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Code of Alabama, 1975

Chapter 28B STUDENT HARASSMENT PREVENTION ACT.

Section 16-28B-1

Short title.

This chapter shall be known and may be cited as the Student Harassment Prevention Act.

(Act 2009-571, §1.)

Section 16-28B-2

Legislative intent.

It is the intent of the Legislature to provide for the adoption of policies in public school systems to prevent the harassment of students. It is the further intent of the Legislature that this chapter apply only to student against student harassment, intimidation, violence, and threats of violence in the public schools of Alabama, grades prekindergarten through 12, and that the State Department of Education develop, and each local board of education adopt procedural policies to manage and possibly prevent these acts against any student by another student or students based on the characteristics of a student.

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

(Act 2009-571, §2.)

Section 16-28B-3

Definitions.

The following terms have the following meanings:

(1) DEPARTMENT. The State Department of Education.

(2) HARASSMENT. A continuous pattern of intentional behavior that takes place on school property, on a school bus, or at a school-sponsored function including, but not limited to, written, electronic, verbal, or physical acts that are reasonably perceived as being motivated by any characteristic of a student, or by the association of a student with

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an individual who has a particular characteristic, if the characteristic falls into one of the categories of personal characteristics contained in the model policy adopted by the department or by a local board. To constitute harassment, a pattern of behavior may do any of the following:

- a. Place a student in reasonable fear of harm to his or her person or damage to his or her property.
- b. Have the effect of substantially interfering with the educational performance, opportunities, or benefits of a student.
- c. Have the effect of substantially disrupting or interfering with the orderly operation of the school.
- d. Have the effect of creating a hostile environment in the school, on school property, on a school bus, or at a school-sponsored function.
- e. Have the effect of being sufficiently severe, persistent, or pervasive enough to create an intimidating, threatening, or abusive educational environment for a student.

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

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

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

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

(Act 2009-571, §3.)

Section 16-28B-4

Prohibited behavior; complaints; school plans or programs.

(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.

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(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.

(Act 2009-571, §4.)

Section 16-28B-5

Model policy.

The department shall develop a model policy prohibiting harassment, violence, and threats of violence on school property, on a school bus, or at any school-sponsored function. The model policy, at a minimum, shall contain all of the following components:

- (1) A statement prohibiting harassment, violence, and threats of violence.
- (2) Definitions of the terms harassment, as provided in subdivision (2) of Section 16-28B-3, intimidation, and threats of violence.
- (3) A description of the behavior expected of each student.
- (4) A series of graduated consequences for any student who commits an act of intimidation, harassment, violence, or threats of violence. Punishment shall conform with applicable federal and state disability, antidiscrimination, and education laws and school discipline policies.
- (5) A procedure for reporting an act of intimidation, threat of suicide, harassment, violence, or threat of violence. An anonymous report may not be the basis for imposing formal disciplinary action against a student.
- (6) A procedure for the prompt investigation of reports of serious violations and complaints, specifying that the principal, or his or her designee, is the person 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.

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

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

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

(Act 2009-571, §5.)

Section 16-28B-6

Duties of schools.

Each school shall do all of the following:

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

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(2) Develop and implement evidence-based practices to prevent harassment, intimidation, violence, and threats of violence based, as a minimum, on the criteria established by this chapter and local board policy, and to intervene when such incidents occur.

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

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

(Act 2009-571, §6.)

Section 16-28B-7

Freedoms of speech and expression.

This chapter shall not affect the freedom of speech and freedom of expression guaranteed each student under the Constitution of the United States and the Constitution of Alabama of 1901, and other applicable statutory law provided in the Code of Alabama 1975.

(Act 2009-571, §7.)

Section 16-28B-8

Implementation of standards and policies.

To the extent that the Legislature shall appropriate funds, or to the extent that any local board may provide funds from other sources, each school system shall implement the following standards and policies for programs in an effort to prevent student suicide:

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

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

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

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- (4) Increase student awareness of the relationship between drug and alcohol use and suicide.
- (5) Educate students in recognizing signs of suicidal tendencies and other facts and warning signs of suicide.
- (6) Inform students of available community suicide prevention services.
- (7) Promote cooperative efforts between school personnel and community suicide prevention program personnel.
- (8) Foster school-based or community-based, or both, alternative programs outside of the classroom.
- (9) Develop a strategy to assist survivors of attempted suicide, students, and school personnel in coping with the issues relating to attempted suicide, suicide, the 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.

(Act 2009-571, §8.)

Section 16-28B-9

Adoption of local policies.

Each local board shall establish a policy in compliance with this chapter 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 chapter.

(Act 2009-571, §9.)