

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

HOUSE BILL 1003

By: Representative Gazaway

For An Act To Be Entitled

AN ACT TO AMEND THE STATE ANTIBULLYING POLICY; TO REQUIRE THAT A SCHOOL BOARD MEMBER RECEIVE BULLYING AND CYBERBULLYING PREVENTION TRAINING; TO INCLUDE BULLYING AND CYBERBULLYING PREVENTION TRAINING WITHIN A PROFESSIONAL DEVELOPMENT PROGRAM; TO CREATE THE POSITIONS OF SCHOOL ANTIBULLYING SPECIALIST AND DISTRICT ANTIBULLYING COORDINATOR; TO ESTABLISH A WEEK OF KINDNESS; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE ANTIBULLYING POLICY; TO REQUIRE ANTIBULLYING TRAINING; TO CREATE THE POSITIONS OF ANTIBULLYING SPECIALIST AND DISTRICT ANTIBULLYING COORDINATOR; AND TO ESTABLISH A WEEK OF KINDNESS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. LEGISLATIVE INTENT. DO NOT CODIFY.

The General Assembly finds that:

(1) A 2016 study, "Indicators of School Crime and Safety," published by the United States Department of Justice and the United States Department of Education, reported that twenty-one percent (21%) of students twelve (12) through eighteen (18) years of age were injured as a result of bullying in the previous school year. The study also reported that about thirty-three percent (33%) of students who reported being bullied at school indicated that they were bullied at least once or twice a month during the



school year;

(2) A 2017 study by the United States Centers for Disease Control and Prevention, "Youth Risk Behavior Surveillance", reported that Arkansas ranks number first in the nation for the percentage of teenagers who were bullied on school property;

(3) The chronic persistence of school bullying has led to instances of student suicides across the country, including Arkansas;

(4) Significant research has emerged since Arkansas enacted its public school antibullying statutes in 2003 and its cyberbullying law in 2011;

(5) School districts and students, parents, teachers, principals, other school staff, and school district boards of directors would benefit from the establishment of clearer standards regarding what constitutes bullying, and clearer standards concerning how to prevent, report, investigate, and respond to incidents of bullying;

(7) It is the intent of the General Assembly in enacting this legislation to strengthen the standards and procedures for preventing, reporting, investigating, and responding to incidents of bullying of students that occur on and off school property;

(8) Fiscal responsibility requires Arkansas to take a smarter, clearer approach to fight school bullying by ensuring that existing resources are better managed and used to make schools safer for students;

(9) In keeping with the goal of fiscal responsibility and in an effort to minimize any burden placed on schools and school districts, existing personnel and resources shall be utilized in every possible instance to accomplish the goals of increased prevention, reporting, investigation, and responsiveness to incidents of bullying, including without limitation the appointment of school antibullying specialists and district antibullying coordinators; and

(10) By strengthening standards for preventing, reporting, investigating, and responding to incidents of bullying, this act will help to reduce the risk of suicide among students and avert not only the needless loss of a young life, but also the tragedy that such loss represents to the student's family and the community-at-large.

SECTION 2. Arkansas Code § 6-13-629(a)(3)(A), concerning the training

and instruction of school board members, is amended to read as follows:

(3)(A) The training and instruction required under this section shall include:

~~(i) topics~~ Topics relevant to school laws, and school operations, ~~and~~

~~(ii) the~~ The powers, duties, and responsibilities of the members of the board of directors, including without limitation:

~~(i)(a)~~ (a) Legal requirements, including without limitation:

~~(a)(1)~~ (1) The items listed or required by the Legislative Joint Auditing Committee under § 6-1-101; and

~~(b)(2)~~ (2) Other financial laws or regulations designated by the Department of Education;

~~(ii)(b)~~ (b) Role differentiation;

~~(iii)(c)~~ (c) Financial management, including without limitation how to read and interpret an audit report; ~~and~~

~~(iv)(d)~~ (d) Improving student achievement, ~~and~~

(iii)(a) A program on bullying as defined in § 6-18-514 in schools and the relationship bullying has to student suicide rates.

(b) A member shall be required to complete the program in subdivision (a)(3)(A)(iii)(a) of this section only one (1) time.

