

LFC Requester:	Sunny Liu
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**AGENCY BILL ANALYSIS
2019 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply: Date 1/23/19
Original **Amendment** **Bill No:** SB288
Correction **Substitute**

Sponsor: Sen. William Soules **Agency Code:** 924
Short Title: SAFE SCHOOLS FOR ALL STUDENTS ACT **Person Writing:** Daniel Manzano
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY19	FY20		
NFI	NFI	Nonrecurring	N/A

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21		
NFI	NFI	NFI	Nonrecurring	N/A

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
		Indeterminate	Indeterminate	Indeterminate	Recurring	School District Budgets

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None as of 1/23/2019
Duplicates/Relates to Appropriation in the General Appropriation Act: None as of 1/23/2019

SECTION III: NARRATIVE

BILL SUMMARY

Senate Bill 288 (SB288) creates a new section of the Public School Code, the “Safe Schools for All Students Act”. The Public Education Department (PED) will promulgate rules requiring school districts to develop and implement bullying prevention policies and procedures, effective on January 1, 2020. School district policies and procedures will include definitions and descriptions of bullying. Policies and procedures are to be communicated in a developmentally and culturally appropriate manner in various languages, as necessary, in student handbooks, provide a system for reporting alleged bullying, a process for investigating complaints of alleged bullying, due process for those students accused of bullying, and progressive discipline for students determined to have bullied other students. Schools would have to annually report on their progress of the Act.

SB288 also repeals Section 22-2-21 NMSA 1978 of the Public School Code which required school districts and schools to have policies in place by 2011 and a bullying prevention program by 2012.

FISCAL IMPLICATIONS

The provisions of this bill will require resources from school districts, charter schools and the PED to implement.

The provisions contained in this bill are complicated, and will require fiscal and human resources to implement. The timeline, January 1, 2020, for implementation may be unmanageable and consideration should be given to a one-year delay to ensure fidelity in implementation.

SB288 requires local school boards to update their district or charter school bullying prevention policies and procedures. Additionally, schools would be required to ensure that an administrator is identified, who would oversee the procedural aspects, including responses to reports of bullying, through to their completion.

The PED would be responsible to issue guidance for bullying prevention programs and model bullying prevention policies in accordance with the Safe Schools for All Students Act, within 120 days of the effective date of the Act.

SIGNIFICANT ISSUES

Data from the 2017 Youth Risk and Resiliency Survey (YRRS), indicate that 18.7% of students in grades 9-12 report being bullied in the last 12 months on school property, and 14% report being bullied electronically <http://youthrisk.org/>.

The Safe Schools for All Students Act would define sexual orientation and gender identify. These clarifying distinctions as stated in the Act address the needs of lesbian, gay, bisexual, and transgender (LGBT) youth who are disproportionately impacted by bullying and harassment within the school setting. The 2017 YRRS data indicate that compared to their peers who identified as straight, LGBT youth were 70% more likely to be bullied at school (28.8% compared to 16.9%), and more than two times as likely to be electronically bullied (27.6% compared to 12.0%). Gender non-conforming students have even greater rates of bullying, being 89% more likely than cisgender students to experience bullying at school (32.4% compared to 17.1%) <http://youthrisk.org/>

SB288 creates new sections of the Public School Code and repeals Section 22-2-21 NMSA 1978 of the Public School Code to provide new information, including specific and detailed definitions of bullying such as physical, electronic, or verbal actions aimed at any student, who is perceived to be or actually a member of any special class of citizen to include: race, religion, nationality, sexual orientation, gender identity, and/or other types of distinguishing characteristics or disabilities. This bill further defines “reasonably” predictable outcomes of such bullying that could place a student in fear of harm or actually cause a detrimental effect on the student’s health or interfere with school performance, attendance or participation in educationally-based activities.

Every school is required to revise and submit Safe School Plans to the PED for review on a three year review cycle. (See Planning for Safe Schools in New Mexico: School Guide: https://webnew.ped.state.nm.us/wp-content/uploads/2018/08/SHSB_PlanningForSafeSchoolsNM2018REV.pdf)

The current rule requires each school to develop and implement a policy that addresses bullying. The policy must include, but is not limited to: definitions, prohibitions against bullying and cyber bullying, dissemination of the policies, procedures for reporting and consequences.

