

HOUSE BILL No. 5093

June 16, 2009, Introduced by Reps. Warren, Smith, Meadows, Scripps, Miller, Donigan, Robert Jones, Young, Tlaib, Liss, Cushingberry, Kennedy, Bauer, Hammel, Bennett, Byrnes and Dean and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled
"The revised school code,"
(MCL 380.1 to 380.1852) by adding section 1310b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 1310B. (1) THE BOARD OF A SCHOOL DISTRICT OR BOARD OF
2 DIRECTORS OF A PUBLIC SCHOOL ACADEMY SHALL ADOPT A POLICY
3 PROHIBITING HARASSMENT OR BULLYING AT SCHOOL. THE CONTENT OF THE
4 POLICY SHALL BE DETERMINED LOCALLY, BUT THE POLICY SHALL CONTAIN AT
5 LEAST THE COMPONENTS IN SUBSECTION (2). THE POLICY SHOULD BE
6 ADOPTED THROUGH A PROCESS THAT INCLUDES REPRESENTATION OF PARENTS
7 OR GUARDIANS, SCHOOL EMPLOYEES, VOLUNTEERS, PUPILS, SCHOOL
8 ADMINISTRATORS, AND COMMUNITY REPRESENTATIVES.

9 (2) EACH SCHOOL DISTRICT'S OR PUBLIC SCHOOL ACADEMY'S POLICY
10 SHALL INCLUDE AT LEAST EACH OF THE FOLLOWING COMPONENTS:

11 (A) A STATEMENT PROHIBITING HARASSMENT OR BULLYING OF A PUPIL.

12 (B) A DEFINITION OF HARASSMENT OR BULLYING THAT INCLUDES AT

1 LEAST THE ACTS DESCRIBED IN THE DEFINITION IN THIS SECTION.

2 (C) A DESCRIPTION OF THE TYPE OF BEHAVIOR EXPECTED FROM EACH
3 PUPIL.

4 (D) AGE-APPROPRIATE CONSEQUENCES AND REMEDIAL ACTION FOR A
5 PERSON WHO VIOLATES THE POLICY.

6 (E) A PROCEDURE FOR REPORTING AN ACT OF HARASSMENT OR
7 BULLYING, INCLUDING A PROVISION THAT PERMITS A PERSON TO REPORT AN
8 ACT OF HARASSMENT OR BULLYING ANONYMOUSLY. HOWEVER, THIS
9 SUBDIVISION SHALL NOT BE CONSTRUED TO PERMIT FORMAL DISCIPLINARY
10 ACTION SOLELY ON THE BASIS OF AN ANONYMOUS REPORT.

11 (F) A PROCEDURE FOR PROMPT INVESTIGATION OF REPORTS OF
12 VIOLATIONS AND COMPLAINTS, IDENTIFYING EITHER THE PRINCIPAL OR THE
13 PRINCIPAL'S DESIGNEE AS THE PERSON RESPONSIBLE FOR THE
14 INVESTIGATION. THE POLICY SHALL REQUIRE THE INVESTIGATION TO BE
15 COMPLETED WITHIN 3 SCHOOL DAYS AFTER A REPORT OR COMPLAINT IS MADE.

16 (G) THE RANGE OF WAYS IN WHICH A SCHOOL WILL RESPOND ONCE AN
17 INCIDENT OF HARASSMENT OR BULLYING IS IDENTIFIED. THE RESPONSES
18 SHALL BE COMMENSURATE WITH THE SEVERITY OF THE INCIDENT AND WITH
19 THE OFFENDER'S RECORD OF BEHAVIOR. THE RANGE OF RESPONSES SHALL
20 INCLUDE REPORTING CRIMINAL ACTIVITY TO APPROPRIATE LAW ENFORCEMENT
21 OFFICERS. IF ACTION IS TAKEN AGAINST A PUPIL IN RESPONSE TO AN
22 INCIDENT, SCHOOL OFFICIALS SHALL INCLUDE A DESCRIPTION OF THE
23 INCIDENT AND OF THE ACTION TAKEN IN THE PUPILS' PERMANENT
24 DISCIPLINARY RECORD.

25 (H) A STATEMENT THAT PROHIBITS REPRISAL OR RETALIATION AGAINST
26 ANY PERSON WHO REPORTS AN ACT OF HARASSMENT OR BULLYING AND THE
27 CONSEQUENCES AND APPROPRIATE REMEDIAL ACTION FOR A PERSON WHO

1 ENGAGES IN THAT TYPE OF REPRISAL OR RETALIATION.

2 (I) CONSEQUENCES AND APPROPRIATE REMEDIAL ACTION FOR A PERSON
3 FOUND TO HAVE FALSELY ACCUSED ANOTHER OF HARASSMENT OR BULLYING.

