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SENATE BILL 288

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

William P. Soules

AN ACT

RELATING TO EDUCATION; ENACTING THE SAFE SCHOOLS FOR ALL STUDENTS ACT; REQUIRING THE PUBLIC EDUCATION DEPARTMENT TO PROMULGATE RULES THAT REQUIRE SCHOOL DISTRICTS TO DEVELOP AND IMPLEMENT BULLYING PREVENTION POLICIES AND PROGRAMS; REPEALING A SECTION OF THE PUBLIC SCHOOL CODE.

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

SECTION 1. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] SHORT TITLE.--This act may be cited as the "Safe Schools for All Students Act"."

SECTION 2. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] DEFINITIONS.--As used in the Safe Schools for All Students Act:

1 A. "bullying" means any severe, pervasive or
2 persistent act or conduct that targets a student, whether
3 physically, electronically or verbally, and that:

4 (1) may be based on a student's actual or
5 perceived race, religion, color, national origin, ancestry,
6 sex, sexual orientation, gender identity, spousal affiliation,
7 physical or cognitive disability or any other distinguishing
8 characteristic; or on an association with a person, or group
9 with any person, with one or more of the actual or perceived
10 distinguishing characteristics; and

11 (2) can be reasonably predicted to:

12 (a) place a student in reasonable fear
13 of physical harm to the student's person or property;

14 (b) cause a substantial detrimental
15 effect on a student's physical or mental health;

16 (c) substantially interfere with a
17 student's academic performance or attendance; or

18 (d) substantially interfere with a
19 student's ability to participate in or benefit from the
20 services, activities or privileges provided by an agency,
21 educational institution or grantee;

22 B. "cyberbullying" means any bullying that takes
23 place through electronic communication;

24 C. "electronic communication" means a communication
25 transmitted by means of an electronic device, including a

1 telephone, cellular phone, computer, electronic tablet, pager
2 or video or audio recording;

3 D. "gender identity" means a student's self-
4 perception, or perception of that student by another, of the
5 student's identity as a male or female based upon the student's
6 appearance, behavior or physical characteristics that are in
7 accord with or opposed to the student's physical anatomy,
8 chromosomal sex or sex at birth;

9 E. "local school board" includes the governing body
10 of a charter school;

11 F. "physical or cognitive disability" means a
12 physical or cognitive impairment that substantially limits one
13 or more of a student's major life activities;

14 G. "progressive discipline" means disciplinary
15 action other than suspension or expulsion from school that is
16 designed to correct and address the basic causes of a student's
17 specific misbehavior while retaining the student in class or in
18 school, or restorative school practices to repair the harm done
19 to relationships and other students from the student's
20 misbehavior, and may include:

21 (1) meeting with the student and the student's
22 parents;

23 (2) reflective activities, such as requiring
24 the student to write an essay about the student's misbehavior;

25 (3) counseling;

- 1 (4) anger management;
- 2 (5) health counseling or intervention;
- 3 (6) mental health counseling;
- 4 (7) participation in skill-building and
- 5 resolution activities, such as social-emotional cognitive
- 6 skills building, resolution circles and restorative
- 7 conferencing;
- 8 (8) community service; and
- 9 (9) in-school detention or suspension, which
- 10 may take place during lunchtime, after school or during
- 11 weekends; and

12 H. "sexual orientation" means heterosexuality,
13 homosexuality or bisexuality, whether actual or perceived."

14 SECTION 3. A new section of the Public School Code is
15 enacted to read:

16 "[NEW MATERIAL] BULLYING PREVENTION POLICIES--ADOPTION AND
17 ENFORCEMENT.--

18 A. By January 1, 2020, each local school board
19 shall adopt and enforce policies to:

- 20 (1) prevent bullying:
 - 21 (a) on its property, including
 - 22 electronic communication on or with the use of its property;
 - 23 (b) at sponsored functions; and
 - 24 (c) on its to-and-from-school
 - 25 transportation or any school-sponsored transportation; and

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1 (2) prohibit electronic communication directed
2 at a student, that is published with the intent that it be seen
3 by or disclosed to that student and that substantially
4 interferes with the student's ability to participate in or
5 benefit from the services, activities or privileges provided by
6 the public school.

7 B. Each local school board shall control the
8 content of its policy; provided that the policy includes:

9 (1) the definitions as set forth in the Safe
10 Schools for All Students Act;

11 (2) a statement prohibiting bullying;

12 (3) a statement prohibiting retaliation
13 against persons who report or witness incidents of bullying;

14 (4) a list of consequences, including
15 progressive discipline approaches that can result from an
16 identified incident of bullying that are designed to:

17 (a) appropriately correct the bullying
18 behavior;

19 (b) prevent another occurrence of
20 bullying or retaliation;

21 (c) protect the target of the bullying;

22 (d) be flexible so that, in application,
23 the consequences can be unique to the individual incident and
24 varied in method and severity based on: 1) the nature of the
25 incident; 2) the developmental age of the student who is

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1 bullying; and 3) any history of problem behavior from the
2 student who is bullying; and

