

9535

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:

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

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

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

26 S 3. Subdivision 7 of section 11 of the education law, as added by
27 chapter 482 of the laws of 2010, is amended and a new subdivision 8 is
28 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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1 7. "Harassment (BULLYING)" shall mean the creation of a hostile envi-
2 ronment by conduct or by verbal threats, intimidation or abuse, CONVEYED
3 IN ANY MANNER INCLUDING BUT NOT LIMITED TO ELECTRONIC COMMUNICATION,
4 that has or would have the effect of unreasonably and substantially
5 interfering with a student's educational performance, opportunities or
6 benefits, or mental, emotional or physical well-being; or conduct,
7 verbal threats, intimidation or abuse that reasonably causes or would
8 reasonably be expected to cause a student to fear for his or her phys-
9 ical safety; such conduct, verbal threats, intimidation or abuse
10 includes but is not limited to conduct, verbal threats, intimidation or
11 abuse based on a person's actual or perceived race, color, weight,
12 national origin, ethnic group, religion, religious practice, disability,
13 sexual orientation, gender or sex.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 S 801-a. Instruction in civility, citizenship and character education.
33 The regents shall ensure that the course of instruction in grades
34 kindergarten through twelve includes a component on civility, citizen-
35 ship and character education. Such component shall instruct students on
36 the principles of honesty, tolerance, personal responsibility, respect
37 for others WITH AN EMPHASIS ON DISCOURAGING ACTS OF HARASSMENT AND
38 DISCRIMINATION, observance of laws and rules, courtesy, dignity and
39 other traits which will enhance the quality of their experiences in, and
40 contributions to, the community. SUCH COMPONENT SHALL INCLUDE INSTRU-
41 TION ON SAFE, RESPONSIBLE USE OF THE INTERNET AND ELECTRONIC COMMUNI-
42 CATIONS. The regents shall determine how to incorporate such component
43 in existing curricula and the commissioner shall promulgate any regu-
44 lations needed to carry out such determination of the regents. For the
45 purposes of this section, "tolerance," "respect for others" and "digni-
46 ty" shall include awareness and sensitivity to discrimination or harass-
47 ment and civility in the relations of people of different races,
48 weights, national origins, ethnic groups, religions, religious prac-
49 tices, mental or physical abilities, sexual orientations, genders, and
50 sexes.

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