

1578

2015-2016 Regular Sessions

I N S E N A T E

January 13, 2015

Introduced by Sen. MONTGOMERY -- 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 10 of the education law, as added by chapter 482 of
2 the laws of 2010, is amended to read as follows:
3 S 10. Legislative intent. The legislature finds that students' ability
4 to learn and to meet high academic standards, and a school's ability to
5 educate its students, are compromised by incidents of discrimination or
6 harassment including bullying, taunting or intimidation. It is hereby
7 declared to be the policy of the state to afford all students in public
8 schools an environment free of discrimination and harassment. The
9 purpose of this article is to foster civility in public schools and to
10 prevent and prohibit conduct which is inconsistent with a school's
11 educational mission. PUBLIC SCHOOLS SHALL HAVE THE RESPONSIBILITY TO
12 FOSTER A LEARNING ENVIRONMENT FREE FROM INCIDENTS OF DISCRIMINATION OR
13 HARASSMENT INCLUDING BULLYING, TAUNTING OR INTIMIDATION AS DEFINED IN
14 THIS ARTICLE.
15 S 2. Section 16 of the education law, as amended by chapter 102 of the
16 laws of 2012, is amended to read as follows:
17 S 16. [Protection of people who report] REPORTING harassment, bullying
18 or discrimination. A. THE COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS PROVIDING FOR A PROCESS BY WHICH ANY EMPLOYEE, PARENT, OR
19 STUDENT, HAVING REASONABLE CAUSE TO SUSPECT AN INCIDENT OF DISCRIMINATION OR HARASSMENT AS DEFINED IN THIS ARTICLE, CAN REPORT SUCH INCIDENTS TO APPROPRIATE SCHOOL OFFICIALS, AND ALSO PROVIDE GUIDELINES FOR
20 ACTIONS WHICH SHALL BE TAKEN BY SCHOOL OFFICIALS PURSUANT TO SUCH
21 REPORTS. SUCH ACTIONS MAY INCLUDE RECOMMENDED COUNSELING, SCHOOL DISCIPLINE, SUSPENSION OR EXPULSION OR REPORTS TO LAW ENFORCEMENT. SUCH
22 REPORT SHALL BE INVESTIGATED IMMEDIATELY, AND IT SHALL BE THE RESPONSIBILITY OF THE SCHOOL OFFICIALS TO REPORT SUCH INCIDENTS TO THE APPROPRIATE AGENCIES.
23 B. THE COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS PROVIDING FOR A PROCESS BY WHICH ANY EMPLOYEE, PARENT, OR
24 STUDENT, HAVING REASONABLE CAUSE TO SUSPECT AN INCIDENT OF DISCRIMINATION OR HARASSMENT AS DEFINED IN THIS ARTICLE, CAN REPORT SUCH INCIDENTS TO APPROPRIATE SCHOOL OFFICIALS, AND ALSO PROVIDE GUIDELINES FOR
25 ACTIONS WHICH SHALL BE TAKEN BY SCHOOL OFFICIALS PURSUANT TO SUCH
26 REPORTS. SUCH ACTIONS MAY INCLUDE RECOMMENDED COUNSELING, SCHOOL DISCIPLINE, SUSPENSION OR EXPULSION OR REPORTS TO LAW ENFORCEMENT. SUCH
27 REPORT SHALL BE INVESTIGATED IMMEDIATELY, AND IT SHALL BE THE RESPONSIBILITY OF THE SCHOOL OFFICIALS TO REPORT SUCH INCIDENTS TO THE APPROPRIATE AGENCIES.

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

LBD02848-01-5

1 BILITY OF ANY SCHOOL OFFICIAL TO REPORT AND INVESTIGATE SUCH INCIDENTS
2 AND RESPOND APPROPRIATELY ACCORDING TO SUCH RULES AND REGULATIONS. SUCH
3 REPORTS SHALL BE MADE AVAILABLE BY THE SCHOOL UPON REQUEST.

4 B. Any person having reasonable cause to suspect that a student has
5 been subjected to harassment, bullying or discrimination, by an employee
6 or student, on school grounds or at a school function, who, acting
7 reasonably and in good faith, reports such information to school offi-
8 cials, to the commissioner or to law enforcement authorities, acts in
9 compliance with paragraph e or i of subdivision one of section thirteen
10 of this article, or otherwise initiates, testifies, participates or
11 assists in any formal or informal proceedings under this article, shall
12 have immunity from any civil liability that may arise from the making of
13 such report or from initiating, testifying, participating or assisting
14 in such formal or informal proceedings, and no school district or
15 employee shall take, request or cause a retaliatory action against any
16 such person who, acting reasonably and in good faith, either makes such
17 a report or initiates, testifies, participates or assists in such formal
18 or informal proceedings.

19 S 3. Subdivision 7 of section 11 of the education law, as amended by
20 chapter 102 of the laws of 2012, is amended to read as follows:

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

42 S 4. This act shall take effect immediately.