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

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I N A S S E M B L Y

March 12, 2012

Introduced by M. of A. O'DONNELL, NOLAN -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to expanding provisions relating to cyber-bullying in schools

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

Section 1. Legislative findings and intent. The legislature recognizes that incidents of bullying, which is one aspect of harassment, continue to disrupt the lives and education of students across the state, and that bullying manifests in many forms, including through the use of technology in what is often called cyber-bullying. The legislature also recognizes that most cyber-bullying originates off-campus, but nonetheless affects the school environment and disrupts the educational process, impeding the ability of students to learn. In expanding the provisions of chapter 482 of the laws of 2010, the legislature intends to give school districts tools to address cyber-bullying consistent with the emerging research in the field, but without making school districts legally responsible for controlling or prohibiting behavior that originates off-campus and does not substantially disrupt the education process or school learning environment.

S 2. Section 10 of the education law, as added by chapter 482 of the laws of 2010, is amended to read as follows:

S 10. Legislative intent. The legislature finds that students' ability to learn and to meet high academic standards, and a school's ability to educate its students, are compromised by incidents of discrimination or harassment including bullying, CYBER-BULLYING, taunting or intimidation. It is hereby declared to be the policy of the state to afford all students in public schools an environment free of discrimination and harassment. The purpose of this article is to foster civility in public schools and to prevent and prohibit conduct which is inconsistent with a school's educational mission.

S 3. Subdivision 7 of section 11 of the education law, as added by chapter 482 of the laws of 2010, is amended and a new subdivision 8 is added to read as follows:

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

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7. "Harassment (BULLYING)" shall mean the creation of a hostile environment by conduct or by verbal threats, intimidation or abuse, CONVEYED IN ANY MANNER INCLUDING BUT NOT LIMITED TO ELECTRONIC COMMUNICATION, that has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional or physical well-being; or conduct, verbal threats, intimidation or abuse that reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety; such conduct, verbal threats, intimidation or abuse includes but is not limited to conduct, verbal threats, intimidation or abuse based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex.

8. "CYBER-BULLYING" FOR THE LIMITED PURPOSES OF THE TRAINING PROVISIONS OF THIS ARTICLE SHALL MEAN HARASSMENT (BULLYING) AS DEFINED IN SUBDIVISION SEVEN OF THIS SECTION WHEN SUCH HARASSMENT OCCURS THROUGH ANY FORM OF ELECTRONIC COMMUNICATION.

S 4. Subdivision 2 of section 12 of the education law, as added by chapter 482 of the laws of 2010, is amended to read as follows:

2. [An age-appropriate version of the] THE policy outlined in subdivision one of this section, written in plain-language, shall be included in the code of conduct adopted by boards of education and the trustees or sole trustee pursuant to section twenty-eight hundred one of this chapter and a summary of such policy shall be included in any summaries required by such section twenty-eight hundred one.

S 5. Section 13 of the education law, as added by chapter 482 of the laws of 2010, is amended to read as follows:

S 13. Policies and guidelines. The board of education and the trustees or sole trustee of every school district shall create policies and guidelines that shall include, but not be limited to:

1. Policies intended to create a school environment that is free from discrimination or harassment;

2. Guidelines to be used in school training programs to discourage the development of discrimination or harassment (BULLYING), AND TO MAKE SCHOOL EMPLOYEES AWARE OF THE EFFECTS OF CYBER-BULLYING, HARASSMENT (BULLYING) OR DISCRIMINATION ON STUDENTS, and that are designed:

a. to raise the awareness and sensitivity of school employees to potential discrimination or harassment[,] (BULLYING); and

b. to enable employees to prevent and respond to discrimination or harassment (BULLYING); and

3. Guidelines relating to the development of nondiscriminatory instructional and counseling methods, and requiring that at least one staff member at every school be thoroughly trained to handle human relations in the areas of race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, and sex[.];

4. GUIDELINES RELATING TO THE DEVELOPMENT OF MEASURED, BALANCED AND AGE-APPROPRIATE RESPONSES TO INSTANCES OF DISCRIMINATION OR HARASSMENT (BULLYING), WITH REMEDIES AND PROCEDURES FOCUSING ON INTERVENTION AND EDUCATION; AND

