

The Legislature  
of the  
State of New Mexico

54th Legislature, 1st Session

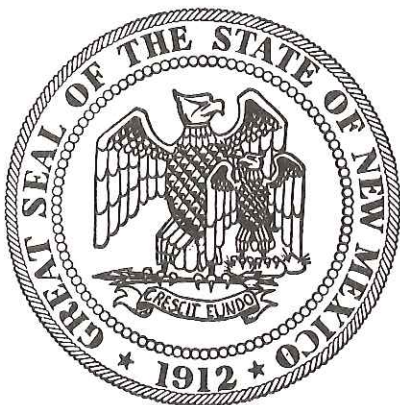
LAWS 2019

CHAPTER 181

SENATE BILL 288

Introduced by

SENATOR WILLIAM P. SOULES



# CHAPTER 181

## 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:

"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:

"DEFINITIONS.--As used in the Safe Schools for All Students Act:

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

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

1 actual or perceived distinguishing characteristics; and

2 (2) can be reasonably predicted to:

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

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

7 (c) substantially interfere with a  
8 student's academic performance or attendance; or

9 (d) substantially interfere with a  
10 student's ability to participate in or benefit from the  
11 services, activities or privileges provided by an agency,  
12 educational institution or grantee;

13 B. "cyberbullying" means any bullying that takes  
14 place through electronic communication;

15 C. "electronic communication" means a  
16 communication transmitted by means of an electronic device,  
17 including a telephone, cellular phone, computer, electronic  
18 tablet, pager or video or audio recording;

19 D. "gender identity" means a student's  
20 self-perception, or perception of that student by another,  
21 of the student's identity as a male or female based upon the  
22 student's appearance, behavior or physical characteristics  
23 that are in accord with or opposed to the student's physical  
24 anatomy, chromosomal sex or sex at birth;

25 E. "local school board" includes the governing

1 body of a charter school;

2 F. "physical or cognitive disability" means a  
3 physical or cognitive impairment that substantially limits  
4 one or more of a student's major life activities;

5 G. "progressive discipline" means disciplinary  
6 action other than suspension or expulsion from school that is  
7 designed to correct and address the basic causes of a  
8 student's specific misbehavior while retaining the student in  
9 class or in school, or restorative school practices to repair  
10 the harm done to relationships and other students from the  
11 student's misbehavior, and may include:

12 (1) meeting with the student and the  
13 student's parents;

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

17 (3) counseling;

18 (4) anger management;

19 (5) health counseling or intervention;

20 (6) mental health counseling;

21 (7) participation in skill-building and  
22 resolution activities, such as social-emotional cognitive  
23 skills building, resolution circles and restorative  
24 conferencing;

25 (8) community service; and

1 (9) in-school detention or suspension, which  
2 may take place during lunchtime, after school or during  
3 weekends; and

4 H. "sexual orientation" means heterosexuality,  
5 homosexuality or bisexuality, whether actual or perceived."

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

8 "BULLYING PREVENTION POLICIES--ADOPTION AND  
9 ENFORCEMENT.--

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

12 (1) prevent bullying:

13 (a) on its property, including  
14 electronic communication on or with the use of its property;

15 (b) at sponsored functions; and

16 (c) on its to-and-from-school  
17 transportation or any school-sponsored transportation; and

18 (2) prohibit electronic communication  
19 directed at a student, that is published with the intent that  
20 it be seen by or disclosed to that student and that  
21 substantially interferes with the student's ability to  
22 participate in or benefit from the services, activities or  
23 privileges provided by the public school.

