

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1211 Session of 2013

INTRODUCED BY AUMENT, CLYMER, BARRAR, BISHOP, BIZZARRO,
 V. BROWN, CHRISTIANA, COHEN, DEASY, DeLUCA, FARINA, GINGRICH,
 C. HARRIS, HICKERNELL, KILLION, MICOZZIE, PASHINSKI,
 READSHAW, TAYLOR AND TOOHIL, APRIL 17, 2013

REFERRED TO COMMITTEE ON EDUCATION, APRIL 17, 2013

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 reporting and for policy relating to bullying; and
 7 providing for Department of Education requirements and
 8 responsibilities.

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

11 Section 1. Section 1303-A of the act of March 10, 1949
 12 (P.L.30, No.14), known as the Public School Code of 1949, is
 13 amended by adding a subsection to read:

14 Section 1303-A. Reporting.--* * *

15 (f) Notwithstanding any other provision of this section, the
 16 State Board of Education shall convene and consult with a
 17 Statewide advisory committee to determine whether the mandatory
 18 reporting deadlines in this section shall be revised and to
 19 promulgate final-omitted regulations pursuant to the act of June
 20 25, 1982 (P.L.633, No.181), known as the "Regulatory Review

1 Act," necessary to implement any modifications in mandatory
2 reporting deadlines deemed necessary by the State Board of
3 Education. The Statewide advisory committee shall include:

4 (1) A police chief.

5 (2) A juvenile public defender.

6 (3) A school superintendent.

7 (4) A school principal.

8 (5) A district attorney.

9 (6) A school district solicitor.

10 (7) An in-school probation officer.

11 (8) One designee each from:

12 (i) The Department of Education.

13 (ii) The Pennsylvania Commission on Crime and Delinquency.

14 (iii) The Municipal Police Officers' Education and Training
15 Commission.

16 (iv) The Juvenile Court Judges' Commission.

17 (v) The Pennsylvania State Police.

18 Section 2. Section 1303.1-A of the act, added July 9, 2008
19 (P.L.846, No.61), is amended to read:

20 Section 1303.1-A. Policy Relating to Bullying.--(a) No
21 later than January 1, [2009] 2014, each school entity shall
22 [adopt a] adopt the model policy developed by the Department of
23 Education pursuant to section 1303.2-A(a)(1), adopt its own
24 policy or amend its existing policy [relating to] prohibiting
25 bullying and incorporate the policy into the school entity's
26 code of student conduct required under 22 Pa. Code § 12.3(c)
27 (relating to school rules). The policy shall delineate
28 disciplinary consequences for bullying [and may provide for
29 prevention, intervention and education programs, provided that
30 no school entity shall be required to establish a new policy

1 under this section if one currently exists and reasonably
2 fulfills the requirements of this section. The policy shall
3 identify the appropriate school staff person to receive reports
4 of incidents of alleged bullying.], retaliation, threats and
5 intentionally false reports and shall identify by job title the
6 appropriate school employe to receive reports of alleged
7 incidents of bullying and the school employe responsible for
8 ensuring that the policy is implemented. The policy shall be
9 implemented in a manner that is integrated with the school
10 entity's discipline policies and other violence prevention
11 efforts. Any discipline imposed under the policy must be
12 consistent with the school entity's authority under section 510
13 and other relevant Federal and State law. The policy shall
14 contain, at a minimum, the following components:

15 (1) A statement prohibiting bullying in a school setting.
16 The prohibition includes use of electronic communication,
17 whether or not originating on school premises, if the electronic
18 communication:

19 (i) is a substantial cause of a student's physical harm or
20 objectively reasonable emotional distress while on school
21 premises;

22 (ii) causes a substantial disruption of school activities on
23 school premises; or

24 (iii) puts a student in reasonable fear of returning to
25 school.

26 (2) A statement prohibiting retaliation, threats and
27 intentionally false reports against a student who reports,
28 witnesses or possesses information about an alleged incident of
29 bullying.

30 (3) A statement that the school entity shall post the policy

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

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

9 (5) 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 bullying, including
12 information related to the development and implementation of any
13 bullying prevention and intervention programs. The information
14 required under this subsection shall be attached to or made part
15 of the annual report required under section 1303-A(b).

16 (6) A statement that the school entity shall report to the
17 office and to the police department as follows:

18 (i) All alleged incidents of bullying shall be reported to
19 the office in the report required under section 1303-A(b).

20 (ii) All alleged incidents of bullying that may constitute
21 criminal behavior shall be reported to the police department
22 with jurisdiction over the relevant school property under the
23 procedures set forth in section 1303-A(b.1) and 22 Pa. Code
24 Chapter 10 (relating to safe schools).

25 (7) A procedure for providing immediate notification to the
26 parent or guardian of a target or perpetrator of an alleged
27 incident of bullying. However, notification to the parent or
28 guardian of a perpetrator of an alleged incident of bullying
29 that may constitute criminal behavior shall occur only after
30 consultation with the investigating law enforcement authorities,

1 to assist in ensuring the safety of the target of the alleged
2 incident and to permit law enforcement authorities the
3 opportunity to conduct an investigation. Before any student
4 accused of bullying is interviewed by the principal or designee,
5 the accused student's parent or guardian shall be notified of
6 the allegations and shall have the opportunity to attend any
7 interviews conducted with the student as part of the
8 investigation.

9 (8) A procedure for reporting an alleged incident of
10 bullying, including a provision that permits a person to report
11 the incident anonymously. No formal disciplinary action shall be
12 taken solely on the basis of an anonymous report.

13 (9) A procedure for prompt investigation of reports of
14 alleged incidents of bullying, identifying either the principal
15 or the principal's designee as the person responsible for the
16 investigation.

