

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2464 Session of 2012

INTRODUCED BY QUIGLEY, MARSHALL, BOBACK, BOYD, B. BOYLE, BRADFORD, CHRISTIANA, COHEN, CONKLIN, D. COSTA, DALEY, ELLIS, FARRY, FLECK, GEIST, GILLESPIE, GINGRICH, GODSHALL, GOODMAN, GROVE, HARHAI, HARRIS, HESS, HORNAMAN, KAUFFMAN, KOTIK, MANN, MCGEEHAN, MICOZZIE, MILLARD, MOUL, MULLERY, MUNDY, MURT, PASHINSKI, QUINN, READSHAW, SCAVELLO, CULVER, K. SMITH, STABACK, STEPHENS, VULAKOVICH, WATERS, WATSON AND YOUNGBLOOD, JUNE 12, 2012

REFERRED TO COMMITTEE ON EDUCATION, JUNE 12, 2012

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," in safe schools, further providing
6 for policy relating to bullying; and providing for Department
7 of Education requirements and responsibilities.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Section 1303.1-A of the act of March 10, 1949
11 (P.L.30, No.14), known as the Public School Code of 1949, added
12 July 9, 2008 (P.L.846, No.61), is amended to read:

13 Section 1303.1-A. Policy Relating to Bullying.--(a) No
14 later than January 1, [2009] 2013, each school entity shall
15 adopt a policy or amend its existing policy [relating to
16 bullying] prohibiting harassment, intimidation, bullying and
17 cyberbullying, and incorporate the policy into the school

1 entity's code of student conduct required under 22 Pa. Code §
2 12.3(c) (relating to school rules). The policy shall delineate
3 disciplinary consequences for bullying and [may provide for
4 prevention, intervention and education programs, provided that
5 no school entity shall be required to establish a new policy
6 under this section if one currently exists and reasonably
7 fulfills the requirements of this section. The policy shall
8 identify the appropriate school staff person to receive reports
9 of incidents of alleged bullying.] shall identify by job title,
10 the appropriate school staff person to receive reports of
11 incidents of alleged bullying and the school officials
12 responsible for ensuring that the policy is implemented. The
13 school entity shall involve students, parents, administrators,
14 school staff, school volunteers, community representatives and
15 local law enforcement agencies in the process of adopting the
16 policy. The school entity policy shall be implemented in a
17 manner that is ongoing throughout the school year and integrated
18 with the school's curriculum, discipline policies and other
19 violence prevention efforts. Any discipline imposed under the
20 policy must fall within the school entity's authority under
21 section 510. The policy shall contain, at a minimum, the
22 following components:

23 (1) (i) A statement prohibiting harassment, intimidation,
24 bullying or cyberbullying of a student.

25 (ii) A statement prohibiting retaliation or false accusation
26 against a target, witness or one with reliable information about
27 an act of bullying, harassment and intimidation.

28 (iii) A requirement that all students shall be protected
29 regardless of their status under the law.

30 (iv) A statement that the school entity shall make the

1 policy available on its publicly accessible Internet website, if
2 available, in every classroom and shall post the policy at a
3 prominent location within each school building where such
4 notices are usually posted.

5 (v) A statement that the school entity shall ensure the
6 policy and procedures for reporting bullying incidents are
7 reviewed with students within ninety (90) days after their
8 adoption and thereafter at least once per school year.

9 (vi) A statement that the school entity shall review its
10 policy every three (3) years and annually provide the office
11 with a copy of its policy prohibiting harassment, intimidation,
12 bullying and cyberbullying, including information related to the
13 development and implementation of any harassment, intimidation,
14 bullying and cyberbullying prevention, intervention and
15 education programs. The information required under this
16 subsection shall be attached to or made part of the annual
17 report required under section 1303-A(b). If the school entity
18 reports acts of harassment, intimidation, bullying and
19 cyberbullying to the office in accordance with section 1303-
20 A(b), it shall report all incidents that qualify as harassment,
21 intimidation, bullying and cyberbullying.

22 (vii) A procedure for providing immediate notification to
23 the parents or guardian or a victim of harassment, intimidation,
24 bullying or cyberbullying and the parents or guardian of the
25 perpetrator of the harassment, intimidation, bullying or
26 cyberbullying.

