

CHAPTER 489

(House Bill 199)

AN ACT concerning

Public Schools – Bullying and Cyber-Bullying, Harassment, and Intimidation – Policy and Disciplinary Standards

FOR the purpose of requiring the State Board of Education to ~~establish~~ develop a certain model policy prohibiting ~~bullying and cyber-bullying~~ bullying, harassment, and intimidation in schools; requiring that the model policy include certain information; requiring the State Board to develop a certain student awareness campaign; requiring the State Board to develop a certain set of model standards for investigating certain complaints and disciplining certain individuals; requiring certain model standards to include certain requirements; requiring certain county boards of education to establish certain ~~local standards concerning bullying based on certain State model standards~~ policies prohibiting bullying, harassment, and intimidation in schools based on the model policy; requiring certain county boards to publicize certain policies in certain publications and certain locations; requiring certain county boards to develop certain educational programs; providing that a school employee that reports a certain act is not civilly liable under certain circumstances; defining a certain term ~~terms;~~ and generally relating to ~~policies and standards related to~~ bullying, harassment, and intimidation in the public schools.

BY repealing and reenacting, with amendments,

Article – Education

Section 7-424

Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

BY adding to

Article – Education

Section ~~7-429~~ 7-424.1

Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

Preamble

WHEREAS, The National Institutes of Health reports that bullying affects more than 5 million students in grades 6 through 11; and

WHEREAS, According to the United States Department of Health and Human Services, bullies identified by age 8 are six times more likely to have a criminal conviction by age 24; and

WHEREAS, The increased use of the Internet by students is presenting new challenges regarding bullying in schools; and

WHEREAS, Bullying may lead to an increase in absenteeism or the dropout rate; and

WHEREAS, Maintaining a safe environment in schools is integral to promoting learning and success in students; now, therefore,

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

Article – Education

7-424.

(a) **(1)** In this section[,] THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “BULLYING, harassment, or intimidation” means INTENTIONAL conduct, including verbal, PHYSICAL, OR WRITTEN conduct, OR AN INTENTIONAL ELECTRONIC COMMUNICATION, that:

[(1)] (I) Creates a hostile educational environment by substantially interfering with a student’s educational benefits, opportunities, or performance, or with a student’s physical or psychological well-being and is:

[(i)] 1. Motivated by an actual or a perceived personal characteristic [such as] INCLUDING race, national origin, marital status, sex, sexual orientation, gender identity, religion, ANCESTRY, PHYSICAL ATTRIBUTES, SOCIOECONOMIC STATUS, FAMILIAL STATUS, OR PHYSICAL OR MENTAL ABILITY or disability; or

[(ii)] 2. Threatening or seriously intimidating; and

[(2)] (II) 1. Occurs on school property, at a school activity or event, or on a school bus[.]; OR

2. SUBSTANTIALLY DISRUPTS THE ORDERLY OPERATION OF A SCHOOL.

(3) “ELECTRONIC COMMUNICATION” MEANS A COMMUNICATION TRANSMITTED BY MEANS OF AN ELECTRONIC DEVICE, INCLUDING A TELEPHONE, CELLULAR PHONE, COMPUTER, OR PAGER.

(b) (1) The Department shall require a county board to report incidents of BULLYING, harassment, or intimidation against students attending a public school under the jurisdiction of the county board.

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

(c) (1) The Department shall create a standard victim of BULLYING, harassment, or intimidation report form.

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

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

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

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

(iv) Indicate the location of the incident;

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

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

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

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

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

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

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

(e) The information contained in a victim of BULLYING, harassment, or intimidation report form in accordance with subsection (c) of this section:

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

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

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

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

(i) A description of the act constituting the BULLYING, harassment, or intimidation;

(ii) The age of the victim and alleged perpetrator;

(iii) The allegation of the alleged perpetrator's motive;

(iv) A description of the investigation of the complaint and any corrective action taken by the appropriate school authorities;

(v) The number of days a student is absent from school, if any, as a result of the incident; and

(vi) The number of false allegations reported.