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

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

3 (2) a statement prohibiting bullying;

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

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

9 (a) appropriately correct the bullying  
10 behavior;

11 (b) prevent another occurrence of  
12 bullying or retaliation;

13 (c) protect the target of the bullying;

14 (d) be flexible so that, in  
15 application, the consequences can be unique to the individual  
16 incident and varied in method and severity based on: 1) the  
17 nature of the incident; 2) the developmental age of the  
18 student who is bullying; and 3) any history of problem  
19 behavior from the student who is bullying; and

20 (e) for cyberbullying incidents, use  
21 the least restrictive means necessary to address the  
22 interference with the student's ability to participate in or  
23 benefit from the services, activities or privileges provided  
24 by the school;

25 (5) a procedure for reporting bullying or

1 retaliation for reporting an act of bullying, including:

2 (a) a flexible reporting system that  
3 allows for reporting orally and in the student's preferred  
4 language;

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

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

11 (6) a procedure for prompt investigation of  
12 reports of violations of the policy and of complaints of  
13 bullying or retaliation, including:

14 (a) designation of a school  
15 administrator to investigate or supervise the investigation  
16 of all reports of bullying and to ensure that such  
17 investigation is completed promptly after the receipt of any  
18 report made under the Safe Schools for All Students Act;

19 (b) a procedure for notification of the  
20 parents of the student alleged to have committed an act of  
21 bullying and the parents of the students targeted by the  
22 alleged act; provided that if the administrator believes, in  
23 the administrator's professional capacity, that notifying the  
24 parents would endanger the health or well-being of a student,  
25 the administrator may delay such notification as appropriate;

1 (c) a benchmark that school employees  
2 who witness acts of bullying or receive reports of bullying  
3 notify the designated administrator not later than two days  
4 after the school employee witnesses or receives a report of  
5 bullying;

6 (d) an appeal process for a student  
7 accused of bullying or a student who is the target of  
8 bullying who is not satisfied with the outcome of the initial  
9 investigation; and

10 (e) development of a student safety  
11 support plan for students who are targets of bullying that  
12 addresses safety measures the school will take to protect  
13 targeted students against further acts of bullying.

14 C. Each local school board shall include bullying  
15 prevention policies and procedures for reporting bullying in  
16 student handbooks using developmentally and culturally  
17 appropriate language. Policies shall be produced and  
18 disseminated in appropriate languages for any school district  
19 in which a substantial portion of the student population  
20 speaks a language other than English at home.

21 D. Each public school shall document reports and  
22 investigations of bullying and shall maintain those records  
23 for no less than four years.

24 E. Each local school board shall establish  
25 procedures for public schools to report aggregate incidents



1 of bullying and incidents of harassment under any applicable  
2 federal or state law, along with responses to these  
3 incidents, and report this information annually to the  
4 department."

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

7 "BULLYING PREVENTION PROGRAMS ESTABLISHMENT.--

8 A. Following adoption of a bullying prevention  
9 policy, each public school shall:

10 (1) establish an annual bullying prevention  
11 program for students included in New Mexico's health  
12 education content standards with benchmarks and performance  
13 standards;

14 (2) provide annual training on bullying  
15 prevention to all employees and volunteers who have  
16 significant contact with students; and

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

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

22 (1) making each school district's  
23 anti-bullying policy, and developmentally, culturally and  
24 linguistically appropriate variants of the policy, available  
25 on public websites;

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

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

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

8 "DEPARTMENT DUTIES--SCHOOL DISTRICT AND CHARTER SCHOOL  
9 REPORT CARDS.--

10 A. The department shall:

11 (1) issue guidance for bullying prevention  
12 programs and policies in accordance with the Safe Schools for  
13 All Students Act; and

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

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

20 (b) provide guidance to local school  
21 boards relating to effective forms of progressive discipline  
22 to reduce bullying and school violence; and

23 (c) provide guidance to local school  
24 boards on effective bullying prevention programs to reduce  
25 bullying and school violence.

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

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

17           SECTION 7. EFFECTIVE DATE.--The effective date of the  
18 provisions of this act is July 1, 2019. \_\_\_\_\_

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Howie C. Morales

Howie C. Morales, President  
Senate

Lenore M. Naranjo  
Lenore M. Naranjo, Chief Clerk  
Senate

Brian Egolf

Brian Egolf, Speaker  
House of Representatives

Lisa M. Ortiz McCutcheon  
Lisa M. Ortiz McCutcheon, Chief Clerk  
House of Representatives

Approved by me this 3rd day of April, 2019

Michelle Lujan Grisham  
Governor Michelle Lujan Grisham  
State of New Mexico