

HM57 Task Force Educator Ethical Misconduct

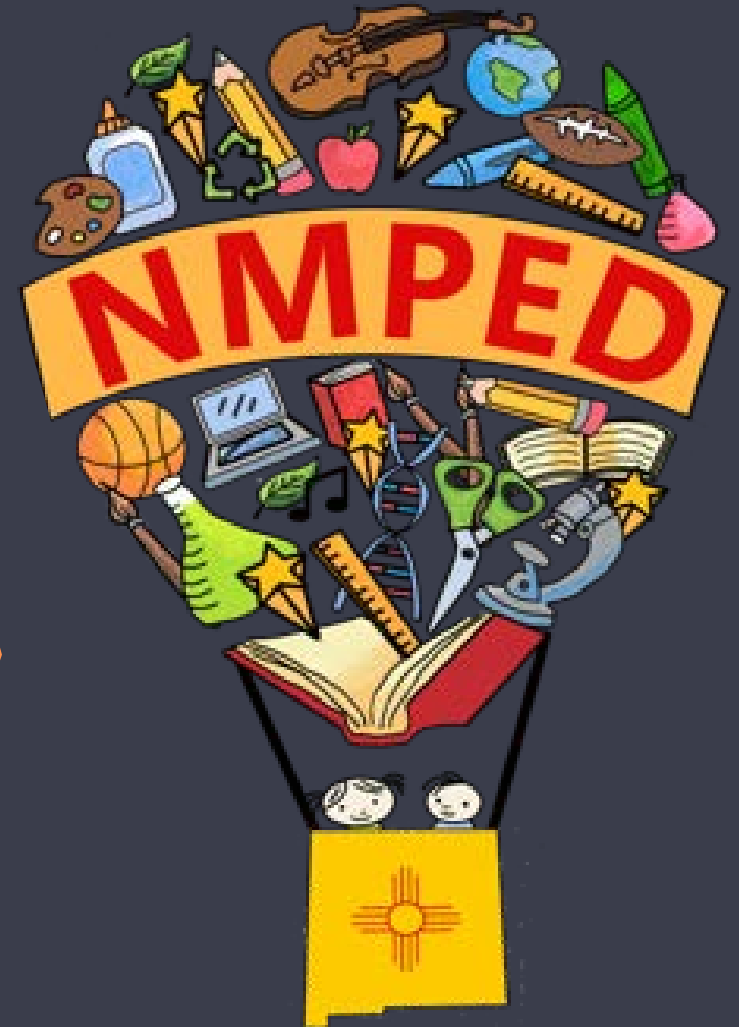
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Public Education Department

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Introduction



House Memorial 57 (2019 legislative session)

HM 57 requested PED convene a task force to:

- Identify issues of concern regarding investigation and documentation of ethical misconduct in the public schools
- Develop a strategic plan to address these concerns, and
- Study potential legislative changes pertaining to ethical misconduct among school staff relating to investigations, reporting, and a statewide process for disciplinary action

HM57 Task Force Members

National
Education
Association

American
Federation of
Teachers

Attorney
General's
Office

Children,
Youth &
Families
Department

New Mexico
School
Boards
Association

New Mexico
Coalition of
Educational
Leaders

New Mexico
Public
Schools
Insurance
Authority

Cooperative
Educational
Services

Albuquerque
Public
Schools

New Mexico
Coalition of
Sexual
Assault
Programs

New Mexico
PTA

HM57 Task Force Meetings

- Task force held three meetings in 2019 – August 28th, September 5th, and September 18th
- Generally able to achieve consensus on issues
- Instances where an objection or issue with a recommendation occurred, it was presented to the group and wishes of the majority were followed

Task Force Recommendations



General Recommendations

- Changes to law and rule addressing background checks, reporting, and training on procedures and recognizing signs of abuse
- Increasing the investigatory capacity of PED, school districts, and RECs
- Establishing a central database and website for reporting ethical misconduct involving moral turpitude
- Revisions to educator professional standards and the educator ethical code, and
- Sufficient appropriations to support the recommendations

Background Checks

- Add definitions for such terms as, “ethical,” “sexual misconduct,” and “unsupervised contact with children”
- PED should maintain a list of persons reported to PED for ethical misconduct, and for felonies and misdemeanors involving moral turpitude
- Allow RECs to assist school districts and charter schools in investigating allegations of ethical misconduct

Background Checks

- Amend the School Personnel Act regarding termination and appeals of school personnel, to allow the maintenance of a public record of proceedings
- Potential Legislation: see Appendix A, Background Checks Bill Draft, and
- See Item 1 of Appendix F: Arizona Fingerprint Clearance Card

