

2214

2009-2010 Regular Sessions

I N   S E N A T E

February 13, 2009

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Introduced by Sen. DIAZ -- read twice and ordered printed, and when printed to be committed 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:

1     Section 1. Section 305 of the education law is amended by adding a new  
2     subdivision 42 to read as follows:  
3     42. THE COMMISSIONER IS AUTHORIZED AND DIRECTED TO DEVELOP RULES AND  
4     REGULATIONS AUTHORIZING THE BOARD OF ANY SCHOOL DISTRICT TO ADOPT A  
5     POLICY THAT PROHIBITS STUDENTS FROM WEARING GANG-RELATED APPAREL, MARK-  
6     INGS OR SYMBOLS IF THE BOARD OF THE SCHOOL DISTRICT DETERMINES THAT THE  
7     POLICY IS NECESSARY FOR THE HEALTH AND SAFETY, OR SECURITY OF THE SCHOOL  
8     ENVIRONMENT. FOR THE PURPOSE OF THIS SUBDIVISION, GANG-RELATED APPAREL,  
9     MARKINGS AND SYMBOLS SHALL INCLUDE, BUT NOT NECESSARILY BE LIMITED TO,  
10    CLOTHING THAT CONTAINS A NAME OR IDENTIFYING SIGN, A SYMBOL THAT  
11    PROMOTES A CRIMINAL STREET GANG, OR A TATTOO OR OTHER PHYSICAL MARKING  
12    THAT IS NOT COVERED WITH CLOTHING, OR STYLE OF DRESS THAT PROMOTES A  
13    CRIMINAL STREET GANG. SUCH SCHOOL DISTRICT POLICY MAY AUTHORIZE THE  
14    SCHOOL DISTRICT SUPERINTENDENT TO MANDATE COUNSELING OR COMMUNITY  
15    SERVICE, OR BOTH, IN ORDER TO CONTINUE ATTENDANCE IN THE SCHOOL  
16    DISTRICT, PROVIDED THAT SUCH POLICY CONTAINS A PROCEDURE THAT COMPLIES  
17    WITH DUE PROCESS REQUIREMENTS REGARDING STUDENT SUSPENSION PROVIDED IN  
18    SECTION THIRTY-TWO HUNDRED FOURTEEN OF THIS CHAPTER.  
19    S 2. Severability. If any provision of this act, or the application  
20    thereof to any person or circumstance, shall be adjudged by any court of  
21    competent jurisdiction to be invalid or unconstitutional, such judgment  
22    shall not affect, impair or invalidate the remainder thereof, but shall  
23    be confined in its operation to the provision of this act, or in its

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

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1 application to the person or circumstance, directly involved in the  
2 controversy in which such judgment shall have been rendered.  
3 S 3. This act shall take effect on the ninetieth day after it shall  
4 have become a law.