

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 872 Session of 2018

INTRODUCED BY HAYWOOD, BREWSTER, FONTANA, RESCHENTHALER,
KILLION, HUGHES, COSTA, BROWNE, FARNESE AND SCHWANK,
JANUARY 17, 2018

REFERRED TO EDUCATION, JANUARY 17, 2018

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 definitions and for policy relating to bullying.

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

9 Section 1. Sections 1301-A and 1303.1-A of the act of March
10 10, 1949 (P.L.30, No.14), known as the Public School Code of
11 1949, are amended to read:

12 Section 1301-A. Definitions.--As used in this article,
13 "Bullying" shall mean an intentional electronic, written,
14 verbal or physical act, or a series of acts which:

15 (1) is directed at another student or students;

16 (2) occurs in a school setting;

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

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

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

1 (ii) creating a threatening environment; or
2 (iii) substantially disrupting the orderly operation of the
3 school.

4 "Chief school administrator" shall mean the superintendent of
5 a public school district, superintendent of an area vocational-
6 technical school, executive director of an intermediate unit or
7 chief executive officer of a charter school.

8 "Dating violence" shall mean "dating violence" as defined in
9 section 1553(f).

10 "Office" shall mean the Office for Safe Schools within the
11 Department of Education.

12 "School entity" shall mean any public school district,
13 intermediate unit, area vocational-technical school or charter
14 school.

15 ["School-based diversion programs" shall mean programs that,
16 in partnership with other stakeholders, divert youth out of the
17 juvenile justice system. These programs include, but are not
18 limited to, youth aid panels in which a panel of community
19 members decide an appropriate resolution to hold the student
20 accountable for the student's actions by, among other options,
21 requiring the student to complete educational activities,
22 community service, restitution and any other related program or
23 service.]

24 "School property" shall mean any public school grounds, any
25 school-sponsored activity or any conveyance providing
26 transportation to a school entity or school-sponsored activity.

27 "School setting" shall mean in the school, on school grounds,
28 in school vehicles, at a designated bus stop or at an activity
29 sponsored, supervised or sanctioned by the school.

30 "School-based diversion programs" shall mean programs that,

1 in partnership with other stakeholders, divert youth out of the
2 juvenile justice system. These programs include, but are not
3 limited to, youth aid panels in which a panel of community
4 members decide an appropriate resolution to hold the student
5 accountable for the student's actions by, among other options,
6 requiring the student to complete educational activities,
7 community service, restitution and any other related program or
8 service.

9 "School-wide positive behavior support" means a school-wide,
10 evidence-based and data-driven approach to improving school
11 behavior that seeks to reduce unnecessary student disciplinary
12 actions and promote a climate of greater productivity, safety
13 and learning.

14 "Student with a disability" shall mean a student who meets
15 the definition of "child with a disability" under the
16 Individuals with Disabilities Education Act (Public Law 91-230,
17 20 U.S.C. § 1400 et seq.) or who meets the definition of a
18 "handicapped person" under section 504 of the Rehabilitation Act
19 of 1973 (Public Law 93-112, 29 U.S.C. § 794) and its
20 implementing regulations (34 C.F.R. § 104.3(j)). The term
21 includes a student for whom an evaluation is pending under
22 either the Individuals with Disabilities Education Act or
23 Rehabilitation Act.

24 "Weapon" shall include, but not be limited to, any knife,
25 cutting instrument, cutting tool, nunchaku, firearm, shotgun,
26 rifle and any other tool, instrument or implement capable of
27 inflicting serious bodily injury.

28 Section 1303.1-A. Policy Relating to Violence, Harassment
29 and Bullying.--(a) No later than January 1, [2009,] 2019, each
30 school entity shall adopt a policy or amend its existing policy

1 relating to violence, harassment and bullying and incorporate
2 the policy into the school entity's code of student conduct
3 required under 22 Pa. Code § 12.3(c) (relating to school rules).

4 The policy shall [delineate]:

5 (1) Delineate disciplinary consequences for violence,
6 harassment or bullying and may provide for [prevention,
7 intervention and] education programs, provided that no school
8 entity shall be required to establish a new policy under this
9 section if one currently exists and reasonably fulfills the
10 requirements of this section. [The policy shall identify]

11 (2) Identify the appropriate school staff person to receive
12 reports of incidents of alleged violence, harassment or
13 bullying.

14 (3) Enable students to anonymously report an act of
15 violence, harassment or bullying to school employees.

16 (4) Require school administrators to investigate each report
17 of violence, harassment or bullying to ensure a prompt, fair and
18 equitable response to each report.

19 (5) Require school administrators to review each anonymous
20 report of violence, harassment or bullying, except that
21 disciplinary action may not be taken solely on the basis of an
22 anonymous report.

23 (6) Include a prevention and intervention strategy to deal
24 with bullying, violence and harassment, including sexual
25 harassment, rape, sexual assault, dating violence, stalking and
26 hazing.

27 (7) Establish a procedure for each school entity to document
28 and maintain records relating to reports and investigations of
29 violence, harassment or bullying in the school entity and to
30 report the number of alleged acts of violence, harassment or

1 bullying annually to the Department of Education in the manner
2 prescribed by the Secretary of Education.

3 (b) Each school entity shall make the policy available on
4 its publicly accessible Internet website, if available, and in
5 every classroom. Each school entity shall post the policy at a
6 prominent location within each school building where such
7 notices are usually posted. Each school entity shall ensure that
8 the policy and procedures for reporting [bullying] incidents of
9 violence, harassment or bullying are reviewed with students
10 within ninety (90) days after their adoption and thereafter at
11 least once each school year.