~~7-429.~~

~~(A) IN THIS SECTION, "BULLYING" MEANS ANY INTENTIONAL WRITTEN, VERBAL, OR PHYSICAL ACT, INCLUDING ANY PUBLISHED COMMUNICATION, THAT HAS THE EFFECT OF:~~

~~(1) PHYSICALLY HARMING AN INDIVIDUAL;~~

~~(2) DAMAGING AN INDIVIDUAL'S PROPERTY;~~

~~(3) SUBSTANTIALLY INTERFERING WITH AN INDIVIDUAL'S EDUCATION OR LEARNING ENVIRONMENT;~~

~~(4) PLACING AN INDIVIDUAL IN REASONABLE FEAR OF HARM TO THE INDIVIDUAL'S PERSON OR PROPERTY; OR~~

~~(5) SUBSTANTIALLY DISRUPTING THE ORDERLY OPERATION OF THE SCHOOL.~~

~~(B) THE STATE BOARD SHALL ESTABLISH A POLICY PROHIBITING BULLYING IN SCHOOLS.~~

~~(C) (1) THE STATE BOARD SHALL DEVELOP MODEL UNIFORM STANDARDS FOR INVESTIGATING COMPLAINTS OF BULLYING AND DISCIPLINING INDIVIDUALS WHO HAVE VIOLATED THE BULLYING POLICY ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION.~~

~~(2) THE STANDARDS ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:~~

~~(I) SPECIFIC PENALTIES TO BE APPLIED TO INDIVIDUALS WHO REPEATEDLY HAVE VIOLATED THE BULLYING POLICY ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION;~~

~~(II) A REQUIREMENT THAT AN INDIVIDUAL WHO VIOLATES THE BULLYING POLICY RECEIVE EDUCATIONAL AND THERAPEUTIC SERVICES CONCERNING BULLYING PREVENTION; AND~~

~~(III) A PROCEDURE FOR PROTECTING VICTIMS OF BULLYING FROM ADDITIONAL INCIDENTS OF BULLYING, HARASSMENT, INTIMIDATION, OR RETALIATION.~~

~~(D) EACH COUNTY BOARD SHALL ESTABLISH LOCAL STANDARDS FOR INVESTIGATING COMPLAINTS OF BULLYING AND DISCIPLINING INDIVIDUALS WHO HAVE VIOLATED THE BULLYING POLICY THAT ARE BASED ON THE MODEL UNIFORM STANDARDS DEVELOPED UNDER SUBSECTION (C) OF THIS SECTION.~~

7-424.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "BULLYING, HARASSMENT, OR INTIMIDATION" MEANS INTENTIONAL CONDUCT, INCLUDING VERBAL, PHYSICAL, OR WRITTEN CONDUCT, OR AN INTENTIONAL ELECTRONIC COMMUNICATION, THAT:

(I) CREATES A HOSTILE EDUCATIONAL ENVIRONMENT BY SUBSTANTIALLY INTERFERING WITH A STUDENT'S EDUCATIONAL BENEFITS, OPPORTUNITIES, OR PERFORMANCE, OR WITH A STUDENT'S PHYSICAL OR PSYCHOLOGICAL WELL-BEING AND IS:

1. MOTIVATED BY AN ACTUAL OR A PERCEIVED PERSONAL CHARACTERISTIC INCLUDING RACE, NATIONAL ORIGIN, MARITAL STATUS, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, RELIGION, ANCESTRY, PHYSICAL ATTRIBUTE, SOCIOECONOMIC STATUS, FAMILIAL STATUS, OR PHYSICAL OR MENTAL ABILITY OR DISABILITY; OR

2. THREATENING OR SERIOUSLY INTIMIDATING;

AND

(II) 1. OCCURS ON SCHOOL PROPERTY, AT A SCHOOL ACTIVITY OR EVENT, OR ON A SCHOOL BUS; OR

2. SUBSTANTIALLY DISRUPTS THE ORDERLY OPERATION OF A SCHOOL.

(3) "ELECTRONIC COMMUNICATION" MEANS A COMMUNICATION TRANSMITTED BY MEANS OF AN ELECTRONIC DEVICE, INCLUDING A TELEPHONE, CELLULAR PHONE, COMPUTER, OR PAGER.

