

Regular Session, 2012

HOUSE BILL NO. 1214 (Substitute for House Bill No. 407 by Representative Smith)

BY REPRESENTATIVES SMITH, BADON, WESLEY BISHOP, BROSSETT, HENRY BURNS, CARMODY, COX, DIXON, GAINES, GISCLAIR, HONORE, HUNTER, GIROD JACKSON, JAMES, JEFFERSON, TERRY LANDRY, ORTEGO, PIERRE, PRICE, THIERRY, AND ALFRED WILLIAMS

SCHOOLS: Provides relative to harassment, intimidation, and bullying in public schools

1 AN ACT

2 To amend and reenact R.S. 17:416.13(B)(1), (2), and (3) and (D)(3), to enact R.S. 17:81(W)
3 and 3996(B)(30), and to repeal R.S. 17:416.13(B)(4), relative to harassment,
4 intimidation, and bullying in public schools; to provide relative to codes of conduct
5 for school employees and for students; to provide relative to the prohibition in such
6 codes of conduct against harassment, intimidation, and bullying; to provide relative
7 to definitions, training, reporting, and investigation; to remove provisions excepting
8 certain parishes from certain requirements relative to student codes of conduct; to
9 provide relative to effectiveness; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 17:416.13(B)(1), (2), and (3) and (D)(3) are hereby amended and
12 reenacted and R.S. 17:81(W) and 3996(B)(30) are hereby enacted to read as follows:

13 §81. General powers of city, parish, and other local public school boards

14 * * *

15 W.(1) Each city, parish, and other local public school board shall adopt a
16 code of conduct for its school employees that is in compliance with all existing rules,
17 regulations, and policies of the board and of the State Board of Elementary and
18 Secondary Education and that includes any necessary disciplinary action to be taken
19 against any employee who violates the code of conduct.

20 (2) Each board shall adopt and incorporate into its code of conduct a policy
21 prohibiting the harassment, intimidation, and bullying, including cyberbullying, of

1 a student by a school employee. For the purposes of this Subsection, the terms
2 "harassment", "intimidation", "bullying", and "cyberbullying" shall be defined as in
3 R.S. 17:416.13.

4 (3)(a) Each board, in collaboration with licensed health care professionals
5 with training in mental health, shall provide the following for school employees:

6 (i) At least four hours of training with respect to harassment, intimidation,
7 and bullying, including cyberbullying. Such training shall include but not be limited
8 to training relative to suicide prevention, including the relationship between suicide
9 risk factors and harassment, intimidation, and bullying, including cyberbullying.
10 Such training shall assist school employees in identifying actual or perceived
11 personal characteristics for which children are often targeted for acts of harassment,
12 intimidation, and bullying, including cyberbullying, and shall provide knowledge and
13 skills relative to reducing these acts based on such characteristics. Training methods
14 and content shall be based on information supported by peer-reviewed research
15 conducted in compliance with accepted scientific methods and recognized as
16 accurate by leading professional organizations and agencies with relevant
17 experience, such as the American Psychological Association, Louisiana School
18 Counselors Association, and Louisiana School Boards Association.

19 (ii) Ongoing training on a monthly basis, as needed, based on the
20 environment of each particular school.

21 (b) The Louisiana School Boards Association is encouraged to develop and
22 implement a training program for school board members on harassment,
23 intimidation, and bullying, including cyberbullying, and suicide prevention to be
24 conducted at its annual conference or in special meetings throughout the state.

25 * * *

26 §416.13. Student code of conduct; requirement; harassment, intimidation, and
27 bullying; prohibition; ~~exemptions~~

28 * * *

1 B.(1)(a) ~~By not later than August 1, 2001, each~~ Each city, parish, and other
2 local public school board shall adopt and incorporate into the student code of
3 conduct, as provided in this Section, a policy prohibiting the harassment,
4 intimidation, and bullying of a student by another student. The policy shall include
5 consequences and remedial action for a student who violates the policy.

6 (b) The policy shall be posted prominently on the website of the school
7 board and the website of each school under the board's jurisdiction.

8 (c) The state Department of Education shall compile and study the best
9 practices for the prevention of harassment, intimidation, and bullying, including
10 cyberbullying, as recommended by leading professional organizations. By August
11 1, 2012, the department shall develop and disseminate to each city, parish, and other
12 local public school board a model policy relative to the prohibition of harassment,
13 intimidation, and bullying, including cyberbullying, that a school board may use in
14 the development of its policy. The model policy shall provide detailed guidelines
15 for reporting, investigating, and responding to incidents of harassment, intimidation,
16 and bullying, including cyberbullying, that are based on actual or perceived personal
17 characteristics, including procedures for the timely notification and involvement of
18 parents or legal guardians.

