. Smith
Deborah A. Armstrong

Current Location

Chaptered

Text

Introduced (PDF) 1/06/17

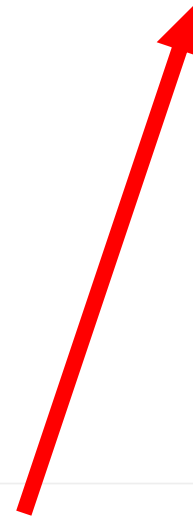
Introduced (HTML) 1/06/17

HEC Committee Substitute 2/06/17

HJC Committee Substitute 2/24/17

Final Version 4/04/17

ActionText: HPREF [1] HEC/HJC-HEC [4] DNP-CS/DP-HJC [7] DNP-CS/DP [9] fl/a- PASSED/H (58-0) [20] SEC/SJC-SEC [23] DP-SJC [27] DP/a [28] PASSED/S (30-4) [12] h/cncrd SGND BY GOV (Apr. 3) Ch. 33.



2 Sponsors

ActionText: HPREF [1] HEC/HJC-HEC [4] DNP-CS/DP-HJC [7] DNP-CS/DP [9] fl/a- PASSED/H (58-0) [20] SEC/SJC-SEC [23] DP-SJC [27] DP/a [28] PASSED/S (30-4) [12] h/cncrd SGND BY GOV (Apr. 3) Ch. 33.

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Linda M. Lopez

AN ACT

RELATING TO PUBLIC SCHOOLS; CREATING REQUIREMENTS FOR SCHOOLS TO BE ABLE TO USE RESTRAINT; PROVIDING WHAT RESTRAINT TECHNIQUES SCHOOLS CANNOT USE; BANNING THE USE OF SECLUSION IN SCHOOLS; PROVIDING PUBLIC INPUT FOR SCHOOL POLICIES ON RESTRAINT; PROVIDING TRAINING FOR SCHOOL PERSONNEL ON ALTERNATIVE FORMS OF RESTRAINT; CREATING NEW REQUIREMENTS FOR REPORTING AND DOCUMENTATION PROCEDURES; DEFINING "MEDICATION RESTRAINT"; DEFINING "PRONE RESTRAINT".



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From Page 4, line 14-20:

14 (1) the school district's safety plan shall
15 state explicitly that restraint is an emergency safety measure
16 that may be used only if a student's behavior presents an
17 imminent danger of serious physical harm to the student or
18 others and when less restrictive interventions have been
19 insufficient to mitigate the imminent danger of serious
20 physical harm;

From Page 5, line 23, through Page 6, line 5

23 (1) a school employee shall provide the
24 student's parent or guardian with written [~~or oral~~] notice on
25 the same day that the incident occurred, unless extenuating
1 circumstances prevent same-day notification. If the notice is
2 not provided on the same day of the incident, notice shall be
3 given within twenty-four hours after the incident. A copy of
4 this notice shall also be provided to the school principal or
5 administrator within this same time period;

Reporting requirements, from pages 6 & 7:

19 (3) all of the data in the written notice
20 required in Paragraph (2) of this subsection shall be submitted
21 to the department's data collection and reporting system within
22 five school days of the documented incident;



19 (5) schools shall report annually to the
20 department prior to the start of each school year a list of
21 each incident in which a technique of restraint or seclusion
22 was used during the prior school year. The annual report shall
23 include, at a minimum:

Noteworthy legislation in 2023:

- HB 130/199 vs. *HB 194* (Learning time, etc.)
- *HB 126 (Grad Requirements)*
- HB 127 (EA salary minimums)
- HB 533 (Educator benefits)
- SB 4 (Free lunches for all students)
- SB 131 (PSCOC adjustments)
- *SB 234 (Soda sales)*
- *SB 387 (Restraint & Seclusion)*
- *SJR 1 (Governance)*



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