

POLICY SERVICES ADVISORY

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Senate Bill 137 becomes law effective July 1, 2024. SB 137 makes changes to the School District Campaign Reporting Act at NMSA. 1978, § 1-22A-1 *et seq.*, and various sections of the Public School Code. Except as set forth in this Advisory, not all sections of SB 137 result in changes to the Policy Service policies. The eight sections of SB 137 are summarized below.

- **Sections 1 and 2 of SB 137** amend the School District Campaign Reporting Act at NMSA. 1978, § 1-22A-1 *et seq.* That Act was enacted in 2013 to require campaign finance reporting for candidates for school board positions in districts with enrollment of 12,000 students or more (or their campaign committees) who received contributions or made expenditures of \$500 or more to file a report with the secretary of state. SB 137 removes that enrollment limitation and now the Act applies to all school board candidates and campaign committees that receive contributions or made expenditures (as those terms are defined in the Act) of \$1,000.00 or more to file reports with the Secretary of State in the manner described by the Act.

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None of the existing Policy Service master policies address campaign finance reporting for school board members. Because these Sections of SB 137 address campaigns for school board positions, and not the operations of the school district or the conduct of board members in their official capacities, the Policy Service determined that no new policies or amendments to existing master policies are made necessary by Sections 1 and 2 of SB 137. Individual Districts may have policies that address campaign finance reporting and those districts should check those policies for compliance with SB 137 and the School District Campaign reporting Act.

- **Section 3 of SB 137** amends NMSA 22-2F-3 of the School Support and Accountability Act to require the PED to include the number of hours of training attended by each school's local school board members and whether each member met statutory training requirements in the school support and accountability system dashboard website for each school (New Mexico Vistas). Policy Service has determined that Section 3 does not require a change to the existing master policies. (Note that under existing policy C-2450 CM and the Assessment and Accountability Act, NMSA 22-2C-11, Districts' annual accountability reports are required to include the names of board members who failed to attend mandatory annual training.)
- **Section 4 of SB 137** adds a new section to Article 5 of the Public School Code, which deals with Local School Boards. The new section prohibits a school board from extending a superintendent's contract, or terminating a superintendent without cause, during any time between the date of a regular local election in which school board positions are on the ballot and sixty days after the convening of the newly elected board or until sixty days after a majority of a local school board has been appointed. Existing Policy C-0100 CB contains a section addressing the Superintendent's Contract which includes provisions that the Board will take action on an existing Superintendent's contract in February of the year the contract expires and that the Board may extend the contract in intervening years of a multiple year contract. Because Section 4 of SB 137 limits the Board's ability to extend the Superintendent's contract at certain times, Policy Service provides a recommended amendment to C-0100 CB.
- **Section 5 of SB 137** amends NMSA 22-5-13 of the Public School Code. The existing NMSA 22-5-13 requires NM PED to develop a mandatory training course for school board members. Pursuant to the existing statute, PED enacted NMAC 6.29.1.9(A)(3) which mandated certain board training to be provided by the NMSBA. The newly amended statute will require more training hours and will be much more specific about the required subjects, while still requiring PED to develop a mandatory training course. The Policy Service policy that addresses board member training is B-0200 BBA Board Powers and Responsibilities. PED will most likely amend its regulations to

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address the changes to the statute, and such changes may require future changes to B-0200 BBA or other Policy Service policies. As it stands now, only B-0200 BBA is changing as a result of Section 5 of SB 137.

- **Section 6 of SB 137** adds a new section to Article 5 of the Public School Code, which deals with Local School Boards. The amendment creates new requirements for school board meetings that go beyond those required by the Open Meetings Act (OMA). Beginning July 1, 2024, school districts must provide live audio and video webcasts of school board meetings through the district's website. The webcasts must include a user interface that allows members of the public to submit written or verbal comments (which is not a current legal requirement for in-person meetings). The new law also requires that the recordings of the webcasts and a copy of any minutes approved at the meeting to be posted on the district's website within one week of the meeting's conclusion and publicly available for at least three years following the date of the meeting. The new law requires the webcast to begin when the meeting is called to order and to end upon adjournment, and it does not address or provide any carve-out for closed meetings. The Policy Service presumes that the legislature did not intend to require school boards to broadcast portions of the meetings that the OMA allows to be closed and has drafted policy amendments consistent with that presumption. Local boards may wish to consult their attorneys on this question.
- **Sections 7 and 8 of SB 137** are changes to the Charter School Act and not applicable to this Policy Advisory.

