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HOUSE BILL 142

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Elizabeth "Liz" Thomson

AN ACT

RELATING TO EDUCATION; CREATING THE TASK FORCE ON SEXUAL MISCONDUCT; REQUIRING PUBLIC SCHOOLS AND PUBLIC AND PRIVATE POST-SECONDARY EDUCATIONAL INSTITUTIONS TO ADOPT POLICIES AND PROCEDURES ADDRESSING AFFIRMATIVE CONSENT AND PREVENTION OF SEXUAL ASSAULT, DOMESTIC VIOLENCE, DATING VIOLENCE, HARASSMENT AND STALKING; REQUIRING PUBLIC AND PRIVATE POST-SECONDARY EDUCATIONAL INSTITUTIONS TO CONDUCT BIENNIAL SEXUAL MISCONDUCT CLIMATE SURVEYS; AMENDING THE PUBLIC SCHOOL CODE TO INCLUDE A REQUIREMENT TO SET AFFIRMATIVE CONSENT AS THE STANDARD FOR SEXUAL ACTIVITY.

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

SECTION 1. [NEW MATERIAL] POLICIES ADDRESSING AFFIRMATIVE CONSENT AND PREVENTION OF SEXUAL ASSAULT, DOMESTIC VIOLENCE, DATING VIOLENCE, HARASSMENT AND STALKING REQUIRED--SEXUAL

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1 MISCONDUCT CLIMATE SURVEYS--REPORTING REQUIREMENTS--HIGHER
2 EDUCATION DEPARTMENT DUTIES.--

3 A. A public or private post-secondary educational
4 institution that receives state funds for student financial
5 assistance shall adopt detailed, trauma-informed policies and
6 trauma-informed responses for the investigation of allegations
7 of sexual assault, domestic violence, dating violence and
8 harassment or stalking involving a student, faculty member,
9 employee, contractor or regent both on and off campus.

10 B. All policies and procedures shall:

11 (1) reference an affirmative consent standard
12 in the determination of whether consent was given by all
13 parties to sexual activity;

14 (2) confirm that it is the responsibility of
15 each person involved in the sexual activity to ensure that the
16 person has the affirmative consent of all other participants
17 engaged in that sexual activity;

18 (3) confirm that affirmative consent:

19 (a) can never be given by a person who
20 is asleep, unconscious, incapacitated due to the influence of
21 drugs, alcohol or medication or unable to communicate due to a
22 mental or physical condition;

23 (b) cannot be implied, assumed or
24 inferred from silence or lack of protest or resistance; and

25 (c) can be revoked at any time; and

1 (4) confirm that the existence of a dating
2 relationship between the persons involved, or the fact of past
3 sexual relations between them, shall never by itself be assumed
4 to be an indicator of consent.

5 C. The standard to be used in determining whether
6 the elements of the complaint against the responding party have
7 been demonstrated is the preponderance of the evidence.

8 D. Policies shall include a:

9 (1) provision addressing how the institution
10 will provide appropriate protections for the privacy of
11 individuals involved, including confidentiality;

12 (2) provision that all parties and witnesses
13 who participate as a complainant or witness in an investigation
14 will not be subject to disciplinary sanctions for a violation
15 of the school's student conduct policy at or near the time of
16 the incident, unless the school determines that the violation
17 was egregious, including an action that places the health or
18 safety of any other person at risk or involves plagiarism,
19 cheating or academic dishonesty;

20 (3) description of the role of the
21 institutional staff supervision; and

22 (4) provision for a comprehensive, trauma-
23 informed response training program for campus officials
24 involved in investigating and adjudicating sexual assault,
25 domestic violence, dating violence and harassment or stalking

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1 cases.

2 E. Procedures shall include:

3 (1) an initial response by the institution's
4 personnel to a report of an incident, including:

5 (a) providing written notification to
6 the complainant about the availability of, and contact
7 information for, on- and off-campus resources and services and
8 coordination with law enforcement, as appropriate;

9 (b) providing information in writing to
10 the complainant about the importance of preserving evidence;

11 (c) the identification and location of
12 witnesses;

13 (d) response to stranger and non-
14 stranger sexual assault;

15 (e) a preliminary complainant interview;

16 and

17 (f) a comprehensive follow-up
18 complainant interview, as appropriate;

19 (2) investigation of the complaint, including:

20 (a) contacting and interviewing the
21 responding party;

22 (b) seeking the identification and
23 location of witnesses;

24 (c) investigating allegations that
25 alcohol or drugs were involved in the incident; provided that

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1 these allegations cannot be used against the complainant during
2 the process of investigating the complaint; and

3 (d) participation of complainant
4 advocates and other support persons;

5 (3) confidential reporting by complainants and
6 third parties; and

7 (4) evaluating complaints as appropriate.

