

POLICY SERVICES ADVISORY

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Policy Advisory Discussion

Policy Advisory No. 210. JK – Student Discipline. Senate Bill 80 and House Bills 29 and 43 approved during the recent New Mexico legislative session added to the current statute 22-5-4.3 regarding school discipline policies.

The addition from **Senate Bill 80 and House Bill 29** was on the subject of prohibiting imposition of discipline, discrimination or disparate treatment against a student's race, religion or culture or because of the student's use of

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protective hairstyles or cultural or religious headdresses. After review of these bills, Policy Services has interpreted them to address the issue of hair as it may cause a disruption of the education of students. Educators are likely familiar with the past court cases and discussions surrounding the issue of hair color, length, style and sundry other concepts that were considered to distract from the education of other students. A narrow interpretation of the changes enacted by these bills would seem to focus on protective hairstyles or cultural or religious headdresses. The definitions in statute 22-5-4.3 however, would require a broader interpretation.

It appears to Policy Services that hair as to color, length, style, including wigs would now be off limits to disciplinary action for disruption of the educational process. Additionally, an individual's personal cultural or religious headdresses, and wraps can not be considered a disruption to the educational process. It is the suggestion of Policy Services that any focus of disciplinary action regarding hair or coverings of the hair relative to the individual's personal cultural or religious beliefs, can no longer be the considered for disciplinary action.

It may be noted that the change suggested in Policy JK, Student Discipline, does not include the extensive definitions of the statute. The statute is linked to the policy for reference purposes but the definitions are not included in the policy since they were so broad as to be inclusive of any and all disciplinary action related to hair unless judicial verification would provide otherwise. Efforts to make exceptions by a school district will likely be challenged at some legal cost.

House Bill 43 added a section to statute 22-5-4.3 which requires all school discipline policies define and include a specific prohibition against racialized aggression involving a student or school personnel and provide links to the statewide hotline to report racially charged incidents or racialized aggression.

Policy Services has selected the following definition of racialize for purposes of definition since none was given in statute. Racialized: to give a racial character to; to categorize, marginalize , or regard according to race. Using this definition with aggression would give us a definition as follows: racialized aggression would be defined as characterizing, categorizing or marginalizing an aggressive act as racial in nature. This definition has been used in the policy JK. Should a school district wish to use another definition it should feel free to do so.

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As to providing links to the statewide hotline for reporting incidents of racialized aggression, a general statement of intent was included with the expectation that the school district would provide a link on its website to the statewide hotline for this purpose, upon such a hotline being available. Policy Services was unable to find a specific hotline for racial purposes.

Policy Advisory No. 211. JICA – The only changes made to the policy on Student Dress and grooming are the addition of the legal reference to NMSA 22-5-4.3 and the cross reference to JK.

Policy Advisory No. 212. AC – The only change made to the policy on Nondiscrimination is the addition of the legal reference to NMSA 22-5-4.3 because the statute adds to discriminatory offenses by way of definitions.

Policy Advisory No. 213. GCQF – Discipline, Suspension, Termination and Discharge of Professional Staff. Per the requirements of House Bill 43 the addition of the prohibition against racialized aggression and reference to the link to a statewide hotline for reporting were added to this professional staff discipline policy. Again, it should be noted that Policy Services was unable to find a specific hotline for racial purposes.

Policy Advisory No. 214. GDQD – Discipline, Suspension, Termination and Discharge of Support Staff. Per the requirements of House Bill 43 the addition of the prohibition against racialized aggression and reference to the link to a statewide hotline for reporting were added to this professional staff discipline policy.

If you have any questions, call Policy Services at 1-505-469-0193. Ask for Donn Williams, Policy Services Director. E-mail [nmsbapolicy@cox.net].

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