

# HOUSE BILL 365

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By: **Delegates Jackson, Angel, Chang, Hettleman, C. Howard, Knotts, Korman, Lierman, McConkey, McKay, Morales, Patterson, Sanchez, Smith, Tarlau, and Zucker**

Introduced and read first time: January 28, 2016

Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **Public Schools – Bullying, Harassment, and Intimidation Policies – Update**

3 FOR the purpose of requiring the State Board of Education by a certain date to update a  
4 certain model policy to include provisions that relate to prohibiting an electronic  
5 communication of a photograph, an audio recording, or a video recording of certain  
6 acts of bullying, harassment, or intimidation or of certain other conduct that is  
7 transmitted for a certain purpose; requiring certain county boards of education by a  
8 certain date to update certain policies based on the State Board’s update of the model  
9 policy and to submit the updated policies to the State Superintendent of Schools;  
10 providing that a school employee who reports a certain act is not civilly liable under  
11 certain circumstances; and generally relating to bullying, harassment, and  
12 intimidation in public schools.

13 BY repealing and reenacting, with amendments,  
14 Article – Education  
15 Section 7–424.1  
16 Annotated Code of Maryland  
17 (2014 Replacement Volume and 2015 Supplement)

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

### Article – Education

20 7–424.1.

22 (a) (1) In this section the following words have the meanings indicated.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           (2) “Bullying, harassment, or intimidation” means intentional conduct,  
2 including verbal, physical, or written conduct, or an intentional electronic communication,  
3 that:

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

7                   1. Motivated by an actual or a perceived personal  
8 characteristic including race, national origin, marital status, sex, sexual orientation,  
9 gender identity, religion, ancestry, physical attribute, socioeconomic status, familial status,  
10 or physical or mental ability or disability; or

11                   2. Threatening or seriously intimidating; and

12           (ii) 1. Occurs on school property, at a school activity or event, or  
13 on a school bus; or

14                   2. Substantially disrupts the orderly operation of a school.

15           (3) “Electronic communication” means a communication transmitted by  
16 means of an electronic device, including a telephone, cellular phone, computer, or pager.

17           (b) (1) By March 31, 2009, the State Board, after consultation with and input  
18 from local school systems, shall develop a model policy prohibiting bullying, harassment,  
19 or intimidation in schools.

20           (2) The model policy developed under paragraph (1) of this subsection shall  
21 include:

22                   (i) A statement prohibiting bullying, harassment, and intimidation  
23 in schools;

24                   (ii) A statement prohibiting reprisal or retaliation against  
25 individuals who report acts of bullying, harassment, or intimidation;

26                   (iii) A definition of bullying, harassment, or intimidation that is  
27 either the same as set forth in subsection (a)(2) of this section or a definition that is not less  
28 inclusive than that definition;

29                   (iv) Standard consequences and remedial actions for persons  
30 committing acts of bullying, harassment, or intimidation and for persons engaged in  
31 reprisal or retaliation;

32                   (v) Standard consequences and remedial actions for persons found  
33 to have made false accusations;

1 (vi) Model procedures for reporting acts of bullying, harassment, and  
2 intimidation;

3 (vii) Model procedures for the prompt investigation of acts of bullying,  
4 harassment, and intimidation;

5 (viii) Information about the types of support services available to the  
6 student bully, victim, and any bystanders; and

7 (ix) Information regarding the availability and use of the bullying,  
8 harassment, or intimidation form under § 7-424 of this subtitle.

9 **(3) BY SEPTEMBER 1, 2016, THE STATE BOARD, AFTER**  
10 **CONSULTATION WITH LOCAL SCHOOL SYSTEMS, SHALL UPDATE THE MODEL POLICY**  
11 **REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO INCLUDE:**

12 **(I) 1. A STATEMENT PROHIBITING AN ELECTRONIC**  
13 **COMMUNICATION OF A PHOTOGRAPH, AN AUDIO RECORDING, OR A VIDEO**  
14 **RECORDING OF AN ACT OF BULLYING, HARASSMENT, OR INTIMIDATION; AND**

15 **2. A STATEMENT PROHIBITING AN ELECTRONIC**  
16 **COMMUNICATION THAT:**

17 **A. IS TRANSMITTED FOR THE PURPOSE OF**  
18 **EMBARRASSMENT; AND**

19 **B. IS A PHOTOGRAPH, AN AUDIO RECORDING, OR A**  
20 **VIDEO RECORDING OF CONDUCT THAT OCCURRED ON SCHOOL PROPERTY, AT A**  
21 **SCHOOL ACTIVITY OR EVENT, OR ON A SCHOOL BUS;**