8 F. Public or private post-secondary educational
9 institutions that receive state funds for student financial
10 assistance shall:

11 (1) enter into memoranda of understanding,
12 agreements or collaborative partnerships with existing on-
13 campus and community-based organizations, including rape crisis
14 centers, to refer students for assistance or make services
15 available to students, including counseling, health care,
16 mental health care, complainant advocacy, legal assistance and
17 resources for the responding party and the complainant at no
18 cost; and

19 (2) implement comprehensive prevention and
20 outreach programs that:

21 (a) include a range of prevention
22 strategies, including empowerment programming, awareness-
23 raising campaigns, primary prevention, bystander intervention
24 and risk reduction;

25 (b) make students aware of the

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1 institution's policy on sexual assault, domestic violence,
2 dating violence and harassment or stalking by contacting and
3 informing the student body, campus organizations, athletic
4 programs and student groups about the institution's policy, the
5 practical implications of an affirmative consent standard and
6 the rights and responsibilities of students under the policy;
7 and

8 (c) are included as part of every
9 incoming student's orientation.

10 G. The task force on sexual misconduct shall
11 provide a copy of the sexual misconduct climate survey pursuant
12 to Section 4 of this 2021 act to all post-secondary educational
13 institutions. Each post-secondary educational institution
14 shall be permitted to append its own institution-specific
15 questions to the sexual misconduct climate survey; provided
16 that the questions do not require the disclosure of any
17 personally identifying information and are not unnecessarily
18 traumatizing for victims of sexual violence.

19 H. Each post-secondary educational institution
20 shall biennially conduct a sexual misconduct climate survey of
21 all students attending the institution beginning with the
22 spring semester of 2023. Each post-secondary educational
23 institution's sexual misconduct climate survey shall include a
24 base set of common questions recommended by the task force on
25 sexual misconduct pursuant to Section 4 of this 2021 act and

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1 approved by the secretary of higher education.

2 I. All students must be offered an opportunity to
3 fill out the sexual misconduct climate survey. The sexual
4 misconduct climate survey shall collect anonymous responses,
5 and the disclosure of identifying information on the sexual
6 misconduct climate survey shall be prohibited.

7 J. Within ninety days after completion of a sexual
8 misconduct climate survey, each post-secondary educational
9 institution shall submit a summary of the results, accompanied
10 by the anonymized raw data supporting the survey, to the
11 secretary of higher education and shall also post a summary of
12 the results on the post-secondary educational institution's
13 website in an easily accessible manner with a link to the
14 higher education department's statewide data on sexual
15 misconduct climate surveys. The results shall not be presented
16 in a manner that could identify specific students through
17 demographic information.

18 K. The higher education department shall establish
19 a data repository for all summaries of sexual misconduct
20 climate surveys submitted by post-secondary educational
21 institutions to the higher education department in accordance
22 with this section. The secretary of higher education shall
23 ensure that the sexual misconduct climate survey data submitted
24 by all post-secondary educational institutions is available to
25 the public in an easily accessible manner on the higher

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1 education department's website.

2 L. The secretary of higher education shall adopt
3 rules, including deadlines for dissemination and collection of
4 survey information, consistent with the purposes of this 2021
5 act, and shall promote effective solicitation to achieve the
6 highest practical response rate, collection and publication of
7 statistical information gathered from post-secondary
8 educational institutions.

9 M. For purposes of this section:

10 (1) "affirmative consent" means affirmative,
11 conscious and voluntary agreement to engage in sexual activity;

12 (2) "complainant" means a student or employee
13 who reports having experienced an incident of sexual assault,
14 domestic violence, dating violence or harassment or stalking to
15 the institution;

16 (3) "dating violence" means violence committed
17 by a person:

18 (a) who is or has been in a social
19 relationship of a romantic or intimate nature with the
20 complainant; and

21 (b) where the existence of such a
22 relationship shall be determined based on the length of the
23 relationship, the type of relationship and the frequency of
24 interaction between the persons involved in the relationship;

25 (4) "domestic violence" means domestic abuse

1 as defined in Section 40-13-2 NMSA 1978 or crimes against
2 household members described in Sections 30-3-12 through 30-3-16
3 NMSA 1978;

4 (5) "harassment or stalking" means harassment,
5 stalking and aggravated stalking as described in Sections
6 30-3A-2 through 30-3A-3.1 NMSA 1978;