3 (e) for cyberbullying incidents, use the
4 least restrictive means necessary to address the interference
5 with the student's ability to participate in or benefit from
6 the services, activities or privileges provided by the school;

7 (5) a procedure for reporting bullying or
8 retaliation for reporting an act of bullying, including:

9 (a) a flexible reporting system that
10 allows for reporting orally and in the student's preferred
11 language;

12 (b) a method for reporting bullying
13 anonymously; provided that no formal disciplinary measures
14 shall be taken solely on the basis of an anonymous report; and

15 (c) a method for parents to file written
16 reports of suspected bullying; and

17 (6) a procedure for prompt investigation of
18 reports of violations of the policy and of complaints of
19 bullying or retaliation, including:

20 (a) designation of a school
21 administrator to investigate or supervise the investigation of
22 all reports of bullying and to ensure that such investigation
23 is completed promptly after the receipt of any report made
24 under the Safe Schools for All Students Act;

25 (b) a procedure for notification of the

1 parents of the student alleged to have committed an act of
2 bullying and the parents of the students targeted by the
3 alleged act; provided that if the administrator believes, in
4 the administrator's professional capacity, that notifying the
5 parents would endanger the health or well-being of a student,
6 the administrator may delay such notification as appropriate;

7 (c) a benchmark that school employees
8 who witness acts of bullying or receive reports of bullying
9 notify the designated administrator not later than two days
10 after the school employee witnesses or receives a report of
11 bullying;

12 (d) an appeal process for a student
13 accused of bullying or a student who is the target of bullying
14 who is not satisfied with the outcome of the initial
15 investigation; and

16 (e) development of a student safety
17 support plan for students who are targets of bullying that
18 addresses safety measures the school will take to protect
19 targeted students against further acts of bullying.

20 C. Each local school board shall include bullying
21 prevention policies and procedures for reporting bullying in
22 student handbooks using developmentally and culturally
23 appropriate language. Policies shall be produced and
24 disseminated in appropriate languages for any school district
25 in which a substantial portion of the student population speaks

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1 a language other than English at home.

2 D. Each public school shall document reports and
3 investigations of bullying and shall maintain those records for
4 no less than four years.

5 E. Each local school board shall establish
6 procedures for public schools to report aggregate incidents of
7 bullying and incidents of harassment under any applicable
8 federal or state law, along with responses to these incidents,
9 and report this information annually to the department."

10 SECTION 4. A new section of the Public School Code is
11 enacted to read:

12 "[NEW MATERIAL] BULLYING PREVENTION PROGRAMS
13 ESTABLISHMENT.--

14 A. Following adoption of a bullying prevention
15 policy, each public school shall:

16 (1) establish an annual bullying prevention
17 program for students included in New Mexico's health education
18 content standards with benchmarks and performance standards;

19 (2) provide annual training on bullying
20 prevention to all employees and volunteers who have significant
21 contact with students; and

22 (3) incorporate information on the bullying
23 prevention policy into new employee training.

24 B. Each school district and public school shall
25 develop a plan for the way in which the policy is to be

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1 publicized, including:

2 (1) making each school district's anti-
3 bullying policy, and developmentally, culturally and
4 linguistically appropriate variants of the policy, available on
5 public websites;

6 (2) identifying a point of contact for
7 bullying-related concerns; and

8 (3) informing parents and students about the
9 policy at least annually through student handbooks and other
10 resources."

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

13 "[NEW MATERIAL] DEPARTMENT DUTIES--SCHOOL DISTRICT AND
14 CHARTER SCHOOL REPORT CARDS.--

15 A. The department shall:

16 (1) issue guidance for bullying prevention
17 programs and policies in accordance with the Safe Schools for
18 All Students Act; and

19 (2) within one hundred twenty days of the
20 effective date of the Safe Schools for All Students Act:

21 (a) promulgate rules for a model policy
22 for local school boards on bullying prevention in accordance
23 with that act, as well as any developmentally, culturally or
24 linguistically appropriate variants of the policy;

25 (b) provide guidance to local school

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1 boards relating to effective forms of progressive discipline to
2 reduce bullying and school violence; and

3 (c) provide guidance to local school
4 boards on effective bullying prevention programs to reduce
5 bullying and school violence.

6 B. At the same time as or as part of the annual
7 accountability report, each school district and charter school
8 shall report on the status of its implementation of the
9 provisions of the Safe Schools for All Students Act, including
10 the aggregate number of incidents of bullying in the state, the
11 aggregate number of incidents of harassment under any
12 applicable federal or state laws, the aggregate number of
13 responsive actions taken by public schools by type of action, a
14 tabulation of the number of incidents associated with each
15 distinguishing characteristic defined in the Safe Schools for
16 All Students Act, the department's evaluation of the
17 sufficiency of funding for bullying prevention programs and any
18 recommendations for policy or programmatic change to improve
19 the addressing of bullying issues in the state."

20 SECTION 6. REPEAL.--Section 22-2-21 NMSA 1978 (being Laws
21 2011, Chapter 50, Section 1, as amended) is repealed.

22 SECTION 7. EFFECTIVE DATE.--The effective date of the
23 provisions of this act is July 1, 2019.