SECTION 3. Arkansas Code § 6-17-708 is amended to read as follows:

6-17-708. Teen suicide awareness and bullying prevention professional development.

(a)(1) The Department of Education shall require two (2) hours of professional development in teen suicide awareness and prevention for licensed public school personnel ~~according to the professional development schedule under § 6-17-709 per year.~~

(2) The professional development under this section:

(A) may ~~may~~ May be accomplished through self-review of suitable suicide prevention materials approved by the department, ~~and~~

(B) Shall include information on the relationship between the risk of suicide and incidents of bullying.

(b) The professional development under this section shall count toward the satisfaction of requirements for professional development in the

Standards for Accreditation of Arkansas Public Schools and School Districts and for licensure requirements for licensed personnel.

(c)(1) In addition to the professional development requirement under (a)(2) of this section, the department shall develop a guidance document for use by parents and legal guardians, students, and school districts to assist in resolving complaints concerning student bullying behaviors.

(2) The guidance document shall include:

(A) A school district's obligations under § 6-18-514;

(B) Best practices for the prevention, reporting, investigation, and response to bullying in schools, including without limitation methods to identify and assist student populations at a higher risk for bullying; and

(C) A clear explanation of the:

(i) Procedures for petitioning the Commissioner of Education to hear and decide incidents under § 6-18-514; and

(ii) Process for appealing final agency determinations to the circuit court of the county in which the school district is located.

SECTION 4. Arkansas Code § 6-18-514(b)(2)-(5), concerning antibullying policies in public schools, is amended to read as follows:

(2)(A) "Bullying" means the intentional harassment, intimidation, humiliation, ridicule, defamation, or threat or incitement of violence by a student against another student or public school employee by a written, verbal, electronic, or physical act that may address an attribute of the other student, public school employee, or person with whom the other student or public school employee is associated and that causes or creates actual or reasonably foreseeable:

~~(A)(i)~~ Physical harm to a public school employee or student or damage to the public school employee's or student's property;

~~(B)(ii)~~ Substantial interference with a student's education or with a public school employee's role in education;

~~(C)(iii)~~ A hostile educational environment for one (1) or more students or public school employees due to the severity, persistence, or pervasiveness of the act; or

~~(D)(iv)~~ Substantial disruption of the orderly operation of

the school or educational environment~~;~~.

(B) "Bullying" includes cyberbullying as defined in this section;

(3) "Cyberbullying" means any form of communication by electronic act that is sent with the purpose to harass, intimidate, humiliate, ridicule, defame, or threaten or incite violence to a student, public school employee, or person with whom the other student or public school employee is associated;

~~(3)~~(4) "Electronic act" means without limitation a communication or image transmitted by means of an electronic device, including without limitation a telephone, wireless phone or other wireless communications device, computer, or pager;

~~(4)~~(5) "Harassment" means a pattern of unwelcome verbal or physical conduct relating to another person's constitutionally or statutorily protected status that causes, or reasonably should be expected to cause, substantial interference with the other's performance in the school environment; ~~and~~

(6) "School personnel" means any individual employed by a school district who maintains regular contact with students, including without limitation:

(A) A teacher;

(B) A paraprofessional;

(C) An administrator;

(D) A member of the support staff;

(E) A bus driver;

(F) A cafeteria worker; and

(G) Any other school employee or individual contracted with a school district who regularly interacts with students; and

~~(5)~~(7) "Substantial disruption" means without limitation that any one (1) or more of the following occur as a result of the bullying:

(A) Necessary cessation of instruction or educational activities;

(B) Inability of students or educational staff to focus on learning or function as an educational unit because of a hostile environment;

(C) Severe or repetitive disciplinary measures are needed in the classroom or during educational activities; or

(D) Exhibition of other behaviors by students or educational staff that substantially interfere with the learning environment.

SECTION 4. Arkansas Code § 6-18-514(d)-(j), concerning antibullying policies in public schools, is amended to read as follows:

(d) A school principal or his or her designee who receives a credible report or complaint of bullying shall:

(1) On the same day, report to a student's parent or legal guardian any credible complaint or report that the student is:

(A) Alleged to be the victim of a bullying incident; or

(B) Accused of being a perpetrator of a bullying incident;

(2) promptly Promptly:

(A)(i) ~~investigate~~ Investigate the complaint or report in collaboration with the school antibullying specialist as provided under § 6-18-517.