22 **(II) A STATEMENT PROHIBITING REPRISAL OR RETALIATION**  
23 **AGAINST AN INDIVIDUAL WHO REPORTS AN ELECTRONIC COMMUNICATION**  
24 **PROHIBITED UNDER ITEM (I) OF THIS PARAGRAPH;**

25 **(III) STANDARD CONSEQUENCES AND REMEDIAL ACTIONS FOR**  
26 **PERSONS FOUND TO HAVE TRANSMITTED ELECTRONIC COMMUNICATIONS**  
27 **PROHIBITED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH;**

28 **(IV) STANDARD CONSEQUENCES AND REMEDIAL ACTIONS FOR**  
29 **PERSONS FOUND TO HAVE MADE FALSE ACCUSATIONS OF ELECTRONIC**  
30 **COMMUNICATIONS PROHIBITED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH;**

1                   **(V) MODEL PROCEDURES FOR REPORTING AN ELECTRONIC**  
2 **COMMUNICATION PROHIBITED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH;**  
3 **AND**

4                   **(VI) MODEL PROCEDURES FOR THE PROMPT INVESTIGATION OF**  
5 **AN ELECTRONIC COMMUNICATION PROHIBITED UNDER SUBPARAGRAPH (I) OF THIS**  
6 **PARAGRAPH.**

7           (c)   (1)   Each county board shall establish a policy prohibiting bullying,  
8 harassment, or intimidation at school based on the model policy.

9                   (2)   The policy shall address the components of the model policy specified in  
10 subsection (b)(2) of this section.

11                   (3)   A county board shall develop the policy in consultation with  
12 representatives of the following groups:

13                           (i)   Parents or guardians of students;

14                           (ii)   School employees and administrators;

15                           (iii)   School volunteers;

16                           (iv)   Students; and

17                           (v)   Members of the community.

18                   **(4) BY JANUARY 1, 2017, EACH COUNTY BOARD SHALL UPDATE ITS**  
19 **POLICY BASED ON THE STATE BOARD'S UPDATE OF THE MODEL POLICY UNDER**  
20 **SUBSECTION (B)(3) OF THIS SECTION.**

21           (d)   Each county board shall publicize its policy in student handbooks, school  
22 system Web sites, and any other location or venue the county board determines is necessary  
23 or appropriate.

24           (e)   Each county board policy shall include information on the procedure for  
25 reporting incidents of bullying, harassment, or intimidation, including:

26                           (1)   A chain of command in the reporting process; and

27                           (2)   The name and contact information for an employee of the Department,  
28 designated by the Department, who is familiar with the reporting and investigation  
29 procedures in the applicable school system.

30           (f)   **(1) [Each] BY JULY 1, 2009, EACH** county board shall submit its policy to  
31 the State Superintendent [by July 1, 2009].

1           **(2) BY JANUARY 1, 2017, EACH COUNTY BOARD SHALL SUBMIT ITS**  
2 **UPDATED POLICY TO THE STATE SUPERINTENDENT.**

3           (g) Each county board shall develop the following educational programs in its  
4 efforts to prevent bullying, harassment, and intimidation in schools:

5           (1) An educational bullying, harassment, and intimidation prevention  
6 program for students, staff, volunteers, and parents; and

7           (2) A teacher and administrator development program that trains teachers  
8 and administrators to implement the policy.

9           (h) (1) A school employee who reports an act of bullying, harassment, or  
10 intimidation under this section in accordance with the county board's policy established  
11 under subsection (c) of this section is not civilly liable for any act or omission in reporting  
12 or failing to report an act of bullying, harassment, or intimidation under this section.

13           **(2) A SCHOOL EMPLOYEE WHO REPORTS AN ELECTRONIC**  
14 **COMMUNICATION IN ACCORDANCE WITH THE COUNTY BOARD'S POLICY**  
15 **ESTABLISHED UNDER SUBSECTION (C) OF THIS SECTION IS NOT CIVILLY LIABLE FOR**  
16 **ANY ACT OR OMISSION IN REPORTING OR FAILING TO REPORT AN ELECTRONIC**  
17 **COMMUNICATION UNDER THIS SECTION.**

18           **[(2)] (3)** The provisions of this section may not be construed to limit the  
19 legal rights of a victim of bullying, harassment, or intimidation.

20           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
21 1, 2016.