

FILED APR 14 2005

SENATE FILE 406
BY COMMITTEE ON GOVERNMENT
OVERSIGHT

(SUCCESSOR TO SSB 1308)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the establishment of state and school
2 antiharassment or antibullying policies, providing data
3 collection and reporting requirements, and providing for
4 immunity and other related matters.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 406

1 Section 1. Section 280.12, subsection 2, Code 2005, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. f. Harassment or bullying prevention
4 goals, programs, training, and other initiatives.

5 Sec. 2. NEW SECTION. 280.28 HARASSMENT AND BULLYING
6 PROHIBITED -- POLICY -- IMMUNITY.

7 1. PURPOSE -- FINDINGS -- POLICY. The state of Iowa is
8 committed to providing all students with a safe and civil
9 school environment in which all members of the school
10 community are treated with dignity and respect. The general
11 assembly finds that a safe and civil school environment is
12 necessary for students to learn and achieve at high academic
13 levels. Harassing and bullying behavior can seriously disrupt
14 the ability of school employees to maintain a safe and civil
15 environment, and the ability of students to learn and succeed.
16 Therefore, it is the policy of the state of Iowa that school
17 employees, volunteers, and students in Iowa schools shall not
18 engage in harassing or bullying behavior.

19 2. DEFINITIONS. For purposes of this section, unless the
20 context otherwise requires:

21 a. "Harassment" and "bullying" shall be construed to mean
22 the same and mean any conduct toward a student that is based
23 on any actual or perceived trait or characteristic of the
24 student and that creates an objectively hostile school
25 environment which meets any of the following conditions:

26 (1) Places the student in reasonable fear of harm to the
27 student's person or property.

28 (2) Has a substantially detrimental effect on the
29 student's physical or mental health.

30 (3) Has the effect of substantially interfering with a
31 student's academic performance.

32 (4) Has the effect of substantially interfering with the
33 student's ability to participate in or benefit from the
34 services, activities, or privileges provided by a school.

35 b. "Trait or characteristic of the student" includes, but

1 is not limited to, age, color, creed, national origin, race,
2 religion, marital status, sex, sexual orientation, gender
3 identity, physical attributes, physical or mental ability or
4 disability, ancestry, political party preference,
5 socioeconomic status, or familial status.

6 3. POLICY. On or before January 1, 2006, the board of
7 directors of a school district and the authorities in charge
8 of each accredited nonpublic school shall adopt a policy
9 declaring harassment and bullying in schools, on school
10 property, and at any school function, or school-sponsored
11 activity regardless of its location, in a manner consistent
12 with this section, as against state and school policy. The
13 board and the authorities shall make a copy of the policy
14 available to all school employees, volunteers, students, and
15 parents and shall take all appropriate steps to bring the
16 policy against harassment and bullying, and the
17 responsibilities set forth in the policy to the attention of
18 school employees, volunteers, students, and parents. Each
19 policy shall, at a minimum, include all of the following
20 components:

21 a. A statement declaring harassment and bullying to be
22 against state and school policy. The statement shall include,
23 but not be limited to, the following provisions:

24 (1) School employees, volunteers, and students in school,
25 on school property, or at any school function or school-
26 sponsored activity shall not engage in harassing and bullying
27 behavior.

28 (2) School employees, volunteers, and students shall not
29 engage in reprisal, retaliation, or false accusation against a
30 victim, witness, or an individual who has reliable information
31 about such an act of harassment or bullying.

32 b. A definition of harassment and bullying that is no less
33 inclusive than the definition set forth in this section.

34 c. A description of the type of behavior expected from
35 school employees, volunteers, and students relative to

1 prevention measures, reporting, and investigation of
2 harassment or bullying.

3 d. The consequences and appropriate remedial action for a
4 person who violates the harassment and bullying policy.

5 e. A procedure for reporting an act of harassment or
6 bullying, including the identification by job title of the
7 school official responsible for ensuring that the policy is
8 implemented, and the identification of the person or persons
9 to whom reports of harassment or bullying shall be submitted.

10 f. A procedure for the prompt investigation of complaints,
11 either identifying the school principal, or the principal's
12 designee as the individual responsible for conducting the
13 investigation, including a statement that investigators will
14 consider the totality of circumstances presented in
15 determining whether conduct objectively constitutes harassment
16 or bullying under this section.

17 g. A statement of the manner in which the policy will be
18 publicized.

19 4. PROGRAMS ENCOURAGED. The board of directors of a
20 school district and the authorities in charge of each
21 accredited nonpublic school are encouraged to establish
22 programs designed to eliminate harassment and bullying in
23 schools. To the extent that funds are available for these
24 purposes, school districts and accredited nonpublic schools
25 shall do the following:

26 a. Provide training on harassment and bullying policies to
27 school employees and volunteers who have significant contact
28 with students.

29 b. Develop a process to provide school employees,
30 volunteers, and students with the skills and knowledge to help
31 reduce incidents of harassment and bullying.

32 5. IMMUNITY. A school employee, volunteer, or student, or
33 a student's parent or guardian, who promptly, reasonably, and
34 in good faith reports an incident of harassment or bullying,
35 in compliance with the procedures in the policy adopted

1 pursuant to this section, to the appropriate school official
2 designated by the school district or accredited nonpublic
3 school, shall be immune from civil or criminal liability
4 relating to such report, as well as for participating in any
5 administrative or judicial proceeding resulting from or
6 relating to the report.