(ii)(a) The investigation shall be completed as soon as possible, but not later than ten (10) school days from the date of the written report of the alleged incident of bullying.

(b) In the event that there is information relative to the investigation that is anticipated but not yet received by the end of the ten-day period, the school principal and antibullying specialist may amend the original report of the results of the investigation to reflect the information.

(c)(1) The results of the investigation shall be reported to the school district superintendent within two (2) school days of the completion of the investigation.

(2) The school district superintendent may decide to:

(A) Provide intervention services;

(B) Establish training programs to

reduce bullying;

(C) Impose discipline;

(D) Order counseling; or

(E) Take or recommend other

appropriate action.

(d) The results of each investigation of a

bullying incident shall be reported to the school district board of directors no later than the date of the next school district board of directors meeting following the completion of the investigation, along with any services provided, training established, discipline imposed, or other action taken or recommended by the school district superintendent.

(iii) A parent or legal guardian of a student who is a party to the investigation:

(a) Is entitled within five (5) school days after the results of the investigation are reported to the school district board of directors, and in accordance with federal and state law, to receive information about the investigation including without limitation:

(1) The nature of the investigation;

(2) Whether the school district found evidence of bullying;

(3) The nature of the discipline imposed or services provided to address the incident of bullying; and

(4) Copies of all written reports involved in the investigation; and

(b)(1) May request a hearing before the school district board of directors after receiving the results of the investigation.

(2) The hearing shall be held within forty-five (45) days of the parent or legal guardian's request.

(3) The school district board of directors:

(A) Shall meet in executive session for the hearing to protect the confidentiality of the students;

(B) May hear:

(i) From the school antibullying specialist about the incident;

(ii) Recommendations for discipline or services and any programs instituted to reduce incidents of bullying; and

(iii) From any student involved in the bullying incident, any material witnesses to the bullying incident, a parent or legal guardian of a student involved in the bullying incident, or any attorney or other designated representative of any involved

party.

(4)(A) At the next school district board of directors meeting following the receipt of the report of the investigation of a bullying incident, the school district board of directors shall issue a written decision to affirm, reject, or modify the superintendent's decision.

(B) The school district board of directors' decision may be appealed to the Commissioner of Education no later than thirty (30) days after the issuance of the school district board of directors' decision.

(B)(i) ~~and make~~ Make a written record of the investigation and any action taken as a result of the investigation.

(ii) The written record of the investigation shall include a detailed description of the alleged bullying event, including without limitation a statement from all material witnesses to the event;

(C) Discuss, as appropriate, the availability of counseling and other intervention services; and

(D) Notify the school district superintendent of the action taken regarding the bullying incident.

(e)(1) Two (2) times each school year, between September 1 and January 1 and between January 1 and June 30, the superintendent of the school district shall report to the school district board of directors at a public hearing all acts of bullying that occurred during the previous preceding period. The report shall include without limitation the:

(A) Number of reports of bullying;

(B) Status of all investigations of bullying;

(C) Nature of the bullying incident;

(D) Names of the investigators;

(E) Type and nature of any discipline imposed on any student involved in an incident of bullying; and

(F) Other measures imposed, training conducted, or programs implemented, if any, to reduce bullying incidents.

(2)(A) The information reported by the school district superintendent to the school district board of directors shall be reported once during each reporting period to the Department of Education.

(B) The report shall include data from each school in the district and district-wide data.

(C) The report shall not improperly release any confidential information not authorized for public release by federal or state law.

(3) The report required under this subdivision (e)(1) of this section shall be:

(A)(i) Used by the department to grade each school district for purposes of assessing the school district's effort to implement policies and programs consistent with this section.

(ii) The school district shall receive a grade determined by averaging the grades of all schools in the district.

(iii) The Commissioner of Education shall promulgate rules concerning a program to grade schools.