27 (viii) A statement that the policy shall apply to an
28 electronic communication, whether or not the act originated on
29 school property or with school equipment, so long as:

30 (A) a reasonable person should know, under the

1 circumstances, that the act will have the effect of harming a
2 student or damaging the student's property or placing a student
3 in reasonable fear of harm to his or her person or damage to his
4 or her property; and has the effect of isolating or demeaning
5 any student or group of students in such a way as to cause
6 substantial disruption in, or substantial interference with, the
7 orderly operation of the school; or

8 (B) the act is directed specifically at students, is
9 intended for the purpose of disrupting school and has a high
10 likelihood of succeeding in that purpose.

11 (2) (i) A procedure for reporting an act of harassment,
12 intimidation, bullying or cyberbullying, including a provision
13 that permits a person to report the act anonymously. No formal
14 disciplinary action shall be taken solely on the basis of an
15 anonymous report.

16 (ii) A requirement that any school employe that has reliable
17 information that would lead a reasonable person to suspect that
18 a person is a target of harassment, intimidation, bullying or
19 cyberbullying shall immediately report it to the principal or
20 the principal's designee.

21 (iii) A procedure for each school to document any prohibited
22 incident that is reported and a procedure to report all
23 incidents of harassment, intimidation, bullying or cyberbullying
24 and the resulting consequences, including discipline and
25 referrals, to the State Board of Education on a semiannual
26 basis.

27 (iv) A procedure for reporting to law enforcement all acts
28 of harassment, intimidation, bullying or cyberbullying that may
29 constitute criminal activity.

30 (v) A procedure for prompt investigation of reports of

1 violations and complaints, identifying either the principal or
2 the principal's designee as the person responsible for the
3 investigation.

4 (3) (i) Consequences and appropriate remedial action for a
5 person who commits an act of harassment, intimidation, bullying
6 or cyberbullying.

7 (ii) Consequences and appropriate remedial action for a
8 student found to have falsely accused another as a means of
9 retaliation, reprisal or as a means of harassment, intimidation,
10 bullying or cyberbullying.

11 (iii) A strategy for providing counseling or referral to
12 appropriate services, including guidance, academic intervention
13 and protection to students, both targets and perpetrators
14 affected by harassment, intimidation, bullying or cyberbullying
15 as well as notification and counseling for their family members
16 if doing so will not otherwise jeopardize the health, well-being
17 and safety of the students.

18 (iv) Provisions for the formation of bullying prevention
19 task forces, programs and other initiatives involving school
20 staff, pupils, administrators, volunteers, parents, law
21 enforcement, community members and other stakeholders, as deemed
22 appropriate by the school entity.

23 (4) (i) Annual training for administrators, school
24 employees and volunteers who have significant contact with
25 students in preventing, identifying, responding to and reporting
26 incidents of harassment, intimidation, bullying or
27 cyberbullying.

28 (ii) An educational program for students and parents in
29 preventing, identifying, responding to and reporting incidents
30 of harassment, intimidation, bullying or cyberbullying.

1 (5) A statement that no student shall be subjected to
2 harassment, intimidation, bullying or cyberbullying in any
3 public educational institution:

4 (i) during any education program or activity;

5 (ii) while in school, on school equipment or property, in
6 school vehicles, on school buses, at designated school bus
7 stops, at school-sponsored activities, at school-sanctioned
8 events; or

9 (iii) through the use of data, telephone or computer
10 software that is accessed through a computer, computer system or
11 computer network of any public educational institution.

12 [(b) Each school entity shall make the policy available on
13 its publicly accessible Internet website, if available, and in
14 every classroom. Each school entity shall post the policy at a
15 prominent location within each school building where such
16 notices are usually posted. Each school entity shall ensure that
17 the policy and procedures for reporting bullying incidents are
18 reviewed with students within ninety (90) days after their
19 adoption and thereafter at least once each school year.

20 (c) Each school entity shall review its policy every three
21 (3) years and annually provide the office with a copy of its
22 policy relating to bullying, including information related to
23 the development and implementation of any bullying prevention,
24 intervention and education programs. The information required
25 under this subsection shall be attached to or made part of the
26 annual report required under section 1303-A(b).]

