

# ***POLICY SERVICES ADVISORY***

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### **Policy Advisory Discussion**

This year the New Mexico Legislature unanimously passed and the Governor signed Senate Bill 163 which addressed Tribal Regalia at School Events, and which specifically prohibits school districts from prohibiting “a student who is enrolled, or eligible for enrollment, in a federally recognized Indian nation, tribe or pueblo from wearing tribal regalia or objects of cultural significance along with or attached to a cap or gown or wearing tribally significant footwear or other items of apparel under a gown at graduation ceremonies or public school events.”

The law defines “tribal regalia” to mean “a tribe's traditional dress or recognized objects of religious or cultural significance, including tribal symbols, jewelry, beading and feathers.”

The new law amends NMSA 1978, § 22-5-4.3 which is the primary statute addressing student discipline in the Public School Code. The change necessitates an amendment to I-7450 IKFB, and J-4600 JK, Student Discipline, Graduation Exercises as shown in the Policy Advisories below.

The Legislature deemed the new law an emergency and it went into effect immediately upon the Governor’s signature without the usual waiting period. **The new law is in effect for this graduation season. Even if Boards are unable to change policy before graduation this year, school officials need to know that eligible students may not be prohibited from wearing tribal regalia at graduation this year.**

The amendment to the Graduation Exercises policy states that the Superintendent shall implement procedures to enforce the policy. Policy Services anticipates that each district or school will need some mechanism for students to demonstrate, before future graduation ceremonies, that they are enrolled or “eligible for enrollment” in a tribe, nation, or pueblo. As a reminder, the Introduction to your policy manual states that the term “Superintendent” in the manual shall be interpreted to mean “Superintendent or a person designated by the Superintendent.”

If you have any questions, or requests call Policy Services at (505) 469-0193 or e-mail Dan Castille, Policy Services Director at [rdcpolicyservices@outlook.com](mailto:rdcpolicyservices@outlook.com).

**This Material is written for information only and is not intended as legal advice. Please consult your attorney for further explanation.**

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# Advisory 263

## GRADUATION EXERCISES

Graduation exercises will be held for students who have met state and local requirements for graduation from high school.

Participation in high school commencement exercises is encouraged but is not compulsory. However, since these exercises require planning and rehearsals, the following rules shall apply:

- Students who wish to participate must be present at the rehearsals. Failure to do so, except for legitimate reasons for absence, may be cause for excluding students from participating in the exercises.
- Students may not participate in the commencement exercises unless they have successfully completed the requirements for graduation and paid all fees, fines, and charges due.

### **Tribal Regalia**

No student who is enrolled, or eligible for enrollment, in a federally recognized Indian nation, tribe or pueblo shall be prohibited from wearing tribal regalia or objects of cultural significance along with or attached to a cap or gown, or from wearing tribally significant footwear or other items of apparel under a gown, at graduation ceremonies or public school events. "Tribal regalia" means a tribe's traditional dress or recognized objects of religious or cultural significance, including tribal symbols, jewelry, beading, and feathers. The Superintendent shall develop procedures to implement this tribal regalia requirement.

*Adopted:*    date of manual adoption

LEGAL REF.:        22-5-4.3 NMSA (1978)

# Advisory 264

## STUDENT DISCIPLINE

A minimum of Parents, school personnel and students shall be involved in the development of policies, and public hearings before the Board shall be held during the formulation of these policies in the high school attendance areas within each district or on a district-wide basis for those districts that have no high school. The Superintendent shall prepare and recommend the final format of discipline policies and develop procedures for the discipline of students that comply with state laws and regulations. These policies and procedures will apply to all students traveling to, attending, and returning from school, and while visiting another school or at a school-sanctioned activity and may be imposed if the student's behavior affects the school order. When suspension or expulsion is involved, notice, hearing, and appeal procedures shall conform to applicable legal requirements.

~~However, no local school board~~ Neither the District nor any school or individual shall impose ~~shall allow for the imposition of~~ discipline, discrimination or disparate treatment against a student based on the student's race, religion or culture or because of the student's use of protective hairstyles or cultural or religious headdresses. No student who is enrolled, or eligible for enrollment, in a federally recognized Indian nation, tribe or pueblo shall be prohibited from wearing tribal regalia or objects of cultural significance along with or attached to a cap or gown, or from wearing tribally significant footwear or other items of apparel under a gown, at graduation ceremonies or public school events. "Tribal regalia" means a tribe's traditional dress or recognized objects of religious or cultural significance, including tribal symbols, jewelry, beading, and feathers.

Racialized aggression defined as any aggressive act which can be characterized, categorized or which appears as such to be racial in nature is prohibited. A link to a state-wide hotline for reporting such incidents is provided on the District Website located at (fill in web address for School District).

Information concerning a student's disciplinary record will be held in the strictest confidence.

Disciplinary actions taken will be recorded in an administrative log, and all types of suspensions or expulsions will be recorded in a separate file for each student.

*Adopted:* date of manual adoption

LEGAL REF.: 22-5-4.3 NMSA (1978)  
22-35-3 NMSA (1978)  
6.11.2.7 NMAC  
6.11.2.8 NMAC  
6.11.2.9 NMAC  
6.11.2.10 NMAC  
6.11.2.11 NMAC  
6.11.2.12 NMAC

CROSS REF.: JIC - Student Conduct  
JICA - Student Dress  
JKA - Corporal Punishment  
JKD - Student Suspension/Expulsion  
JR - Student Records

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## Relevant Statutes and Citations

New Mexico Legislature unanimously passed and the Governor signed [Senate Bill 163](#) which addressed Tribal Regalia at School Events.

The new law amends NMSA 1978, § [22-5-4.3](#) which is the primary statute addressing student discipline in the Public School Code.