(iv) The school and school district grade shall be:

(a) Posted on the homepage of the school and school district website within ten (10) days of the receipt of the grade by the school and the school district; and

(b) Linked to the school district's website;

and

(B)(i) Included as part of the department's monitoring of a school district.

(ii) The State Board of Education shall adopt rules that impose a penalty on a school personnel member who knowingly falsifies the report as required under this subsection.

(f)(1) The commissioner shall each year submit a report to the House Committee on Education and Senate Committee on Education detailing the extent of bullying in public schools and making recommendations to alleviate the problem.

(2) The report shall be:

(A) Made available annually to the public; and

(B) Posted on the department website.

(g)(1) A school personnel member who observes or has direct knowledge from a participant or victim of an act of bullying shall file a written report describing the incident to the school principal in a manner prescribed by the antibullying policy.

(2) A copy of the written report shall be sent to the school district superintendent.

~~(e)(1)~~(h)(1) The board of directors of every school district shall adopt policies to prevent bullying.

(2) The policies shall:

(A)(i) Clearly define conduct that constitutes bullying.

(ii) The definition shall include without limitation the definition contained in subsection (b) of this section;

(B) Prohibit bullying:

(i) While in school, on school equipment or property, in school vehicles, on school buses, at designated school bus stops, at school-sponsored activities, or at school-sanctioned events, and off of school grounds when the school district employee is made aware of an alleged incident off of school grounds; or

(ii)(a) By an electronic act that results in the substantial disruption of the orderly operation of the school or educational environment.

(b) This section shall apply to an electronic act whether or not the electronic act originated on school property or with school equipment, if the electronic act is directed specifically at students or school personnel and maliciously intended for the purpose of disrupting school and has a high likelihood of succeeding in that purpose;

(C) State the consequences for engaging in the prohibited conduct, which may vary depending on the age or grade of the student involved;

(D) Require that a ~~school-employee~~ school personnel member who has witnessed or has reliable information that a pupil has been a victim of bullying as defined by the district shall report the incident to the principal as soon as possible;

(E) Require that ~~the~~ any person ~~or persons~~ who ~~file~~ files a report or makes a complaint of bullying will not be subject to retaliation or reprisal in any form;

(F) Include consequences for a person found to have falsely accused another as a means of retaliation or as a means of bullying;

~~(F)~~(G) Require that notice of what constitutes bullying, that bullying is prohibited, and that the consequences of engaging in bullying be conspicuously posted in every classroom, cafeteria, restroom, gymnasium, auditorium, and school bus in the district; ~~and~~

~~(G)~~(H) Require that copies of the notice of what constitutes bullying, that bullying is prohibited, and that the consequences of engaging in bullying be provided to parents, students, school volunteers, and ~~employees~~ school personnel members annually. Each policy shall require that a full copy of the policy be made available upon request;

(I) Require that, as soon as practicable, a school principal or his or her designee report to a student's parent or legal guardian any credible complaint or report of a student who is involved in a bullying incident, whether a student is the victim or perpetrator of the alleged bullying;

(J) Include a:

(i) Statement of how the policy is to be publicized;
and

(ii) Link to the policy on the home page of the school district's website;

(K)(i) Identify the role of the school antibullying specialist and district antibullying coordinator as provided under § 6-18-517.

(ii) The name, school phone number, school address, and school email address of the school antibullying specialist and district antibullying coordinator shall be listed on the home page of the school district's website;

(L) Describe the required standard of conduct and behavior expected from each student; and

(M) List the range of ways in which a school will respond once an incident of bullying is identified, including an appropriate combination of counseling, support services, intervention services, and other programs as defined by the department.

(3) A notice of the school district's policy shall appear in any:

(A) Publication of the school district that sets forth the comprehensive rules, procedures, and standards of conduct for schools within the school district; and

(B) Student handbook.

(4) The school district shall, to the extent required, annually conduct a reevaluation, reassessment, and review of its antibullying policy

and make any necessary revisions and additions.

~~(f)~~(i) A school district shall provide training on compliance with the antibullying policies to all public school district employees responsible for reporting or investigating bullying under this section.

~~(g)~~(j) A school employee who has reported violations under the school district's policy shall be immune from any tort liability that may arise from the failure to remedy the reported incident.