17 (10) Consequences and appropriate remedial action for a
18 student who commits an incident of bullying, retaliation,
19 threats or intentionally false reports against another student.

20 (11) A strategy for providing counseling or referral to
21 appropriate services, including guidance, academic intervention
22 and protection, to students who are either targets or
23 perpetrators of bullying.

24 (12) Provisions for the formation of bullying prevention
25 task forces, programs and other initiatives involving school
26 employees, students, administrators, volunteers, parents, law
27 enforcement, community members and other stakeholders, if and to
28 the extent deemed appropriate by the school entity.

29 (13) Annual training for administrators, school employees and
30 volunteers who have significant contact with students in the

1 following: identifying bullying as defined in this section; the
2 circumstances in which electronic communication constitutes
3 bullying; and preventing, receiving reports of, reporting,
4 investigating and responding to incidents of bullying, including
5 necessary parent notification and the interplay between existing
6 criminal laws and the school entity's bullying policy. Annual
7 training for administrators and school employes shall be
8 incorporated into a school entity's professional education plan
9 required under section 1205.1.

10 (14) An annual educational program for students and parents
11 concerning the following: the school entity's policy; the
12 dangers of bullying; how to identify acts that constitute
13 bullying under the school entity's policy; how to report an
14 alleged incident of bullying; the disciplinary policy applicable
15 to bullying, retaliation, threats and intentional false reports;
16 the criminal liability associated with certain forms of
17 bullying; and the liability associated with related forms of
18 criminal behavior, including taking or sending certain types of
19 photographs. The educational program shall be approved by the
20 Department of Education or the governing body of the school
21 entity.

22 (15) A procedure by which students and parents may make
23 anonymous suggestions to the school entity regarding the
24 creation of a more positive school climate.

25 [(b) Each school entity shall make the policy available on
26 its publicly accessible Internet website, if available, and in
27 every classroom. Each school entity shall post the policy at a
28 prominent location within each school building where such
29 notices are usually posted. Each school entity shall ensure that
30 the policy and procedures for reporting bullying incidents are

1 reviewed with students within ninety (90) days after their
2 adoption and thereafter at least once each school year.

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

10 (d) In its policy relating to bullying adopted or
11 [maintained] amended under subsection (a), a school entity shall
12 not be prohibited from defining bullying in such a way as to
13 encompass acts that occur outside a school setting if those acts
14 [meet the requirements] otherwise satisfy the definition of
15 "bullying" contained in subsection [(e) (1), (3) and (4)] (e). If
16 a school entity reports [acts] incidents of bullying to the
17 office in accordance with section 1303-A(b), it shall report all
18 incidents that qualify as bullying under the entity's adopted
19 definition of that term.

20 (d.1) A school employe, school volunteer, student, parent or
21 guardian who reports in good faith an incident of alleged
22 bullying to the appropriate school official designated in the
23 school entity's policy established under this section and who
24 makes this report in compliance with the procedures set forth in
25 the policy is immune from a cause of action for damages arising
26 out of the reporting itself or any failure to remedy the
27 reported incident.

28 (d.2) Nothing in this section shall be construed:

29 (1) to prevent a target of bullying from seeking redress
30 under any other available civil or criminal law; or

1 (2) to infringe upon the right of a school employe or
2 student to engage in speech or expression protected by the
3 Constitution of the United States or the Constitution of
4 Pennsylvania. It shall be presumed that all verbal expression,
5 whether oral, written or electronic, relating to religious,
6 philosophical or political topics or viewpoints is protected by
7 the First Amendment to the Constitution of the United States and
8 shall not be classified as bullying under this section or under
9 a policy established by a school entity under this section
10 unless specific facts demonstrate otherwise.

11 (e) For purposes of this article[,]:

12 "bullying" shall mean an intentional electronic, written,
13 verbal or physical act, or a series of acts by one or more
14 students:

15 (1) directed at another student or students;

16 (2) which occurs in a school setting;

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

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

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

20 (ii) creating [a] an objectively threatening environment; or

21 (iii) substantially disrupting the orderly operation of the
22 school; [and]

23 "electronic communication" shall mean any communication
24 through an electronic device including, but not limited to, a
25 telephone, cellular telephone, computer or telephone pager,
26 which communication includes, but is not limited to, e-mail,
27 instant messaging, text messaging, blogs, online games and
28 Internet websites; and

29 "school setting" shall mean in the school, on school grounds,
30 in school buses, in school vehicles, at a designated bus stop or

1 at any activity or event sponsored, supervised or sanctioned by
2 the school.

3 Section 3. The act is amended by adding a section to read:

4 Section 1303.2-A. Department of Education Requirements and
5 Responsibilities.--(a) The Department of Education shall have
6 the following duties to enforce compliance with section 1303.1-
7 A:

8 (1) Develop a model policy that is consistent with section
9 1303.1-A.

10 (2) Develop training materials on the components that shall
11 be included in the model policy developed by the Department of
12 Education pursuant to paragraph (1) or in any school entity
13 policy developed under section 1303.1-A.

14 (3) Periodically review school entity programs, activities
15 and services to determine whether school entities are complying
16 with section 1303.1-A.

17 (4) Establish and maintain a central repository for the
18 collection and analysis of information regarding bullying.

19 (b) Distribution of safe schools funds to a school entity,
20 to the extent funds are appropriated by the General Assembly for
21 this purpose, shall be contingent upon the following:

22 (1) The office's approval of each school entity's policy
23 established under section 1303.1-A. The office shall approve a
24 school entity's policy if the policy complies with section
25 1303.1-A.

26 (2) The school entity's compliance with all reporting
27 procedures contained in sections 1303-A and 1303.1-A and 22 Pa.
28 Code Ch. 10 (relating to safe schools).

29 Section 4. This act shall take effect in 60 days.