12 (c) Each school entity shall review its policy every three
13 (3) years and annually provide the office with a copy of its
14 policy relating to violence, harassment and bullying, including
15 the number of reported acts of violence, harassment or bullying
16 and information related to the development and implementation of
17 any bullying prevention, intervention and education programs.
18 The information required under this subsection shall be attached
19 to or made part of the annual report required under section
20 1303-A(b).

21 [(d) In its policy relating to bullying adopted or
22 maintained under subsection (a), a school entity shall not be
23 prohibited from defining bullying in such a way as to encompass
24 acts that occur outside a school setting if those acts meet the
25 requirements contained in subsection (e)(1), (3) and (4). If a
26 school entity reports acts of bullying to the office in
27 accordance with section 1303-A(b), it shall report all incidents
28 that qualify as bullying under the entity's adopted definition
29 of that term.

30 (e) For purposes of this article, "bullying" shall mean an

1 intentional electronic, written, verbal or physical act, or a
2 series of acts:

3 (1) directed at another student or students;

4 (2) which occurs in a school setting;

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

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

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

8 (ii) creating a threatening environment; or

9 (iii) substantially disrupting the orderly operation of the
10 school; and

11 "school setting" shall mean in the school, on school grounds,
12 in school vehicles, at a designated bus stop or at any activity
13 sponsored, supervised or sanctioned by the school.]

14 (f) To the extent that money is appropriated for the
15 purpose, the Department of Education shall:

16 (1) Document each school entity's written request for
17 technical assistance and training relating to safe learning,
18 bullying, harassment and violence prevention.

19 (2) Collect information on the prevention and intervention
20 strategies used by school entities to reduce the incidence of
21 bullying, harassment or violence, improve school climate and
22 improve reporting outcomes.

23 (3) Develop or recommend a model policy for kindergarten
24 through twelfth grade.

25 (4) Submit to the General Assembly a report on the status of
26 its efforts under this section on or before July 1, 2018, and
27 biennially thereafter, including, but not limited to, the number
28 of reported acts of bullying, harassment or violence in the
29 Commonwealth and any recommendations that it may have regarding
30 additional activities or funding to prevent bullying, harassment

1 or violence in schools and to improve school climate.

2 (g) Each school entity shall provide professional
3 development for its employees on the following:

4 (1) Health and mental health risk reduction education which
5 includes, but is not limited to, prevention of substance abuse,
6 pregnancy, sexually transmitted diseases, violence, sexual
7 assault, dating violence, domestic violence, stalking, child
8 abuse and youth suicide.

9 (2) School violence prevention, conflict resolution, the
10 prevention of and response to youth suicide and the
11 identification and prevention of and response to bullying,
12 harassment and violence.

13 (h) As used in this section, the following words and phrases
14 shall have the meanings given to them in this subsection unless
15 the context clearly indicates otherwise:

16 "Domestic violence" shall mean the wilful intimidation,
17 physical assault, battery, sexual assault or other abusive
18 behavior as part of a systematic pattern of power and control
19 perpetrated by one intimate partner against another, including,
20 but not limited to, physical violence, sexual violence,
21 psychological violence and emotional abuse.

22 "Harassment" shall mean "harassment" as defined in 18 Pa.C.S.
23 § 2709 (relating to harassment).

24 "Hazing" shall mean "hazing" as defined in section 2 of the
25 act of December 15, 1986 (P.L.1595, No.175), known as the
26 Anti-hazing Law.

27 "Prevention and intervention strategy" shall include, but is
28 not limited to, any of the following:

29 (1) The implementation of a process regarding positive
30 behavioral interventions and supports or another evidence-based

1 model approach for safe school climate or for the prevention of
2 bullying as identified by the Department of Education.

3 (2) School rules prohibiting bullying, harassment and
4 intimidation and establishing appropriate consequences for those
5 who engage in that conduct.

6 (3) The inclusion of age-appropriate bullying, harassment
7 and violence education and prevention curricula for kindergarten
8 through twelfth grade.

9 (4) School-wide training relating to safe school climate.

10 (5) Student peer training, education and support.

11 "Rape" shall mean "rape" as defined in 18 Pa.C.S. § 3121
12 (relating to rape).

13 "School climate" shall mean the quality and character of
14 school life with a particular focus on the quality of the
15 relationships within the school community between and among
16 students and adults.

17 "Sexual assault" shall mean any of the following:

18 (1) "Statutory sexual assault" as defined in 18 Pa.C.S. §
19 3122.1 (relating to statutory sexual assault).

20 (2) "Involuntary deviate sexual intercourse" as defined in
21 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual
22 intercourse).

23 (3) "Sexual assault" as defined in 18 Pa.C.S. § 3124.1
24 (relating to sexual assault).

25 (4) "Institutional sexual assault" as defined in 18 Pa.C.S.
26 § 3124.2 (relating to institutional sexual assault).

27 (5) "Aggravated indecent assault" as defined in 18 Pa.C.S. §
28 3125 (relating to aggravated indecent assault).

29 (6) "Indecent assault" as defined in 18 Pa.C.S. § 3126
30 (relating to indecent assault).

1 (7) "Indecent exposure" as defined in 18 Pa.C.S. § 3127
2 (relating to indecent exposure).

3 "Sexual harassment" shall mean any of the following:

4 (1) Unwelcome conduct of a sexual nature, including, but not
5 limited to, unwelcome sexual advances, requests for sexual
6 favours or other verbal, nonverbal or physical conduct of a
7 sexual nature.

8 (2) Verbal or nonverbal conduct, including, but not limited
9 to, name-calling or a graphic or written statement that is
10 physically threatening, harmful or humiliating.

11 "Stalking" shall mean "stalking" as defined in 18 Pa.C.S. §
12 2709.1 (relating to stalking).

13 Section 2. This act shall take effect in 60 days.