~~(h)~~(k) The board of directors of a school district may provide opportunities for school ~~employees~~ personnel members to participate in programs or other activities designed to develop the knowledge and skills to prevent and respond to acts covered by this policy.

~~(i)~~(l) The school district shall provide the Department of Education with the website address at which a copy of the policies adopted in compliance with this section may be found.

~~(j)~~(m) This section is not intended to:

(1) Restrict a public school district from adopting and implementing policies against bullying or school violence or policies to promote civility and student dignity that are more inclusive than the antibullying policies required under this section; ~~or~~

(2) Unconstitutionally restrict protected rights of freedom of speech, freedom of religious exercise, or freedom of assembly;

(3) Affect the provisions of any collective bargaining agreement or individual contract of employment in effect on the effective date of this subdivision; or

(4) Alter or reduce the rights of a student with a disability with regard to disciplinary actions or to general or special educational services and supports.

(n)(1) Nonpublic schools are encouraged to comply with the provisions of this section.

(2) In the case of a faith-based nonpublic school, no provision of this section shall be interpreted to prohibit or abridge the legitimate statement, expression, or free exercise of the beliefs or tenets of that faith by the religious organization operating the school or by the school's faculty, staff, or student body.

SECTION 5. Arkansas Code Title 6, Chapter 18, Subchapter 5, is amended

to add an additional section to read as follows:

6-18-517. School antibullying specialist – District antibullying Coordinator.

(a)(1) The principal in each school in a school district shall appoint a school antibullying specialist.

(2) The school antibullying specialist shall:

(A) Lead the investigation of incidents of bullying in the school; and

(B) Act as the primary school official responsible for preventing, identifying, and addressing incidents bullying in the school.

(3)(A) When a school guidance counselor, school psychologist, or other individual similarly trained is currently employed in the school, the principal shall appoint that individual to be the antibullying specialist.

(B) If no individual meeting this criteria is currently employed in the school, the principal shall appoint a school antibullying specialist from currently employed school personnel.

(b)(1) The superintendent of schools shall appoint a district antibullying coordinator.

(2) The district antibullying coordinator shall:

(A) Be responsible for coordinating and improving the school district's policies to prevent, identify, and address bullying of students;

(B) Collaborate with school antibullying specialists in the district, the school district board of directors, and the superintendent of schools to prevent, identify, and address harassment, intimidation, and bullying of students in the district;

(C) Provide data, in collaboration with the superintendent of schools, to the Department of Education regarding bullying of students; and

(D) Execute such other duties related to school harassment, intimidation, and bullying as requested by the superintendent of schools.

(3) The superintendent shall make every effort to appoint an employee of the school district to the position of district antibullying coordinator.

(c) The district antibullying coordinator shall meet at least two (2)

times each year with the school antibullying specialists in the district to discuss and strengthen procedures and policies to prevent, identify, and address harassment, intimidation, and bullying in the district.

(d)(1) The Commissioner of Education, in consultation with recognized experts in school bullying from a cross section of academia, child advocacy organizations, nonprofit organizations, professional associations, and government agencies, shall establish in-service workshops and training programs to train selected individuals to act as district antibullying coordinators and school antibullying specialists in accordance with this section.

(2) The commissioner shall seek to make the workshops and training programs available and administered online through the Department of Education's website or other existing online resources.

(3) Upon completion of the initial in-service workshop and training program, the commissioner shall ensure that the program reflects the most current information on bullying in schools and is prepared and made available to district antibullying coordinators and school antibullying specialists at regular intervals.

SECTION 6. Arkansas Code Title 6, Chapter 18, Subchapter 5, is amended to add an additional section to read as follows:

6-18-418. Week of Kindness – Designated.

(a) The week beginning with the first Monday in October of each year is designated as the "Week of Kindness" in the State of Arkansas.

(b)(1) School districts, in order to recognize the importance of character education, shall observe the week by providing age-appropriate instruction focusing on promoting kindness and preventing bullying as defined in § 6-18-514.

(2) Throughout the school year, the school district shall provide ongoing, age-appropriate instruction on promoting kindness and preventing bullying.