

5051

2011-2012 Regular Sessions

I N   S E N A T E

May 3, 2011

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Introduced by Sen. BALL -- read twice and ordered printed, and when printed to be committed 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 ASSEMBLY, 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.

22    (B) "ELECTRONIC" OR "ELECTRONIC MEANS" SHALL MEAN ANY COMMUNICATION  
23    WHERE THERE IS THE TRANSMISSION OF INFORMATION BY WIRE, RADIO, OPTICAL  
24    CABLE, ELECTROMAGNETIC OR OTHER SIMILAR MEANS. SUCH TERMS SHALL INCLUDE,

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

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1 BUT NOT BE LIMITED TO, COMMUNICATION VIA ELECTRONIC MAIL, INTERNET-BASED  
2 COMMUNICATIONS, PAGER SERVICE, CELL PHONES AND ELECTRONIC MESSAGING.

3 3. THE COMMISSIONER, IN PROMULGATING SUCH RULES AND REGULATIONS, SHALL  
4 CONSULT WITH PARENTS, SCHOOL PERSONNEL AND OTHER INTERESTED PARTIES. THE  
5 COMMISSIONER SHALL PROVIDE TO SCHOOL DISTRICTS A MODEL HARASSMENT,  
6 INTIMIDATION AND BULLYING PREVENTION POLICY AS WELL AS TRAINING MATERI-  
7 ALS FOR USE IN IMPLEMENTING SUCH POLICY. THE COMMISSIONER SHALL POST THE  
8 MODEL POLICY, RECOMMENDED TRAINING MATERIALS AND INSTRUCTIONAL MATERIALS  
9 ON THE DEPARTMENT'S WEBSITE.

10 4. THE COMMISSIONER, BY AUGUST FIRST, TWO THOUSAND TWELVE, SHALL  
11 UPDATE THE HARASSMENT, INTIMIDATION AND BULLYING POLICY TO INCLUDE A  
12 SECTION ADDRESSING ACTS OF HARASSMENT, INTIMIDATION OR BULLYING THAT ARE  
13 CONDUCTED VIA ELECTRONIC MEANS. THE POLICY SHALL INCLUDE A REQUIREMENT  
14 THAT MATERIALS MEANT TO EDUCATE PARENTS AND STUDENTS ABOUT THE SERIOUS-  
15 NESS OF CYBERBULLYING BE DISSEMINATED TO PARENTS OR MADE AVAILABLE ON A  
16 SCHOOL DISTRICT'S WEBSITE. THE MATERIAL SHALL INCLUDE INFORMATION ON  
17 RESPONSIBLE AND SAFE INTERNET USE AS WELL AS WHAT OPTIONS ARE AVAILABLE  
18 IF A STUDENT IS BEING BULLIED VIA ELECTRONIC MEANS INCLUDING, BUT NOT  
19 LIMITED TO, REPORTING THREATS TO LOCAL POLICE AND WHEN TO INVOLVE SCHOOL  
20 OFFICIALS, THE INTERNET SERVICE PROVIDER OR PHONE SERVICE PROVIDER. IF A  
21 SCHOOL DISTRICT HAS INTERNET USE POLICIES, THE ACT OF HARASSING, INTIM-  
22 IDATING OR BULLYING ANOTHER STUDENT VIA ONLINE MEANS SHALL BE INCLUDED  
23 AS A PROHIBITED ACT AND BE SUBJECT TO DISCIPLINARY ACTION.

24 S 2. This act shall take effect on the one hundred twentieth day after  
25 it shall have become law; provided, however, that effective immediately,  
26 the addition, amendment and/or repeal of any rule or regulation neces-  
27 sary for the timely implementation of this act on its effective date are  
28 authorized and directed to be made and completed on or before such  
29 effective date.