

1 HB216

ACT# 2009- 571

2 107674-6

3 By Representative Graham

4 RFD: Education Appropriations

5 First Read: 03-FEB-09

6 PFD: 01/30/2009



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2 ENROLLED, An Act,

3 To establish the Student Harassment Prevention Act;
4 to provide legislative intent; to establish definitions; to
5 provide for the adoption of policies by public school systems
6 pertaining to the prevention of harassment of one student
7 against another student; to require the State Department of
8 Education to develop a model policy for local boards
9 pertaining to student harassment prevention; to provide that
10 the right of freedom of speech would not be abridged; and to
11 make an appropriation from the Education Trust Fund to the
12 State Department of Education in the amount of \$10,000 for
13 fiscal year 2010-2011 to implement this act.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. This act shall be known and may be cited
16 as the Student Harassment Prevention Act.

17 Section 2. It is the intent of the Legislature to
18 provide for the adoption of policies in public school systems
19 to prevent the harassment of students. It is the further
20 intent of the Legislature that this act apply only to student
21 against student harassment, intimidation, violence, and
22 threats of violence in the public schools of Alabama, grades
23 prekindergarten through 12, and that the State Department of
24 Education develop, and each local board of education adopt,
25 procedural policies to manage, and possibly prevent, these

1 acts against any student by another student or students based
2 on the characteristics of a student.

3 Additionally, it is the intent of the Legislature
4 that the filing of a complaint of harassment be in writing and
5 submitted by the affected student, or the parent or guardian
6 of the affected student, and not by an education employee on
7 behalf of an affected student or his or her parent or
8 guardian.

9 Section 3. The following terms have the following
10 meanings:

11 (1) DEPARTMENT. The State Department of Education.

12 (2) HARASSMENT. A continuous pattern of intentional
13 behavior that takes place on school property, on a school bus,
14 or at a school-sponsored function including, but not limited
15 to, written, electronic, verbal, or physical acts that are
16 reasonably perceived as being motivated by any characteristic
17 of a student, or by the association of a student with an
18 individual who has a particular characteristic, if the
19 characteristic falls into one of the categories of personal
20 characteristics contained in the model policy adopted by the
21 department or by a local board. To constitute harassment, a
22 pattern of behavior may do any of the following:

23 a. Place a student in reasonable fear of harm to his
24 or her person or damage to his or her property.

1 b. Have the effect of substantially interfering with
2 the educational performance, opportunities, or benefits of a
3 student.

4 c. Have the effect of substantially disrupting or
5 interfering with the orderly operation of the school.

6 d. Have the effect of creating a hostile environment
7 in the school, on school property, on a school bus, or at a
8 school-sponsored function.

9 e. Have the effect of being sufficiently severe,
10 persistent, or pervasive enough to create an intimidating,
11 threatening, or abusive educational environment for a student.

12 (3) HOSTILE ENVIRONMENT. The perception by an
13 affected student or victim that the conduct of another student
14 constitutes a threat of violence or harassment and that the
15 conduct is objectively severe or pervasive enough that a
16 reasonable person, under the circumstances, would agree that
17 the conduct constitutes harassment, threat of assault, or
18 assault.

19 (4) LOCAL BOARD. A city or county board of
20 education.

21 (5) SCHOOL. Each public school, grades
22 prekindergarten through 12, the Alabama Institute for Deaf and
23 Blind, the Alabama High School of Mathematics and Science, and
24 the Alabama School of Fine Arts.

(6) SCHOOL SYSTEM. The schools under the jurisdiction of a local board.

Section 4. (a) No student shall engage in or be subjected to harassment, intimidation, violence, or threats of violence on school property, on a school bus, or at any school-sponsored function by any other student in his or her school system.

(b) No person shall engage in reprisal, retaliation, or false accusation against a victim, witness, or other person who has reliable information about an act of harassment, violence, or threat of violence.

(c) Any student, or parent or guardian of the student, who is the object of harassment may file a complaint outlining the details of the harassment, on a form authorized by the local board, and submit the form to the official designated by the local board to receive complaints at the school.

(d) Each school shall develop plans or programs, including, but not limited to, peer mediation teams, in an effort to encourage students to report and address incidents of harassment, violence, or threats of violence.

Section 5. The department shall develop a model policy prohibiting harassment, violence, and threats of violence on school property, on a school bus, or at any

1 school-sponsored function. The model policy, at a minimum,
2 shall contain all of the following components:

3 (1) A statement prohibiting harassment, violence,
4 and threats of violence.

5 (2) Definitions of the terms harassment, as provided
6 in subdivision (2) of Section 3, intimidation, and threats of
7 violence.

8 (3) A description of the behavior expected of each
9 student.

10 (4) A series of graduated consequences for any
11 student who commits an act of intimidation, harassment,
12 violence, or threats of violence. Punishment shall conform
13 with applicable federal and state disability,
14 antidiscrimination, and education laws and school discipline
15 policies.

16 (5) A procedure for reporting an act of
17 intimidation, threat of suicide, harassment, violence, or
18 threat of violence. An anonymous report may not be the basis
19 for imposing formal disciplinary action against a student.

20 (6) A procedure for the prompt investigation of
21 reports of serious violations and complaints, specifying that
22 the principal, or his or her designee, is the person
23 responsible for the investigation.

(7) A response procedure for a school to follow upon confirmation of an incident of intimidation, harassment, violence, or threats of violence.

(8) A statement prohibiting reprisal or retaliation against any person who reports an act of intimidation, violence, threat of violence, or harassment, including the consequences of and any appropriate remedial action that may be taken against a person who engages in such reprisal or retaliation.

(9) A statement of the consequences of and appropriate remedial action that may be taken against a person who has deliberately and recklessly falsely accused another.

