

HOUSE BILL 546

F1

8lr1391

By: **Delegates Kaiser, Bartlett, Bronrott, Carr, Healey, Love, Manno, McComas, and Montgomery**

Introduced and read first time: January 31, 2008

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Local Boards of Education - Harassment and Intimidation in Schools**

3 FOR the purpose of requiring local boards of education to establish a policy prohibiting
4 harassment or intimidation; requiring local boards of education to establish a
5 certain process; specifying the content of a certain policy; requiring certain
6 public notice of a policy; establishing a School Bullying Ombudsman in the
7 State Department of Education; requiring the Ombudsman to take certain
8 actions; requiring the Department to adopt certain regulations; establishing the
9 Prevention of Harassment and Intimidation in Public Schools Advisory Council
10 in the Department; specifying the terms of the initial members of the Board;
11 requiring the Department to provide staff for the Council; establishing the
12 membership and purpose of the Council; and generally relating to the reduction
13 of harassment and intimidation in public schools.

14 BY repealing and reenacting, with amendments,
15 Article – Education
16 Section 7–424
17 Annotated Code of Maryland
18 (2006 Replacement Volume and 2007 Supplement)

19 BY adding to
20 Article – Education
21 Section 7–424.1
22 Annotated Code of Maryland
23 (2006 Replacement Volume and 2007 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
25 MARYLAND, That the Laws of Maryland read as follows:

26 **Article – Education**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 7-424.

2 (a) In this section, "harassment or intimidation" means conduct, including
3 verbal conduct, that:

4 (1) Creates a hostile educational environment by substantially
5 interfering with a student's educational benefits, opportunities, or performance, or
6 with a student's physical or psychological well-being and is:

7 (i) Motivated by an actual or a perceived personal
8 characteristic such as race, national origin, marital status, sex, sexual orientation,
9 gender identity, religion, or disability; or

10 (ii) Threatening or seriously intimidating; and

11 (2) Occurs on school property, at a school activity or event, or on a
12 school bus.

13 **(B) (1) EACH COUNTY BOARD SHALL ESTABLISH A POLICY**
14 **PROHIBITING HARASSMENT OR INTIMIDATION.**

15 **(2) ON OR BEFORE SEPTEMBER 1, 2009, EACH COUNTY BOARD**
16 **SHALL SUBMIT THE POLICY ESTABLISHED IN ACCORDANCE WITH PARAGRAPH**
17 **(1) OF THIS SUBSECTION TO THE SCHOOL BULLYING OMBUDSMAN AND THE**
18 **PREVENTION OF HARASSMENT AND INTIMIDATION IN PUBLIC SCHOOLS**
19 **ADVISORY COUNCIL IN THE DEPARTMENT.**

20 **(3) EACH COUNTY BOARD SHALL ESTABLISH A PROCESS TO**
21 **ADOPT THE POLICY THAT INCLUDES, TO THE EXTENT PRACTICABLE, INPUT**
22 **FROM CLASSROOM TEACHERS, ADMINISTRATIVE AND NONADMINISTRATIVE**
23 **SCHOOL EMPLOYEES, PARENTS AND GUARDIANS, STUDENTS, AND COMMUNITY**
24 **REPRESENTATIVES.**

25 **(4) THE POLICY SHALL INCLUDE:**

26 **(I) THE DEFINITION OF "HARASSMENT OR INTIMIDATION"**
27 **STATED IN SUBSECTION (A) OF THIS SECTION;**

28 **(II) CONSEQUENCES AND APPROPRIATE REMEDIAL ACTION**
29 **FOR AN INDIVIDUAL WHO COMMITS AN ACT OF HARASSMENT OR INTIMIDATION;**

30 **(III) INFORMATION ON HOW TO OBTAIN THE STANDARD**
31 **VICTIM OF HARASSMENT OR INTIMIDATION REPORT FORM DESCRIBED IN**
32 **SUBSECTION (E) OF THIS SECTION;**