Policy Advisory 238 – BBA (B-0200) Board Powers and Responsibilities. As explained in the Discussion related to Section 5 of SB 137, school board member training requirements will now be spelled out in statute rather than PED regulation. Existing B-0200 BBA sets out board member training requirements by reciting from NMAC 6.29.1.9(A)(3)'s obsolete language. It is anticipated that PED will amend NMAC 6.29.1.9(A)(3) to account for the new statutory training requirements. For that reason, Policy Service deleted the old training requirements language from the portion of BBA dealing with the Board's powers and duties as set forth in the Administrative Code while retaining the language that the Board will "ensure that each member of the Board participates in a planned program of training which will assist in the performance of specified duties. The new statutory training requirements were then placed at the end of BBA.

Policy Advisory 239 – BE (B-1400) School Board Meeting. Existing B-1400 BE addresses school board meetings generally and includes the Open Meetings Act requirements that meetings be open to the public, so this policy is the appropriate policy to address the new requirement that school board meetings be webcast live. B1400 BE also states requirements for items to be included in meeting notices so a provision was added to require notices to inform the public how they may view the live webcast.

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Policy Advisory 240 - BEC-E (B-1581) Executive Sessions/Open Meetings. SB 137 does not change the Open Meetings Act's list of reasons a Board may meet in closed session but in reviewing policies for the purpose of this Advisory, it was noticed that the Exhibit at B-1581 BEC-E omitted a valid reason for closed session (collective bargaining strategy and negotiations) and omitted an important limitation on the discussion of pending threatened litigation (i.e., that it be a meeting "subject to the attorney-client privilege). Policy Service took this opportunity to remedy those omissions.

Policy Advisory 241 – BEDA (B-1650) Notification of Board Meetings. Because this policy stated that meeting notices include the time and place of meetings, Policy Service added a sentence to state that meeting notifications shall include a link or shall otherwise provide information to enable the public to access the live audio and video webcast of the meeting.

Policy Advisory 242 – BEDBA (B-1750) Agenda Preparation and Dissemination. Because this policy reiterates that meeting notices include the time and place of meetings and spells out requirements for inclusion on the agenda, Policy Service added a sentence to state that meeting notifications and agendas shall include a link or shall otherwise provide information to enable the public to access the live audio and video webcast of the meeting.

Policy Advisory 243 - BEDG (B-2100) Minutes. Because this policy spells out statutory requirements related to board meeting minutes, it was the appropriate policy to address the new requirement that minutes be posted to the district website within one week of approval and retained for a minimum of three years.

Policy Advisory 244 – BEDH (B-2150) Public Participation at Board Meetings. Until now, there has never been a legal requirement to allow public comment in New Mexico school board meetings. Despite that, virtually all districts allow public comment at in-person meetings and policy B-2150 BEDH provides a fairly specific set of procedures governing in-person public comment. With respect to public comment, SB 137's only requirement is that the live audio and video webcast of the meeting through the district's website "include a user interface that allows members of the public to submit written or verbal comments." Policy Service anticipates that District will vary widely on 1) how they wish to comply with that requirement and 2) the technology available to do so. For that reason, Policy Service opted against providing a detailed procedure for online public comment and instead left it to district administration to develop the procedures for how the public may submit written or verbal comments during an online meeting. It should be noted that the same constitutional requirements of viewpoint neutrality and free speech will apply the same to online public comments as they do to in-person public comments.

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Policy Advisory 245 – CB (C-0100) Superintendent. As mentioned in the Discussion, existing Policy C-0100 CB contains a section addressing the Superintendent’s Contract which includes provisions that the Board will take action on an existing Superintendent’s contract in February of the year the contract expires and that the Board may extend the contract in intervening years of a multiple year contract. Because SB 137 limits the Board’s ability to extend, renew, and terminate (without cause) the Superintendent’s contract, this policy was the appropriate place to address that limitation. It should be noted that nothing in the law requires the Board to take action on a Superintendent’s contract in February (or any other month) of the year in which the contract expires. Despite that, Policy Service has elected to retain that provision in the master policy.

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

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