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FISCAL IMPACT REPORT

SPONSOR Roybal Caballero ORIGINAL DATE 2/24/2017
LAST UPDATED _____ HB 339
SHORT TITLE College Sexual Assault Training SB _____
ANALYST Rogers

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$0.0	Indeterminate	Indeterminate	Indeterminate	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

University of New Mexico (UNM)

Central New Mexico Community College (CNM)

Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Bill

HB 339 adds a section to 21 NMSA 1978 to require public and private post-secondary educational institutions to provide training, policies and information relating to sexual assault to students, campus police, and personnel who respond to incidents of sexual assault.

FISCAL IMPLICATIONS

The bill could have a fiscal impact upon universities across the state. Institutions currently provide some training required under HB 339; however, the cost of coming into compliance with the provisions of this bill is unknown at this time. Creating or procuring evidence-based training for delivery to every enrolled student on how to prevent, recognize, and report sexual assault is almost guaranteed to have a fiscal impact. Additionally, the bill requires universities to provide training to campus police, students, and personnel who respond to and investigate incidents of sexual assault on trauma-informed responses to sexual assault, stalking, relationship violence, and domestic violence, the mitigation of harm to a victim, and accommodations and safety measures to assist victims.

The bill also requires university policies to comply with federal standards, which could have a fiscal impact on schools who may need legal assistance to comply.

UNM explains it is difficult to estimate costs without knowing what type of training would satisfy the statute. For online training, the purchase of software and associated licensure to allow the entire student population and separate software for responders would be a significant expense. For in-person training, additional staff will be needed to provide the training, ensure full participation by students, and finding venues large enough to accommodate students will add to the anticipated expense. The requirement that copies of policies be provided to each student would add significant expense and may be impractical given students' preference for and practice of accessing information digitally.

SIGNIFICANT ISSUES

UNM analysis states that the bill's use of "every enrolled student" would include students taking only one class, students taking only online classes, and students enrolled in programs such as Continuing Education, including minors. Similarly, the bill does not define what would qualify as "evidenced-based training."

CNM states "the Federal Student Right to Know, Crime Awareness, and Campus Security Act, often referred to as the 'Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Act' already requires institutions of higher learning to prepare, publish, and distribute a report concerning campus crime statistics and security policies on an annual basis to all current students and employees. As part of this annual security report (ASR), CNM also is required to provide information regarding sexual assault reporting and investigation processes. Additionally, CNM already requires that all employees (faculty and staff) complete a mandatory online sexual violence training titled 'Preventing Discrimination and Sexual Violence: Title IX and SaVE Act.' Lastly, the [CNM ASR](#) also contains links and contact information to nearly a dozen state, local, and national resources for victims of sexual violence."

ADMINISTRATIVE IMPLICATIONS

CNM explains the implementation and tracking of the student training would pose modest administrative burdens on the college. CNM recently undertook a similar student training initiative in 2008 and encountered several hurdles in ensuring that all students completed the training in an appropriate timeframe.

TECHNICAL ISSUES

CNM states HB 339 provides no effective date for when the required trainings shall be implemented. As the training of over 40 thousand students and nearly 2,000 employees could take significant time, CNM recommends that an effective date of 2018 or later be imposed.

OTHER SUBSTANTIVE ISSUES

In April 2016, the US Department of Justice (DOJ) announced its findings of an investigation of UNM's handling of reports by students of sexual harassment, including sexual assault. The report found UNM failed to comply with federal law in its handling of these reports. According to DOJ, the investigation began in December 2014 in response to multiple students alleging

UNM did not adequately respond to their reports of sexual assault. DOJ conducted the investigation pursuant to Title IV of the federal Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972. DOJ's findings note students, faculty, and staff lacked a basic understanding of reporting options, duties and obligations, or where to turn for help. The investigation also indicated students who have experienced harassment and assault have difficulty accessing services and support. DOJ's suggestions included comprehensive and effective training to all students, faculty, and staff on reporting options, duties and obligations, and where victims should go for help. DOJ further recommended a revision of the university's policies and practices to provide better grievance procedures that ensure prompt and equitable resolution of sexual harassment and assault allegations.

In October 2016, DOJ announced it reached an agreement with UNM "to ensure that UNM responds swiftly and effectively to allegations" of sexual harassment and assault." Under the agreement, UNM will:

- provide comprehensive and effective training to all students, faculty and staff that gives notice of UNM's prohibition on sexual harassment, including sexual assault;
- ensure that the training includes information about reporting duties, details on where to go for assistance and information on grievance procedures and potential outcomes;
- revise UNM's policies, procedures and investigative practices to provide a grievance procedure that ensures prompt, reliable, impartial and equitable resolution of sexual harassment and sexual assault allegations;
- adequately investigate or respond to all allegations of sexual harassment, including allegations of retaliation for reporting sexual harassment;
- take prompt and effective steps to eliminate any hostile environment that may arise, prevent its recurrence and address its effects; and
- ensure that the individuals designated to coordinate Title IX efforts receive adequate training and coordinate these efforts effectively.

ALTERNATIVES

UNM suggests the following:

Section 1 (A) (Page 1, Lines 23-25) could be amended to read, "A. provide evidence-based training to every student who has a regular physical presence on campus and who is enrolled in a degree-granting program or more per semester on ways to prevent, recognize and report sexual assault."

Section 1 (E) (Page 2, Lines 22-23) could be amended to end at "...institution's website[.]" and delete the phrase, "and that a copy of the policies is provided to every student upon enrollment at the institution."

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

UNM explains that, regardless of this bill, institutions receiving federal funds will continue to comply with the federal legislation and regulations described in the bill.