7 (6) "post-secondary educational institution"
8 means a public, private, nonprofit or for-profit school
9 chartered, incorporated or otherwise organized in this state
10 that is legally authorized to award a vocational or technical
11 certificate or a degree at an associate level or above with an
12 established physical presence in this state;

13 (7) "responding party" means a student or
14 employee who has been accused of an alleged incident of sexual
15 assault, domestic violence, dating violence or harassment or
16 stalking;

17 (8) "sexual assault" means sexual offenses
18 described in Sections 30-9-11 through 30-9-14 and 30-9-14.3
19 NMSA 1978;

20 (9) "student" means an individual who is
21 enrolled in a credit-bearing program through a public or
22 private degree-granting post-secondary educational institution,
23 whether part-time, full-time or as an extension student or who
24 has taken a leave of absence or has withdrawn from the
25 institution due to being a victim of sexual assault, domestic

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1 violence, dating violence or harassment or stalking;

2 (10) "trauma-informed policy" means a program
3 or system that considers the widespread impact of trauma and
4 understands potential paths for recovery; recognizes the signs
5 and symptoms of trauma in clients, families, staff and others
6 involved with the system; responds by fully integrating
7 knowledge about trauma into policies, procedures and practices;
8 and seeks to actively resist retraumatization; and

9 (11) "trauma-informed response" means a
10 response involving an understanding of the complexities of
11 dating violence, domestic violence, sexual assault and
12 harassment or stalking through training centered on the
13 neurobiological impact of trauma, the influence of societal
14 myths and stereotypes surrounding the causes and impacts of
15 trauma with an understanding of perpetration methodology and
16 how to conduct an effective investigation.

17 SECTION 2. A new section of Chapter 22, Article 2 NMSA
18 1978 is enacted to read:

19 "[NEW MATERIAL] ADDITIONAL DEPARTMENT DUTIES--SEXUAL
20 ASSAULT POLICIES.--

21 A. The department shall adopt detailed, trauma-
22 informed policies and trauma-informed responses for the
23 investigation of and disciplinary procedures addressing
24 allegations of sexual assault, domestic violence, dating
25 violence and harassment or stalking involving a student,

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1 faculty member, employee, school volunteer or contractor both
2 on and off campus.

3 B. All policies and procedures shall:

4 (1) reference an affirmative consent standard
5 in the determination of whether consent was given by all
6 parties to sexual activity;

7 (2) confirm that it is the responsibility of
8 each person involved in the sexual activity to ensure that the
9 person has the affirmative consent of all other participants
10 engaged in that sexual activity;

11 (3) confirm that affirmative consent:

12 (a) can never be given by a person who
13 is asleep, unconscious, incapacitated due to the influence of
14 drugs, alcohol or medication or unable to communicate due to a
15 mental or physical condition;

16 (b) cannot be implied, assumed or
17 inferred from silence or lack of protest or resistance; and

18 (c) is ongoing throughout a sexual
19 activity and can be revoked at any time; and

20 (4) confirm that the existence of a dating
21 relationship between the persons involved, or the fact of past
22 sexual relations between them, should never by itself be
23 assumed to be an indicator of consent.

24 C. The standard to be used in determining whether
25 the elements of the complaint against the respondent have been

1 demonstrated is the preponderance of the evidence.

2 D. Policies shall include a:

3 (1) provision addressing how the school will
4 provide appropriate protections for the privacy of individuals
5 involved, including confidentiality;

6 (2) provision that an individual who
7 participates as a complainant or witness in an investigation
8 will not be subject to disciplinary sanctions for a violation
9 of the school's student conduct policy at or near the time of
10 the incident;

11 (3) description of the role of the school
12 staff supervision; and

13 (4) provision for a comprehensive, trauma-
14 informed training program for school officials involved in
15 investigating and adjudicating sexual assault, domestic
16 violence, dating violence and harassment or stalking cases.

17 E. Procedures shall include:

18 (1) an initial response by the school's
19 personnel to a report of an incident, including:

20 (a) written notification to the
21 complainant about the availability of, and contact information
22 for, on- and off-campus resources and services and coordination
23 with law enforcement, as appropriate;

24 (b) providing information in writing to
25 the complainant about the importance of preserving evidence;

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1 (c) the identification and location of
2 witnesses;

3 (d) response to stranger and non-
4 stranger sexual assault;

5 (e) a preliminary complainant interview;
6 and

7 (f) a comprehensive follow-up
8 complainant interview, as appropriate;

9 (2) investigation of the complaint, including:

10 (a) contacting and interviewing the
11 responding party;

12 (b) seeking the identification and
13 location of witnesses;

14 (c) investigating allegations that
15 alcohol or drugs were involved in the incident; provided that
16 these allegations cannot be used against the complainant during
17 the process of investigating the complaint; and

18 (d) participation of complainant
19 advocates and other support persons;

20 (3) confidential reporting by complainants and
21 third parties; and

22 (4) evaluating complaints and taking
23 disciplinary action as appropriate.

