

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:

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

ARTICLE 2-A

NONPUBLIC SCHOOL STUDENTS ACT

3
4
5 Section 19. Legislative intent.

6 20. Definitions.

7 21. Discrimination and harassment prohibited.

8 22. Protection of people who report harassment, bullying or
9 discrimination.

10 23. Severability and construction.

11 24. Constitutionality.

12 § 19. Legislative intent. The legislature finds that students' ability
13 to learn and to meet high academic standards, and a school's ability to
14 educate its students, are compromised by incidents of discrimination or
15 harassment including bullying, taunting or intimidation. It is hereby
16 declared to be the policy of the state to afford all students in nonpub-
17 lic schools an environment free of discrimination and harassment. The
18 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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1 to prevent and prohibit conduct which is inconsistent with a school's
2 educational mission.

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

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

10 2. "School function" shall mean a nonpublic school-sponsored extra-
11 curricular event or activity.

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

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

16 5. "Sexual orientation" shall mean actual or perceived heterosexuali-
17 ty, homosexuality or bisexuality.

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

20 7. "Harassment" and "bullying" shall mean the creation of a hostile
21 environment by conduct or by threats, intimidation or abuse, including
22 cyberbullying, that (a) has or would have the effect of unreasonably and
23 substantially interfering with a student's educational performance,
24 opportunities or benefits, or mental, emotional or physical well-being;
25 (b) reasonably causes or would reasonably be expected to cause a student
26 to fear for their physical safety; (c) reasonably causes or would
27 reasonably be expected to cause physical injury or emotional harm to a
28 student; or (d) occurs off school property and creates, or would fore-
29 seeably create, a risk of substantial disruption within the school envi-
30 ronment, where it is foreseeable that the conduct, threats, intimidation
31 or abuse might reach school property. Acts of harassment and bullying
32 shall include, but not be limited to, those acts based on a person's
33 actual or perceived race, color, weight, national origin, ethnic group,
34 religion, religious practice, disability, sexual orientation, gender or
35 sex. For the purposes of this definition the term "threats, intimidation
36 or abuse" shall include verbal and non-verbal actions. This subdivision
37 shall not apply to any course of instruction provided by a nonpublic
38 school.

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

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

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

46 § 21. Discrimination and harassment prohibited. No student shall be
47 subjected to harassment or bullying by employees or students on school
48 property or at a school function; nor shall any student be subjected to
49 discrimination based on a person's actual or perceived race, color,
50 weight, national origin, ethnic group, religion, religious practice,
51 disability, sexual orientation, gender, or sex by school employees or
52 students on school property or at a school function. Nothing in this
53 section shall be construed to prohibit a denial of admission into, or
54 exclusion from, a course of instruction based on a person's gender that
55 would be permissible under title IX of the Education Amendments of 1972
56 (20 U.S.C. section 1681, et. seq.), or to prohibit, as discrimination

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

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

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

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

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