19 (2) For purposes of this Subsection, the terms "harassment", "intimidation",
20 and "bullying" shall mean any ~~intentional~~ fear-inducing, threatening, or abusive
21 gesture or written, verbal, or physical act, including audio-visual forms of
22 expression, that:

23 (a) ~~A~~ a reasonable person under the circumstances knows or should know
24 will have the effect of harming a student or damaging his personal property or
25 placing a student in reasonable fear of harm to his life or person or damage to his
26 personal property; and

27 (b) ~~Is so severe, persistent, or pervasive that it~~ and creates an intimidating,
28 threatening, or abusive educational environment for a student.

1 (3)(a) Any student, school employee, or school volunteer who in good faith
2 reports an incident of harassment, intimidation, or bullying to the appropriate school
3 official in accordance with the procedures established by local board policy shall be
4 immune from a right of action for damages arising from any failure to remedy the
5 reported incident.

6 (b) No student, school employee, or school volunteer shall engage in
7 reprisal, retaliation, or false accusation against a victim, witness, or individual with
8 reliable information about an act of harassment, intimidation, or bullying, including
9 cyberbullying.

10 (c) A school employee who receives a report of harassment, intimidation, or
11 bullying, including cyberbullying, and fails to initiate or conduct an investigation or
12 who knows of such an incident and fails to take sufficient action may be subject to
13 disciplinary action.

14 * * *

15 D.

16 * * *

17 (3)(a) The state Department of Education shall develop a behavior incidence
18 checklist that the governing authority of each public elementary and secondary
19 school shall use to document the details of each reported incident of harassment,
20 intimidation, and bullying, including cyberbullying. Each governing authority shall
21 disseminate this checklist to each school under its jurisdiction.

22 (b)(i) When a school employee witnesses or receives reliable information
23 that a student has been subject to harassment, intimidation, or bullying, including
24 cyberbullying, the employee shall report the incident to the school principal or his
25 designee orally on the same day as the alleged incident and in writing within two
26 days of the alleged incident.

27 (ii) The principal or his designee shall notify the parents or legal guardians
28 of all students involved in the alleged incident and may discuss, as appropriate, the
29 provision of counseling, support services, and intervention services.

1 (c) The principal or his designee shall initiate an investigation of each
2 incident within one school day of the reporting of the incident. The investigation
3 shall be completed by no later than ten school days from the date of the written
4 report of the incident. If information is received after the end of the ten-day period,
5 the principal or his designee may amend the original report of the results of the
6 investigation to reflect the information.

7 (d) The parents or legal guardians of any student who is involved in the
8 investigation shall be entitled to receive information about the investigation,
9 including the nature of the investigation, whether the school found evidence of
10 harassment, intimidation, or bullying, including cyberbullying, and whether
11 discipline was imposed or services provided to address the incident.

12 (e)(i) The governing authority of each public elementary and secondary
13 school shall report all such documented ~~incidences~~ incidents of harassment,
14 intimidation, and bullying, including cyberbullying, to the state Department of
15 Education as prescribed in rules adopted by the State Board of Elementary and
16 Secondary Education in accordance with the Administrative Procedure Act. This
17 report shall include any measures taken to reduce harassment, intimidation, and
18 bullying, including cyberbullying, and shall be submitted to the department twice per
19 school year, between September first and December thirty-first and between January
20 first and June thirtieth.

21 (ii) By no later than sixty days prior to each Regular Session of the
22 Legislature, the state superintendent of education shall submit to the House
23 Committee on Education and the Senate Committee on Education a written report
24 which shall compile the information reported by public school governing authorities
25 pursuant to Item (i) of this Subparagraph and which shall include recommendations
26 for related legislation, if any. The report shall be made available on the website of
27 the state Department of Education.

1 (iii) The reports provided for in this Subparagraph shall not contain
2 personally identifiable information pertaining to any student.

3 * * *

4 §3996. Charter schools; exemptions; requirements

5 * *

B. Notwithstanding any state law, rule, or regulation to the contrary and except as may be otherwise specifically provided for in an approved charter, a charter school established and operated in accordance with the provisions of this Chapter and its approved charter and the school's officers and employees shall be exempt from all statutory mandates or other statutory requirements that are applicable to public schools and to public school officers and employees except for the following laws otherwise applicable to public schools with the same grades:

13 * * *

14 (30) Policies on harassment, intimidation, and bullying, R.S. 17:81(W) and
15 416.13.

16 * * *

17 Section 2. R.S. 17:416.13(B)(4) is hereby repealed in its entirety.

18 Section 3. This Act shall become effective on July 1, 2012; if vetoed by the governor
19 and subsequently approved by the legislature, this Act shall become effective on July 1,
20 2012, or on the day following such approval by the legislature, whichever is later.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Smith

HB No. 1214

Abstract: Provides relative to the policy in student codes of conduct which prohibits harassment, intimidation, and bullying, including cyberbullying; requires each school board to adopt an employee code of conduct which prohibits the same; requires training for school employees; provides procedures for reporting and investigating at the school level; removes exception of certain parishes from certain student code of conduct requirements.

