

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 416 Session of 2015

INTRODUCED BY BRIGGS, BISHOP, SCHREIBER, FRANKEL, BOBACK,
 D. COSTA, FARINA, COHEN, BROWNLEE, YOUNGBLOOD, CONKLIN,
 GODSHALL, FREEMAN, DAVIS, THOMAS, O'BRIEN, D. MILLER, GAINNEY,
 SCHWEYER, M. DALEY, SCHLOSSBERG, HARKINS, DAVIDSON, V. BROWN,
 CARROLL, MURT, DEASY, READSHAW, ACOSTA, SIMS, DeLUCA,
 GIBBONS, DEAN, ROEBUCK, McCARTER, TRUITT AND ROZZI,
 FEBRUARY 9, 2015

REFERRED TO COMMITTEE ON EDUCATION, FEBRUARY 9, 2015

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 and, in safe schools, further providing for policy relating
 8 to bullying, and providing for Department of Education
 9 requirements and responsibilities.

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

12 Section 1. Section 1205.2(a) of the act of March 10, 1949
 13 (P.L.30, No.14), known as the Public School Code of 1949,
 14 amended July 5, 2012 (P.L.965, No.105), is amended to read:

15 Section 1205.2. Program of Continuing Professional
 16 Education.--(a) A continuing professional education program is
 17 hereby established for professional educators, the satisfactory
 18 completion of which is required to maintain active
 19 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. Section 1303.1-A of the act, added July 9, 2008
18 (P.L.846, No.61), is amended to read:

19 Section 1303.1-A. Policy Relating to Bullying.--(a) No
20 later than January 1, [2009] 2016, each school entity shall
21 adopt a policy or amend its existing policy [relating to
22 bullying] prohibiting harassment, intimidation, bullying on
23 school property, at a school-sponsored function or on a school
24 bus and cyberbullying, and incorporate the policy into the
25 school entity's code of student conduct required under 22 Pa.
26 Code § 12.3(c) (relating to school rules). The policy shall
27 delineate disciplinary consequences for bullying and [may
28 provide for prevention, intervention and education programs,
29 provided that no school entity shall be required to establish a
30 new policy under this section if one currently exists and

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

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

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

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

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

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

1 (A) All acts of harassment, intimidation, bullying or
2 cyberbullying shall be reported verbally to the school principal
3 on the same day when the school employe witnessed or received
4 reliable information regarding any such incident.

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

13 (C) All acts of harassment, intimidation, bullying or
14 cyberbullying shall be reported in writing to the principal
15 within two (2) school days of when the school employe witnessed
16 or received reliable information that a student had been subject
17 to harassment, intimidation, bullying or cyberbullying.

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

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

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

29 (B) The investigation shall be completed as soon as
30 possible, but not later than ten (10) school days from the date

1 of the written report of the incident of harassment,
2 intimidation, bullying or cyberbullying.

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

8 (ii) The results of the investigation shall be reported to
9 the superintendent within two (2) school days of the completion
10 of the investigation and the superintendent may decide to
11 provide intervention services, establish training programs to
12 reduce harassment, intimidation, bullying or cyberbullying and
13 enhance school climate, impose discipline, order counseling as a
14 result of the findings of the investigation or take or recommend
15 other appropriate action.

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

22 (iv) (A) Parents or guardians of the students who are
23 parties to the investigation shall be entitled to receive
24 information about the investigation, in accordance with Federal
25 and State law and regulation, including the nature of the
26 investigation, whether the school entity found evidence of
27 harassment, intimidation, bullying or cyberbullying, or whether
28 discipline was imposed or services provided to address the
29 incident of harassment, intimidation, bullying or cyberbullying.
30 This information shall be provided in writing within five (5)

1 school days after the results of the investigation are reported
2 to the board.

3 (B) A parent or guardian may request a hearing before the
4 board after receiving the information, and the hearing shall be
5 held within ten (10) days of the request.

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

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

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

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

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

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

1 consequence and appropriate remedial action for a person who
2 engages in reprisal or retaliation.

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

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

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

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

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

28 (14) A statement that the school entity shall review its
29 policy every three (3) years and annually provide the office
30 with a copy of its policy prohibiting harassment, intimidation,

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

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

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

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

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

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

1 constitute criminal activity.

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

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

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

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

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

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

1 adoption and thereafter at least once each school year.

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

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

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

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

23 (1) directed at another student or students;

24 (2) which occurs in a school setting;

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

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

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

28 (ii) creating a threatening environment; or

29 (iii) substantially disrupting the orderly operation of the
30 school; and] "electronic communication" shall mean any

1 communication through an electronic device including, but not
2 limited to, a telephone, cellular phone, computer or pager,
3 which communication included, but is not limited to, e-mail,
4 instant messaging, text messaging, blogs, mobile phones, pagers,
5 online games and Internet websites; and

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

16 (1) is directed at another student;

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

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

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

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

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

30 (iv) physically harming a student or damaging a student's

1 property; and

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

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

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

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

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

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

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

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

29 (b) A school employe, school volunteer, student, parent or
30 guardian who promptly reports in good faith an act of

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

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

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

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

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

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

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