

HOUSE BILL 365

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6lr1671

By: Delegates Jackson, Angel, Chang, Hettleman, C. Howard, Knotts, Korman, Lierman, McConkey, McKay, Morales, Patterson, Sanchez, Smith, Tarlau, and Zucker Zucker, Afzali, D. Barnes, Buckel, Ebersole, Fennell, Hixson, Hornberger, Kaiser, Long, Luedtke, Metzgar, Platt, Shoemaker, Walker, A. Washington, and M. Washington

Introduced and read first time: January 28, 2016

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 14, 2016

CHAPTER _____

1 AN ACT concerning

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

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

15 BY repealing and reenacting, with amendments,
16 Article – Education
17 Section 7-424.1
18 Annotated Code of Maryland
19 (2014 Replacement Volume and 2015 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

3 **Article – Education**

4 7–424.1.

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

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

9 (i) Creates a hostile educational environment by substantially
10 interfering with a student’s educational benefits, opportunities, or performance, or with a
11 student’s physical or psychological well–being and is:

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

16 2. Threatening or seriously intimidating; and

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

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

20 (3) **(I)** “Electronic communication” means a communication
21 transmitted by means of an electronic device, including a telephone, cellular phone,
22 computer, or pager.

23 **(II) “ELECTRONIC COMMUNICATION” INCLUDES A SOCIAL**
24 **MEDIA COMMUNICATION.**

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

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

30 (i) A statement prohibiting bullying, harassment, and intimidation
31 in schools;

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

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

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

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

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

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

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

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

(3) BY SEPTEMBER 1, 2016, AND EVERY 5 YEARS THEREAFTER, THE STATE BOARD, AFTER CONSULTATION WITH LOCAL SCHOOL SYSTEMS, SHALL UPDATE THE MODEL POLICY REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION ~~TO INCLUDE:~~

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

~~**2. A STATEMENT PROHIBITING AN ELECTRONIC COMMUNICATION THAT:**~~

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

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

~~(H) A STATEMENT PROHIBITING REPRISAL OR RETALIATION AGAINST AN INDIVIDUAL WHO REPORTS AN ELECTRONIC COMMUNICATION PROHIBITED UNDER ITEM (I) OF THIS PARAGRAPH;~~

~~(HH) STANDARD CONSEQUENCES AND REMEDIAL ACTIONS FOR PERSONS FOUND TO HAVE TRANSMITTED ELECTRONIC COMMUNICATIONS PROHIBITED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH;~~

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

~~(V) MODEL PROCEDURES FOR REPORTING AN ELECTRONIC COMMUNICATION PROHIBITED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH;~~
~~AND~~

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

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

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

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

(i) Parents or guardians of students;

(ii) School employees and administrators;

(iii) School volunteers;

(iv) Students; and

(v) Members of the community.

(4) BY JANUARY 1, 2017, AND EVERY 5 YEARS THEREAFTER, EACH COUNTY BOARD SHALL UPDATE ITS POLICY BASED ON THE STATE BOARD'S UPDATE OF THE MODEL POLICY UNDER SUBSECTION (B)(3) OF THIS SECTION.

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

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

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

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

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

12 **(2) BY JANUARY 1, 2017, AND EVERY 5 YEARS THEREAFTER, EACH**
13 **COUNTY BOARD SHALL SUBMIT ITS UPDATED POLICY TO THE STATE**
14 **SUPERINTENDENT.**

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

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

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

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

25 ~~**(2) A SCHOOL EMPLOYEE WHO REPORTS AN ELECTRONIC**~~
26 ~~**COMMUNICATION IN ACCORDANCE WITH THE COUNTY BOARD'S POLICY**~~
27 ~~**ESTABLISHED UNDER SUBSECTION (C) OF THIS SECTION IS NOT CIVILLY LIABLE FOR**~~
28 ~~**ANY ACT OR OMISSION IN REPORTING OR FAILING TO REPORT AN ELECTRONIC**~~
29 ~~**COMMUNICATION UNDER THIS SECTION.**~~

30 ~~**(2)**~~ **(3)** The provisions of this section may not be construed to limit the
31 legal rights of a victim of bullying, harassment, or intimidation.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
33 1, 2016.