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

5544

2009-2010 Regular Sessions

I N A S S E M B L Y

February 13, 2009

Introduced by M. of A. TITUS, FIELDS, DelMONTE, WEISENBERG, CLARK, PEOPLES, EDDINGTON, CAHILL -- Multi-Sponsored by -- M. of A. BOYLAND, COLTON, DIAZ, GALEF, GOTTFRIED, LANCMAN, MARKEY, MAYERSOHN, MILLMAN, PERALTA, PHEFFER, N. RIVERA, ROBINSON, ROSENTHAL, TOWNS, WRIGHT -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to harassment prevention policies

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

Section 1. The education law is amended by adding a new section 313-b to read as follows:

S 313-B. HARASSMENT PREVENTION POLICIES. 1. THE COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS THAT PROHIBIT THE HARASSMENT, INTIMIDATION OR BULLYING OF ANY STUDENT. IT SHALL BE THE RESPONSIBILITY OF EACH SCHOOL DISTRICT TO MAKE AVAILABLE COPIES OF SUCH POLICIES TO PARENTS, GUARDIANS, STUDENTS, VOLUNTEERS AND SCHOOL EMPLOYEES.

2. AS USED IN THIS SECTION:

(A) "HARASSMENT, INTIMIDATION OR BULLYING" SHALL MEAN ANY INTENTIONAL ELECTRONIC, WRITTEN, VERBAL OR PHYSICAL ACT, INCLUDING BUT NOT LIMITED TO ONE SHOWN TO BE MOTIVATED BY ANY CHARACTERISTIC IN SECTION 240.25, 240.26, 240.30 OR 240.31 OF THE PENAL LAW, OR OTHER DISTINGUISHING CHARACTERISTICS, WHEN THE INTENTIONAL ELECTRONIC, WRITTEN, VERBAL OR PHYSICAL ACT:

(1) PHYSICALLY HARMS A STUDENT OR DAMAGES THE STUDENT'S PROPERTY; OR

(2) HAS THE EFFECT OF SUBSTANTIALLY INTERFERING WITH A STUDENT'S EDUCATION; OR

(3) IS SO SEVERE, PERSISTENT OR PERVASIVE THAT IT CREATES AN INTIMIDATING EDUCATIONAL ENVIRONMENT; OR

(4) HAS THE EFFECT OF SUBSTANTIALLY DISRUPTING THE ORDERLY OPERATION OF THE SCHOOL.

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

LBD07569-01-9

(B) "ELECTRONIC" OR "ELECTRONIC MEANS" SHALL MEAN ANY COMMUNICATION WHERE THERE IS THE TRANSMISSION OF INFORMATION BY WIRE, RADIO, OPTICAL CABLE, ELECTROMAGNETIC OR OTHER SIMILAR MEANS. SUCH TERMS SHALL INCLUDE, BUT NOT BE LIMITED TO, COMMUNICATION VIA ELECTRONIC MAIL, INTERNET-BASED COMMUNICATIONS, PAGER SERVICE, CELL PHONES AND ELECTRONIC MESSAGING.

3. THE COMMISSIONER, IN PROMULGATING SUCH RULES AND REGULATIONS, SHALL CONSULT WITH PARENTS, SCHOOL PERSONNEL AND OTHER INTERESTED PARTIES. THE COMMISSIONER SHALL PROVIDE TO SCHOOL DISTRICTS A MODEL HARASSMENT, INTIMIDATION AND BULLYING PREVENTION POLICY AS WELL AS TRAINING MATERIALS FOR USE IN IMPLEMENTING SUCH POLICY. THE COMMISSIONER SHALL POST THE MODEL POLICY, RECOMMENDED TRAINING MATERIALS AND INSTRUCTIONAL MATERIALS ON THE DEPARTMENT'S WEBSITE.

4. THE COMMISSIONER, BY AUGUST FIRST, TWO THOUSAND TEN, SHALL UPDATE THE HARASSMENT, INTIMIDATION AND BULLYING POLICY TO INCLUDE A SECTION ADDRESSING ACTS OF HARASSMENT, INTIMIDATION OR BULLYING THAT ARE CONDUCTED VIA ELECTRONIC MEANS. THE POLICY SHALL INCLUDE A REQUIREMENT THAT MATERIALS MEANT TO EDUCATE PARENTS AND STUDENTS ABOUT THE SERIOUSNESS OF CYBERBULLYING BE DISSEMINATED TO PARENTS OR MADE AVAILABLE ON A SCHOOL DISTRICT'S WEBSITE. THE MATERIAL SHALL INCLUDE INFORMATION ON RESPONSIBLE AND SAFE INTERNET USE AS WELL AS WHAT OPTIONS ARE AVAILABLE IF A STUDENT IS BEING BULLIED VIA ELECTRONIC MEANS INCLUDING, BUT NOT LIMITED TO, REPORTING THREATS TO LOCAL POLICE AND WHEN TO INVOLVE SCHOOL OFFICIALS, THE INTERNET SERVICE PROVIDER OR PHONE SERVICE PROVIDER. IF A SCHOOL DISTRICT HAS INTERNET USE POLICIES, THE ACT OF HARASSING, INTIMIDATING OR BULLYING ANOTHER STUDENT VIA ONLINE MEANS SHALL BE INCLUDED AS A PROHIBITED ACT AND BE SUBJECT TO DISCIPLINARY ACTION.

S 2. This act shall take effect on the one hundred twentieth day after it shall have become law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the timely implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.