STATE OF NEW YORK

1829--A

2023-2024 Regular Sessions

IN ASSEMBLY

January 23, 2023

Introduced by M. of A. JEAN-PIERRE, PAULIN, L. ROSENTHAL, BRONSON, KIM, SIMON, PHEFFER AMATO, SEAWRIGHT, GIBBS, BICHOTTE HERMELYN, ARDILA, BORES, WEPRIN, HEVESI, JACKSON, SAYEGH, CONRAD, TAYLOR, GLICK, LAVINE, REYES, DeSTEFANO, McDONOUGH -- Multi-Sponsored by -- M. of A. DAVILA -- read once and referred to the Committee on Education -- recommitted to the Committee on Education in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to enacting the "nonpublic school students act"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The education law is amended by adding a new article 2-A to read as follows:

ARTICLE 2-A
NONPUBLIC SCHOOL STUDENTS ACT
Section 19. Legislative intent.
20. Definitions.
21. Discrimination and harassment prohibited.
22. Protection of people who report harassment, bullying or discrimination.
23. Severability and construction.
24. Constitutionality.

§ 19. 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, taunting or intimidation. It is hereby declared to be the policy of the state to afford all students in nonpublic schools an environment free of discrimination and harassment. The purpose of this article is to foster civility in nonpublic schools and

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

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to prevent and prohibit conduct which is inconsistent with a school's educational mission.

§ 20. Definitions. For the purposes of this article, the following terms shall have the following meanings:

1. "School property" shall mean in or within any building, structure, athletic playing field, playground, parking lot, or land contained within the real property boundary line of a nonpublic elementary or secondary school; or in or on a school bus, as defined in section one hundred forty-two of the vehicle and traffic law.

2. "School function" shall mean a nonpublic school-sponsored extracurricular event or activity.

3. "Disability" shall mean disability as defined in subdivision twenty-one of section two hundred ninety-two of the executive law.

4. "Employee" shall mean employee as defined in subdivision three of section eleven hundred twenty-five of this chapter.

5. "Sexual orientation" shall mean actual or perceived heterosexuality, homosexuality or bisexuality.

6. "Gender" shall mean actual or perceived sex and shall include a person's gender identity or expression.

7. "Harassment" and "bullying" shall mean the creation of a hostile environment by conduct or by threats, intimidation or abuse, including cyberbullying, 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; (b) reasonably causes or would reasonably be expected to cause a student to fear for their physical safety; (c) reasonably causes or would reasonably be expected to cause physical injury or 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. This subdivision shall not apply to any course of instruction provided by a nonpublic school.

8. "Cyberbullying" shall mean harassment or bullying as defined in subdivision seven of this section, where such harassment or bullying occurs through any form of electronic communication.

9. "Race" shall include traits historically associated with race, including but not limited to, hair texture and protective hairstyles.

10. "Protective hairstyles" shall include, but not be limited to, such hairstyles as braids, locks, and twists.

§ 21. Discrimination and harassment prohibited. No student shall be subjected to harassment or bullying by employees or students on school property or at a school function; nor shall any student be subjected to discrimination based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, or sex by school employees or students on school property or at a school function. Nothing in this section shall be construed to prohibit a denial of admission into, or exclusion from, a course of instruction based on a person's gender that would be permissible under title IX of the Education Amendments of 1972 (20 U.S.C. section 1681, et. seq.), or to prohibit, as discrimination

based on disability, actions that would be permissible under section 504 of the Rehabilitation Act of 1973. This section shall not apply to any course of instruction provided by a nonpublic school.

§ 22. Protection of people who report harassment, bullying or discrimination. Any person having reasonable cause to suspect that a student has been subjected to harassment, bullying or discrimination, by an employee or student, on school grounds or at a school function, who, acting reasonably and in good faith, reports such information to school officials or to law enforcement authorities, or otherwise initiates, testifies, participates or assists in any formal or informal proceedings under this article, shall have immunity from any civil liability that may arise from the making of such report or from initiating, testifying, participating or assisting in such formal or informal proceedings, and no nonpublic school or employee shall take, request or cause a retaliatory action against any such person who, acting reasonably and in good faith, either makes such a report or initiates, testifies, participates or assists in such formal or informal proceedings.

§ 23. Severability and construction. The provisions of this article shall be severable, and if any court of competent jurisdiction declares any phrase, clause, sentence or provision of this article to be invalid, or its applicability to any government agency, person or circumstance is declared invalid, the remainder of this article and its relevant applicability shall not be affected. The provisions of this article shall be liberally construed to give effect to the purposes thereof.

§ 24. Constitutionality. Nothing in this article shall be construed to abridge the rights of nonpublic school students or employees that are protected by the first amendment to the constitution of the United States.

§ 2. This act shall take effect on the first of July next succeeding the date on which it shall have become a law.