

1414

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. MONTGOMERY, ADDABBO, PARKER, PERKINS -- 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 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

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

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1 informal proceedings, and no school district or employee shall take,
2 request or cause a retaliatory action against any such person who,
3 acting reasonably and in good faith, either makes such a report or
4 initiates, testifies, participates or assists in such formal or informal
5 proceedings.

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

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

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

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

36 S 4. Section 16 of the education law, as amended by chapter 102 of the
37 laws of 2012, is amended to read as follows:

38 S 16. [Protection of people who report] REPORTING harassment, bullying
39 or discrimination. A. THE COMMISSIONER SHALL PROMULGATE RULES AND REGU-
40 LATIONS PROVIDING FOR A PROCESS BY WHICH ANY EMPLOYEE, PARENT, OR
41 STUDENT, HAVING REASONABLE CAUSE TO SUSPECT AN INCIDENT OF DISCRIMI-
42 NATION OR HARASSMENT AS DEFINED IN THIS ARTICLE, CAN REPORT SUCH INCI-
43 DENTS TO APPROPRIATE SCHOOL OFFICIALS, AND ALSO PROVIDE GUIDELINES FOR
44 ACTIONS WHICH SHALL BE TAKEN BY SCHOOL OFFICIALS PURSUANT TO SUCH
45 REPORTS. SUCH ACTIONS MAY INCLUDE RECOMMENDED COUNSELING, SCHOOL DISCI-
46 PLINE, SUSPENSION OR EXPULSION OR REPORTS TO LAW ENFORCEMENT. SUCH
47 REPORT SHALL BE INVESTIGATED IMMEDIATELY, AND IT SHALL BE THE RESPONSI-
48 BILITY OF ANY SCHOOL OFFICIAL TO REPORT AND INVESTIGATE SUCH INCIDENTS
49 AND RESPOND APPROPRIATELY ACCORDING TO SUCH RULES AND REGULATIONS. SUCH
50 REPORTS SHALL BE MADE AVAILABLE BY THE SCHOOL UPON REQUEST.

51 B. Any person having reasonable cause to suspect that a student has
52 been subjected to harassment, bullying or discrimination, by an employee
53 or student, on school grounds or at a school function, who, acting
54 reasonably and in good faith, reports such information to school offi-
55 cials, to the commissioner or to law enforcement authorities, acts in
56 compliance with paragraph e or i of subdivision one of section thirteen

1 of this article, or otherwise initiates, testifies, participates or
2 assists in any formal or informal proceedings under this article, shall
3 have immunity from any civil liability that may arise from the making of
4 such report or from initiating, testifying, participating or assisting
5 in such formal or informal proceedings, and no school district or
6 employee shall take, request or cause a retaliatory action against any
7 such person who, acting reasonably and in good faith, either makes such
8 a report or initiates, testifies, participates or assists in such formal
9 or informal proceedings.

10 S 5. Subdivision 7 of section 11 of the education law, as amended by
11 chapter 102 of the laws of 2012, is amended to read as follows:

12 7. "Harassment" and "bullying" shall mean the INTENTIONAL creation of
13 a hostile environment by [conduct or by threats] MEANS OF ELECTRONIC,
14 WRITTEN, VERBAL COMMUNICATION OR PHYSICAL CONDUCT, intimidation or
15 abuse, including cyberbullying, that (a) has or would have the effect of
16 unreasonably and substantially interfering with a student's educational
17 performance, opportunities or benefits, or mental, emotional or physical
18 well-being; or (b) ELECTRONIC, WRITTEN, VERBAL COMMUNICATION OR PHYSICAL
19 CONDUCT, INTIMIDATION OR ABUSE THAT reasonably causes or would reason-
20 ably be expected to cause a student to fear for his or her physical
21 safety; or (c) reasonably causes or would reasonably be expected to
22 cause physical injury or emotional harm to a student; or (d) occurs off
23 school property and creates or would foreseeably create a risk of
24 substantial disruption within the school environment, where it is fore-
25 seeable that the [conduct, threats,] ELECTRONIC, WRITTEN, VERBAL COMMU-
26 NICATION OR PHYSICAL CONDUCT OR intimidation or abuse might reach school
27 property. Acts of harassment and bullying shall include, but not be
28 limited to, those acts based on a person's actual or perceived race,
29 color, weight, national origin, ethnic group, religion, religious prac-
30 tice, disability, sexual orientation, gender or sex. [For the purposes
31 of this definition the term "threats, intimidation or abuse" shall
32 include verbal and non-verbal actions.]

33 S 6. This act shall take effect immediately, provided that sections
34 four and five of this act shall take effect on the same date and in the
35 same manner as chapter 102 of the laws of 2012, takes effect.