SB288, through the enactment of the Safe Schools for All Students Act, further defines progressive discipline as a strategy to reduce bullying and harassment. A number of school districts within New Mexico currently utilize progressive discipline matrices which provide guidelines in the disposition of discipline policy infractions. The matrices allow for flexibility in responses, depending on the circumstances of the behavior or education status of the student.

SB288, through the creation of the Safe Schools for All Students Act, compliments the expectations already in existence within health education courses in New Mexico. Health education classes must align with the New Mexico Health Education Content Standards with Benchmarks and Performance Standards. The Act would specifically align with the existing Content Standard 1, Benchmarks 4 and 6 that require performance standards for all NM students in identifying, analyzing, preparing a plan of action, and negotiating and risk avoidance strategies on the topic of bullying.

SB288 requires the PED to provide guidance to school districts and state charters on effective bullying prevention programs to reduce bullying and school violence. The PED currently has systems in place that address bullying prevention programs and strategies. Resources include training opportunities developed collaboratively by the U.S Department of Education, the U.S. Department of Justice, the U.S. Department of Health and Human Services, and the Substance Abuse and Mental Health Services Administration (SAMHSA) among others. The PED maintains a website devoted to bullying prevention information, strategies and resources (<https://webnew.ped.state.nm.us/bureaus/safe-healthy-schools/bullying-prevention/>).

PERFORMANCE IMPLICATIONS

SB288 may support Governor Michelle Lujan Grisham’s “A New Direction for New Mexico Schools”, by engaging families and communities as substantive partners, by working with school districts and partners to change the school culture, and by fostering higher expectations for their children and their schools.

ADMINISTRATIVE IMPLICATIONS

There are short-term and ongoing implications of SB288. Within 120 days of the effective date of the Act, The PED would be required to revise NMAC 6.12.7, Bullying Prevention, to reflect the changes as outlined in the Safe Schools for All Students Act which includes all aspects of rulemaking.

Additionally, the PED would need to make changes to the policy section requirements of the recently revised Planning for Safe Schools in New Mexico: School Guide (fall, 2018) to reflect changes in the bullying prevention component of the required school site-specific Safe Schools Plan submissions and communicate these changes to school districts and charter schools. The PED would also need to revise its three-year timetable of Safe School Plan submissions to review the bullying sections of the approximately 600 Safe School Plans that are being assessed during the 2019-2020 and 2020-2021 school years.

The PED would also be required to provide guidance to local school boards related to effective forms of progressive discipline, as a means of reducing bullying and harassment, and effective bullying prevention programs to reduce bullying and school violence.

Finally, schools would be required to provide annual training to all employees and volunteers who have significant interaction with students. .

TECHNICAL ISSUES

Page 8, lines 5 through 9 requires school districts to report aggregate incidents of bullying and incidents of harassment along with the responses to the incidents and report to the PED annually. This would be a duplicative effort for school districts and schools. The Every Student Succeeds Act (ESSA) requires information regarding bullying and harassment to be a part of the report card.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None as of 1/23/2019

OTHER SUBSTANTIVE ISSUES

SB288 requires the development of a student safety support plan for students who are targets of bullying. The support plan is required to include actions the school must take to prevent further acts of bullying. For students with disabilities identified under the Individuals with Disabilities Act (IDEA), this support plan should be included in their Individualized Education Program (IEP) to ensure that all supplementary supports and services are provided. However, not enacting either this bill or HB134 would limit the expansion of the community schools model to other schools and districts.

ALTERNATIVES

None as of 1/23/2019

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

School district and state charter school requirements for bullying prevention would remain as defined in NMAC 6.12.7, Bullying Prevention and existing bullying prevention strategies and technical assistance opportunities would continue to remain in place. However, not enacting this bill would limit the expansion of the definitions, not require training for staff members and volunteers and would not provide a timeline for staff members to report incidents of bullying. Students who are the recipients of bullying would not be required to have a support plan in place.

AMENDMENTS

None as of 1/23/2019