

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
92nd General Assembly
Regular Session, 2019

As Engrossed: H4/1/19
A Bill

HOUSE BILL 1933

By: Representative Gazaway

For An Act To Be Entitled

AN ACT TO AMEND THE STATE ANTI-BULLYING POLICY; TO REQUIRE THAT A SCHOOL BOARD MEMBER RECEIVE INFORMATION REGARDING SCHOOL SAFETY AND STUDENT DISCIPLINE; TO INCLUDE BULLYING AND CYBERBULLYING PREVENTION TRAINING WITHIN A PROFESSIONAL DEVELOPMENT PROGRAM; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE ANTI-BULLYING POLICY; TO REQUIRE A SCHOOL BOARD MEMBER TO RECEIVE INFORMATION REGARDING SCHOOL SAFETY AND STUDENT DISCIPLINE; AND TO REQUIRE A BULLYING AND CYBERBULLYING PREVENTION PROFESSIONAL DEVELOPMENT PROGRAM.

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

SECTION 1. DO NOT CODIFY. Legislative findings and intent.

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 reported being bullied at school during the previous school year;

(2) The same 2016 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;



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

(4) The persistence of school bullying has led to instances of student suicide across the country, including Arkansas;

(5) Significant research findings have emerged since Arkansas enacted its public school anti-bullying statutes in 2003 and its cyberbullying law in 2011;

(6) 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 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 more effective and clearer approach to eliminate school bullying by ensuring that existing resources are better managed and used to make schools safer for students; and

(9) By strengthening the standards and procedures for the prevention, reporting, and investigation of and the response to incidents of bullying, it is the intent of the General Assembly 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 causes a 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~~ boards of directors, including without limitation:

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

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

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

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

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

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

(iii) Information regarding school safety and student discipline.

(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 Title 6, Chapter 17, Subchapter 7, is amended to add an additional section to read as follows:

6-17-711. Bullying Prevention – Professional development.

(a) The Department of Education shall require two (2) hours of professional development in the following areas for licensed public school personnel according to the professional development schedule under § 6-17-709:

(1) Bullying prevention; and

(2) Recognition of the relationship between incidents of bullying and the risk of suicide.

(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 subsection (a) of this section, the department shall develop a guidance document for use by parents and legal guardians, students, and public school districts to assist in resolving complaints concerning student bullying behaviors.

(2) The guidance document required under subdivision (c)(1) of

this section shall include without limitation:

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

(B) Best practices for the prevention, reporting, and investigation of and the response to bullying in public schools; and

(C) A clear definition of bullying that provides examples regarding conduct that does and does not constitute bullying.

(3) The guidance document under subdivision (c)(1) of this section shall be provided to licensed public school personnel as part of the professional development required under subsection (a) of this section.

SECTION 4. Arkansas Code § 6-18-514(b)(2), concerning anti-bullying 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 public school or educational environment~~+~~.

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

SECTION 5. Arkansas Code § 6-18-514(d)-(j), concerning anti-bullying policies in public schools, are amended to read as follows:

(d) A If an alleged incident of bullying occurs during school hours, a public school principal or his or her designee who receives a credible report

or complaint of bullying shall ~~promptly investigate the complaint or report and make a:~~

(1) As soon as reasonably practicable:

(A) Report to a parent or legal guardian of a student believed to be the victim of an incident of bullying that his or her child is the victim in a credible report of complaint or bullying; and

(B) Prepare a written report of the alleged incident of bullying;

(2)(A) Promptly investigate the credible report or complaint.

(B)(i) The investigation conducted under subdivision (d)(2)(A) of this section shall be completed as soon as possible but not later than five (5) school days from the date of the written report of the alleged incident of bullying as required under subdivision (d)(1)(B) of this section.

(ii) Following the completion of the investigation into the alleged incident of bullying conducted under subdivision (d)(2)(A) of this section, an individual licensed as a public school district building-level administrator or his or her designee may without limitation:

(a) Provide intervention services;

(b) Establish training programs to reduce bullying;

(c) Impose discipline on any of the parties involved in the incident of bullying;

(d) Recommend counseling for any of the parties involved in the incident of bullying; or

(e) Take or recommend other appropriate action;

(3)(A) Notify the parent or legal guardian of the student who is determined to have been the perpetrator of the incident of bullying:

(i) Upon completion of the investigation under subdivision (d)(2)(A) of this section; and

(ii) Regarding the consequences of continued incidents of bullying.

(B) A parent or legal guardian of a student who is a party to an investigation of an incident of bullying conducted under subdivision (d)(2)(A) of this section is entitled within five (5) school days after the

completion of the investigation, and in accordance with federal and state law, to receive information about the investigation, including without limitation:

(i) That a credible report or complaint of bullying exists;

(ii) Whether the credible report or complaint of bullying was found to be true based on the investigation;

(iii) Whether action was taken upon the conclusion of the investigation of the alleged incident of bullying; and

(iv) Information regarding the reporting of another incident of bullying;

(4)(A) Make a written record of the investigation and any action taken as a result of the investigation.

(B) The written record of the investigation shall include a detailed description of the alleged incident of bullying, including without limitation a detailed summary of the statements from all material witnesses to the alleged incident of bullying; and

(5) Discuss, as appropriate, the availability of counseling and other intervention services with students involved in the incident of bullying.

(e) One (1) time each school year, the superintendent of a public school district shall report to the public school district board of directors at a public hearing data regarding discipline in the public school district, including without limitation the number of incidents of bullying reported and the actions taken regarding the reported incidents of bullying.

~~(e)(1)(f)(1)~~ The Each public school district 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 under subdivision (f)(2)(A)(i) of this section shall include without limitation the definition contained in subsection (b) of this section;

(B) Prohibit ~~bullying~~:

(i) ~~While~~ Bullying 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; or

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

(b) This section ~~shall apply~~ applies to ~~an electronic act whether or not the electronic act~~ cyberbullying whether or not the cyberbullying originated on school property or with school equipment, if the ~~electronic act~~ cyberbullying 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 who has witnessed or has reliable information that a pupil has been a victim of an incident of bullying as defined by the public school district shall report the incident to the principal as soon as possible;

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

(F) 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)(i)~~ (i) Require that copies of the notice of what constitutes bullying, ~~that bullying is prohibited, and that~~ the prohibition of bullying, and the consequences of engaging in bullying be provided to parents and legal guardians, students, school volunteers, and employees of the public school annually.

(ii) Each policy shall require that a full copy of the policy be made available upon request; ~~and~~

(H) Describe the procedures for reporting an incident of bullying and the steps school employees may take in order to address a report of an alleged incident of bullying as described in this section.

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

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

(B) Student handbook.

(4) The public school district shall, to the extent required, annually conduct a reevaluation, reassessment, and review of its policies regarding the prohibition of bullying and make any necessary revisions and additions.

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

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

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

~~(i)~~(j) The public 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)~~(k) This section is not intended to:

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

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

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

(2) In the case of a faith-based nonpublic school, this section shall not be interpreted to prohibit or abridge the legitimate statement, expression, or free exercise of the beliefs or tenets of any faith by the religious organization operating the school or by the school's faculty, staff, or student body.

SECTION 6. Arkansas Code § 6-18-514, concerning anti-bullying policies in public schools, is amended to add additional subdivisions to read as follows:

(k) "Cyberbullying" means any form of communication by electronic act that is sent with the purpose to:

(1) Harass, intimidate, humiliate, ridicule, defame, or threaten a student, public school employee, or person with whom the other student or public school employee is associated; or

(2) Incite violence to a student, public school employee, or person with whom the other student or public school employee is associated.

/s/Gazaway