1 (IV) INFORMATION ON HOW TO ANONYMOUSLY REPORT AN
2 INCIDENT OF HARASSMENT OR INTIMIDATION;

3 (V) REQUIREMENTS THAT SCHOOL EMPLOYEES PROMPTLY
4 REPORT AN INCIDENT OF HARASSMENT OR INTIMIDATION TO THE APPROPRIATE
5 SCHOOL OFFICIAL;

6 (VI) IMMUNITY FROM ANY CIVIL LIABILITY FOR AN
7 INDIVIDUAL WHO IN GOOD FAITH MAKES OR PARTICIPATES IN MAKING A
8 REPORT OF HARASSMENT OR INTIMIDATION TO THE APPROPRIATE SCHOOL
9 OFFICIAL;

10 (VII) PROCEDURES FOR THE PROMPT INVESTIGATION OF AN
11 INCIDENT BY EITHER THE PRINCIPAL OF THE SCHOOL OR A DESIGNEE OF THE
12 PRINCIPAL;

13 (VIII) PROCEDURES FOR THE RESPONSE TO A CONFIRMED
14 INCIDENT OF HARASSMENT OR INTIMIDATION;

15 (IX) PROVISIONS PROHIBITING RETALIATION BY ANY
16 INDIVIDUAL AGAINST A VICTIM OR WITNESS WHO REPORTS AN INCIDENT OF
17 HARASSMENT OR INTIMIDATION;

18 (X) CONSEQUENCES AND APPROPRIATE REMEDIAL ACTION
19 FOR AN INDIVIDUAL WHO ENGAGES IN RETALIATION; AND

20 (XI) CONSEQUENCES AND APPROPRIATE REMEDIAL ACTION
21 FOR AN INDIVIDUAL FOUND TO HAVE FALSELY ACCUSED ANOTHER OF
22 HARASSMENT OR INTIMIDATION; AND

23 (XII) REQUIREMENTS FOR PUBLIC NOTICE OF THE POLICY,
24 INCLUDING THE DISTRIBUTION OF A FLYER IN EACH PUBLIC SCHOOL THAT:

- 25 1. STATES THE POLICY; AND
- 26 2. INCLUDES INFORMATION ON HOW TO OBTAIN THE
27 VICTIM OF HARASSMENT OR INTIMIDATION FORM DESCRIBED IN SUBSECTION
28 (E) OF THIS SECTION.

29 (C) (1) THERE IS A SCHOOL BULLYING OMBUDSMAN IN THE
30 DEPARTMENT APPOINTED BY THE SECRETARY.

31 (2) THE OMBUDSMAN SHALL:

1 **(I) SHARE BEST PRACTICES WITH COUNTY BOARDS**
2 **REGARDING THE RESOLUTION OF A COMPLAINT OF INTIMIDATION OR**
3 **HARASSMENT;**

4 **(II) INVESTIGATE AN UNRESOLVED COMPLAINT OF**
5 **INTIMIDATION OR HARASSMENT;**

6 **(III) CONTACT LOCAL LAW ENFORCEMENT OFFICIALS**
7 **REGARDING AN UNRESOLVED COMPLAINT AS APPROPRIATE;**

8 **(IV) MEDIATE ANY DISPUTE CONCERNING AN UNRESOLVED**
9 **COMPLAINT;**

10 **(V) RECOMMEND COUNSELING FOR A PARTY TO A DISPUTE**
11 **AS APPROPRIATE;**

12 **(VI) RECOMMEND A BEHAVIOR MODIFICATION PLAN FOR A**
13 **PARTY TO A DISPUTE AS APPROPRIATE;**

14 **(VII) REQUIRE A SCHOOL TO DEVELOP AND IMPLEMENT A**
15 **CORRECTIVE ACTION PLAN AS PART A DISPUTE RESOLUTION PROCESS; AND**