24 F. Schools shall, to the extent feasible:

25 (1) enter into memoranda of understanding,

1 agreements or collaborative partnerships with existing on-
2 campus and community-based organizations, including rape crisis
3 centers, to refer students for assistance or make services
4 available to students, including counseling, health care,
5 mental health care, complainant advocacy, legal assistance and
6 resources for the responding party and the complainant at no
7 cost; and

8 (2) implement comprehensive prevention and
9 outreach programs addressing affirmative consent, sexual
10 assault, domestic violence, dating violence and harassment or
11 stalking that:

12 (a) include a range of prevention
13 strategies, including empowerment programming, awareness-
14 raising campaigns, primary prevention, bystander intervention
15 and risk reduction;

16 (b) make students aware of the policy on
17 sexual assault, domestic violence, dating violence and
18 harassment or stalking by contacting and informing the student
19 body, campus organizations, athletic programs and student
20 groups about the school's sexual assault policy, the practical
21 implications of an affirmative consent standard and the rights
22 and responsibilities of students under the policy; and

23 (c) are included as part of every
24 incoming student's orientation.

25 G. For purposes of this section:

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1 (1) "affirmative consent" means affirmative,
2 conscious and voluntary agreement to engage in sexual activity;

3 (2) "complainant" means a student or employee
4 who reports having experienced an incident of sexual assault,
5 domestic violence, dating violence or harassment or
6 stalking to the institution;

7 (3) "dating violence" means violence committed
8 by a person:

9 (a) who is or has been in a social
10 relationship of a romantic or intimate nature with the
11 complainant; and

12 (b) where the existence of such a
13 relationship shall be determined based on the length of the
14 relationship, the type of relationship and the frequency of
15 interaction between the persons involved in the relationship;

16 (4) "domestic violence" means domestic abuse
17 as defined in Section 40-13-2 NMSA 1978 or crimes against
18 household members described in Sections 30-3-12 through 30-3-16
19 NMSA 1978;

20 (5) "harassment or stalking" means harassment,
21 stalking and aggravated stalking as described in Sections
22 30-3A-2 through 30-3A-3.1 NMSA 1978;

23 (6) "responding party" means a student or
24 employee who has been accused of an alleged incident of sexual
25 assault, domestic violence, dating violence or harassment or

1 stalking;

2 (7) "sexual assault" means sexual offenses
3 described in Sections 30-9-11 through 30-9-14 and 30-9-14.3
4 NMSA 1978;

5 (8) "trauma-informed policy" means a program
6 or system that considers the widespread impact of trauma and
7 understands potential paths for recovery; recognizes the signs
8 and symptoms of trauma in clients, families, staff and others
9 involved with the system; responds by fully integrating
10 knowledge about trauma into policies, procedures and practices;
11 and seeks to actively resist retraumatization; and

12 (9) "trauma-informed response" means a
13 response involving an understanding of the complexities of
14 dating violence, domestic violence, sexual assault and
15 harassment or stalking through training centered on the
16 neurobiological impact of trauma, the influence of societal
17 myths and stereotypes surrounding the causes and impacts of
18 trauma with an understanding of perpetration methodology and
19 how to conduct an effective investigation."

20 SECTION 3. Section 22-13-1.1 NMSA 1978 (being Laws 1986,
21 Chapter 33, Section 5, as amended) is amended to read:

22 "22-13-1.1. GRADUATION REQUIREMENTS.--

23 A. At the end of grades eight through eleven, each
24 student shall prepare an interim next-step plan that sets forth
25 the coursework for the grades remaining until high school

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1 graduation. Each year's plan shall explain any differences
2 from previous interim next-step plans, shall be filed with the
3 principal of the student's high school and shall be signed by
4 the student, the student's parent and the student's guidance
5 counselor or other school official charged with coursework
6 planning for the student.

7 B. Each student must complete a final next-step
8 plan during the senior year and prior to graduation. The plan
9 shall be filed with the principal of the student's high school
10 and shall be signed by the student, the student's parent and
11 the student's guidance counselor or other school official
12 charged with coursework planning for the student.

