

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1805 Session of 2011

INTRODUCED BY BRIGGS, SANTARSIERO, BRADFORD, B. BOYLE, K. BOYLE, BRENNAN, CALTAGIRONE, CARROLL, DEASY, DeLUCA, DePASQUALE, FRANKEL, FREEMAN, JOHNSON, JOSEPHS, KAVULICH, KORTZ, KULA, MANN, MATZIE, MICOZZIE, MUNDY, MURPHY, MURT, M. O'BRIEN, READSHAW, SCAVELLO, SCHRODER, SHAPIRO, K. SMITH, M. SMITH, STURLA, WAGNER AND YOUNGBLOOD, AUGUST 10, 2011

REFERRED TO COMMITTEE ON EDUCATION, AUGUST 10, 2011

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 certification of teachers, further  
 6 providing for program of continuing professional development;  
 7 providing for suicide prevention instruction; in safe  
 8 schools, further providing for policy relating to bullying;  
 9 and providing for Department of Education requirements and  
 10 responsibilities.

11 The General Assembly of the Commonwealth of Pennsylvania  
 12 hereby enacts as follows:

13 Section 1. Section 1205.2(a) of the act of March 10, 1949  
 14 (P.L.30, No.14), known as the Public School Code of 1949,  
 15 amended June 30, 2011 (P.L.112, No.24), is amended to read:

16 Section 1205.2. Program of Continuing Professional  
 17 Education.--(a) A continuing professional education program is  
 18 hereby established for professional educators, the satisfactory  
 19 completion of which is required to maintain active  
 20 certification. Except as provided in subsection (n.1), the

1 continuing professional education program shall require the  
2 satisfactory completion of continuing professional education  
3 every five (5) years, which shall include, in addition to two  
4 hours of instruction on harassment, intimidation, bullying and  
5 cyberbullying prevention:

6 (1) six (6) credits of collegiate study;

7 (2) six (6) credits of continuing professional education  
8 courses;

9 (3) one hundred eighty (180) hours of continuing  
10 professional education programs, activities or learning  
11 experiences; or

12 (4) any combination of collegiate studies, continuing  
13 professional education courses, or other programs, activities or  
14 learning experiences equivalent to one hundred eighty (180)  
15 hours.

16 \* \* \*

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

18 Section 1205.6. Suicide Prevention Instruction.--(a) At  
19 least once every three years, school entities shall be required  
20 to provide a suicide prevention training course on school  
21 premises, which course shall be completed by all professional  
22 employees of the school entity as defined under section 1101(1).  
23 A school's principal may require other employees of the school  
24 entity who have direct contact with children to complete the  
25 course.

26 (b) The course shall consist of two hours of suicide  
27 prevention instruction, which shall include, but not be limited  
28 to, training on the relationship between the risk of suicide and  
29 incidents of harassment, intimidation, bullying and  
30 cyberbullying and on reducing the risk of suicide in students

1 who are members of communities identified as having members at  
2 high risk of suicide.

3 (c) Completion of training shall be documented by the  
4 signature and title of a representative of the entity that  
5 performs the course and shall include the date the course is  
6 completed. Documentation shall be retained by the school entity  
7 in the employe's file. Training shall be conducted by a licensed  
8 health care professional with training and experience in mental  
9 health issues.

10 (d) School districts may include this training in the  
11 continuing education plan submitted by the district to the  
12 Department of Education under section 1205.1.

13 (e) For purposes of this section, a school entity shall be  
14 defined as a local school district, intermediate unit or area  
15 vocational-technical school.

