

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2569 Session of 2010

INTRODUCED BY R. TAYLOR, BRIGGS, BRADFORD, BRENNAN, CARROLL, CASORIO, DALEY, DONATUCCI, FRANKEL, GIBBONS, GINGRICH, GRUCELA, LENTZ, MCGEEHAN, MCILVAINE SMITH, MELIO, MURT, M. O'BRIEN, PAYTON, ROCK, SANTARSIERO, SIPTROTH, WAGNER AND YOUNGBLOOD, JUNE 9, 2010

REFERRED TO COMMITTEE ON EDUCATION, JUNE 9, 2010

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] 2011, 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
18 entity's code of student conduct required under 22 Pa. Code §
19 12.3(c) (relating to school rules). The policy shall delineate

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

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

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

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

28 (iv) A statement that the school entity shall make the
29 policy available on its publicly accessible Internet website, if
30 available, in every classroom and shall post the policy at a

prominent location within each school building where such notices are usually posted.

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

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

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

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

(A) a reasonable person should know, under the circumstances, that the act will have the effect of harming a student or damaging the student's property or placing a student

1 in reasonable fear of harm to his or her person or damage to his
2 or her property; and has the effect of isolating or demeaning
3 any student or group of students in such a way as to cause
4 substantial disruption in, or substantial interference with, the
5 orderly operation of the school; or

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

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

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

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

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

28 (v) A procedure for prompt investigation of reports of
29 violations and complaints, identifying either the principal or
30 the principal's designee as the person responsible for the

1 investigation.

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

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

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

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

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

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

29 [(b) Each school entity shall make the policy available on
30 its publicly accessible Internet website, if available, and in

1 every classroom. Each school entity shall post the policy at a
2 prominent location within each school building where such
3 notices are usually posted. Each school entity shall ensure that
4 the policy and procedures for reporting bullying incidents are
5 reviewed with students within ninety (90) days after their
6 adoption and thereafter at least once each school year.

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

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

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

- 26 (1) directed at another student or students;
- 27 (2) which occurs in a school setting;
- 28 (3) that is severe, persistent or pervasive; and
- 29 (4) that has the effect of doing any of the following:
 - 30 (i) substantially interfering with a student's education;

(ii) creating a threatening environment; or
(iii) substantially disrupting the orderly operation of the school; and] "electronic communication" shall mean any communication through an electronic device including, but not limited to, a telephone, cellular phone, computer or page, which communication included, but is not limited to, e-mail, instant messaging, text messaging, blogs, mobile phones, pages, online games and Internet websites; and

"harassment, intimidation, bullying and cyberbullying" shall mean any written, verbal or physical act, or any electronic communication including, but not limited to, one shown to be motivated by a student's actual or perceived race, color, religion, national origin, ancestry or ethnicity, sexual orientation, physical, mental, emotional or learning disability, gender, gender identity and expression or other distinguishing personal characteristic or based on association with any such characteristic, when the written verbal or physical act or electronic communication is:

(1) directed at another student;

(2) that occurs in a school setting or through the use of data, telephone or computer software that is accessed through a computer, computer system or computer network of any public educational institution; and

(3) that has the effect of doing any of the following:

(i) substantially interfering with a student's educational opportunities;

(ii) being so severe, persistent or pervasive that it creates an intimidating or threatening educational environment; both in the view of the targeted student and in the view of a reasonable school official;

1 (iii) substantially disrupting the orderly operation of the
2 school; or
3 (iv) physically harming a student or damaging a student's
4 property; and

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

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

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

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

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

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

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

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

1 to address identified problems.

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

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

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

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

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

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

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