5. TRAINING REQUIRED BY THIS SECTION SHALL BE BASED ON RESEARCH THAT ADDRESSES SOCIAL PATTERNS OF AGGRESSION AND THE NEEDS OF STUDENTS WHO BELONG TO SOCIALLY MARGINALIZED IDENTITY CATEGORIES, AND ON RESEARCH THAT ADDRESSES PROFESSIONAL PRACTICES THAT ARE EFFECTIVE IN ENHANCING INCLUSION AND EQUITY AND ADDRESSING PROBLEMS OF EXCLUSION, DISCRIMINATION, HARASSMENT, BIAS AND AGGRESSION IN EDUCATIONAL SETTINGS; SOCIAL-

LY MARGINALIZED IDENTITY CATEGORIES INCLUDE, BUT ARE NOT LIMITED TO, A STUDENT'S ACTUAL OR PERCEIVED RACE, COLOR, WEIGHT, NATIONAL ORIGIN, ETHNIC GROUP, RELIGION, RELIGIOUS PRACTICE, DISABILITY, SEXUAL ORIENTATION, GENDER, AND SEX.

S 6. Section 14 of the education law, as added by chapter 482 of the laws of 2010, is amended to read as follows:

S 14. Commissioner's responsibilities. The commissioner shall:

1. Provide direction, which may include development of model policies and, to the extent possible, direct services, to school districts related to preventing discrimination and harassment (BULLYING) and to fostering an environment in every school where all children can learn free of manifestations of bias;

2. Provide grants, from funds appropriated for such purpose, to local school districts to assist them in implementing the guidelines set forth in this section; [and]

3. Promulgate regulations to assist school districts in implementing this article including, but not limited to, regulations to assist school districts in developing measured, balanced, and age-appropriate responses to violations of this policy, with remedies and procedures focusing on intervention and education[.] AND PROVIDE GUIDANCE RELATED TO THE APPLICATION OF THE REGULATIONS, INCLUDING BUT NOT LIMITED TO THE MANNER AND EXTENT TO WHICH BEHAVIOR THAT OCCURS OFF SCHOOL PROPERTY AND NOT AT A SCHOOL SPONSORED EVENT MAY BE CONSIDERED IN FORMULATING AN APPROPRIATE RESPONSE TO A VIOLATION OF THIS POLICY; AND

4. PROVIDE GUIDANCE AND EDUCATIONAL MATERIALS TO SCHOOL DISTRICTS RELATED TO BEST PRACTICES IN ADDRESSING CYBER-BULLYING AND HELPING FAMILIES AND COMMUNITIES WORK COOPERATIVELY WITH SCHOOLS IN ADDRESSING CYBER-BULLYING, WHETHER ON OR OFF SCHOOL PROPERTY OR AT OR AWAY FROM A SCHOOL FUNCTION.

S 7. Section 801-a of the education law, as amended by chapter 482 of the laws of 2010, is amended to read as follows:

S 801-a. Instruction in civility, citizenship and character education. The regents shall ensure that the course of instruction in grades kindergarten through twelve includes a component on civility, citizenship and character education. Such component shall instruct students on the principles of honesty, tolerance, personal responsibility, respect for others WITH AN EMPHASIS ON DISCOURAGING ACTS OF HARASSMENT AND DISCRIMINATION, observance of laws and rules, courtesy, dignity and other traits which will enhance the quality of their experiences in, and contributions to, the community. SUCH COMPONENT SHALL INCLUDE INSTRUCTION ON SAFE, RESPONSIBLE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. The regents shall determine how to incorporate such component in existing curricula and the commissioner shall promulgate any regulations needed to carry out such determination of the regents. For the purposes of this section, "tolerance," "respect for others" and "dignity" shall include awareness and sensitivity to discrimination or harassment and civility in the relations of people of different races, weights, national origins, ethnic groups, religions, religious practices, mental or physical abilities, sexual orientations, genders, and sexes.

S 8. This act shall take effect on July 1, 2013; provided, however, that if chapter 482 of the laws of 2010 shall not have taken effect on or before such date then this act shall take effect on the same date and in the same manner as such chapter of the laws of 2010 takes effect.