16 Section 3. Section 1303.1-A of the act, added July 9, 2008  
17 (P.L.846, No.61), is amended to read:

18 Section 1303.1-A. Policy Relating to Bullying.--(a) No  
19 later than January 1, [2009] 2012, each school entity shall  
20 adopt a policy or amend its existing policy [relating to  
21 bullying] prohibiting harassment, intimidation, bullying on  
22 school property, at a school-sponsored function or on a school  
23 bus and cyberbullying, and incorporate the policy into the  
24 school entity's code of student conduct required under 22 Pa.  
25 Code § 12.3(c) (relating to school rules). The policy shall  
26 delineate disciplinary consequences for bullying and [may  
27 provide for prevention, intervention and education programs,  
28 provided that no school entity shall be required to establish a  
29 new policy under this section if one currently exists and  
30 reasonably fulfills the requirements of this section. The policy

1 shall identify the appropriate school staff person to receive  
2 reports of incidents of alleged bullying.] shall identify by job  
3 title, the appropriate school staff person to receive reports of  
4 incidents of alleged bullying and the school officials  
5 responsible for ensuring that the policy is implemented. The  
6 school entity shall involve students, parents, administrators,  
7 school staff, school volunteers, community representatives and  
8 local law enforcement agencies in the process of adopting the  
9 policy. The school entity policy shall be implemented in a  
10 manner that is ongoing throughout the school year and integrated  
11 with the school's curriculum, discipline policies and other  
12 violence prevention efforts. Any discipline imposed under the  
13 policy must fall within the school entity's authority under  
14 section 510. The policy shall contain, at a minimum, the  
15 following components:

16 (1) A statement prohibiting harassment, intimidation,  
17 bullying and cyberbullying of a student.

18 (2) The definition of harassment, intimidation, bullying and  
19 cyberbullying.

20 (3) A description of the type of behavior expected from each  
21 student.

22 (4) Consequences and appropriate remedial action for a  
23 person who commits an act of harassment, intimidation, bullying  
24 or cyberbullying.

25 (5) (i) A procedure for reporting an act of harassment,  
26 intimidation, bullying or cyberbullying, including a provision  
27 that permits a person to report an act of harassment,  
28 intimidation, bullying or cyberbullying anonymously. The  
29 procedure shall also include the following provisions:

30 (A) All acts of harassment, intimidation, bullying or

1 cyberbullying shall be reported verbally to the school principal  
2 on the same day when the school employee witnessed or received  
3 reliable information regarding any such incident.

4 (B) The principal shall inform the parents or guardians of  
5 all students involved in the alleged incident immediately,  
6 unless the principal has reason to believe that taking such  
7 action would jeopardize the health, well-being or safety of one  
8 or more of the students involved in the alleged incident, or  
9 another person related or unrelated to the incident. The  
10 principal may discuss, as appropriate, the availability of  
11 counseling and other intervention or protective services.

12 (C) All acts of harassment, intimidation, bullying or  
13 cyberbullying shall be reported in writing to the principal  
14 within two school days of when the school employee witnessed or  
15 received reliable information that a student had been subject to  
16 harassment, intimidation, bullying or cyberbullying.

17 (ii) This paragraph shall not be construed to permit formal  
18 disciplinary action solely on the basis of an anonymous report.

19 (6) A procedure for prompt investigation of reports of  
20 violations and complaints, which procedure shall at a minimum  
21 provide that:

22 (i) (A) The investigation shall be initiated by the  
23 principal or the principal's designee within one school day of  
24 the report of the incident and shall be conducted by a school  
25 antibullying specialist. The principal may appoint additional  
26 personnel who are not school antibullying specialists to assist  
27 in the investigation.

28 (B) The investigation shall be completed as soon as  
29 possible, but not later than ten school days from the date of  
30 the written report of the incident of harassment, intimidation,

1 bullying or cyberbullying.

2 (C) In the event that there is information relative to the  
3 investigation that is anticipated but not yet received by the  
4 end of the ten-day period, the school antibullying specialist  
5 may amend the original report of the results of the  
6 investigation to reflect the information.

7 (ii) The results of the investigation shall be reported to  
8 the superintendent within two school days of the completion of  
9 the investigation and the superintendent may decide to provide  
10 intervention services, establish training programs to reduce  
11 harassment, intimidation, bullying or cyberbullying and enhance  
12 school climate, impose discipline, order counseling as a result  
13 of the findings of the investigation or take or recommend other  
14 appropriate action.