Reporting

- Require reporting of reasonable suspicions of abuse or neglect by noncustodial persons to law enforcement, and to PED when the alleged perpetrator is school personnel or a volunteer
- Mandate reports of parental abuse be made to both law enforcement and CYFD, rather than either, as under current law

Reporting

- Limit required reporting of noncustodial abuse to that done by adults, and
- Amend Section 22-5-4.2 NMSA 1978 to:
 - Mandate policies for tracking of reports of child abuse made by school personnel, rather than merely permitting them, with inclusion of protections for alleged victims' identities, and
 - Include reports made by volunteers to those that must be tracked, in addition to those made by school personnel

Training on Reporting of Child Abuse

- Training programs reflect expertise of NMPSIA and apply to anyone involved in school activities, including volunteers and all personnel with unsupervised contact with children
- Best practices for the administration of this training be adopted to include areas:
 - reporting requirements
 - trauma-informed instruction
 - indicia of abuse or inappropriate behavior
 - ethics and professional responsibility
 - investigations and procedures, and
 - definitions of “ethical misconduct” and other relevant terms

Training on Reporting of Child Abuse

- Separate training program for current and potential school volunteers who have unsupervised access to children
- Amendment of Subsection D of Section 9 of 6.29.1 NMAC, which addresses training on reporting of child abuse, to reflect any statutory changes
- Potential Legislation: see Appendix B, Reporting and Training Requirements Bill Draft, and
- See Item 2 of Appendix F: NMSBA Policy on Tracking Reports of Abuse, and see Item 3: NMSBA Boundary Policy

Interagency Communication

- School districts have a responsibility to conduct civil rights investigations under Title I of the Education Amendments of 1972
- CYFD and law enforcement are involved in most allegations of child abuse, as required under the Children's Code

Interagency Communication

- PED conducts relevant licensure investigations
- School districts conduct background checks on employees and volunteers with unsupervised access to children, under Section 22-10A-5 NMSA 1978
- Required reporting to PED when the alleged victim or misconduct is a student or the alleged perpetrator is a public school employee or volunteer

Hiring Practices

- Current background check requirements fail to address challenges created by practices where potential employees may engage in unethical behavior in one jurisdiction, then move to a new area where they are unknown, avoiding responsibility for their wrongdoings
- Enactment of “SESAME” laws (“**S**top **E**ducator **S**ex **A**buse, **M**isconduct, and **E**xploitation”)
 - Pennsylvania, Connecticut, Nevada, New Jersey, and Maryland
- Task force recommends the adoption of similar provisions in the School Personnel Act as well as immunity from liability

Hiring Practices: SESAME Laws

- Applicants are required to provide:
 - a list of schools where they currently work or worked previously where they had unsupervised or substantial contact with children, including disclosure of all disciplinary matters related to ethical misconduct
 - a written statement to school districts regarding whether they have been the subject of an abuse or misconduct investigation

Hiring Practices: SESAME Laws

- Current and former employers are also required to provide similar information within a certain timeframe
- Willful refusal to disclose information or provision of false information subject the applicant to discipline, including termination or denial of employment
- Potential Legislation: Background Checks Bill Draft, in Appendix A, and
- See Item 4 of Appendix F

Investigatory Capacity

- Permit RECs to offer human resources and other investigatory support to districts
- PED assist school districts and charter schools that have fewer financial resources with investigations of misconduct
- PED consider providing contractors to support local investigatory efforts, and
- Potential Legislation: RECs' Investigations Bill Draft in Appendix C

Code of Ethical Responsibility of the Educator Profession, 6.60.9 NMAC

- Change the regulatory definition of “ethical misconduct” to reflect any statutory changes
- Establish a hotline where suspicions of misconduct could be submitted with a database for their storage
- Include information on ethical misconduct investigations on a district- and charter school-accessible location in the PED website, and

Code of Ethical Responsibility of the Educator Profession, 6.60.9 NMAC

- Add specific reporting requirements for licensed personnel to 6.60.9 NMAC, parallel to those required in statute:
 - Reporting reasonable suspicion of child abuses or neglect
 - Reporting to the local school authority, PED, and law enforcement any reasonable suspicion of conduct that would constitute child abuse if committed by a parent, guardian, or custodian, when the alleged perpetrator is licensed school personnel, and
 - Reporting to appropriate authorities any knowledge of inappropriate contact between licensed school personnel and students

Code of Ethical Responsibility of the Educator Profession, 6.60.9 NMAC

- Plan includes a potential update to 6.60.9 NMAC, Code of Ethical Responsibility of the Educator Profession, in Appendix D

Potential Legislation

- Background Checks in Appendix A
- Reporting and Training Requirements in Appendix B, and
- Regional Educational Cooperatives' Investigatory in Appendix C
- See Supplemental Material is included in Appendix F

Thank you!

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