

E N G R O S S E D

COMMITTEE SUBSTITUTE

FOR

H. B. 3225

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LAWRENCE AND L. PHILLIPS)

(Originating in the Committee on the Judiciary)
[February 25, 2011]

A BILL to amend and reenact §18-2C-2 and §18-2C-3 of the Code of West Virginia, 1931, as amended, all relating to harassment, intimidation or bullying of students; expanding the definition of harassment, intimidation or bullying; expanding the areas where harassment, intimidation and bullying are prohibited to include school buses and school bus stops; and requiring

county board and West Virginia Department of Education policies regarding harassment, intimidation or bullying.

Be it enacted by the Legislature of West Virginia:

That §18-2C-2 and §18-2C-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 2C. HARASSMENT, INTIMIDATION OR BULLYING PROHIBITION.

§18-2C-2. Definitions.

1 (a) As used in this article, “harassment, intimidation or
2 bullying” means any intentional gesture, or any intentional
3 electronic, written, verbal or physical act, communication,
4 transmission or threat that:

5 ~~(a)~~ (1) A reasonable person under the circumstances
6 should know will have the effect of any one or more of the
7 following:

8 ~~(1)~~ (A) Physically harming a student;

9 ~~(2)~~ (B) Damaging a student’s property;

10 ~~(3)~~ (C) Placing a student in reasonable fear of harm to his
11 or her person; or

12 (4) (D) Placing a student in reasonable fear of damage to
13 his or her property; or

14 (b) (2) Is sufficiently severe, persistent or pervasive that
15 it creates an intimidating, threatening or emotionally abusive
16 educational environment for a student; or

17 (3) Disrupts or interferes with the orderly operation of the
18 school.

19 (b) As used in this article, an electronic act,
20 communication, transmission or threat includes but is not
21 limited to one which is administered via telephone, wireless
22 phone, computer, pager or any electronic or wireless device
23 whatsoever, and includes but is not limited to transmission of
24 any image or voice, email or text message using any such
25 device.

§18-2C-3. Policy prohibiting harassment, intimidation or bullying.

1 (a) Each county board of ~~education~~ shall establish a
2 policy prohibiting harassment, intimidation or bullying.
3 Each county board has control over the content of its policy

4 as long as the policy contains, at a minimum, the
5 requirements of subdivision (b) of this section. The policy
6 shall be adopted through a process that includes
7 representation of parents or guardians, school employees,
8 school volunteers, students and community members.

9 (b) Each county board policy shall, at a minimum,
10 include the following components:

11 (1) A statement prohibiting harassment, intimidation or
12 bullying of any student on school property, a school bus, at
13 a school bus stop or at school sponsored events;

14 (2) A definition of harassment, intimidation or bullying
15 no less inclusive than that in section two of this article;

16 (3) A procedure for reporting prohibited incidents;

17 (4) A requirement that school personnel report prohibited
18 incidents of which they are aware;

19 (5) A requirement that parents or guardians of any
20 student involved in an incident prohibited pursuant to this
21 article be notified;

22 (6) A procedure for documenting any prohibited incident
23 that is reported;

24 (7) A procedure for responding to and investigating any
25 reported incident;

26 (8) A strategy for protecting a victim from additional
27 harassment, intimidation or bullying, and from retaliation
28 following a report;

29 (9) A disciplinary procedure for any student guilty of
30 harassment, intimidation or bullying; and

31 (10) A requirement that any information relating to a
32 reported incident is confidential, and exempt from disclosure
33 under the provisions of chapter twenty-nine-b of this code.

34 (c) Each county board shall adopt the policy and submit
35 a copy to the State Superintendent of Schools by December
36 1, ~~2001~~ 2011.

37 (d) To assist county boards in developing their policies,
38 the West Virginia Department of Education shall develop a
39 model policy applicable to grades kindergarten through

40 twelfth. The model policy shall be issued by September 1,
41 ~~2001~~ 2011.

42 (e) Notice of the county board's policy shall appear in
43 any student handbook, and in any county board publication
44 that sets forth the comprehensive rules, procedures and
45 standards of conduct for the school.