

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 2 of Article 16 of Chapter 2 of Title 20 of the Official Code of Georgia
2 Annotated, relating to discipline of students in elementary and secondary education, so as to
3 revise provisions relating to bullying; to prohibit bullying and harassment of students and
4 school employees; to require annual reporting of bullying and harassment incidents; to
5 provide for definitions; to provide for requirements for local boards of education, state
6 charter schools, and private schools; to provide for requirements for the Department of
7 Education; to provide for statutory construction; to provide for legislative findings; to
8 provide for an effective date; to provide for related matters; to repeal conflicting laws; and
9 for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 The General Assembly finds and declares:

- 13 (1) All students and school employees have the right to participate fully in the educational
14 process, free from bullying and harassment;
- 15 (2) A safe and civil environment in school is necessary for students to learn and to achieve
16 high academic standards and for school employees to provide or support the education of
17 the students;
- 18 (3) Bullying and harassment, like other disruptive or violent behaviors, are forms of
19 conduct that disrupt both a student's ability to learn and a school's ability to educate its
20 students in a safe environment; and
- 21 (4) Because students learn by example, school administrators, faculty, staff, and volunteers
22 should be expected to demonstrate appropriate behavior, treat others with civility and
23 respect, and refuse to tolerate bullying and harassment.

SECTION 2.

Part 2 of Article 16 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to discipline of students in elementary and secondary education, is amended in Code Section 20-2-740, relating to an annual report by local boards of education regarding disciplinary and placement actions and an annual study by the Department of Education, by revising subsections (a) and (b) as follows:

"(a) Each local board of education shall file an annual report, by August 1 of each year, with the Department of Education regarding disciplinary and placement actions taken during the prior school year. Such report shall classify the types of actions into the following categories:

(1) Actions in which a student was assigned to in-school suspension;

(2) Actions in which a student was suspended for a period of ten days or less;

(3) Actions in which a student was suspended for a period of more than ten days but not beyond the current school quarter or semester;

(4) Actions in which a student was expelled beyond the current school quarter or semester but not permanently expelled;

(5) Actions in which a student was permanently expelled;

(6) Actions in which a student was placed in an alternative educational setting;

(7) Actions in which a student was suspended from riding the bus;

(8) Actions in which corporal punishment was administered; ~~and~~

(9) Actions in which a student was removed from class pursuant to subsection (b) of Code Section 20-2-738; and

(10) Actions in which a student was disciplined for bullying or harassment, as defined by Code Section 20-2-751.4.

(b) For each category of ~~disciplinary or placement action~~ listed in paragraphs (1) through ~~(9)~~(10) of subsection (a) of this Code section, the local board shall provide the following information: the number of students subject to the type of disciplinary or placement action; the age and grade level of such students; such students' race and gender; and the number of students subject to the type of disciplinary action in each category who were eligible for free or reduced price lunches under federal guidelines. For each action listed in paragraph (9) of subsection (a) of this Code section, the local board shall also provide information regarding the decisions of placement review committees and the disciplinary and placement decisions made by principals or their designees. The data required by this Code section shall be reported separately for each school within the local school system and collected and reported in compliance with the requirements of 20 U.S.C. Sections 1232g and 1232h."

SECTION 3.

Said part is further amended by revising Code Section 20-2-751.4, relating to policies in public schools prohibiting bullying, as follows:

"20-2-751.4.

(a) As used in this Code section, the term:

(1) 'Bullying' means conduct by a student or school employee that:

(A) Adversely affects the ability of one or more students to participate in or benefit from the school's educational programs or activities or the ability of school employees to provide educational programs or activities by placing a student or students or a school employee or employees in reasonable fear of physical harm; and

(B)(i) Includes conduct based on a student's or school employee's actual or perceived race, color, national origin, sex, gender, disability, sexual orientation, gender identity or expression, religion, or any other distinguishing characteristic that may be defined by a state or local education agency; or

(ii) Is based on association with a person or group with any person with one or more of the actual or perceived characteristics listed in division (i) of this subparagraph.

(2) 'Harassment' means conduct by a student or school employee that:

(A) Adversely affects the ability of one or more students to participate in or benefit from the school's educational programs or activities or the ability of school employees to provide educational programs or activities because the conduct as reasonably perceived by the student or students or school employee or employees is so severe, persistent, or pervasive; and

(B)(i) Includes conduct based on a student's or school employee's actual or perceived race, color, national origin, sex, gender, disability, sexual orientation, gender identity or expression, religion, or any other distinguishing characteristic that may be defined by a state or local educational agency; or

(ii) Is based on association with a person or group with any person with one or more of the actual or perceived characteristics listed in division (i) of this subparagraph.