13 C. An individualized education program that meets
14 the requirements of Subsections A and B of this section and
15 that meets all applicable transition and procedural
16 requirements of the federal Individuals with Disabilities
17 Education Act for a student with a disability shall satisfy the
18 next-step plan requirements of this section for that student.

19 D. A local school board shall ensure that each high
20 school student has the opportunity to develop a next-step plan
21 based on reports of college and workplace readiness
22 assessments, as available, and other factors and is reasonably
23 informed about:

24 (1) curricular and course options, including
25 honors or advanced placement courses, dual-credit courses,

1 distance learning courses, career clusters and career pathways,
2 pre-apprenticeship programs or remediation programs that the
3 college and workplace readiness assessments indicate to be
4 appropriate;

5 (2) opportunities available that lead to
6 different post-high-school options; and

7 (3) alternative opportunities available if the
8 student does not finish a planned curriculum.

9 E. The secretary shall:

10 (1) establish specific accountability
11 standards for administrators, counselors, teachers and school
12 district staff to ensure that every student has the opportunity
13 to develop a next-step plan;

14 (2) promulgate rules for accredited private
15 schools in order to ensure substantial compliance with the
16 provisions of this section;

17 (3) monitor compliance with the requirements
18 of this section; and

19 (4) compile such information as is necessary
20 to evaluate the success of next-step plans and report annually,
21 by December 15, to the legislative education study committee
22 and the governor.

23 F. Once a student has entered ninth grade, the
24 graduation requirements shall not be changed for that student
25 from the requirements specified in the law at the time the

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1 student entered ninth grade.

2 G. Successful completion of a minimum of twenty-
3 three units aligned to the state academic content and
4 performance standards shall be required for graduation. These
5 units shall be as follows:

6 (1) four units in English, with major emphasis
7 on grammar and literature;

8 (2) three units in mathematics, at least one
9 of which is equivalent to the algebra 1 level or higher;

10 (3) two units in science, one of which shall
11 have a laboratory component; provided, however, that with
12 students entering the ninth grade beginning in the 2005-2006
13 school year, three units in science shall be required, one of
14 which shall have a laboratory component;

15 (4) three units in social science, which shall
16 include United States history and geography, world history and
17 geography and government and economics;

18 (5) one unit in physical education;

19 (6) one unit in communication skills or
20 business education, with a major emphasis on writing and
21 speaking and that may include a language other than English;

22 (7) one-half unit in New Mexico history for
23 students entering the ninth grade beginning in the 2005-2006
24 school year; and

25 (8) nine elective units and seven and one-half

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1 elective units for students entering the ninth grade in the
2 2005-2006 school year that meet department content and
3 performance standards. Student service learning shall be
4 offered as an elective. Financial literacy shall be offered as
5 an elective. Pre-apprenticeship programs may be offered as
6 electives. Media literacy may be offered as an elective.

7 H. For students entering the ninth grade beginning
8 in the 2009-2010 school year, at least one of the units
9 required for graduation shall be earned as an advanced
10 placement or honors course, a dual-credit course offered in
11 cooperation with an institution of higher education or a
12 distance learning course.

13 I. The department shall establish a procedure for
14 students to be awarded credit through completion of specified
15 career technical education courses for certain graduation
16 requirements, and districts may choose to allow students who
17 successfully complete an industry-recognized credential,
18 certificate or degree to receive additional weight in the
19 calculation of the student's grade point average.

20 J. Successful completion of the requirements of the
21 New Mexico diploma of excellence shall be required for
22 graduation for students entering the ninth grade beginning in
23 the 2009-2010 school year. Successful completion of a minimum
24 of twenty-four units aligned to the state academic content and
25 performance standards shall be required to earn a New Mexico

1 diploma of excellence. These units shall be as follows:

2 (1) four units in English, with major emphasis
3 on grammar, nonfiction writing and literature; provided that
4 department-approved work-based training or career and technical
5 education courses that meet state English academic content
6 performance standards shall qualify as one of the four required
7 English units;

8 (2) four units in mathematics, of which one
9 shall be the equivalent to or higher than the level of algebra
10 2, unless the parent submitted written, signed permission for
11 the student to complete a lesser mathematics unit; and provided
12 that a financial literacy course or department-approved work-
13 based training or career and technical education course that
14 meets state mathematics academic content and performance
15 standards shall qualify as one of the four required mathematics
16 units;

17 (3) three units in science, two of which shall
18 have a laboratory component; provided that department-approved
19 work-based training or career and technical education courses
20 that meet state science academic content and performance
21 standards shall qualify as one of the three required science
22 units;

23 (4) three and one-half units in social
24 science, which shall include United States history and
25 geography, world history and geography, government and

