

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

305--A

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sen. DIAZ -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- recommitted to the Committee on Education in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 43 to read as follows:
3 43. 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

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

LBD01866-02-1

1 competent jurisdiction to be invalid or unconstitutional, such judgment
2 shall not affect, impair or invalidate the remainder thereof, but shall
3 be confined in its operation to the provision of this act, or in its
4 application to the person or circumstance, directly involved in the
5 controversy in which such judgment shall have been rendered.
6 S 3. This act shall take effect on the ninetieth day after it shall
7 have become a law.