16 **(VIII) RECEIVE RECOMMENDATIONS FROM MEMBERS OF THE**
17 **PUBLIC REGARDING THE REDUCTION OF INTIMIDATION AND HARASSMENT.**

18 **(3) ON OR BEFORE JANUARY 1, 2009, THE DEPARTMENT SHALL**
19 **ADOPT REGULATIONS TO IMPLEMENT THIS SUBSECTION, INCLUDING THE**
20 **QUALIFICATIONS REQUIRED OF THE OMBUDSMAN.**

21 **[(b)] (D)** (1) The Department shall require a county board to report
22 incidents of harassment or intimidation against students attending a public school
23 under the jurisdiction of the county board.

24 (2) An incident of harassment or intimidation may be reported by a
25 student or the parent, guardian, or close adult relative of a student.

26 **[(c)] (E)** (1) The Department shall create a standard victim of
27 harassment or intimidation report form.

28 (2) Each victim of harassment or intimidation report form shall:

29 (i) Identify the victim and the alleged perpetrator, if known;

30 (ii) Indicate the age of the victim and alleged perpetrator;

1 (iii) Describe the incident, including alleged statements made by
2 the alleged perpetrator;

3 (iv) Indicate the location of the incident;

4 (v) Identify any physical injury suffered by the victim and
5 describe the seriousness and any permanent effects of the injury;

6 (vi) Indicate the number of days a student is absent from school,
7 if any, as a result of the incident;

8 (vii) Identify any request for psychological services initiated by
9 the victim or the victim's family due to psychological injuries suffered; and

10 (viii) Include instructions on how to fill out the form and the
11 mailing address to where the form shall be sent.

12 (3) A county board shall distribute copies of the victim of harassment
13 or intimidation report form to each public school under the county board's jurisdiction.

14 [(d)] (F) (1) Each county board shall submit summaries of report forms
15 filed with the county board to the State Board on or before January 31 each year.

16 (2) A county board shall delete any information that identifies an
17 individual.

18 [(e)] (G) The information contained in a victim of harassment or
19 intimidation report form in accordance with subsection (c) of this section:

20 (1) Is confidential and may not be redisclosed except as otherwise
21 provided under the Family Education Rights and Privacy Act or this section; and

22 (2) May not be made a part of a student's permanent educational
23 record.

24 [(f)] (H) (1) The Department shall submit a report on or before March 31
25 each year to the Senate Education, Health, and Environmental Affairs Committee and
26 the House Ways and Means Committee, in accordance with § 2-1246 of the State
27 Government Article, consisting of a summary of the information included in the victim
28 of harassment or intimidation report forms filed with the county boards the previous
29 year.

30 (2) The report submitted by the Department shall include, to the
31 extent feasible:

- 1 (i) A description of the act constituting the harassment or
2 intimidation;
- 3 (ii) The age of the victim and alleged perpetrator;
- 4 (iii) The allegation of the alleged perpetrator's motive;
- 5 (iv) A description of the investigation of the complaint and any
6 corrective action taken by the appropriate school authorities;
- 7 (v) The number of days a student is absent from school, if any,
8 as a result of the incident; and
- 9 (vi) The number of false allegations reported.

10 **7-424.1.**

11 (A) **THERE IS A PREVENTION OF HARASSMENT AND INTIMIDATION IN**
12 **PUBLIC SCHOOLS ADVISORY COUNCIL IN THE DEPARTMENT.**

13 (B) **THE DEPARTMENT SHALL PROVIDE STAFF SUPPORT FOR THE**
14 **COUNCIL.**

15 (C) **THE COUNCIL CONSISTS OF THE FOLLOWING MEMBERS,**
16 **APPOINTED BY THE GOVERNOR:**

17 (1) **A REPRESENTATIVE OF EACH COUNTY BOARD;**

18 (2) **FIVE EDUCATION ADVOCATES WITH EXPERIENCE ON ISSUES**
19 **RELATING TO HARASSMENT AND INTIMIDATION; AND**

20 (3) **THE SCHOOL BULLYING OMBUDSMAN APPOINTED BY THE**
21 **SECRETARY UNDER § 7-424 OF THIS SUBTITLE.**

22 (D) **IN MAKING THE APPOINTMENTS REQUIRED UNDER SUBSECTION (A)**
23 **OF THIS SECTION, THE GOVERNOR SHALL ENSURE THAT THE COUNCIL IS**
24 **REPRESENTATIVE OF:**