Code of conduct for students:

Present law requires each public school board to adopt and incorporate into its student code of conduct a policy prohibiting the harassment, intimidation, and bullying of a student by another student. Proposed law requires that the policy include consequences and remedial action for a student who violates the policy and that the policy be posted prominently on the school board's website and that of each school under its jurisdiction.

Proposed law requires the state Dept. of Education to compile and study the best practices for the prevention of harassment, intimidation, and bullying, including cyberbullying, and to develop and disseminate to each school board by Aug. 1, 2012, a model policy prohibiting such acts that a school board may use in the development of its policy. Requires that the department's model policy provide detailed guidelines for reporting, investigating, and responding to incidents of harassment, intimidation, and bullying, including cyberbullying, that are based on actual or perceived personal characteristics, including procedures for the timely notification and involvement of parents or legal guardians.

Present law defines the terms "harassment", "intimidation", and "bullying" as any intentional gesture or written, verbal, or physical act that:

- (1) A reasonable person under the circumstances should know will have the effect of harming a student or damaging his property or placing a student in reasonable fear of harm to his life or person or damage to his property; and
- (2) Is so severe, persistent, or pervasive that it creates an intimidating, threatening, or abusive educational environment for a student.

Proposed law changes the definition of harassment, intimidation, and bullying to mean any fear-inducing, threatening, or abusive gesture or written, verbal, or physical act, including audio-visual forms of expression, that a reasonable person under the circumstances knows or should know will have the effect of harming a student or damaging his personal property or placing a student in reasonable fear of harm to his life or person or damage to his personal property and that creates a fear-inducing, threatening, or abusive education environment for a student.

Proposed law prohibits any student, school employee, or school volunteer from engaging in reprisal, retaliation, or false accusation against a victim, witness, or individual with reliable information about an act of harassment, intimidation, or bullying, including cyberbullying. Provides that a school employee who receives a report of such an act and fails to initiate or conduct an investigation or who knows of such an act and fails to take sufficient action may be subject to disciplinary action.

Present law requires the state Dept. of Education to develop a behavior incidence checklist that each public school governing authority shall use to document the details of each reported incident of harassment, intimidation, and bullying, including cyberbullying. Proposed law requires each governing authority to disseminate this checklist to each school under its jurisdiction.

Proposed law provides the following relative to reporting and investigating acts of harassment, intimidation, and bullying, including cyberbullying:

- (1) Requires a school employee who witnesses or receives reliable information that a student has been subject to harassment, intimidation, or bullying, including cyberbullying to report the incident to the school principal or his designee orally on the same day as the alleged incident and in writing within two days of the alleged incident.

- (2) Requires the principal or his designee to notify the parents or legal guardians of all students involved in the alleged incident, and authorizes discussion of counseling, support services, and intervention services.
- (3) Requires the principal or his designee to initiate an investigation of each incident within one school day of its reporting. Requires completion of the investigation within 10 school days from the date of the written report.
- (4) Provides that parents or legal guardians of any involved students are entitled to receive information about the investigation.

Present law requires each public school governing authority to report all documented incidences of harassment, intimidation, and bullying, including cyberbullying, to the state Dept. of Education. Proposed law provides the following relative to reporting:

- (1) Requires such report to be made twice per school year and specifies that it shall include any measures taken to reduce harassment, intimidation, and bullying, including cyberbullying.
- (2) Requires, by not later than 60 days prior to each Regular Session of the Legislature, the state superintendent of education to submit to the House and Senate education committees a written report which shall compile the information reported to the department by public school governing authorities and which shall include recommendations for related legislation, if any.
- (3) Prohibits reports from containing personally identifiable information pertaining to any student.

Present law excepts the parishes of Livingston, East Baton Rouge, East Feliciana, West Feliciana, St. Helena, and Tangipahoa from the present law requirement that each school board adopt and incorporate into its student code of conduct a policy prohibiting harassment, intimidation, and bullying. Proposed law deletes this exception.

Code of conduct for school employees:

Proposed law requires each public school board to adopt a code of conduct for school employees which shall include a policy prohibiting the harassment, intimidation, and bullying, including cyberbullying, of a student. Defines these terms as provided in proposed law relative to student codes of conduct.

Proposed law requires boards, in collaboration with trained mental health professionals, to provide the following for school employees:

- (1) At least four hours of training with respect to harassment, intimidation, and bullying, including cyberbullying, including but not limited to training relative to suicide prevention. Such training shall assist school employees in identifying actual or perceived personal characteristics for which children are often targeted for acts of harassment, intimidation, and bullying, including cyberbullying, and shall provide knowledge and skills relative to reducing these acts based on such characteristics.
- (2) Ongoing training on a monthly basis, as needed, based on the environment of each particular school.

Effective July 1, 2012.

(Amends R.S. 17:416.13(B)(1), (2), and (3) and (D)(3); Adds R.S. 17:81(W) and 3996(B)(30); Repeals R.S. 17:416.13(B)(4))