

5916

2011-2012 Regular Sessions

I N S E N A T E

November 2, 2011

Introduced by Sen. MONTGOMERY -- read twice and ordered printed, and
when printed to be committed to the Committee on Rules

AN ACT to amend the education law, in relation to harassment of students

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

1 Section 1. Section 16 of the education law, as added by chapter 482 of
2 the laws of 2010, is amended to read as follows:
3 S 16. [Protection of people who report] REPORTING discrimination or
4 harassment. A. THE COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS
5 PROVIDING FOR A PROCESS BY WHICH ANY EMPLOYEE, PARENT, OR STUDENT,
6 HAVING REASONABLE CAUSE TO SUSPECT AN INCIDENT OF DISCRIMINATION OR
7 HARASSMENT AS DEFINED IN THIS ARTICLE, CAN REPORT SUCH INCIDENTS TO
8 APPROPRIATE SCHOOL OFFICIALS, AND ALSO PROVIDE GUIDELINES FOR ACTIONS
9 WHICH SHALL BE TAKEN BY SCHOOL OFFICIALS PURSUANT TO SUCH REPORTS. SUCH
10 ACTIONS MAY INCLUDE RECOMMENDED COUNSELING, SCHOOL DISCIPLINE, SUSPEN-
11 SION OR EXPULSION OR REPORTS TO LAW ENFORCEMENT. SUCH REPORT SHALL BE
12 INVESTIGATED IMMEDIATELY, AND IT SHALL BE THE RESPONSIBILITY OF ANY
13 SCHOOL OFFICIAL TO REPORT AND INVESTIGATE SUCH INCIDENTS AND RESPOND
14 APPROPRIATELY ACCORDING TO SUCH RULES AND REGULATIONS. SUCH REPORTS
15 SHALL BE MADE AVAILABLE BY THE SCHOOL UPON REQUEST.
16 B. Any person having reasonable cause to suspect that a student has
17 been subjected to discrimination or harassment by an employee or
18 student, on school grounds or at a school function, who, acting reason-
19 ably and in good faith, either reports such information to school offi-
20 cials, to the commissioner, or to law enforcement authorities or other-
21 wise initiates, testifies, participates or assists in any formal or
22 informal proceedings under this article, shall have immunity from any
23 civil liability that may arise from the making of such report or from
24 initiating, testifying, participating or assisting in such formal or
25 informal proceedings, and no school district or employee shall take,
26 request or cause a retaliatory action against any such person who,

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

LBD13568-02-1

1 acting reasonably and in good faith, either makes such a report or
2 initiates, testifies, participates or assists in such formal or informal
3 proceedings.

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

6 S 10. Legislative intent. The legislature finds that students' ability
7 to learn and to meet high academic standards, and a school's ability to
8 educate its students, are compromised by incidents of discrimination or
9 harassment including bullying, taunting or intimidation. It is hereby
10 declared to be the policy of the state to afford all students in public
11 schools an environment free of discrimination and harassment. The
12 purpose of this article is to foster civility in public schools and to
13 prevent and prohibit conduct which is inconsistent with a school's
14 educational mission. PUBLIC SCHOOLS SHALL HAVE THE RESPONSIBILITY TO
15 FOSTER A LEARNING ENVIRONMENT FREE FROM INCIDENTS OF DISCRIMINATION OR
16 HARASSMENT INCLUDING BULLYING, TAUNTING OR INTIMIDATION AS DEFINED IN
17 THIS ARTICLE.

18 S 3. Subdivision 7 of section 11 of the education law, as added by
19 chapter 482 of the laws of 2010, is amended to read as follows:

20 7. "Harassment" shall mean the INTENTIONAL creation of a hostile envi-
21 ronment [by conduct or] by MEANS OF ELECTRONIC, WRITTEN, verbal
22 [threats] COMMUNICATION OR PHYSICAL CONDUCT, intimidation or abuse that
23 has or would have the effect of unreasonably and substantially interfer-
24 ing with a student's educational performance, opportunities or benefits,
25 or mental, emotional or physical well-being; or ELECTRONIC, WRITTEN,
26 VERBAL COMMUNICATION OR PHYSICAL conduct, [verbal threats,] intimidation
27 or abuse that reasonably causes or would reasonably be expected to cause
28 a student to fear for his or her physical safety; such ELECTRONIC, WRIT-
29 TEN OR VERBAL COMMUNICATION OR PHYSICAL conduct, [verbal threats,]
30 intimidation or abuse includes but is not limited to [conduct, verbal]
31 threats, intimidation or abuse based on a person's actual or perceived
32 race, color, weight, national origin, ethnic group, religion, religious
33 practice, disability, sexual orientation, gender or sex.

34 S 4. This act shall take effect on the same date and in the same
35 manner as chapter 482 of the laws of 2010 takes effect.