

LFC Requester:	Sunny Liu
-----------------------	------------------

**AGENCY BILL ANALYSIS
2017 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** 3/11/2017
Original **Amendment** **Bill No:** SB115/aSJC
Correction **Substitute**

Sponsor: Senator William P. Soules **Agency Code:** 924
Short Title: SAFE SCHOOLS FOR ALL STUDENTS ACT **Person Writing:** Aguilar/Thompson
Phone: 827-6519 **Email:** Paulj.aguilar@state.nm.us

SECTION II: FISCAL IMPACT

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	Significant	Significant	Significant	Recurring	School District Budgets
		\$100.0	\$100.0	\$100.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis of SJC Amendment to Senate Bill 115:

The Senate Judiciary Committee amendment to Senate Bill 115 (SB115/aSJC) makes grammatical changes to page 10, line 21.

SB115/aSJC removes the possibility of convening a group of experts to assist with developing and implementing a model policy as put forth by the Safe Schools for all Students Act by deleting Subsection C in its entirety.

Fiscal Implications of SJC Amendment to Senate Bill 115:

SB115/aSJC continues to require considerable resources from school districts, charter schools and the PED to implement model policies and procedures for bullying prevention.

SB115/aSJC continues to require local school boards to meet and develop bullying prevention policies, inform school administrators, and to oversee the policies and procedures in response to reports of bullying. The districts and charter schools would need to create reports and maintain these for four years.

The timeline for implementation of a bill with such complexity, requiring both human and financial resources, adds an unnecessary burden to schools and to the PED. Current procedures, requirements and guidelines, including training and technical assistance, are in place and are strictly monitored through the PED's Safe Schools Program. The responsibility for administration, oversight and provision of resources to 89 school districts and multiple charter schools would require the PED to increase its workload with existing human resources and current level funding.

Significant Issues of SB115/aSJC:

SB115/aSJC does not address the complicated nature in administration and implementation and human and financial resources required in the short period of time put forth by this bill. In addition, the amendments does not acknowledge the existing bullying prevention definitions and policies currently in existence and administered with oversight by the PED through existing policy requirement for individual schools within districts and charter schools. Current reporting, submission, evaluation and response systems would need to be removed and replaced, making redundant approximately 4 years of work at the PED and at every school in the state. While the PED already works with those school district and state chartered charter school that needs technical assistance on bullying prevention policies and strategies, the bullying policy of each individual state chartered charter school and public school district that meets current requirements of the PED as appropriate, best-practice, and according to national and local standards, would need to be rewritten and re-evaluated.

Administrative Implications of Amendment to SB115:

SB115/aSJC does not address the complicated nature, substantial resources both human and financial, and unreasonable timeline for implementation as proposed in SB115. Its only concession is in removing from the bill the creation and convening of a group of experts to aid in the development, implementation and dissemination of the model policy.

Synopsis of Original Senate Bill 115:

Senate Bill 115 (SB115) enacts a Safe Schools for All Students Act that requires the NM Public Education Department (PED) to promulgate rules requiring school districts to develop and implement bullying prevention policies and procedures, effective on July 1, 2017. Policies and procedures include clear definitions and descriptions of bullying for students to be communicated in various languages and developmentally and culturally appropriate handbooks, a system for reporting alleged bullying, process for investigating complaints of alleged bullying and due process for those students accused bullying and progressive discipline for students determined to have bullied other students. SB115 adds definitions of bullying and clarifies special classes of students. Schools would have to annually report on their progress of the Act.

FISCAL IMPLICATIONS

Fiscal Implications of Original Senate Bill 115:

The provisions of this bill will require considerable resources from school districts, charter schools and the PED to implement with no appropriation attached.

The provisions contained in this bill are complicated, will require substantial resources both financial and human to implement. The timeline for implementation is not reasonable and consideration should be given to a one year delay to ensure fidelity in implementation.

SB115 requires local school boards to meet and to develop 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. SB115 further recommends that school boards utilize low-cost programs and/or resources to assist in the development of policies and the dissemination of information to each school community. No fiscal allocations are provided through this bill for assisting in the above-stated requirements for each local school board, and the fiscal impacts are undetermined but appear to be significant.

The PED would be responsible to administer the oversight of the Safe Schools for All Students Act by providing guidance to local school boards and ensuring that all 89 districts and charter school policies. Additionally, the PED is requested to provide information to local school boards on available programming and potential resources. No allocation of funding is provided through this bill for such administration.

SIGNIFICANT ISSUES

Significant Issues of Original SB115:

The provisions contained in this bill are complicated, will require substantial resources both financial and human to implement. The timeline for implementation is not reasonable and consideration should be given to a one year delay to ensure fidelity in implementation.

SB115 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 victim’s health or interfere with school performance, attendance or participation in educationally-based activities.

Since 2007 public schools and local and state charter schools have been required to implement bullying prevention programs and processes as defined in 6.12.7 NMAC: Bullying Prevention. The PED promulgates comprehensive guidance to all schools for developing these policies and is now in a new three-year cycle for every school to revise and submit Safe School Plans to the PED for review. (See Planning for Safe Schools in New Mexico: School Guide: <http://ped.state.nm.us/sfsb/safeschools/2016/PlanningForSafeSchoolsNM2016.pdf>.)

