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2011-2012 Regular Sessions

I N A S S E M B L Y

February 11, 2011

Introduced by M. of A. TITUS, WEISENBERG, PEOPLES-STOKES, CLARK, CAHILL
-- Multi-Sponsored by -- M. of A. BOYLAND, COLTON, GALEF, GOTTFRIED,
LANCMAN, MARKEY, MAYERSOHN, MILLMAN, 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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. The education law is amended by adding a new section 313-b
2 to read as follows:
3 S 313-B. HARASSMENT PREVENTION POLICIES. 1. THE COMMISSIONER SHALL
4 PROMULGATE RULES AND REGULATIONS THAT PROHIBIT THE HARASSMENT, INTIM-
5 IDATION OR BULLYING OF ANY STUDENT. IT SHALL BE THE RESPONSIBILITY OF
6 EACH SCHOOL DISTRICT TO MAKE AVAILABLE COPIES OF SUCH POLICIES TO
7 PARENTS, GUARDIANS, STUDENTS, VOLUNTEERS AND SCHOOL EMPLOYEES.
8 2. AS USED IN THIS SECTION:
9 (A) "HARASSMENT, INTIMIDATION OR BULLYING" SHALL MEAN ANY INTENTIONAL
10 ELECTRONIC, WRITTEN, VERBAL OR PHYSICAL ACT, INCLUDING BUT NOT LIMITED
11 TO ONE SHOWN TO BE MOTIVATED BY ANY CHARACTERISTIC IN SECTION 240.25,
12 240.26, 240.30 OR 240.31 OF THE PENAL LAW, OR OTHER DISTINGUISHING CHAR-
13 ACTERISTICS, WHEN THE INTENTIONAL ELECTRONIC, WRITTEN, VERBAL OR PHYS-
14 ICAL ACT:
15 (1) PHYSICALLY HARMS A STUDENT OR DAMAGES THE STUDENT'S PROPERTY; OR
16 (2) HAS THE EFFECT OF SUBSTANTIALLY INTERFERING WITH A STUDENT'S
17 EDUCATION; OR
18 (3) IS SO SEVERE, PERSISTENT OR PERVASIVE THAT IT CREATES AN INTIM-
19 IDATING EDUCATIONAL ENVIRONMENT; OR
20 (4) HAS THE EFFECT OF SUBSTANTIALLY DISRUPTING THE ORDERLY OPERATION
21 OF THE SCHOOL.

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

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1 (B) "ELECTRONIC" OR "ELECTRONIC MEANS" SHALL MEAN ANY COMMUNICATION
2 WHERE THERE IS THE TRANSMISSION OF INFORMATION BY WIRE, RADIO, OPTICAL
3 CABLE, ELECTROMAGNETIC OR OTHER SIMILAR MEANS. SUCH TERMS SHALL INCLUDE,
4 BUT NOT BE LIMITED TO, COMMUNICATION VIA ELECTRONIC MAIL, INTERNET-BASED
5 COMMUNICATIONS, PAGER SERVICE, CELL PHONES AND ELECTRONIC MESSAGING.
6 3. THE COMMISSIONER, IN PROMULGATING SUCH RULES AND REGULATIONS, SHALL
7 CONSULT WITH PARENTS, SCHOOL PERSONNEL AND OTHER INTERESTED PARTIES. THE
8 COMMISSIONER SHALL PROVIDE TO SCHOOL DISTRICTS A MODEL HARASSMENT,
9 INTIMIDATION AND BULLYING PREVENTION POLICY AS WELL AS TRAINING MATERI-
10 ALS FOR USE IN IMPLEMENTING SUCH POLICY. THE COMMISSIONER SHALL POST THE
11 MODEL POLICY, RECOMMENDED TRAINING MATERIALS AND INSTRUCTIONAL MATERIALS
12 ON THE DEPARTMENT'S WEBSITE.
13 4. THE COMMISSIONER, BY AUGUST FIRST, TWO THOUSAND TWELVE, SHALL
14 UPDATE THE HARASSMENT, INTIMIDATION AND BULLYING POLICY TO INCLUDE A
15 SECTION ADDRESSING ACTS OF HARASSMENT, INTIMIDATION OR BULLYING THAT ARE
16 CONDUCTED VIA ELECTRONIC MEANS. THE POLICY SHALL INCLUDE A REQUIREMENT
17 THAT MATERIALS MEANT TO EDUCATE PARENTS AND STUDENTS ABOUT THE SERIOUS-
18 NESS OF CYBERBULLYING BE DISSEMINATED TO PARENTS OR MADE AVAILABLE ON A
19 SCHOOL DISTRICT'S WEBSITE. THE MATERIAL SHALL INCLUDE INFORMATION ON
20 RESPONSIBLE AND SAFE INTERNET USE AS WELL AS WHAT OPTIONS ARE AVAILABLE
21 IF A STUDENT IS BEING BULLIED VIA ELECTRONIC MEANS INCLUDING, BUT NOT
22 LIMITED TO, REPORTING THREATS TO LOCAL POLICE AND WHEN TO INVOLVE SCHOOL
23 OFFICIALS, THE INTERNET SERVICE PROVIDER OR PHONE SERVICE PROVIDER. IF A
24 SCHOOL DISTRICT HAS INTERNET USE POLICIES, THE ACT OF HARASSING, INTIM-
25 IDATING OR BULLYING ANOTHER STUDENT VIA ONLINE MEANS SHALL BE INCLUDED
26 AS A PROHIBITED ACT AND BE SUBJECT TO DISCIPLINARY ACTION.
27 S 2. This act shall take effect on the one hundred twentieth day after
28 it shall have become law; provided, however, that effective immediately,
29 the addition, amendment and/or repeal of any rule or regulation neces-
30 sary for the timely implementation of this act on its effective date are
31 authorized and directed to be made and completed on or before such
32 effective date.