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HOUSE BILL 151

**56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024**

INTRODUCED BY

Elizabeth "Liz" Thomson and Charlotte Little and Andrea Romero  
and Yanira Gurrola and Gail Chasey

AN ACT

RELATING TO STATE AND PRIVATE EDUCATIONAL INSTITUTIONS;  
REQUIRING STATE-FUNDED POST-SECONDARY EDUCATIONAL INSTITUTIONS  
TO ADOPT POLICIES AND PROCEDURES ADDRESSING AFFIRMATIVE CONSENT  
AND PREVENTION OF SEXUAL ASSAULT, DOMESTIC VIOLENCE, DATING  
VIOLENCE AND HARASSMENT OR STALKING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] POLICIES AND PROCEDURES  
ADDRESSING AFFIRMATIVE CONSENT AND PREVENTION OF SEXUAL  
ASSAULT, DOMESTIC VIOLENCE, DATING VIOLENCE AND HARASSMENT OR  
STALKING REQUIRED.--

A. A post-secondary educational institution that  
receives state funds for student financial assistance shall  
adopt trauma-informed policies and trauma-informed responses  
for the investigation of allegations of sexual assault,

1 domestic violence, dating violence and harassment or stalking  
2 involving a student, faculty member, employee, contractor or  
3 regent.

4 B. All policies and procedures shall:

5 (1) reference an affirmative consent standard  
6 in the determination of whether consent was given by all  
7 parties to sexual activity;

8 (2) confirm that it is the responsibility of  
9 each party involved in the sexual activity to ensure that the  
10 party has the affirmative consent of all other parties engaged  
11 in that sexual activity;

12 (3) confirm that affirmative consent:

13 (a) can never be given by a party who is  
14 asleep, unconscious, incapacitated due to the influence of  
15 drugs, alcohol or medication or unable to communicate due to a  
16 mental or physical condition;

17 (b) cannot be implied, assumed or  
18 inferred from silence or lack of protest or resistance; and

19 (c) can be revoked at any time; and

20 (4) confirm that the existence of a dating  
21 relationship between the parties involved, or the fact of past  
22 sexual relations between them, shall never, by itself, be  
23 assumed to be an indicator of consent.

24 C. The standard to be used in determining whether  
25 the elements of the complaint against the responding party have

1 been demonstrated is a preponderance of the evidence.

2 D. Policies shall include a provision:

3 (1) addressing how the post-secondary  
4 educational institution will provide appropriate protections  
5 for the privacy of the parties involved, including  
6 confidentiality;

7 (2) that all parties who participate as a  
8 complainant or witness in an investigation will not be subject  
9 to disciplinary sanctions for a violation of the post-secondary  
10 educational institution student conduct policy at or near the  
11 time of the incident, unless the post-secondary educational  
12 institution determines that the violation was egregious,  
13 including an action that places the health or safety of any  
14 other party at risk or involves plagiarism, cheating or  
15 academic dishonesty; and

16 (3) for a comprehensive, trauma-informed  
17 response training program for the post-secondary educational  
18 institution's employees or contractors involved in  
19 investigating and adjudicating sexual assault, domestic  
20 violence, dating violence and harassment or stalking cases.

21 E. Procedures shall include an initial response by  
22 the post-secondary educational institution's employees or  
23 contractors to a report of an incident, including providing  
24 written notification to the complainant with the contact  
25 information for on-campus and community-based resources,

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1 services and law enforcement.

2 F. Post-secondary educational institutions that  
3 receive state funds for student financial assistance shall:

4 (1) enter into memoranda of understanding,  
5 agreements or collaborative partnerships with existing  
6 on-campus and community-based organizations, including rape  
7 crisis centers, to refer for assistance or to make services  
8 available to parties, including counseling, health care, mental  
9 health care, complainant advocacy, legal assistance and  
10 resources for the responding party and the complainant at no  
11 cost; and

12 (2) implement comprehensive prevention and  
13 outreach programs that:

14 (a) include a range of prevention  
15 strategies, including empowerment programming, awareness-  
16 raising campaigns, primary prevention, bystander intervention  
17 and risk reduction;

18 (b) make students aware of the post-  
19 secondary educational institution's policy on sexual assault,  
20 domestic violence, dating violence and harassment or stalking,  
21 the practical implications of an affirmative consent standard  
22 and the rights and responsibilities of all parties under the  
23 policy; and

24 (c) are included as part of every  
25 incoming student's orientation.

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1 G. For purposes of this section:

2 (1) "affirmative consent" means affirmative,  
3 conscious and voluntary agreement to engage in sexual activity;

4 (2) "complainant" means a party who reports  
5 having experienced an incident of sexual assault, domestic  
6 violence, dating violence or harassment or stalking to the  
7 post-secondary educational institution;

8 (3) "dating violence" means violence committed  
9 by a responding party:

10 (a) who is or has been in a social  
11 relationship of a romantic or intimate nature with the  
12 complainant; and

13 (b) where the existence of such a  
14 relationship shall be determined based on the length of the  
15 relationship, the type of relationship and the frequency of  
16 interaction between the parties involved in the relationship;

17 (4) "domestic violence" means domestic abuse  
18 as defined in Section 40-13-2 NMSA 1978 or crimes against  
19 household members as defined in Sections 30-3-12 through  
20 30-3-16 NMSA 1978;

21 (5) "harassment or stalking" means harassment,  
22 stalking and aggravated stalking as defined in Sections 30-3A-2  
23 through 30-3A-3.1 NMSA 1978;

24 (6) "post-secondary educational institution"  
25 means a public, private, nonprofit or for-profit educational

1 institution chartered, incorporated or otherwise organized in  
2 this state that is legally authorized to award a vocational or  
3 technical certificate or a degree at an associate level or  
4 above with a physical presence in this state;

5 (7) "responding party" means a party who has  
6 been accused of an alleged incident of sexual assault, domestic  
7 violence, dating violence or harassment or stalking;

8 (8) "sexual assault" means sexual offenses  
9 described in Sections 30-9-11 through 30-9-14 and 30-9-14.3  
10 NMSA 1978;

11 (9) "student" means a person who is enrolled  
12 in a credit-bearing program through a post-secondary  
13 educational institution, whether enrolled part-time, full-time  
14 or in an extension program or who has taken a leave of absence  
15 or has withdrawn from the institution due to being a  
16 complainant;

17 (10) "trauma-informed policy" means a program  
18 or system that considers the widespread impact of trauma and  
19 understands potential paths for recovery; recognizes the signs  
20 and symptoms of trauma in clients, families, staff and others  
21 involved with the system; responds by fully integrating  
22 knowledge about trauma into policies, procedures and practices;  
23 and seeks to actively resist re-traumatization; and

24 (11) "trauma-informed response" means a  
25 response involving an understanding of the complexities of

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1 dating violence, domestic violence, sexual assault and  
2 harassment or stalking through training centered on the  
3 neurobiological impact of trauma, the influence of societal  
4 myths and stereotypes surrounding the causes and impacts of  
5 trauma with an understanding of perpetration methodology and  
6 how to conduct an effective investigation.

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