(B) (1) BY ~~DECEMBER 1, 2008~~, MARCH 31, 2009, THE STATE BOARD, AFTER CONSULTATION WITH AND INPUT FROM LOCAL SCHOOL SYSTEMS, SHALL DEVELOP A MODEL POLICY PROHIBITING BULLYING, HARASSMENT, OR INTIMIDATION IN SCHOOLS.

(2) THE MODEL POLICY DEVELOPED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:

(I) A STATEMENT PROHIBITING BULLYING, HARASSMENT, AND INTIMIDATION 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.

~~(C) THE STATE BOARD SHALL DEVELOP A STUDENT AWARENESS CAMPAIGN TO PUBLICIZE THE POLICY.~~

~~(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.

~~(E)~~ (D) EACH COUNTY BOARD SHALL PUBLICIZE ITS POLICY IN STUDENT HANDBOOKS, SCHOOL SYSTEM WEBSITES, AND ANY OTHER LOCATION OR VENUE THE COUNTY BOARD DETERMINES IS NECESSARY OR APPROPRIATE.

~~(F)~~ (E) EACH COUNTY BOARD POLICY SHALL INCLUDE INFORMATION ON THE PROCEDURE FOR REPORTING INCIDENTS OF BULLYING, HARASSMENT, OR INTIMIDATION, INCLUDING:

(1) A CHAIN OF COMMAND IN THE REPORTING PROCESS; AND

(2) THE NAME AND CONTACT INFORMATION FOR AN EMPLOYEE OF THE DEPARTMENT, DESIGNATED BY THE DEPARTMENT, WHO IS FAMILIAR WITH THE REPORTING AND INVESTIGATION PROCEDURES IN THE APPLICABLE SCHOOL SYSTEM.

~~(G)~~ (F) EACH COUNTY BOARD SHALL SUBMIT ITS POLICY TO THE STATE SUPERINTENDENT BY JULY 1, 2009.

~~(H)~~ (G) EACH COUNTY BOARD SHALL DEVELOP THE FOLLOWING EDUCATIONAL PROGRAMS IN ITS EFFORTS TO PREVENT BULLYING, HARASSMENT, AND INTIMIDATION IN SCHOOLS:

(1) AN EDUCATIONAL BULLYING, HARASSMENT, AND INTIMIDATION PREVENTION PROGRAM FOR STUDENTS, STAFF, VOLUNTEERS, AND PARENTS; AND

(2) A TEACHER AND ADMINISTRATOR DEVELOPMENT PROGRAM THAT TRAINS TEACHERS AND ADMINISTRATORS TO IMPLEMENT THE POLICY.

~~(I)~~ (H) (1) A SCHOOL EMPLOYEE WHO REPORTS AN ACT OF BULLYING, HARASSMENT, OR INTIMIDATION UNDER THIS SECTION IN ACCORDANCE WITH THE COUNTY BOARD'S POLICY ESTABLISHED UNDER SUBSECTION ~~(D)~~ (C) OF THIS SECTION IS NOT CIVILLY LIABLE FOR ANY ACT OR OMISSION IN REPORTING OR FAILING TO REPORT AN ACT OF BULLYING, HARASSMENT, OR INTIMIDATION UNDER THIS SECTION.

(2) THE PROVISIONS OF THIS SECTION MAY NOT BE CONSTRUED TO LIMIT THE LEGAL RIGHTS OF A VICTIM OF BULLYING, HARASSMENT, OR INTIMIDATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, May 13, 2008.