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1 economics and one-half unit of New Mexico history;

2 (5) one unit in physical education, as
3 determined by each school district, which may include a
4 physical education program that meets state content and
5 performance standards or participation in marching band, junior
6 reserve officers' training corps or interscholastic sports
7 sanctioned by the New Mexico activities association or any
8 other co-curricular physical activity;

9 (6) one unit in one of the following: a
10 career cluster course, workplace readiness or a language other
11 than English; and

12 (7) seven and one-half elective units that
13 meet department content and performance standards. Career and
14 technical education courses shall be offered as an elective.
15 Student service learning shall be offered as an elective.
16 Financial literacy shall be offered as an elective. Pre-
17 apprenticeship programs may be offered as electives. Media
18 literacy may be offered as an elective.

19 K. ~~[For students entering the eighth grade in the~~
20 ~~2012-2013 school year]~~ A course in health education is required
21 for each student prior to graduation. Health education may be
22 required in either middle school or high school, as determined
23 by the school district. ~~[Each school district shall submit to~~
24 ~~the department by the beginning of the 2011-2012 school year a~~
25 ~~health education implementation plan for the 2012-2013 and~~

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1 ~~subsequent school years, including in which grade health~~
2 ~~education will be required and how the course aligns with~~
3 ~~department content and performance standards]~~ Health education
4 courses shall include:

5 (1) age-appropriate prevention and awareness
6 of sexual abuse and assault [awareness and prevention] training
7 that:

8 (a) meets department standards developed
9 in consultation with the federal centers for disease control
10 and prevention [that are];

11 (b) is based on evidence-based methods
12 that have proven to be effective; and

13 (c) includes a standard of affirmative
14 consent defined as an affirmative, conscious and voluntary
15 agreement to engage in sexual activity and emphasizes that: 1)
16 it is the responsibility of each person involved in the sexual
17 activity to ensure that the person has the affirmative consent
18 of all other participants engaged in that sexual activity; 2)
19 affirmative consent cannot be implied, assumed or inferred from
20 silence or lack of protest or resistance; 3) affirmative
21 consent is ongoing throughout a sexual activity and can be
22 revoked at any time; 4) the existence of a dating relationship
23 between the persons involved, or the fact of past sexual
24 relations between them, should never be assumed to be an
25 indicator of consent; and 5) affirmative consent can never be

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1 given by a person who is asleep, unconscious, incapacitated due
2 to the influence of drugs, alcohol or medication or unable to
3 communicate due to a mental or physical condition; and

4 (2) lifesaving skills training that follows
5 nationally recognized guidelines for hands-on psychomotor
6 skills cardiopulmonary resuscitation training. Students shall
7 be trained to recognize the signs of a heart attack, use an
8 automated external defibrillator and perform the Heimlich
9 maneuver for choking victims. The secretary shall promulgate
10 rules to provide for the:

11 (a) use of the following instructors for
12 the training provided pursuant to this paragraph: 1) school
13 nurses, health teachers and athletic department personnel as
14 instructors; and 2) any qualified persons volunteering to
15 provide training at no cost to the school district that the
16 school district determines to be eligible to offer instruction
17 pursuant to this paragraph; and

18 (b) approval of training and
19 instructional materials related to the training established
20 pursuant to this paragraph in both English and Spanish.

21 L. For students entering the ninth grade in the
22 2017-2018 school year and subsequent school years:

23 (1) one of the units in mathematics required
24 by Paragraph (2) of Subsection J of this section may comprise a
25 computer science course if taken after the student demonstrates

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1 competence in mathematics and if the course is not used to
2 satisfy any part of the requirement set forth in Paragraph (3)
3 of that subsection; and

4 (2) one of the units in science required by
5 Paragraph (3) of Subsection J of this section may comprise a
6 computer science course if taken after the student demonstrates
7 competence in science and if the course is not used to satisfy
8 any part of the requirement set forth in Paragraph (2) of that
9 subsection.

10 M. Final examinations shall be administered to all
11 students in all classes offered for credit.

12 N. Until July 1, 2010, a student who has not passed
13 a state graduation examination in the subject areas of reading,
14 English, mathematics, writing, science and social science shall
15 not receive a high school diploma. The state graduation
16 examination on social science shall include a section on the
17 constitution of the United States and the constitution of New
18 Mexico. If a student exits from the school system at the end
19 of grade twelve without having passed a state graduation
20 examination, the student shall receive an appropriate state
21 certificate indicating the number of credits earned and the
22 grade completed. If within five years after a student exits
23 from the school system the student takes and passes the state
24 graduation examination, the student may receive a high school
25 diploma. Any student passing the state graduation examination

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1 and completing all other requirements within five years of
2 entering ninth grade, including a final summer session if
3 completed by August 1, may be counted by the school system in
4 which the student is enrolled as a high school graduate for the
5 year in which completion and examination occur.