15 (iii) The results of each investigation shall be reported to  
16 the board of school directors no later than the date of the  
17 board meeting next following the completion of the  
18 investigation, along with information on any services provided,  
19 training established, discipline imposed or other action taken  
20 or recommended by the superintendent.

21 (iv) (A) Parents or guardians of the students who are  
22 parties to the investigation shall be entitled to receive  
23 information about the investigation, in accordance with Federal  
24 and State law and regulation, including the nature of the  
25 investigation, whether the school entity found evidence of  
26 harassment, intimidation, bullying or cyberbullying, or whether  
27 discipline was imposed or services provided to address the  
28 incident of harassment, intimidation, bullying or cyberbullying.  
29 This information shall be provided in writing within five school  
30 days after the results of the investigation are reported to the

1 board.

2 (B) A parent or guardian may request a hearing before the  
3 board after receiving the information, and the hearing shall be  
4 held within ten days of the request.

5 (C) The board shall meet in executive session for the  
6 hearing to protect the confidentiality of the students.

7 (D) At the hearing the board may hear from the school  
8 antibullying specialist about the incident, recommendations for  
9 discipline or services and any programs instituted to reduce  
10 such incidents.

11 (v) (A) At the next board of school directors meeting  
12 following its receipt of the report, the board shall issue a  
13 decision, in writing, to affirm, reject, or modify the  
14 superintendent's decision.

15 (B) The board's decision may be appealed to the State Board  
16 of Education, in accordance with the procedures set forth in law  
17 and regulation, no later than 90 days after the issuance of the  
18 board of school directors' decision.

19 (7) The range of ways in which a school will respond once an  
20 incident of harassment, intimidation, bullying or cyberbullying  
21 is identified, which shall be defined by the principal in  
22 conjunction with the school antibullying specialist, but shall  
23 include an appropriate combination of counseling, support  
24 services, intervention services and other programs, as defined  
25 by the Secretary of Education.

26 (8) A statement that prohibits reprisal or retaliation  
27 against any person who reports an act of harassment,  
28 intimidation, bullying or cyberbullying, including a witness or  
29 one with reliable information about such an act, and the  
30 consequence and appropriate remedial action for a person who

1 engages in reprisal or retaliation.

2 (9) Consequences and appropriate remedial action for a  
3 person found to have falsely accused another as a means of  
4 retaliation or as a means of harassment, intimidation, bullying  
5 or cyberbullying.

6 (10) A statement of the manner in which the policy is to be  
7 publicized, including notice that the policy applies to  
8 participation in school-sponsored functions.

9 (11) A requirement that a link to the policy be prominently  
10 posted on the school entity's publicly accessible Internet  
11 website and distributed annually to parents and guardians who  
12 have children enrolled in a school of the school entity. The  
13 policy shall also be posted at a prominent location within each  
14 school building where such notices are usually posted.

15 (12) A requirement that the name, school telephone number,  
16 school address and school e-mail address of the antibullying  
17 coordinator and the school antibullying specialists be listed on  
18 the school entity's publicly accessible Internet website. The  
19 information concerning the district antibullying coordinator and  
20 the school antibullying specialists shall also be maintained on  
21 the Department of Education's publicly accessible Internet  
22 website.

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

27 (14) A statement that the school entity shall review its  
28 policy every three years and annually provide the office with a  
29 copy of its policy prohibiting harassment, intimidation,  
30 bullying and cyberbullying, including information related to the



1 development and implementation of any harassment, intimidation,  
2 bullying and cyberbullying prevention, intervention and  
3 education programs. The information required under this  
4 paragraph shall be attached to or made part of the annual report  
5 required under section 1303-A(b). If the school entity reports  
6 acts of harassment, intimidation, bullying and cyberbullying to  
7 the office in accordance with section 1303-A(b), it shall report  
8 all incidents that qualify as harassment, intimidation, bullying  
9 and cyberbullying.