~~'bullying' means an act which occurs on school property, on school vehicles, at designated school bus stops, or at school related functions or activities, or by use of data or software that is accessed through a computer, computer system, computer network, or other electronic technology of a local school system, that is:~~

~~(1) Any willful attempt or threat to inflict injury on another person, when accompanied by an apparent present ability to do so;~~

~~(2) Any intentional display of force such as would give the victim reason to fear or expect immediate bodily harm; or~~

96 ~~(3) Any intentional written, verbal, or physical act which a reasonable person would~~
 97 ~~perceive as being intended to threaten, harass, or intimidate, that:~~

98 ~~(A) Causes another person substantial physical harm within the meaning of Code~~
 99 ~~Section 16-5-23.1 or visible bodily harm as such term is defined in Code Section~~
 100 ~~16-5-23.1;~~

101 ~~(B) Has the effect of substantially interfering with a student's education;~~

102 ~~(C) Is so severe, persistent, or pervasive that it creates an intimidating or threatening~~
 103 ~~educational environment; or~~

104 ~~(D) Has the effect of substantially disrupting the orderly operation of the school.~~

105 (b) This Code section applies to conduct by students and school employees occurring on
 106 any elementary or secondary school premises, at any school-sponsored functions or
 107 activities, and on school-sponsored transportation. This Code section also applies to usage
 108 by students and school employees of electronic technology and electronic communications
 109 occurring on any elementary or secondary school premises, at any school-sponsored
 110 functions or activities, on school-sponsored transportation, and on school computers,
 111 networks, forums, and mailing lists.

112 ~~(b)(c)~~ No later than August 1, 2011 2015:

113 (1) Each local board of education, state charter school, and private school shall adopt a
 114 policy that prohibits bullying of a student by another student and harassment, which shall
 115 incorporate the model policy established by the Department of Education pursuant to
 116 subsection (d) of this Code section and shall require such prohibition to be included in
 117 the student code of conduct for schools in that school system; that also, at a minimum:

118 (A) Prohibits bullying and harassment by and of students and school employees as
 119 specified in this Code section;

120 (B) Designates one person in the local school system, state charter school, or private
 121 school as the primary contact regarding the bullying and harassment policy. The
 122 primary contact shall receive copies of all formal and informal complaints, have
 123 responsibility for assuring the implementation of the policy and procedure, and serve
 124 as the primary contact on the policy and procedures between the local school system,
 125 state charter school, or private school and the Department of Education;

126 (C) Requires that school employees and trained volunteers who witness incidents of
 127 bullying or harassment, or possess reliable information that would lead a reasonable
 128 person to suspect that a person is a target of bullying or harassment, promptly report
 129 that information to the school principal and the primary contact of the local school
 130 system, state charter school, or private school;

131 (D) Provides a procedure for prompt investigation of reports of complaints of bullying
 132 or harassment, identifying either the principal or the principal's designee as the person
 133 responsible for the investigation;

134 (E) Delineates the range of ways in which a school will respond once an incident of
 135 bullying or harassment is identified, including a range of age-appropriate consequences
 136 for students or appropriate consequences for school employees that may or will attach
 137 to the prohibited bullying and harassment;

138 (F) Prohibits reprisal or retaliation against any person who reports an act of bullying
 139 or harassment and describe appropriate remedial action for a person who engages in
 140 reprisal or retaliation;

141 (G) Allows for anonymous reporting while clarifying that no remedial action may be
 142 undertaken solely on the basis of an anonymous report;

143 (H) Includes a statement of how the policy is to be publicized, including that the policy
 144 of the local school system, state charter school, or private school shall appear in new
 145 employee training materials, any publication of the local school system, state charter
 146 school, or private school that sets forth the comprehensive rules, procedures, and
 147 standards of conduct for schools within the local school system or for state charter
 148 schools or private schools, and in any student handbook and employee handbook; and

149 (I) Describes a process by which data on incidents of bullying and harassment shall be
 150 collected, reported, and analyzed at least on an annual basis; and

151 (2) Each local board of education shall ensure that each school adopts and implements
 152 and each state charter school and private school shall adopt and implement annual
 153 professional development in the identification, prevention, and resolution of bullying and
 154 harassment incidents.

155 ~~(2) Each local board policy shall require that, upon a finding by the disciplinary hearing~~
 156 ~~officer, panel, or tribunal of school officials provided for in this subpart that a student in~~
 157 ~~grades six through 12 has committed the offense of bullying for the third time in a school~~
 158 ~~year, such student shall be assigned to an alternative school;~~

159 ~~(3) Each local board of education shall establish and publish in its local board policy a~~
 160 ~~method to notify the parent, guardian, or other person who has control or charge of a~~
 161 ~~student upon a finding by a school administrator that such student has committed an~~
 162 ~~offense of bullying or is a victim of bullying; and~~

163 ~~(4) Each local board of education shall ensure that students and parents of students are~~
 164 ~~notified of the prohibition against bullying, and the penalties for violating the prohibition,~~
 165 ~~by posting such information at each school and by including such information in student~~
 166 ~~and parent handbooks.~~

167 ~~(c)(d) No later than January 1, 2011~~ June 30, 2015, the Department of Education shall:

168 (1) Develop ~~develop~~ a model policy regarding bullying and harassment, that may be
 169 revised from time to time, and shall post such policy on its website in order to assist local
 170 school systems, state charter schools, and private schools. Such model policy shall
 171 ~~include~~ provide that it:

172 (A) Is applicable to students in grades kindergarten through 12 and to all school
 173 employees; and

174 (B) Contains definitions of bullying and harassment consistent with this Code section;

175 (2) Adopt rules and regulations necessary to implement the provisions of this Code
 176 section;

177 (3) Develop appropriate procedures for:

178 (A) Investigating violations of this Code section;

179 (B) Reporting of and responding to failures to implement this Code section by school
 180 systems, schools, and administrators;

181 (C) Reporting of incidents of bullying and harassment by school systems, state charter
 182 schools, and private schools;

183 (D) Publication of state-wide statistics concerning bullying and harassment;

184 (E) Filing complaints regarding school system, state charter school, and private school
 185 failure to develop and implement policies that provide the protections set forth in this
 186 Code section; and

187 ~~(1) A statement prohibiting bullying;~~

188 ~~(2) A requirement that any teacher or other school employee who has reliable~~
 189 ~~information that would lead a reasonable person to suspect that someone is a target of~~
 190 ~~bullying shall immediately report it to the school principal;~~

191 ~~(3) A requirement that each school have a procedure for the school administration to~~
 192 ~~promptly investigate in a timely manner and determine whether bullying has occurred;~~

193 ~~(4) An age-appropriate range of consequences for bullying which shall include, at~~
 194 ~~minimum and without limitation, disciplinary action or counseling as appropriate under~~
 195 ~~the circumstances;~~

196 ~~(5) A procedure for a teacher or other school employee, student, parent, guardian, or~~
 197 ~~other person who has control or charge of a student, either anonymously or in such~~
 198 ~~person's name, at such person's option, to report or otherwise provide information on~~
 199 ~~bullying activity;~~

200 ~~(6) A statement prohibiting retaliation following a report of bullying; and~~

201 ~~(7) Provisions consistent with the requirements of subsection (b) of this Code section.~~

202 ~~(d)(4) Post~~ The Department of Education shall develop and post on its website a list of
 203 entities and their contact information which produce antibullying and harassment training

204 programs and materials deemed appropriate by the department for use in local school
205 systems, state charter schools, and private schools.

206 (e)(1) Any person who reports an incident of bullying or harassment in good faith shall
207 be immune from civil liability for any damages caused by such reporting.

208 (2) A school employee shall be immune from a cause of action for damages arising from
209 any failure to remedy a reported incident, if he or she:

210 (A) Promptly reports an incident of bullying or harassment to the principal and the
211 primary contact designated by the school system, state charter school, or private school
212 pursuant to subparagraph (c)(2)(B) of this Code section; and

213 (B) Makes such report in compliance with the procedures established by the school
214 system, state charter school, or private school.

215 (f) Nothing in this Code section or in the model policy promulgated by the Department of
216 Education shall be construed to require a local board of education, state charter school, or
217 private school to provide transportation to a student transferred to another school as a result
218 of a bullying or harassment incident.

219 (g) Any school system or state charter school which is not in compliance with the
220 requirements of subsection ~~(b)~~ (c) of this Code section shall be ineligible to receive state
221 funding pursuant to Code Sections 20-2-161 and 20-2-260.

222 (h)(1) This Code section is not intended to establish any private right of action.

223 (2) This Code section is not intended to limit the rights of any individual currently
224 available under any other civil or criminal law.

225 (3) Nothing in this Code section is intended to interfere with the First Amendment rights
226 of free speech and expression of any person affected.

227 (i) A school employee, student, or volunteer shall not engage in reprisal, retaliation, or
228 false accusation against a victim, witness, or one with reliable information about an act of
229 bullying or harassment.

230 (j) The provisions of this Code section shall be liberally construed to give effect to the
231 purposes thereof.

232 (k) A local board of education, state charter school, or private school may require
233 community service for a student in grades six through 12 who commits the offense of
234 bullying or harassment."

235 SECTION 4.

236 Said part is further amended by revising subsection (e) of Code Section 20-2-751.5, relating
237 to student codes of conduct, as follows:

238 "(e) Any student handbook which is prepared by a local board or school shall include a
239 copy of the student code of conduct for that school or be accompanied by a copy of the

240 student code of conduct for that school as annually distributed pursuant to Code Section
241 20-2-736. Any such student handbook shall also include a statement that all students have
242 a right to be free from bullying or harassment, as defined by Code Section 20-2-751.4, by
243 other students or school employees. When distributing a student code of conduct, a local
244 school shall include a form for acknowledgment of the student's parent or guardian's receipt
245 of the code, and the local school shall solicit or require that the form be signed and returned
246 to the school."

247 **SECTION 5.**

248 This Act shall become effective upon its approval by the Governor or upon its becoming law
249 without such approval.

250 **SECTION 6.**

251 All laws and parts of laws in conflict with this Act are repealed.