6 O. Beginning with the 2010-2011 school year, a
7 student shall not receive a New Mexico diploma of excellence if
8 the student has not demonstrated competence in the subject
9 areas of mathematics, reading and language arts, writing,
10 social studies and science, including a section on the
11 constitution of the United States and the constitution of
12 New Mexico, based on a standards-based assessment or
13 assessments or a portfolio of standards-based indicators
14 established by the department by rule. The standards-based
15 assessments required in Section 22-2C-4 NMSA 1978 may also
16 serve as the assessment required for high school graduation.
17 If a student exits from the school system at the end of grade
18 twelve without having satisfied the requirements of this
19 subsection, the student shall receive an appropriate state
20 certificate indicating the number of credits earned and the
21 grade completed. If within five years after a student exits
22 from the school system the student satisfies the requirements
23 of this subsection, the student may receive a New Mexico
24 diploma of excellence. Any student satisfying the requirements
25 of this subsection and completing all other requirements within

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1 five years of entering ninth grade, including a final summer
2 session if completed by August 1, may be counted by the school
3 system in which the student is enrolled as a high school
4 graduate for the year in which all requirements are satisfied.

5 P. As used in this section:

6 (1) "career and technical education",
7 sometimes referred to as "vocational education", means
8 organized programs offering a sequence of courses, including
9 technical education and applied technology education, that are
10 directly related to the preparation of individuals for paid or
11 unpaid employment in current or emerging occupations requiring
12 an industry-recognized credential, certificate or degree;

13 (2) "career and technical education course"
14 means a course with content that provides technical knowledge,
15 skills and competency-based applied learning and that aligns
16 with educational standards and expectations as defined in rule;

17 (3) "career cluster" means a grouping of
18 occupations in industry sectors based on recognized
19 commonalities that provide an organizing tool for developing
20 instruction within the educational system;

21 (4) "career pathways" means a sub-grouping
22 used as an organizing tool for curriculum design and
23 instruction of occupations and career specialities that share a
24 set of common knowledge and skills for career success;

25 (5) "final next-step plan" means a next-step

1 plan that shows that the student has committed or intends to
2 commit in the near future to a four-year college or university,
3 a two-year college, a trade or vocational program, an
4 internship or apprenticeship, military service or a job;

5 (6) "interim next-step plan" means an annual
6 next-step plan in which the student specifies post-high-school
7 goals and sets forth the coursework that will allow the student
8 to achieve those goals; and

9 (7) "next-step plan" means an annual personal
10 written plan of studies developed by a student in a public
11 school or other state-supported school or institution in
12 consultation with the student's parent and school counselor or
13 other school official charged with coursework planning for the
14 student that includes one or more of the following:

15 (a) advanced placement or honors
16 courses;

17 (b) dual-credit courses offered in
18 cooperation with an institution of higher education;

19 (c) distance learning courses;

20 (d) career-technical courses; and

21 (e) pre-apprenticeship programs.

22 Q. The secretary may establish a policy to provide
23 for administrative interpretations to clarify curricular and
24 testing provisions of the Public School Code."

25 SECTION 4. TEMPORARY PROVISION--TASK FORCE ON SEXUAL

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1 MISCONDUCT--CREATED--DUTIES--REPORTING REQUIREMENTS.--

2 A. The "task force on sexual misconduct" is created
3 and shall exist through fiscal year 2023.

4 B. The task force consists of nine members as
5 follows:

6 (1) the secretary of higher education or the
7 secretary's designee from the higher education department, who
8 shall be chair of the task force;

9 (2) a federal Education Amendments of 1972
10 Title 9 coordinator from a public or private post-secondary
11 educational institution, appointed by the governor;

12 (3) three students from a multicultural-,
13 diversity- or advocacy-related group or organization from a
14 four-year public or private post-secondary educational
15 institution, appointed by the governor;

16 (4) two students from a multicultural-,
17 diversity- or advocacy-related group or organization from a
18 community college, appointed by the governor;

19 (5) a representative from a coalition of
20 sexual assault programs in New Mexico, appointed by the
21 governor; and

22 (6) a researcher of statistics, data analytics
23 or econometrics with experience in the development, design and
24 analytics of climate surveys, appointed by the governor.

25 C. No less than three student members of the task

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1 force shall be members who represent a minority population,
2 which includes race, ethnicity, gender identity and sexual
3 orientation.

