

COMMITTEE SUBSTITUTE

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Senate Bill No. 446

(By Senators Stollings, Foster, Jenkins, Kessler (Mr. President),
Klempa, Green, Beach, Wills, Yost and Plymale)

[Originating in the Committee on the Judiciary;
reported February 24, 2012.]

A BILL to amend and reenact §18-2C-2, §18-2C-3 and §18-2C-5 of the Code of West Virginia, 1931, as amended, all relating to harassment, intimidation or bullying of students in public schools; adding elements to definition of “harassment, intimidation or bullying”; and expressing that certain statutory provisions, policy, training and education does not infringe upon first amendment rights of certain persons and does not prohibit expression of religious, philosophical or political

views so long as the expression does not cause a material disruption of the work of the school.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2C. HARASSMENT, INTIMIDATION OR BULLYING PROHIBITION.

§18-2C-2. Definitions.

1 (a) As used in this article, “harassment, intimidation or
2 bullying” means any intentional gesture, or any intentional
3 electronic, written, verbal or physical act, communication,
4 transmission or threat that:

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

7 (A) Physically harming a student;

8 (B) Damaging a student’s property;

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

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

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

21 (b) As used in this article, an electronic act, communica-
22 tion, transmission or threat includes, but is not limited to,
23 one which is administered via telephone, wireless phone,
24 computer, pager or any electronic or wireless device whatso-
25 ever and includes, but is not limited to, transmission of any
26 image or voice, email or text message using any such device.

27 (c) Nothing in this section prohibits expression of
28 religious, philosophical or political views of any person so
29 long as the expression does not violate the provisions of
30 subsection (a) of this section.

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

1 (a) Each county board shall establish a policy prohibiting
2 harassment, intimidation or bullying. Each county board has
3 control over the content of its policy as long as the policy

4 contains, at a minimum, the requirements of ~~subdivision~~
5 subsection (b) of this section. The policy shall be adopted
6 through a process that includes representation of parents or
7 guardians, school employees, school volunteers, students and
8 community members.

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

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

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

18 (3) A procedure for reporting prohibited incidents;

19 (4) A requirement that school personnel report prohib-
20 ited incidents of which they are aware;

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

24 (6) A procedure for documenting any prohibited incident
25 that is reported;

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

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

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

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

37 (11) A requirement that each county board ~~shall~~ input
38 into the uniform integrated regional computer information
39 system (commonly known as the West Virginia Education
40 Information System) described in section twenty-six, article
41 two of this chapter and compile an annual report regarding
42 the means of harassment, intimidation or bullying that have
43 been reported to them and the reasons therefor, if known.
44 The West Virginia Department of Education shall compile
45 the information and report it annually beginning July 1,
46 2012, to the Legislative Oversight Committee on Education
47 Accountability; and

48 (c) Each county board shall adopt the policy and submit
49 a copy to the State Superintendent of Schools by December
50 1, ~~2011~~ 2012.

51 (d) To assist county boards in developing their policies,
52 the West Virginia Department of Education shall develop a
53 model policy applicable to grades kindergarten through
54 twelfth. The model policy shall be issued by September 1,
55 ~~2011~~ 2012.

56 (e) Notice of the county board's policy shall appear in
57 any student handbook and in any county board publication
58 that sets forth the comprehensive rules, procedures and
59 standards of conduct for the school.

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

1 (a) Schools and county boards are encouraged, but not
2 required, to form bullying prevention task forces, programs
3 and other initiatives involving school staff, students, teach-
4 ers, administrators, volunteers, parents, law enforcement and
5 community members.

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

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

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

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

16 (d) Training or education under this section shall not
17 prohibit expression of religious, philosophical or political
18 views of any person so long as the expression does not violate
19 the provisions of section two of this article.