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SENATE BILL 393

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

William P. Soules

AN ACT

RELATING TO EDUCATION; ENACTING THE SAFE SCHOOLS FOR ALL STUDENTS ACT TO REQUIRE 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 mental handicap 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 person's self-
4 perception, or perception of that person by another, of the
5 person's identity as a male or female based upon the person's
6 appearance, behavior or physical characteristics that are in
7 accord with or opposed to the person's physical anatomy,
8 chromosomal sex or sex at birth;

9 E. "local school board" means the governing body of
10 a school district or charter school;

11 F. "physical or mental handicap" means a physical
12 or mental impairment that substantially limits one or more of a
13 person'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 persons from the student's misbehavior,
20 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 lunch time, 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 July 1, 2016, each local school board shall
19 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 individuals who report or witness incidents of
14 bullying;

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

18 (a) appropriately correct the bullying
19 behavior;

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

22 (c) protect the target of the bullying;

23 (d) be flexible so that, in application,

24 the consequences can be unique to the individual incident and
25 varied in method and severity based on: 1) the nature of the

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1 incident; 2) the developmental age of the person bullying; and
2 3) any history of problem behavior from the person bullying;
3 and

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

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

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

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

16 (c) a method for parents or guardians of
17 students to file written reports of suspected bullying; and

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

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

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

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

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

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

22 C. Each local school board shall submit its
23 bullying prevention policy to the department within thirty days
24 of passage, amendment or any revision made to the policy
25 subsequent to the adoption and implementation of the policy.

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1 D. Each local school board shall include bullying
2 prevention policies and procedures for reporting bullying in
3 student handbooks using developmentally and culturally
4 appropriate language. Policies shall be produced and
5 disseminated in appropriate languages for any school district
6 in which a substantial portion of the student population speaks
7 a language other than English at home.

8 E. Each public school shall document reports and
9 investigations of bullying and shall maintain those records for
10 no less than four years.

11 F. Each local school board shall establish
12 procedures for public schools to report aggregate incidents of
13 bullying and incidents of harassment under any applicable
14 federal or state law, along with responses to these incidents,
15 and report this information annually to the department."

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

18 "[NEW MATERIAL] BULLYING PREVENTION PROGRAMS
19 ESTABLISHMENT.--

20 A. Following adoption of a bullying prevention
21 policy, each public school shall:

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

25 (2) provide annual training on bullying

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1 prevention to all employees and volunteers who have significant
2 contact with students; and

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

5 B. Each school district and public school shall
6 develop a plan for the way in which the policy is to be
7 publicized, including:

8 (1) making each school district's anti-
9 bullying policy, and developmentally, culturally and
10 linguistically appropriate variants of the policy, available on
11 public web sites;

12 (2) identification of a point of contact for
13 bullying-related concerns; and

14 (3) informing parents and students about the
15 policy at least annually through student handbooks and other
16 resources."

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

19 "[NEW MATERIAL] DEPARTMENT DUTIES.--

20 A. The department shall:

21 (1) issue guidance for bullying prevention
22 programs and policies in accordance with the Safe Schools for
23 All Students Act;

24 (2) within one hundred twenty days of receipt
25 of the bullying prevention policies submitted by school

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1 districts pursuant to provisions of the Safe Schools for All
2 Students Act, review each adopted policy for compliance with
3 the requirements of that act and provide written approval of
4 each district's policy;

5 (3) within one hundred eighty days of the
6 effective date of the Safe Schools for All Students Act:

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

11 (b) provide guidance to local school
12 boards relating to effective forms of progressive discipline to
13 reduce bullying and school violence; and

14 (c) provide guidance to local school
15 boards on effective bullying prevention programs to reduce
16 bullying and school violence; and

17 (4) on or before February 1, 2016 and annually
18 thereafter, submit to the legislative education study committee
19 and make publicly available a report on the status of its
20 efforts to implement the provisions of the Safe Schools for All
21 Students Act, including the aggregate number of incidents of
22 bullying in the state, the aggregate number of incidents of
23 harassment under any applicable federal or state laws, the
24 aggregate number of responsive actions taken by public schools
25 by type of action, a tabulation of the number of incidents

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1 associated with each distinguishing characteristic defined in
2 the Safe Schools for All Students Act, the department's
3 evaluation of the sufficiency of funding for bullying
4 prevention programs and any recommendations for policy or
5 programmatic change to improve the addressing of bullying
6 issues in the state.

7 B. The department may convene a group of experts to
8 assist with implementation of the Safe Schools for All Students
9 Act. The group may:

10 (1) include teachers, administrators, local
11 school board members, school mental health professionals,
12 parents, persons with experience in dealing with youth violence
13 prevention, direct service providers and advocates; and

14 (2) assist with the development of a model
15 policy in accordance with provisions of the Safe Schools for
16 All Students Act, assist local school boards to develop
17 policies in accordance with provisions of that act, compile and
18 make available to local school boards a list of free or low-
19 cost bullying prevention programs from private or federal
20 sources and assist in development of resources and events to
21 help inform public schools, educators, parents and youth about
22 the requirements of the provisions of the Safe Schools for All
23 Students Act."

24 SECTION 6. REPEAL.--Section 22-2-21 NMSA 1978 (being Laws
25 2011, Chapter 50, Section 1, as amended) is repealed.

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SECTION 7. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.