

1 COMMITTEE SUBSTITUTE

2 FOR

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4 FOR

5 **Senate Bill No. 446**

6 (By Senators Stollings, Foster, Jenkins, Klempa, Green, Beach,
7 Wills, Yost and Plymale)

8 _____
9 [Originating in the Committee on the Judiciary;
10 reported February 24, 2012.]

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14 A BILL to amend and reenact §18-2C-2, §18-2C-3 and §18-2C-5 of the
15 Code of West Virginia, 1931, as amended, all relating to
16 harassment, intimidation or bullying of students in public
17 schools; adding elements to definition of "harassment,
18 intimidation or bullying"; and expressing that certain
19 statutory provisions, policy, training and education does not
20 infringe upon first amendment rights of certain persons and
21 does not prohibit expression of religious, philosophical or
22 political views so long as the expression does not cause a
23 material disruption of the work of the school.

24 *Be it enacted by the Legislature of West Virginia:*

25 That §18-2C-2, §18-2C-3 and §18-2C-5 of the Code of West
26 Virginia, 1931, as amended, be amended and reenacted, all to read

1 as follows:

2 **ARTICLE 2C. HARASSMENT, INTIMIDATION OR BULLYING PROHIBITION.**

3 **§18-2C-2. Definitions.**

4 (a) As used in this article, "harassment, intimidation or
5 bullying" means any intentional gesture, or any intentional
6 electronic, written, verbal or physical act, communication,
7 transmission or threat that:

8 (1) A reasonable person under the circumstances should know
9 will have the effect of any one or more of the following:

10 (A) Physically harming a student;

11 (B) Damaging a student's property;

12 (C) Placing a student in reasonable fear of harm to his or her
13 person; or

14 (D) Placing a student in reasonable fear of damage to his or
15 her property; or

16 (2) Is sufficiently severe, persistent continuous or pervasive
17 that it creates an intimidating, threatening or emotionally abusive
18 educational environment for a student such that it interferes with
19 or limits a student's ability to participate in or benefit from the
20 services, activities or opportunities offered by a school; or ~~(3)~~
21 materially and substantially ~~Disrupts or~~ interferes with the
22 requirements of appropriate discipline in the ~~orderly~~ operation of
23 the school.

24 (b) As used in this article, an electronic act, communication,
25 transmission or threat includes, but is not limited to, one which
26 is administered via telephone, wireless phone, computer, pager or

1 any electronic or wireless device whatsoever and includes, but is
2 not limited to, transmission of any image or voice, email or text
3 message using any such device.

4 (c) Nothing in this section prohibits expression of religious,
5 philosophical or political views of any person so long as the
6 expression does not violate the provisions of subsection (a) of
7 this section.

8 **§18-2C-3. Policy prohibiting harassment, intimidation or bullying.**

9 (a) Each county board shall establish a policy prohibiting
10 harassment, intimidation or bullying. Each county board has
11 control over the content of its policy as long as the policy
12 contains, at a minimum, the requirements of ~~subdivision~~ subsection
13 (b) of this section. The policy shall be adopted through a process
14 that includes representation of parents or guardians, school
15 employees, school volunteers, students and community members.

16 (b) Each county board policy shall, at a minimum, include the
17 following components:

18 (1) A statement prohibiting harassment, intimidation or
19 bullying of any student on school property, a school bus, at a
20 school bus stop or at school sponsored events;

21 (2) A definition of harassment, intimidation or bullying that
22 is no less inclusive and contains no further restrictions on any
23 person's speech than that in section two of this article;

24 (3) A procedure for reporting prohibited incidents;

25 (4) A requirement that school personnel report prohibited
26 incidents of which they are aware;

1 (5) A requirement that parents or guardians of any student
2 involved in an incident prohibited pursuant to this article be
3 notified;

4 (6) A procedure for documenting any prohibited incident that
5 is reported;

6 (7) A procedure for responding to and investigating any
7 reported incident;

8 (8) A strategy for protecting a victim from additional
9 harassment, intimidation or bullying and from retaliation following
10 a report;

11 (9) A disciplinary procedure for any student guilty of
12 harassment, intimidation or bullying;

13 (10) A requirement that any information relating to a reported
14 incident is confidential and exempt from disclosure under the
15 provisions of chapter twenty-nine-b of this code; ~~and~~

16 (11) A requirement that each county board ~~shall~~ input into the
17 uniform integrated regional computer information system (commonly
18 known as the West Virginia Education Information System) described
19 in section twenty-six, article two of this chapter and compile an
20 annual report regarding the means of harassment, intimidation or
21 bullying that have been reported to them and the reasons therefor,
22 if known. The West Virginia Department of Education shall compile
23 the information and report it annually beginning July 1, 2012, to
24 the Legislative Oversight Committee on Education Accountability;
25 and

26 (c) Each county board shall adopt the policy and submit a copy

1 to the State Superintendent of Schools by December 1, ~~2011~~ 2012.

2 (d) To assist county boards in developing their policies, the
3 West Virginia Department of Education shall develop a model policy
4 applicable to grades kindergarten through twelfth. The model
5 policy shall be issued by September 1, ~~2011~~ 2012.

6 (e) Notice of the county board's policy shall appear in any
7 student handbook and in any county board publication that sets
8 forth the comprehensive rules, procedures and standards of conduct
9 for the school.

10 **§18-2C-5. Policy training and education.**

11 (a) Schools and county boards are encouraged, but not
12 required, to form bullying prevention task forces, programs and
13 other initiatives involving school staff, students, teachers,
14 administrators, volunteers, parents, law enforcement and community
15 members.

16 (b) To the extent state or federal funds are appropriated for
17 these purposes, each school district shall:

18 (1) Provide training on the harassment, intimidation or
19 bullying policy to school employees and volunteers who have direct
20 contact with students; and

21 (2) Develop a process for educating students on the
22 harassment, intimidation or bullying policy.

23 (c) Information regarding the county board policy against
24 harassment, intimidation or bullying shall be incorporated into
25 each school's current employee training program.

26 (d) Training or education under this section shall not

1 prohibit expression of religious, philosophical or political views
2 of any person so long as the expression does not violate the
3 provisions of section two of this article.