

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HB 54a

51st Legislature, 1st Session, 2013

Tracking Number: .191050.1

Short Title: School Board Cyberbullying Prevention

Sponsor(s): Representatives Sheryl Williams Stapleton and Rick Miera

Analyst: Travis Dulany

Date: March 18, 2013

AS AMENDED

The Senate Education Committee amendment:

- **adds language specifying that disciplinary action taken by school administrators in response to cyberbullying confirmed through investigation must be by the least restrictive means necessary to address a hostile environment on the school campus, and may include:**
 - **counseling;**
 - **mediation; and**
 - **appropriate disciplinary action that is consistent with the legal rights of the involved students; and**

- **replaces the definition of *cyberbullying* with “electronic communication that:**
 - **targets a specific student;**
 - **is published with the intention that the communication be seen by or disclosed to the targeted student;**
 - **is in fact seen by or disclosed to the targeted student; and**
 - **creates or is certain to create a hostile environment on the school campus that is so severe or pervasive as to substantially interfere with the targeted student’s educational benefits, opportunities or performance.”**

Original Bill Summary:

House Bill 54 amends the *Public School Code* to require local school boards to promulgate cyberbullying prevention policies by August 2013 that require:

- all licensed school employees to complete training on how to recognize signs of cyberbullying;
- any licensed school employee who has information about or a reasonable suspicion that a person is being cyberbullied to report to the principal or superintendent, or both;
- school administrators or local superintendents who receive a report of cyberbullying to take immediate steps to ensure a prompt investigation of the report; and
- school administrators to take prompt disciplinary action in response to cyberbullying confirmed through investigation.

Furthermore, the bill requires each local school board to amend its disciplinary policies, as necessary, to ensure compliance with the bill's provisions.

Finally, the bill defines cyberbullying as "the use of communication technologies, including internet and mobile telecommunication services, to intimidate, control, manipulate, falsely discredit, humiliate, embarrass, or otherwise harm another person."

Fiscal Impact:

HB 54 makes no appropriation.

Fiscal Issues:

House Bill 54 may require districts to incur costs for additional contract hours for training for all licensed school employees. Training resources are available to districts free of charge from the National Crime Prevention Council and www.stopbullying.gov, a website managed by the federal departments of Education, Justice, and Health and Human Services.

While there are costs associated with promulgating and implementing anti-bullying policies and programs, it may be important to note that these costs should be balanced against other potential costs to schools, school boards, and municipalities. For example, liability costs, whether in regard to settlements, damages, or the cost of defense against a personal injury lawsuit resulting from some form of bullying, are difficult to predict but may be costly. For instance, as a result of a recent hazing incident in Las Vegas, New Mexico, personal injury lawsuits were filed in Las Vegas District Court against the Las Vegas Board of Education, the district's current and former superintendents, and the athletic director at Robertson High School, as well as several other members of the Robertson faculty.

Substantive Issues:

According to the Public Education Department (PED) analysis for HB 54, the 2011 middle and high school Youth Risk and Resiliency Surveys indicate that:

- 43.7 percent of New Mexico middle school students reported being bullied in the 12 months prior to taking the survey; and
- 18.7 percent of New Mexico high school students reported being bullied within the prior 12 months to taking the survey.

Further review of the Youth Risk Resiliency Survey indicates that 13.2 percent of high school students reported being electronically bullied.

According to information cited in the New Mexico Department of Health (DOH) analysis:

- 30 percent of youth in the United States are estimated to be involved in bullying as either a bully, a target of bullying, or both;
- a national survey of grades 6-10 reveals that 13 percent of students reported bullying others, while 11 percent reported that they were targets of bullying;
- bullying takes different forms in male and female youth – males are more likely to be hit, slapped, or pushed, while female youth are more likely to report being targets of rumors and sexual comments;

- children and youth who are the target of bullying tend to feel tense, anxious, or afraid, and bullying can affect their concentration in school or lead them to avoid school in some cases;
- if bullying continues over long periods of time, it can begin to affect self-esteem and feelings of self-worth in children and youth and increase their social isolation, leading them to become withdrawn and depressed; and
- exposure to bullying is more prevalent among gay, lesbian, bisexual, transgender, and questioning students, where nearly nine out of 10 students report experiencing sexual orientation or gender-related bullying.

Background:

In recent years the Legislature has devoted considerable attention to bullying in general, though not necessarily cyberbullying in particular. As early as 2003, the Legislative Education Study Committee (LESC) heard testimony from New Mexico Voices for Children about the consequences of bullying, not only for the bullies and their victims, but also for bystanders. These consequences include poor school performance; truancy; delinquency; further violence, including school shootings; depression; and suicide. This testimony also noted that bullying prevention policies and programs reduce the incidence rate of bullying by 50 percent; and that, although such programs do not require a new curriculum, their successful implementation does require a comprehensive change in school culture and environment. Also according to Voices for Children, the federal Office of Juvenile Justice and Delinquency Planning, the Health Resources Services Administration, and the US Department of Education are all promoting bullying prevention programs as a proven means to create safe schools, improve student performance, and reduce criminal behavior.

In 2004, LESC-endorsed legislation (SB 185, *Development of Bullying Prevention Programs*) was introduced to:

- define the term “bullying”;
- allow PED to establish guidelines for bullying prevention policies by local school boards;
- allow each local school board to promulgate a bullying prevention policy by August 2005; and
- allow each local school to implement a bullying prevention program by August 2007.

While SB 185 did not pass, the 2004 Legislature appropriated \$350,000 to PED to support bullying prevention statewide.

During the 2009 legislative session, a joint memorial (HJM 31, *Study the Effects of Bullying*) was introduced. Although it did not pass, PED, DOH, and the Children, Youth and Families Department, still undertook the study, resulting in several recommendations to the Legislature.

During the 2011 regular legislative session, LESC-endorsed legislation was enacted to require:

- PED to establish guidelines for bullying prevention policies; and
- local school boards to:
 - promulgate bullying prevention policies by August 2011; and
 - implement bullying prevention programs by August 2012.

Committee Referrals:

HEC/HJC/SEC/SJC

Related Bills:

HB 234 *Create Crime of Bullying*