25 (1) **THE GEOGRAPHIC REGIONS OF THE STATE; AND**

26 (2) **MINORITY POPULATIONS OF THE STATE.**

27 (E) (1) **THE TERM OF A MEMBER APPOINTED UNDER SUBSECTION (A)**
28 **OF THIS SECTION IS 3 YEARS.**

1 (2) **THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY**
2 **THE TERMS PROVIDED FOR MEMBERS OF THE COUNCIL ON OCTOBER 1, 2008.**

3 (3) **AT THE END OF A TERM, A MEMBER SHALL CONTINUE TO**
4 **SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.**

5 (4) **A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN**
6 **SHALL SERVE FOR THE REST OF THE TERM OR UNTIL A SUCCESSOR IS**
7 **APPOINTED AND QUALIFIES.**

8 (F) **THE GOVERNOR SHALL APPOINT A SUCCESSOR IN THE EVENT OF A**
9 **VACANCY ON THE COUNCIL.**

10 (G) **FROM AMONG THE MEMBERS OF THE COUNCIL, THE GOVERNOR**
11 **SHALL DESIGNATE A CHAIR FOR A 2-YEAR TERM.**

12 (H) **A MEMBER OF THE COUNCIL MAY NOT RECEIVE COMPENSATION AS**
13 **A MEMBER OF THE COUNCIL, BUT IS ENTITLED TO REIMBURSEMENT FOR**
14 **EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS**
15 **PROVIDED IN THE STATE BUDGET.**

16 (I) **A MAJORITY OF THE MEMBERS THEN SERVING ON THE COUNCIL IS**
17 **A QUORUM.**

18 (J) **THE COUNCIL SHALL DETERMINE THE TIMES AND PLACES OF ITS**
19 **MEETINGS AND ANY OTHER NECESSARY OPERATING PROCEDURES, WHICH MAY**
20 **INCLUDE THE ESTABLISHMENT OF SUBCOMMITTEES, CONSULTANT PANELS, OR**
21 **WORK GROUPS UTILIZING THE EXPERTISE OF NONCOUNCIL MEMBERS.**

22 (K) **THE PURPOSE OF THE COUNCIL IS TO:**

23 (1) **EVALUATE THE IMPACT OF THE POLICY OF EACH COUNTY**
24 **BOARD SUBMITTED UNDER SUBSECTION (B) OF THIS SECTION TO REDUCE THE**
25 **INCIDENCE OF HARASSMENT AND INTIMIDATION;**

26 (2) **REPORT ON THE RELATIONSHIP OF THE INCIDENCE OF**
27 **HARASSMENT AND INTIMIDATION AND THE INCIDENCE OF SCHOOL DROPOUT**
28 **AND SUICIDE RATES;**

29 (3) **DOCUMENT THE ARTICULATED NEEDS OF COUNTY BOARDS**
30 **FOR TECHNICAL ASSISTANCE AND TRAINING;**

1 (4) **REPORT TO THE SECRETARY ON THE PREVENTION AND**
2 **INTERVENTION STRATEGIES UTILIZED BY SCHOOLS TO REDUCE HARASSMENT**
3 **AND INTIMIDATION; AND**

4 (5) **SHARE BEST PRACTICES AMONG COUNTY BOARDS.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial
6 members of the Prevention of Harassment and Intimidation in Public Schools
7 Advisory Council shall expire as follows:

8 (1) 10 members in 2011;

9 (2) 10 members in 2012; and

10 (3) 10 members in 2013.

11 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2008.