HB216

107674-6

By Representative Graham

RFD: Education Appropriations

First Read: 03-FEB-09

PFD: 01/30/2009
ENROLLED, An Act,

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

Section 2. 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 act 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.

Section 3. 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 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.

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
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 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.

(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
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 act, 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.

Section 6. 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.

(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 act 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 act 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.

Section 7. This act 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.

Section 8. 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.

(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,
violece, 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,
violece, 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.
Section 12. This act shall become effective on October 1, 2009, following its passage and approval by the Governor, or its otherwise becoming law.
Speaker of the House of Representatives

President and Presiding Officer of the Senate

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

Senate 07-MAY-09
Amended and Passed

House 07-MAY-09
Concurred in Senate Amendment

APPROVED May 20, 2009
TIME 7:50 a.m.

Alabama Secretary Of State
Act Num....: 2009-571
Bill Num....: H-216
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