

HOUSE BILL 325

**56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

INTRODUCED BY

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AN ACT

RELATING TO PUBLIC SCHOOL GOVERNANCE; CREATING REPORTING REQUIREMENTS; ALLOWING THE PUBLIC EDUCATION DEPARTMENT TO SUSPEND INDIVIDUAL LOCAL SCHOOL BOARD MEMBERS; PROVIDING A PENALTY FOR VIOLATING THE NEPOTISM PROVISIONS; REQUIRING MORE MANDATORY TRAINING FOR LOCAL SCHOOL BOARDS AND GOVERNING BODIES OF CHARTER SCHOOLS; PROVIDING MORE PUBLIC ACCESS TO DECISION MAKING OF LOCAL SCHOOL BOARDS AND GOVERNING BODIES OF CHARTER SCHOOLS THROUGH WEBCASTING AND ARCHIVING MEETINGS.

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

SECTION 1. Section 1-22A-2 NMSA 1978 (being Laws 2013, Chapter 180, Section 2, as amended) is amended to read:

"1-22A-2. DEFINITIONS.--As used in the School District Campaign Reporting Act:

A. "campaign committee" means one or more persons

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1 authorized by a candidate to raise, collect or expend  
2 contributions on the candidate's behalf for the purpose of  
3 electing the candidate to office;

4 B. "candidate" means a person who seeks or  
5 considers an office in an election covered by the School  
6 District Campaign Reporting Act and who either has filed a  
7 declaration of candidacy or has received contributions or made  
8 expenditures of five hundred dollars (\$500) or more or  
9 authorized another person or campaign committee to receive  
10 contributions or make expenditures of five hundred dollars  
11 (\$500) or more for the purpose of seeking election to a covered  
12 office;

13 C. "contribution" means a gift, subscription, loan,  
14 advance or deposit of money or other thing of value, including  
15 the estimated value of an in-kind contribution, that is made or  
16 received for a political purpose, including payment of a debt  
17 incurred in an election campaign; but "contribution" does not  
18 include the value of services provided without compensation or  
19 unreimbursed travel or other personal expenses of individuals  
20 who volunteer a portion or all of their time on behalf of a  
21 candidate or campaign committee;

22 D. "covered office" means the position of board of  
23 education member of a school district [~~that has an enrollment~~  
24 ~~of twelve thousand students or more~~] or the position of board  
25 member of a community college organized or operating pursuant

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1 to the provisions of Chapter 21, Article 13 or Article 16 NMSA  
2 1978;

3 E. "election cycle" means the period beginning  
4 thirty days after an election for an office and ending thirty  
5 days following the subsequent election day for that office;

6 F. "expenditure" means a payment, transfer or  
7 distribution or obligation or promise to pay, transfer or  
8 distribute any money or other thing of value for a political  
9 purpose, including payment of a debt incurred in an election  
10 campaign;

11 G. "political purpose" means advocating the  
12 election or defeat of a candidate in an election;

13 H. "prescribed form" means a form or electronic  
14 format prepared and prescribed by the secretary of state; and

15 I. "reporting individual" means a candidate or  
16 treasurer of a campaign committee."

17 SECTION 2. Section 22-2-14 NMSA 1978 (being Laws 1978,  
18 Chapter 129, Section 1, as amended) is amended to read:

19 "22-2-14. LOCAL SCHOOL BOARDS--PUBLIC SCHOOLS--  
20 SUSPENSION--PROCEDURES.--

21 A. Money budgeted by a school district shall be  
22 spent first to attain and maintain the requirements for a  
23 school district as prescribed by law and by standards and rules  
24 as prescribed by the department. The department shall give  
25 written notification to a local school board, local

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1 superintendent and school principal, as applicable, of any  
2 failure to meet requirements by any part of the school district  
3 under the control of the local school board. The notice shall  
4 specify the deficiency. Instructional units or administrative  
5 functions may be disapproved for such deficiencies. The  
6 department shall disapprove instructional units or  
7 administrative functions that it determines to be detrimental  
8 to the educational process.

9 B. Within thirty days after receipt of the notice  
10 of failure to meet requirements, the local school board, local  
11 superintendent and school principal, as applicable, shall:

12 (1) comply with the specific and attendant  
13 requirements in order to remove the cause for disapproval; or

14 (2) submit plans satisfactory to the  
15 department to meet requirements and remove the cause for  
16 disapproval.