(10) A procedure for publicizing local board policy, including providing notice that the policy applies to participation in school-sponsored functions.

(11) A clearly defined procedure for students to use in reporting harassment, including, but not limited to, written reports on local board approved complaint forms and written ~~or oral~~ reports of instances of harassment, intimidation, violence, and threats of violence based on the personal characteristics of a student. The complaint form may be served in person or by mail on the principal, or his or her designee, or his or her office. The procedures shall be made known and be readily available to each student, employee, and the parent or guardian of each student. It is the sole

1 responsibility of the affected student, or the parent or
2 guardian of the affected student, to report incidences of
3 harassment to the principal, or his or her designee.

4 (12) A procedure for promulgating rules to implement
5 this act, including the development of a model student
6 complaint form. The department shall seek public input in
7 developing and revising the model policy, model complaint
8 form, and any other necessary forms.

9 (13) A procedure for the development of a
10 nonexhaustive list of the specific personal characteristics of
11 a student which may often lead to harassment. Based upon
12 experience, a local board of education may add, but not
13 remove, characteristics from the list. The additional
14 characteristics or perceived characteristics that cause
15 harassment shall be identified by the local board on a
16 case-by-case basis and added to the local board policy. The
17 list shall be included in the code of conduct policy of each
18 local board.

19 Section 6. Each school shall do all of the
20 following:

21 (1) Develop and implement evidence-based practices
22 to promote a school environment that is free of harassment,
23 intimidation, violence, and threats of violence.

24 (2) Develop and implement evidence-based practices
25 to prevent harassment, intimidation, violence, and threats of

1 violence based, as a minimum, on the criteria established by
2 this act and local board policy, and to intervene when such
3 incidents occur.

4 (3) Incorporate into civility, citizenship, and
5 character education curricula awareness of and sensitivity to
6 the prohibitions of this act and local board policy against
7 harassment, intimidation, violence, and threats of violence.

8 (4) Report statistics to the local board of actual
9 violence, submitted reports of threats of violence, and
10 harassment. The local board shall provide the statistics of
11 the school system and each school in the school system to the
12 department for posting on the department website. The posted
13 statistics shall be available to the public and any state or
14 federal agency requiring the information. The identity of each
15 student involved shall be protected and may not be posted on
16 the department website.

17 Section 7. This act shall not affect the freedom of
18 speech and freedom of expression guaranteed each student under
19 the Constitution of the United States and the Constitution of
20 Alabama of 1901, and other applicable statutory law provided
21 in the Code of Alabama 1975.

22 Section 8. To the extent that the Legislature shall
23 appropriate funds, or to the extent that any local board may
24 provide funds from other sources, each school system shall

1 implement the following standards and policies for programs in
2 an effort to prevent student suicide:

3 (1) Foster individual, family, and group counseling
4 services related to suicide prevention.

5 (2) Make referral, crisis intervention, and other
6 related information available for students, parents, and
7 school personnel.

8 (3) Foster training for school personnel who are
9 responsible for counseling and supervising students.

10 (4) Increase student awareness of the relationship
11 between drug and alcohol use and suicide.

12 (5) Educate students in recognizing signs of
13 suicidal tendencies and other facts and warning signs of
14 suicide.

15 (6) Inform students of available community suicide
16 prevention services.

17 (7) Promote cooperative efforts between school
18 personnel and community suicide prevention program personnel.

19 (8) Foster school-based or community-based, or both,
20 alternative programs outside of the classroom.

21 (9) Develop a strategy to assist survivors of
22 attempted suicide, students, and school personnel in coping
23 with the issues relating to attempted suicide, suicide, the
24 death of a student, and healing.

(10) Engage in any other program or activity which the local board determines is appropriate and prudent in the efforts of the school system to prevent student suicide.

(11) Provide training for school employees and volunteers who have significant contact with students on the local board policies to prevent harassment, intimidation, violence, and threats of violence.

(12) Develop a process for discussing with students local board policies relating to the prevention of student suicide and to the prevention of harassment, intimidation, violence, and threats of violence.

Section 9. Each local board shall establish a policy in compliance with this act on or before July 1, 2010. Each local policy or model policy adopted by a local board or the department, respectively, shall be consistent with this act.

Section 10. This act is cumulative and shall be construed in pari materia with other laws, but to the effect that this act specifically conflicts with other laws in direct conflict with this act, then those laws or parts of laws are repealed.

Section 11. There is appropriated to the State Department of Education the sum of ten thousand dollars (\$10,000) from the Education Trust Fund for the fiscal year ending September 30, 2010, for the implementation and administration of this act.

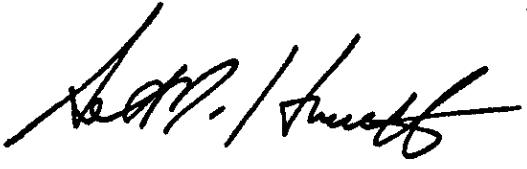
1 Section 12. This act shall become effective on
2 October 1, 2009, following its passage and approval by the
3 Governor, or its otherwise becoming law.

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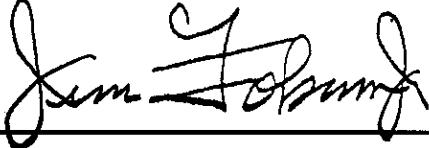
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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

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House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 05-MAR-09, as amended.

Greg Pappas
Clerk

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Senate 07-MAY-09 Amended and Passed

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House 07-MAY-09 Concurred in Sen-
ate Amendment

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APPROVED May 20, 2009

TIME 7:50 a.m.


GOVERNOR

Alabama Secretary Of State

Act Num....: 2009-571
Bill Num....: H-216

Recv'd 05/20/09 11:05am JJB