10 (15) Provisions for the formation of bullying prevention  
11 task forces, programs and other initiatives involving school  
12 staff, pupils, administrators, volunteers, parents, law  
13 enforcement officials, community members and other stakeholders,  
14 as deemed appropriate by the school entity.

15 (16) Annual training for administrators, school employees  
16 and volunteers who have significant contact with students in  
17 preventing, identifying, responding to and reporting incidents  
18 of harassment, intimidation, bullying or cyberbullying.

19 (17) An educational program for students and parents in  
20 preventing, identifying, responding to and reporting incidents  
21 of harassment, intimidation, bullying or cyberbullying.

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

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

1 (20) A statement that the policy shall apply to an  
2 electronic communication, whether or not the communication  
3 originated on school property or with school equipment, so long  
4 as:

5 (i) a reasonable person would know, under the circumstances,  
6 that the communication would have the effect of harming a  
7 student or damaging the student's property or placing a student  
8 in reasonable fear of harm to his person or damage to his  
9 property; and has the effect of isolating or demeaning any  
10 student or group of students in such a way as to cause  
11 substantial disruption in, or substantial interference with, the  
12 orderly operation of the school; or

13 (ii) the communication is directed specifically at students,  
14 is intended for the purpose of disrupting school and has a high  
15 likelihood of succeeding in that purpose.

16 (21) A requirement that all students shall be protected  
17 regardless of their status under the law.

18 (22) A requirement that notice of a school district's policy  
19 shall appear in any publication of the school district that  
20 states the comprehensive rules, procedures and standards of  
21 conduct for schools within the school district and in any  
22 student handbook.

23 [(b) Each school entity shall make the policy available on  
24 its publicly accessible Internet website, if available, and in  
25 every classroom. Each school entity shall post the policy at a  
26 prominent location within each school building where such  
27 notices are usually posted. Each school entity shall ensure that  
28 the policy and procedures for reporting bullying incidents are  
29 reviewed with students within ninety (90) days after their  
30 adoption and thereafter at least once each school year.

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

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

17 (d.1) A school entity shall annually conduct a survey of its  
18 middle school and high school students relating to bullying.

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

- 22 (1) directed at another student or students;
  - 23 (2) which occurs in a school setting;
  - 24 (3) that is severe, persistent or pervasive; and
  - 25 (4) that has the effect of doing any of the following:
    - 26 (i) substantially interfering with a student's education;
    - 27 (ii) creating a threatening environment; or
    - 28 (iii) substantially disrupting the orderly operation of the
- 29 school; and] "electronic communication" shall mean any  
30 communication through an electronic device including, but not

1 limited to, a telephone, cellular phone, computer or page, which  
2 communication included, but is not limited to, e-mail, instant  
3 messaging, text messaging, blogs, mobile phones, pages, online  
4 games and Internet websites; and

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

15 (1) directed at another student;

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

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

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

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

27 (iii) substantially disrupting the orderly operation of the  
28 school; or

29 (iv) physically harming a student or damaging a student's  
30 property; and

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

5 Section 4. The act is amended by adding a section to read:

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

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

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

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

19 (4) Establish and maintain a central repository for the  
20 collection and analysis of information regarding harassment,  
21 intimidation, bullying or cyberbullying.

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

28 (b) A school employe, school volunteer, student, parent or  
29 guardian who promptly reports in good faith an act of  
30 harassment, intimidation, bullying or cyberbullying to the

1 appropriate school official designated in the school district's  
2 policy established under section 1303.1-A and who makes this  
3 report in compliance with the procedures set forth in the policy  
4 is immune from a cause of action for damages arising out of the  
5 reporting itself or any failure to remedy the reported incident.

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

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

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

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

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

25 Section 5. This act shall take effect in 60 days.