17 C. The secretary, after consultation with the  
18 commission, shall suspend from authority and responsibility a  
19 local school board, an individual local school board member, a  
20 local superintendent or a school principal that has had notice  
21 of disapproval and fails to comply with procedures of  
22 Subsection B of this section. The department shall act in lieu  
23 of the suspended local school board, individual local school  
24 board member, local superintendent or school principal until  
25 the department removes the suspension.

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1           D. To suspend a local school board, an individual  
2 local school board member, a local superintendent or a school  
3 principal, the secretary shall deliver to the local school  
4 board an alternative order of suspension, stating the cause for  
5 the suspension and the effective date and time the suspension  
6 will begin. The alternative order shall also contain notice of  
7 a time, date and place for a public hearing, prior to the  
8 beginning of suspension, to be held by the department, at which  
9 the local school board, individual local school board member,  
10 local superintendent or school principal may appear and show  
11 cause why the suspension should not be put into effect. Within  
12 five days after the hearing, the secretary shall make  
13 permanent, modify or withdraw the alternative order.

14           E. The secretary may suspend a local school board,  
15 an individual local school board member, a local superintendent  
16 or a school principal when the local school board, individual  
17 local school board member, local superintendent or school  
18 principal has been notified of disapproval and when the  
19 department has sufficient reason to believe that the  
20 educational process in the school district or public school has  
21 been severely impaired or halted as a result of deficiencies so  
22 severe as to warrant disapproved status before a public hearing  
23 can be held.

24           F. The department, while acting in lieu of a  
25 suspended local school board, an individual local school board

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1 member, a local superintendent or a school principal, shall  
2 execute all the legal authority of the local school board,  
3 individual local school board member, local superintendent or  
4 school principal and assume all the responsibilities of the  
5 local school board, individual local school board member, local  
6 superintendent or school principal.

7 G. The provisions of this section shall be invoked  
8 at any time the secretary, after consultation with the  
9 commission, finds that the school district or public school has  
10 failed to attain and maintain the requirements of law or  
11 department standards and rules.

12 H. The commission shall consult with the secretary  
13 and may recommend alternative actions for the secretary's  
14 consideration.

15 I. A local school board, an individual local school  
16 board member, a local superintendent or a school principal  
17 aggrieved by a decision of the secretary may appeal to the  
18 district court pursuant to the provisions of Section 39-3-1.1  
19 NMSA 1978."

20 SECTION 3. Section 22-5-6 NMSA 1978 (being Laws 1971,  
21 Chapter 199, Section 1, as amended) is amended to read:

22 "22-5-6. NEPOTISM PROHIBITED--PENALTY.--

23 A. A local superintendent shall not initially  
24 employ or approve the initial employment in any capacity of a  
25 person who is the spouse, father, father-in-law, mother,

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1 mother-in-law, son, son-in-law, daughter, daughter-in-law,  
2 brother, brother-in-law, sister or sister-in-law of a member of  
3 the local school board or the local superintendent. The local  
4 school board may waive the nepotism rule for family members of  
5 a local superintendent. If a school district of fewer than  
6 five hundred students is unable to recruit another qualified  
7 applicant for a position for which a family member of a local  
8 school board member is qualified, the local superintendent may  
9 provide proof of qualification and request the department to  
10 grant a waiver to employ the family member.

11 B. A violation of Subsection A of this section in a  
12 school district when the nepotistic relationship is between the  
13 person employed and a member of the local school board, the  
14 person shall be discharged and the member shall be removed from  
15 office.

16 [~~B.~~] C. Nothing in this section shall prohibit the  
17 continued employment of a person employed on or before July 1,  
18 2008."

19 SECTION 4. Section 22-5-13 NMSA 1978 (being Laws 2003,  
20 Chapter 153, Section 24) is amended to read:

21 "22-5-13. LOCAL SCHOOL BOARD MANDATORY TRAINING.--

22 A. The department shall develop a mandatory  
23 training course for local school board members that explains  
24 [~~state board rules~~] department rules, policies and procedures,  
25 statutory powers and duties of local school boards, legal

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1 concepts pertaining to public schools, finance and budget,  
2 including performance-based budgeting, and other matters deemed  
3 relevant by the department. The department shall notify local  
4 school board members of the dates of the training course, the  
5 last of which shall not be later than three months after a  
6 local school board election.