27 (d) In its policy relating to bullying adopted or maintained
28 under subsection (a), a school entity shall not be prohibited
29 from defining bullying in such a way as to encompass acts that
30 occur outside a school setting if those acts meet the

1 requirements contained in subsection [(e)(1), (3) and (4)] (e)
2 (1) and (3). If a school entity reports acts of bullying to the
3 office in accordance with section 1303-A(b), it shall report all
4 incidents that qualify as bullying under the entity's adopted
5 definition of that term.

6 (e) For purposes of this article, ["bullying" shall mean an
7 intentional electronic, written, verbal or physical act, or a
8 series of acts:

9 (1) directed at another student or students;

10 (2) which occurs in a school setting;

11 (3) that is severe, persistent or pervasive; and

12 (4) that has the effect of doing any of the following:

13 (i) substantially interfering with a student's education;

14 (ii) creating a threatening environment; or

15 (iii) substantially disrupting the orderly operation of the

16 school; and] "electronic communication" shall mean any

17 communication through an electronic device including, but not

18 limited to, a telephone, cellular telephone, computer or

19 telephone pager, which communication included, but is not

20 limited to, e-mail, instant messaging, text messaging, blogs,

21 mobile telephones, telephone pager, online games and Internet

22 websites;

23 "harassment, intimidation, bullying and cyberbullying" shall

24 mean any written, verbal or physical act, or any electronic

25 communication intended to:

26 (A) physically harm a student or damages the student's

27 property;

28 (B) substantially interfere with a student's educational

29 opportunities;

30 (C) be so severe, persisting or pervasive that it creates an

1 intimidating or threatening educational environment; or
2 (D) substantially disrupt the orderly operation of school;
3 and

4 "school setting" shall mean in the school, on school grounds,
5 in school buses, in school vehicles, at a designated bus stop or
6 at any activity or event sponsored, supervised or sanctioned by
7 the school.

8 Section 2. The act is amended by adding a section to read:

9 Section 1303.2-A. Department of Education Requirements and
10 Responsibilities.--(a) The Department of Education shall have
11 the following duties to enforce compliance with section 1303.1-
12 A:

13 (1) Develop a model policy and training materials on the
14 components that should be included in any school entity policy
15 developed under section 1303.1-A.

16 (2) Periodically review school district programs, activities
17 and services to determine whether the school boards are
18 complying with section 1303.1-A.

19 (3) Compile and make available to all schools a list of
20 programs appropriate for the prevention of harassment,
21 intimidation, bullying or cyberbullying of students.

22 (4) Establish and maintain a central repository for the
23 collection and analysis of information regarding harassment,
24 intimidation, bullying or cyberbullying.

25 (5) Report to the General Assembly annually on the current
26 levels and nature of harassment, intimidation and bullying in
27 the schools and the effectiveness of school policies under this
28 statute in combating harassment, intimidation, bullying or
29 cyberbullying, including recommendations for appropriate actions
30 to address identified problems.

1 (b) A school employe, school volunteer, student, parent or
2 guardian who promptly reports in good faith an act of
3 harassment, intimidation, bullying or cyberbullying to the
4 appropriate school official designated in the school district's
5 policy established under section 1303.1-A and who makes this
6 report in compliance with the procedures set forth in the policy
7 is immune from a cause of action for damages arising out of the
8 reporting itself or any failure to remedy the reported incident.

9 (c) (1) Distribution of safe schools funds to a school
10 district shall be contingent upon the State Board of Education
11 approval of each school district policy established under
12 section 1303.1-A. The board's approval of each school district's
13 policy shall be granted upon certification by the board that the
14 school district's policy has been submitted to the board and is
15 in substantial conformity with the board's model policy.

16 (2) Distribution of safe schools funds provided to a school
17 district shall be contingent upon and payable to the school
18 district upon the school district compliance with all reporting
19 procedures contained in this section and section 1303.1-A.

20 (d) Nothing in this article shall be construed:

21 (1) to prevent a target of harassment, intimidation,
22 bullying or cyberbullying from seeking redress under any other
23 available law either civil or criminal; or

24 (2) to infringe upon the right of a school employe or
25 student to engage in speech or expression protected by the
26 Constitution of the United States or the Constitution of
27 Pennsylvania.

28 Section 3. This act shall take effect in 60 days.