7 6. COLLECTION REQUIREMENT. The board of directors of a
8 school district and the authorities in charge of each
9 nonpublic school shall develop and maintain a system to
10 collect harassment and bullying incidence data.

11 7. INTEGRATION OF POLICY AND REPORTING. The board of
12 directors of a school district and the authorities in charge
13 of each nonpublic school shall integrate its antiharassment
14 and antibullying policy into the comprehensive school
15 improvement plan required under section 256.7, subsection 21,
16 and shall report data collected under subsection 6, as
17 specified by the department to the local community.

18 8. EXISTING REMEDIES NOT AFFECTED. This section shall not
19 be construed to preclude a victim from seeking administrative
20 or legal remedies under any applicable provision of law.

21 Sec. 3. STATE MANDATE FUNDING SPECIFIED. In accordance
22 with section 25B.2, subsection 3, the state cost of requiring
23 compliance with any state mandate included in this Act shall
24 be paid by a school district from state school foundation aid
25 received by the school district under section 257.16. This
26 specification of the payment of the state cost shall be deemed
27 to meet all the state funding-related requirements of section
28 25B.2, subsection 3, and no additional state funding shall be
29 necessary for the full implementation of this Act by and
30 enforcement of this Act against all affected school districts.

31 EXPLANATION

32 This bill relates to harassment and bullying of elementary
33 and secondary school students and establishes a state policy
34 that school employees, volunteers, and students in Iowa
35 schools shall not engage in harassing or bullying behavior.

1 The bill adds to the list of school improvement advisory
2 committee recommendation areas, that school districts and
3 schools must consider the committees' recommendations
4 regarding harassment or bullying prevention goals, programs,
5 training, and other initiatives.

6 The bill defines "harassment" and "bullying" to mean any
7 conduct toward a student that is based on any actual or
8 perceived trait or characteristic, which is also defined in
9 the bill; creates an objectively hostile education
10 environment; and meets any of the conditions specified in the
11 bill.

12 The bill requires school boards and accredited nonpublic
13 schools to have a policy in place by January 1, 2006, that
14 states that school employees, volunteers, and students shall
15 not engage in harassing or bullying behavior. The policy must
16 be distributed to all concerned, define harassment and
17 bullying, describe the behavior expected from all concerned,
18 describe the consequences and appropriate remedial action for
19 violation of the policy, include a procedure for reporting
20 incidents, identify to whom reports shall be made, include a
21 procedure for the prompt investigation of complaints, and list
22 a range of sanctions and remedial actions that can be taken
23 with regard to confirmed incidents. The policy also must
24 prohibit reprisal, retaliation, or false accusation against a
25 victim, witness, or an individual who has reliable information
26 about an act of harassment or bullying.

27 The bill encourages school boards and schools to establish
28 programs designed to eliminate harassment and bullying in
29 schools, to provide training on harassment and bullying
30 policies, and to develop a process to help reduce incidents of
31 harassment and bullying.

32 The bill provides immunity from civil or criminal liability
33 to school employees, volunteers, and students and their
34 parents who report an incident of harassment or bullying
35 promptly, reasonably, and in good faith. Existing

1 administrative or legal remedies available to a victim are
2 unaffected by the provisions of the bill. The bill requires
3 schools to integrate their policies into their comprehensive
4 school improvement plans, which are submitted to the
5 department, and requires that data collected for the plan be
6 reported to the local community.

7 The bill may include a state mandate as defined in Code
8 section 25B.3. The bill requires that the state cost of any
9 state mandate included in the bill be paid by a school
10 district from state school foundation aid received by the
11 school district under Code section 257.16. The specification
12 is deemed to constitute state compliance with any state
13 mandate funding-related requirements of Code section 25B.2.
14 The inclusion of this specification is intended to reinstate
15 the requirement of political subdivisions to comply with any
16 state mandates included in the bill.

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S-3150

1 Amend Senate File 406 as follows:

2 1. Page 1, line 19, by striking the word

3 "DEFINITIONS" and inserting the following:

4 "DEFINITION".

5 2. Page 1, by striking lines 20 and 21 and

6 inserting the following: "context otherwise requires,

7 "harassment" and "bullying" shall be construed to

8 mean".

9 3. Page 1, line 26, by striking the figure "(1)"

10 and inserting the following: "a."

11 4. Page 1, line 28, by striking the figure "(2)"

12 and inserting the following: "b."

13 5. Page 1, line 30, by striking the figure "(3)"

14 and inserting the following: "c."

15 6. Page 1, line 32, by striking the figure "(4)"

16 and inserting the following: "d."

17 7. By striking page 1, line 35, through page 2,
18 line 5.

By MIKE CONNOLLY
DAVE MULDER

BRAD ZAUN
THOMAS G. COURTNEY

S-3150 FILED APRIL 20, 2005

Londby
Connolly

Succeeded By
SF/ HF 406

SSB# 1308
Government Oversight

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
GOVERNMENT OVERSIGHT BILL
BY CO-CHAIRPERSON COURTNEY)

Passed Senate, Date _____ Passed House, Date _____
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TLSB 1615XC 81
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