7 B. Other mandatory training shall cover:

8 (1) laws and department policies and  
9 procedures affecting local school boards or public schools;

10 (2) public school finance, budgeting and  
11 fiduciary responsibilities of local school boards;

12 (3) a local school board's role in evaluating  
13 and improving student academic achievement and using data to  
14 set individual school goals for student academic achievement in  
15 each of the school district's public schools;

16 (4) a local school board's role in providing a  
17 safe learning environment conducive to improving student  
18 outcomes;

19 (5) legal concepts pertaining to local school  
20 boards and school districts, including the Open Meetings Act  
21 and the Inspection of Public Records Act;

22 (6) effective governance practices and  
23 effective methods of supporting and supervising the local  
24 superintendent; and

25 (7) other matters deemed relevant by the

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1 department.

2 C. A local school board member shall submit a  
3 signed certification of completion of the mandatory training  
4 required pursuant to Subsections A and B of this section to the  
5 school district's local superintendent.

6 D. If a local school board member fails to certify  
7 the board member's compliance with the training requirements in  
8 Subsections A and B of this section by July 1 of a calendar  
9 year, the board member's per diem shall be withheld until the  
10 requirements have been met and the certifications submitted."

11 SECTION 5. A new section of the Public School Code is  
12 enacted to read:

13 "[NEW MATERIAL] LOCAL SCHOOL BOARD MEETINGS--WEBCASTING  
14 AND ARCHIVING.--Except as otherwise provided in this section,  
15 live audio and video webcasts of local school board meetings  
16 shall be accessible through the school district's website and  
17 shall include a user interface that allows members of the  
18 public to submit comments. A webcast shall begin as soon as  
19 practicable after the chair has called the meeting to order and  
20 shall terminate as soon as practicable after the local school  
21 board has adjourned. Recordings of the webcasts shall be  
22 posted on the school district's website within one week of the  
23 meeting's conclusion and shall be publicly available for at  
24 least five years following the date of the meeting unless the  
25 state records retention schedule provides otherwise."

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1           SECTION 6. Section 22-8B-5.1 NMSA 1978 (being Laws 2009,  
2 Chapter 18, Section 1) is amended to read:

3           "22-8B-5.1. GOVERNING BODY TRAINING.--

4           A. The department shall develop a mandatory  
5 training course for all governing body members that explains  
6 department rules, policies and procedures, statutory powers and  
7 duties of governing boards, legal concepts pertaining to public  
8 schools, finance and budget and other matters deemed relevant  
9 by the department. The department shall notify the governing  
10 body members of the dates of the training courses.

11           B. Other mandatory training shall cover:

12                   (1) laws and department policies and  
13 procedures affecting governing bodies or charter schools;

14                   (2) public school finance, budgeting and  
15 fiduciary responsibilities of governing bodies, in particular  
16 federal and state requirements for state-chartered charter  
17 schools to receive and maintain the schools' status as boards  
18 of finance;

19                   (3) a governing body's role in evaluating and  
20 improving student academic achievement and using data to set  
21 the school's goals for student academic achievement;

22                   (4) a governing body's role in providing a  
23 safe learning environment conducive to improving student  
24 outcomes;

25                   (5) legal concepts pertaining to governing

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1 bodies and charter schools, including the Open Meetings Act and  
2 the Inspection of Public Records Act;

3 (6) effective governance practices and  
4 effective methods of supporting and supervising the head  
5 administrator; and

6 (7) other matters deemed relevant by the  
7 department.

8 C. A governing body member shall submit a signed  
9 certification of completion of the mandatory training required  
10 pursuant to Subsections A and B of this section to the head of  
11 the charter school.

12 D. If a governing body member fails to certify the  
13 governing body member's compliance with the training  
14 requirements in Subsections A and B of this section by July 1  
15 of a calendar year, the governing body member's per diem shall  
16 be withheld until the requirements have been met and the  
17 certifications submitted."

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

20 "[NEW MATERIAL] GOVERNING BODY MEETINGS--WEBCASTING AND  
21 ARCHIVING.--Except as otherwise provided in this section, live  
22 audio and video webcasts of governing body meetings shall be  
23 accessible through the charter school's website and shall  
24 include a user interface that allows members of the public to  
25 submit comments. A webcast shall begin as soon as practicable

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1 after the chair has called the meeting to order and shall  
2 terminate as soon as practicable after the body has adjourned.  
3 Recordings of the webcasts shall be posted on the charter  
4 school's website within one week of the meeting's conclusion  
5 and shall be publicly available for at least five years  
6 following the date of the meeting unless the state records  
7 retention schedule provides otherwise."

8 SECTION 8. APPLICABILITY.--The provisions of this act  
9 apply to the 2023-2024 school year and subsequent school years.