The rule requires each school to develop and implement a policy that addresses bullying. The

policy must include, but is not limited to:

- Definitions;
- An absolute prohibition against bullying (including cyberbullying as of the 2013-2014 school year);
- Staff training on cyberbullying;
- A method to ensure initial and annual dissemination of the anti-bullying and anti-cyberbullying policy to all students, parents, teachers, administrators and all other school or district employees;
- Procedures for reporting incidents of bullying and cyberbullying, which ensure confidentiality to those reporting bullying incidents and protection from reprisal, retaliation or false accusation against victims, witnesses or others with information regarding a bullying incident; and
- Consequences for bullying and cyberbullying which include consideration of compliance with state and federal IDEA requirements; consequences for knowingly making false reports pursuant to the anti-bullying policy; procedures for investigation by administration of incidents reported pursuant to the anti-bullying policy; and a requirement that teachers and other school staff report any incidents of bullying.

SB115, 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 recommended guidelines in the disposition of discipline situations. The matrices allow for flexibility in responses, depending on the circumstances of the behavior or education status of the student. A progressive discipline approach would be congruent with the PED's Response to Intervention (RtI) framework (http://ped.state.nm.us/ped/RtI_index.html).

Additionally 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. Data results from the 2015 New Mexico Youth Risk and Resiliency Survey (YRRS) showed that 11.3 percent of high school youth identified as lesbian, gay, or bisexual (LGB) and an additional 4 percent as "not sure" of their sexual identification. Compared to their peers who identified as straight, LGB youth were twice as likely to be bullied at school (32.1% compared to 16.1%), more than two times as likely to be electronically bullied (27.2% compared to 11.2%), and more than 2.5 times as likely to skip school due to feeling unsafe (16.0% compared to 6.1%). The health and well-being of LGBT people and the collection of health data for this population have emerged as a priority at the national level in recent years. For example, the US Department of Health and Human Services made improving the health, safety, and well-being of LGBT people a new topic of [Healthy People 2020](#), which is a set of nationwide health promotion and disease prevention goals. The Health and Well-Being of Lesbian, Gay, Bisexual, and Questioning Youth in New Mexico report can be viewed in: <http://www.youthrisk.org/pdf/Health-of-LGB-Youth-in-NM-2016.pdf>

SB115, through the creation of the Safe Schools for All Students Act, compliments the expectations 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 Content Standard 1, Benchmarks 4 and 6 which 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.

SB115 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; maintain a website devoted to bullying prevention information, strategies and resources (<http://ped.state.nm.us/ped/PEDAnti-Bullying.html>). Resources already include training opportunities developed collaboratively by the USDE, the US Department of Justice, the U.S. Department of Health and Human Services, and the Substance Abuse and Mental Health Services Administration (SAMSHA) among others.

The PED's Safe School Program is located in the Coordinated School Health & Wellness Bureau and provides oversight of the state's school safety policy development and implementation to include bullying prevention. A full array of the program's resources can be obtained on the PED's website: <http://ped.state.nm.us/sfsb/safeschools/>.

SB115 further amends the Public School Code for the definition of students with disabilities, changing the language to students with a "physical or mental handicap". The actual code reads "students with disabilities" when referencing means an intellectual impairment. Page 3, Lines 11-13 should be modified to read "students with disabilities" and the definition should be modified to read "means a physical or cognitive impairment that substantially limits one or more of a person's major life activities."

PERFORMANCE IMPLICATIONS

Performance Implications of Original Senate Bill 115:

While SB115 may support the PED strategic lever "Ready for Success" by providing a safe and supportive learning environment for students, it may also be duplicative of existing efforts.

ADMINISTRATIVE IMPLICATIONS

Administrative Implications of Original SB115:

The provisions contained in this bill are complicated, will require substantial resources both financial and human to implement. The timeline for implementation is not reasonable and consideration should be given to a one year delay to ensure fidelity in implementation.

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, to inform school districts and state charter schools of the proposed changes to the rule, conduct public hearings on the proposed changes to the rule, summarize public comments, post the final rule, and communicate the changes after the rule has been posted.

Additionally, the PED would need to make further changes to the policy section requirements of the recently revised Planning for Safe Schools in New Mexico: School Guide (fall, 2016) 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 state charter schools. The PED would also need to revise its three-year timetable of Safe School Plan submissions to review approximately 600 Safe School Plans that are being assessed during the 2016-2017 and 2017-2018 school years.

The PED would need to convene a group of experts, as defined in the Act, to assist with the

implementation of the Safe Schools for All Students Act in order to develop a model policy in accordance with the provisions of the Act to be disseminated to school districts and state charter schools.

The PED would also be required to provide technical assistance and guidance to local school boards related to progressive discipline, as a means of reducing bullying and harassment, and effective bullying prevention programs to reduce bullying and school violence. The above mentioned may be duplicative of existing strategies within both the PED's Safe Schools Program and Response to Intervention (RtI) framework endorsed by the PED and utilized by schools.

Finally, the PED would need to prepare an annual report for the legislative education study committee, inclusive of aggregate data related to incidents of bullying and harassment and the aggregate number of responsive actions taken by public schools in relation to reported incidents. Designated program staff would need to work with the PED's Information Technology (IT) Division to aggregate the data as captured in the Student Teacher Accountability Reporting System (STARS), an evaluation of the sufficiency of funding for bullying prevention programs, and policy and programmatic recommendations for future consideration.

As SB115 does not have an allocation, the PED would need to absorb the above with existing and limited resources.

TECHNICAL ISSUES

The legislator may wish to consider adding "or guardians" to the word "parents" on line 22 of page 3.

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.

AMENDMENTS

On Page 2, Line 7 change "physical or mental handicap" to read "students with disabilities" and on page 3, lines 11-12, change "physical or mental handicap" means a physical or mental impairment...to read "students with disabilities" means a physical or cognitive impairment....

On page 6, after line 17, the legislator may want to consider adding language that requires schools to report incidents of alleged bullying to parents and/or guardians while the investigation is underway.