S T A T E O F N E W Y O R K

304

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. PERALTA, WEISENBERG, JOHN, CHRISTENSEN, BENEDETTO, ERRIGO, FIELDS, ESPAILLAT, GALEF, CLARK, TITUS -- Multi-Sponsored by -- M. of A. ALFANO, BARRA, BOYLAND, CARROZZA, CONTE, COOK, DelMONTE, FARRELL, FINCH, GIGLIO, PHEFFER -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to authorizing school districts to establish policies prohibiting the wearing of gang-related apparel, markings or symbols

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 305 of the education law is amended by adding a new subdivision 42 to read as follows:

42. THE COMMISSIONER IS AUTHORIZED AND DIRECTED TO DEVELOP RULES AND REGULATIONS AUTHORIZING THE BOARD OF ANY SCHOOL DISTRICT TO ADOPT A POLICY THAT PROHIBITS STUDENTS FROM WEARING GANG-RELATED APPAREL, MARKINGS OR SYMBOLS IF THE BOARD OF THE SCHOOL DISTRICT DETERMINES THAT THE POLICY IS NECESSARY FOR THE HEALTH AND SAFETY, OR SECURITY OF THE SCHOOL ENVIRONMENT. FOR THE PURPOSE OF THIS SUBDIVISION, GANG-RELATED APPAREL, MARKINGS AND SYMBOLS SHALL INCLUDE, BUT NOT NECESSARILY BE LIMITED TO, CLOTHING THAT CONTAINS A NAME OR IDENTIFYING SIGN, A SYMBOL THAT PROMOTES A CRIMINAL STREET GANG, OR A TATTOO OR OTHER PHYSICAL MARKING THAT IS NOT COVERED WITH CLOTHING, OR STYLE OF DRESS THAT PROMOTES A CRIMINAL STREET GANG. SUCH SCHOOL DISTRICT POLICY MAY AUTHORIZE THE SCHOOL DISTRICT SUPERINTENDENT TO MANDATE COUNSELING OR COMMUNITY SERVICE, OR BOTH, IN ORDER TO CONTINUE ATTENDANCE IN THE SCHOOL DISTRICT, PROVIDED THAT SUCH POLICY CONTAINS A PROCEDURE THAT COMPLIES WITH DUE PROCESS REQUIREMENTS REGARDING STUDENT SUSPENSION PROVIDED IN SECTION THIRTY-TWO HUNDRED FOURTEEN OF THIS CHAPTER.

S 2. Severability. If any provision of this act, or the application thereof to any person or circumstance, shall be adjudged by any court of

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the provision of this act, or in its application to the person or circumstance, directly involved in the controversy in which such judgment shall have been rendered.

S 3. This act shall take effect on the ninetieth day after it shall have become a law.