4 D. No two student members of the task force shall
5 represent the same public or private post-secondary educational
6 institution.

7 E. The task force shall elect a vice chair and may
8 elect such officers as it deems necessary to carry out its
9 duties.

10 F. Two absences from meetings of the task force
11 constitutes grounds for removal of a member of the task force.
12 Upon the request of the chair of the task force, the appointing
13 authority shall replace the member who has failed to attend two
14 meetings of the task force.

15 G. A majority of the members of the task force
16 shall constitute a quorum for the transaction of business and
17 for the adoption of any action by the task force.

18 H. The task force shall develop a sexual misconduct
19 climate survey for distribution to public and private post-
20 secondary educational institutions and provide the institutions
21 with any related recommendations concerning the content, timing
22 and application of the survey.

23 I. In developing the sexual misconduct climate
24 survey, the task force shall:

- 25 (1) utilize best practices from peer-reviewed

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1 research and consult with individuals with expertise in the
2 development and use of sexual misconduct climate surveys by
3 public and private post-secondary educational institutions;

4 (2) review sexual misconduct climate surveys
5 that have been developed and previously used by public and
6 private post-secondary educational institutions;

7 (3) provide opportunities for written comment
8 from organizations based in the United States that work
9 directly with victims and survivors of sexual misconduct to
10 ensure the adequacy and appropriateness of the proposed content
11 of the survey;

12 (4) consult with public and private post-
13 secondary educational institutions on strategies for optimizing
14 the effectiveness of the survey;

15 (5) consult with research and medical
16 professionals on best practices to develop a quality survey;
17 and

18 (6) account for the diverse needs of and
19 differences in New Mexico's public and private post-secondary
20 educational institutions.

21 J. The sexual misconduct climate survey shall
22 gather information on topics including:

23 (1) the number of incidents, both reported and
24 unreported, of sexual misconduct at the public or private post-
25 secondary educational institution;

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1 (2) when and where incidents of sexual
2 misconduct occurred;

3 (3) student awareness of institutional
4 policies and procedures related to sexual misconduct at public
5 or private post-secondary educational institutions;

6 (4) whether a student reported a sexual
7 misconduct incident, and if so, to which public or private
8 post-secondary educational institution resource or law
9 enforcement agency the report was made, and, if not, the reason
10 for the student's decision not to report;

11 (5) whether a student was informed of or
12 referred to local, state, on-campus or other resources or
13 victim support services, including appropriate medical care and
14 legal services;

15 (6) whether a student was provided with the
16 option of protection from retaliation, school-based
17 accommodations and criminal justice remedies;

18 (7) contextual factors, such as the
19 involvement of force, incapacitation or coercion;

20 (8) demographic information that could be used
21 to identify at-risk groups, including gender, race and sexual
22 orientation;

23 (9) perceptions of campus safety among members
24 of the public or private post-secondary educational
25 institution's community and confidence in the public or private

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1 post-secondary educational institution's ability to protect
2 against and respond to incidents of sexual misconduct;

3 (10) whether a student has withdrawn or taken
4 a leave of absence from the public or private post-secondary
5 educational institution or transferred to another public or
6 private post-secondary educational institution due to either
7 being the complainant or responding party in an allegation of
8 sexual misconduct;

9 (11) whether a student has withdrawn from any
10 classes or been placed on academic probation as a result of an
11 incident of sexual misconduct; and

12 (12) other information as determined by the
13 task force.

14 K. The task force shall deliver its sexual
15 misconduct climate survey and related recommendations,
16 including recommendations on achieving statistically valid
17 response rates, to each public and private post-secondary
18 educational institution by September 30, 2022. Following the
19 delivery of the sexual misconduct climate survey, the task
20 force shall remain in effect until the end of fiscal year 2023
21 to provide support to the public and private post-secondary
22 educational institutions, if needed.

23 L. As used in this section, "sexual misconduct"
24 means an incident of sexual violence, dating violence, domestic
25 violence, gender-based violence, race-based sexual violence,

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1 violence based on sexual orientation or gender identity or
2 expression, sexual assault or harassment or stalking, as
3 defined by each public or private post-secondary educational
4 institution in its code of conduct, in a manner consistent with
5 applicable federal definitions.

6 SECTION 5. APPLICABILITY.--The provisions of Section 3 of
7 this act apply to students entering the ninth grade in the
8 2021-2022 school year and subsequent school years. A student
9 who took and passed a health education course prior to the
10 implementation of this act shall be allowed to have that health
11 education course count toward the student's graduation
12 requirements.