WEST VIRGINIA CODE CHAPTER 18 ARTICLE 2C

WV Legislature

§18-2C-1. Legislative findings.

The Legislature finds that a safe and civil environment in school is necessary for students to learn and achieve high academic standards. The Legislature finds that harassment, intimidation or bullying, like other disruptive or violent behavior, is conduct that disrupts both a student's ability to learn and a school's ability to educate its students in a safe, nonthreatening environment.

The Legislature further finds that students learn by example. The Legislature charges school administrators, faculty, staff and volunteers with demonstrating appropriate behavior, treating others with civility and respect, and refusing to tolerate harassment, intimidation or bullying.

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§18-2C-2. Definitions.

(a) As used in this article, "harassment, intimidation or bullying" means any intentional gesture, or any intentional electronic, written, verbal or physical act, communication, transmission or threat that:

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

(A) Physically harming a student;

(B) Damaging a student's property;

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

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

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

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

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

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

(a) Each county board shall establish a policy prohibiting harassment, intimidation or bullying. Each county board has control over the content of its policy as long as the policy contains, at a minimum, the requirements of subdivision (b) of this section. The policy shall be adopted through a process that includes representation of parents or guardians, school employees, school volunteers, students and community members.

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

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

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

(3) A procedure for reporting prohibited incidents;

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

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

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

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

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

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

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

(11) A requirement that each county board shall input into the uniform integrated regional computer information system (commonly known as the West Virginia Education Information System) described in section twenty-six, article two of this chapter, and compile an annual report regarding the means of harassment, intimidation or bullying that have been reported to them, and the reasons therefor, if known. The West Virginia Department of Education shall compile the information and report it annually beginning July 1, 2012, to the Legislative Oversight Committee on Education Accountability.

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

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(d) To assist county boards in developing their policies, the West Virginia Department of Education shall develop a model policy applicable to grades kindergarten through twelfth. The model policy shall be issued by September 1, 2011.

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

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§18-2C-4. Immunity.

A school employee, student or volunteer is individually immune from a cause of action for damages arising from reporting said incident, if that person:

(1) In good faith promptly reports an incident of harassment, intimidation or bullying;

(2) Makes the report to the appropriate school official as designated by policy; and

(3) Makes the report in compliance with the procedures as specified in policy.

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§18-2C-5. Policy training and education.

(a) Schools and county boards are encouraged, but not required, to form bullying prevention task forces, programs and other initiatives involving school staff, students, teachers, administrators, volunteers, parents, law enforcement and community members.

(b) To the extent state or federal funds are appropriated for these purposes, each school district shall:

(1) Provide training on the harassment, intimidation or bullying policy to school employees upon employment and volunteers who have direct contact with students; and

(2) Develop a process for educating students on the harassment, intimidation or bullying policy.

(c) Information regarding the county board policy against harassment, intimidation or bullying shall be incorporated into each school's current employee training program upon employment and renewed every three years thereafter.

WV Legislature

§18-2C-6. Liability.

Except as provided in section four of this article, nothing in this article prohibits a victim from seeking redress under any other provision of civil or criminal law.

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