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

January 16, 2013

Introduced by M. of A. CRESPO, RODRIGUEZ, CASTRO, GIBSON, DINOWITZ, RIVERA, ARROYO, MOYA, ESPINAL, ORTIZ -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to including cyberbullying in the provisions of the dignity for all students act and courses of study in cyberbullying for pupils in grades five through nine

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

Section 1. 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, CYBERBULLYING, 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 2. Subdivision 7 of section 11 of the education law, as amended by chapter 102 of the laws of 2012, is amended and two new subdivisions 9 and 10 are added to read as follows:

7. "Harassment" and "bullying" shall mean the creation of a hostile environment by conduct or by threats, intimidation or abuse, including cyberbullying, CONDUCTED IN ANY MANNER INCLUDING, BUT NOT LIMITED TO, ELECTRONIC COMMUNICATION, that (a) 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 (b) reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety; or (c) reasonably causes or would reasonably be expected to cause physical injury or

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

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emotional harm to a student; or (d) occurs off school property and creates or would foreseeably create a risk of substantial disruption within the school environment, where it is foreseeable that the conduct, threats, intimidation or abuse might reach school property. Acts of harassment and bullying shall include, but not be limited to, those acts based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex. For the purposes of this definition the term "threats, intimidation or abuse" shall include verbal and non-verbal actions AND CYBERBULLYING.

9. "ELECTRONIC COMMUNICATION" SHALL MEAN ANY TRANSFER OF SIGNS, SIGNALS, WRITINGS, IMAGES, SOUNDS, DATA OR INTELLIGENCE OF ANY NATURE TRANSMITTED, IN WHOLE OR IN PART, BY A WIRE, RADIO, ELECTROMAGNETIC, PHOTO-ELECTRONIC OR PHOTO-OPTIONAL SYSTEM. ELECTRONIC COMMUNICATION SHALL INCLUDE, BUT NOT BE LIMITED TO, THE TRANSFER OF SUCH COMMUNICATION THROUGH THE INTERNET.

10. "CYBERBULLYING" SHALL MEAN TO INTENTIONALLY ENGAGE IN A COURSE OF CONDUCT USING ELECTRONIC COMMUNICATION DIRECTED AT A CHILD UNDER THE AGE OF EIGHTEEN YEARS, WHEN THE ACTOR KNOWS OR REASONABLY SHOULD KNOW THAT SUCH CONDUCT:

A. HARASSES, THREATENS, INTIMIDATES, ABUSES OR CREATES A HOSTILE SOCIAL OR PHYSICAL ENVIRONMENT FOR SUCH CHILD;

B. INSTILLS A REASONABLE FEAR OF MATERIAL HARM TO THE PHYSICAL, MENTAL OR EMOTIONAL HEALTH, WELL-BEING, SAFETY OR PROPERTY OF SUCH CHILD;

C. CAUSES MATERIAL HARM TO THE PHYSICAL, MENTAL OR EMOTIONAL HEALTH, WELL-BEING, SAFETY OR PROPERTY OF SUCH CHILD;

D. CAUSES PUBLIC EMBARRASSMENT, SHAME, SOCIAL OSTRACISM OR UNDUE ATTENTION TO SUCH CHILD; OR

E. INCLUDES THE IMPERSONATION OF ANOTHER PERSON BY ELECTRONIC COMMUNICATION TO CAUSE OR WITH INTENT TO CAUSE HARM AS SPECIFIED IN PARAGRAPH A, B, C OR D OF THIS SUBDIVISION.

S 3. Subdivision 2 of section 13 of the education law, as amended by chapter 102 of the laws of 2012, is amended to read as follows:

2. Guidelines to be used in school training programs to discourage the development of harassment, bullying and discrimination, and to make school employees aware of the effects of harassment, bullying, cyberbullying and discrimination on students AND OTHER SCHOOL EMPLOYEES, and that are designed:

a. to raise the awareness and sensitivity of school employees to potential harassment, bullying and discrimination, and

b. to enable employees to prevent and respond to harassment, bullying and discrimination; and

S 4. Subdivisions 3 and 4 of section 14 of the education law, as amended by chapter 102 of the laws of 2012, are amended to read as follows:

3. Promulgate regulations, GUIDANCE OR MODEL POLICIES to assist school districts in implementing this article including, but not limited to, [regulations to assist] ASSISTING school districts in developing measured, balanced, and age-appropriate responses to violations of this policy, with remedies and procedures following a progressive model that make appropriate use of intervention, discipline and education and provide guidance related to the application of SUCH regulations, GUIDANCE OR MODEL POLICIES ON THE MANNER AND EXTENT TO WHICH BEHAVIOR THAT OCCURS OFF SCHOOL PROPERTY MAY BE CONSIDERED IN FORMULATING AN APPROPRIATE RESPONSE TO A VIOLATION OF SUCH REGULATIONS, GUIDANCE OR MODEL POLICIES; and

4. Provide guidance and educational materials to school districts related to best practices in addressing cyberbullying AND HARASSMENT and helping families and communities work cooperatively with schools in addressing cyberbullying, whether on or off school property or at or away from a school function.

S 5. Section 801-a of the education law, as amended by chapter 102 of the laws of 2012, 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, bullying, CYBERBULLYING, 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 of 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 harassment, bullying, discrimination 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 6. The education law is amended by adding a new section 814-a to read as follows:

S 814-A. COURSES OF STUDY IN CYBERBULLYING. 1. FOR THE PURPOSES OF THIS SECTION:

A. "CYBERBULLYING" SHALL HAVE THE SAME MEANING AS PROVIDED IN SUBDIVISION TEN OF SECTION ELEVEN OF THIS CHAPTER.

B. "ELECTRONIC COMMUNICATION" SHALL HAVE THE SAME MEANING AS PROVIDED IN SUBDIVISION NINE OF SECTION ELEVEN OF THIS CHAPTER.

2. EVERY SCHOOL DISTRICT IN THE STATE SHALL PROVIDE, TO PUPILS IN GRADES FIVE THROUGH NINE, INSTRUCTION DESIGNED TO CURTAIL OR ELIMINATE CYBERBULLYING AND PROMOTE CIVILITY WHEN USING THE INTERNET AND CONVEYING AN ELECTRONIC COMMUNICATION. SUCH CURRICULA SHALL INSTRUCT STUDENTS ON THE PRINCIPLES OF TOLERANCE, PERSONAL RESPONSIBILITY, RESPECT FOR OTHERS, OBSERVANCE OF LAWS AND RULES, COURTESY AND OTHER TRAITS THAT SHOULD BE OBSERVED DURING USE OF THE INTERNET OR WHEN CONVEYING AN ELECTRONIC COMMUNICATION.

3. A SCHOOL DISTRICT MAY, INSTEAD OF ESTABLISHING A SEPARATE CLASS OR DESIGNATED PERIOD OF TIME DEVOTED TO A COURSE ON CYBERBULLYING, INTEGRATE SUCH COURSE OF STUDY OR INSTRUCTION INTO OTHER RELATED CLASSES THAT PROVIDE INSTRUCTION IN SUBJECTS RELATED TO CIVILITY, CITIZENSHIP AND CHARACTER EDUCATION PURSUANT TO SECTION EIGHT HUNDRED ONE-A OF THIS ARTICLE, OR HEALTH EDUCATION PURSUANT TO SECTION EIGHT HUNDRED FOUR OF THIS ARTICLE, OR ANY OTHER COURSE OF INSTRUCTION DEEMED APPROPRIATE BY THE SCHOOL DISTRICT.

4. THE COMMISSIONER SHALL PROVIDE TECHNICAL ASSISTANCE TO AID IN THE DEVELOPMENT OF CURRICULA FOR SUCH COURSES OF STUDY WHICH SHALL BE AGE APPROPRIATE AND DEVELOPED ACCORDING TO THE NEEDS AND ABILITIES OF PUPILS AT SUCCESSIVE GRADE LEVELS IN ORDER TO PROVIDE AWARENESS, SKILLS, INFORMATION AND SUPPORT TO AID IN THE ELIMINATION OF CYBERBULLYING.

S 7. This act shall take effect on the same date and in the same manner as chapter 102 of the laws of 2012 takes effect; provided, however, that effective immediately, the addition, amendment, and/or repeal of any rule or regulation necessary for the implementation of the provisions of this act on its effective date is authorized and directed to be made and completed on or before such effective date.