4 (J) A STATEMENT OF HOW THE POLICY IS TO BE PUBLICIZED, BOTH
5 INITIALLY AND ON AN ONGOING BASIS.

6 (K) PROVISIONS ENCOURAGING INDIVIDUALS TO REPORT INCIDENTS OF
7 HARASSMENT OR BULLYING TO THE APPROPRIATE SCHOOL OFFICIAL
8 DESIGNATED IN THE POLICY.

9 (L) A REQUIREMENT THAT A SCHOOL EMPLOYEE WHO HAS WITNESSED AN
10 INCIDENT OF HARASSMENT OR BULLYING OR WHO HAS RELIABLE INFORMATION
11 THAT AN INCIDENT OF HARASSMENT OR BULLYING HAS OCCURRED SHALL
12 REPORT THE INCIDENT TO THE PRINCIPAL OR HIS OR HER DESIGNEE.

13 (3) EACH BOARD OR BOARD OF DIRECTORS SHALL ADOPT THE POLICY
14 UNDER THIS SECTION BY DECEMBER 31, 2009. NOT LATER THAN 30 DAYS
15 AFTER ADOPTING THE POLICY, THE BOARD OR BOARD OF DIRECTORS SHALL
16 SUBMIT A COPY OF ITS POLICY TO THE DEPARTMENT.

17 (4) TO ASSIST SCHOOL DISTRICTS AND PUBLIC SCHOOL ACADEMIES IN
18 DEVELOPING POLICIES FOR THE PREVENTION OF HARASSMENT OR BULLYING,
19 THE DEPARTMENT SHALL DEVELOP A MODEL POLICY APPLICABLE TO GRADES K-
20 12. THE DEPARTMENT SHALL ISSUE THIS MODEL POLICY NO LATER THAN JUNE
21 1, 2007.

22 (5) THE DEPARTMENT SHALL DEVELOP APPROPRIATE PROCEDURES FOR
23 INVESTIGATING, REPORTING, AND RESPONDING TO VIOLATIONS OF THIS
24 SECTION BY A SCHOOL DISTRICT OR PUBLIC SCHOOL.

25 (6) A BOARD OR BOARD OF DIRECTORS SHALL ENSURE THAT NOTICE OF
26 THE SCHOOL DISTRICT'S OR PUBLIC SCHOOL ACADEMY'S POLICY UNDER THIS
27 SECTION IS INCLUDED IN ANY PUBLICATION OF THE SCHOOL DISTRICT OR

1 PUBLIC SCHOOL ACADEMY THAT SETS FORTH THE COMPREHENSIVE RULES,
2 PROCEDURES, AND STANDARDS OF CONDUCT FOR ITS SCHOOLS, AND IN ITS
3 PUPIL HANDBOOKS.

4 (7) A SCHOOL EMPLOYEE WHO PROMPTLY REPORTS AN INCIDENT OF
5 HARASSMENT OR BULLYING TO THE APPROPRIATE SCHOOL OFFICIAL
6 DESIGNATED BY THE SCHOOL DISTRICT'S OR PUBLIC SCHOOL ACADEMY'S
7 POLICY, AND WHO MAKES THIS REPORT IN COMPLIANCE WITH THE PROCEDURES
8 IN THE POLICY PROHIBITING HARASSMENT OR BULLYING IS NOT LIABLE FOR
9 DAMAGES ARISING FROM ANY FAILURE TO REMEDY THE REPORTED INCIDENT.

10 (8) PUBLIC SCHOOLS AND SCHOOL DISTRICTS ARE ENCOURAGED TO FORM
11 BULLYING PREVENTION TASK FORCES, PROGRAMS, AND OTHER INITIATIVES
12 INVOLVING SCHOOL STAFF, PUPILS, ADMINISTRATORS, VOLUNTEERS,
13 PARENTS, LAW ENFORCEMENT, AND COMMUNITY MEMBERS, TO ASSIST IN THE
14 IMPLEMENTATION OF THIS SECTION.

15 (9) EACH SCHOOL DISTRICT OR PUBLIC SCHOOL ACADEMY SHALL DO ALL
16 OF THE FOLLOWING:

17 (A) PROVIDE ANNUAL TRAINING ON THE SCHOOL DISTRICT'S OR PUBLIC
18 SCHOOL ACADEMY'S HARASSMENT OR BULLYING POLICIES TO SCHOOL
19 EMPLOYEES AND VOLUNTEERS WHO HAVE SIGNIFICANT CONTACT WITH PUPILS.

20 (B) DEVELOP A PROCESS FOR DISCUSSING HARASSMENT OR BULLYING
21 AND THE HARASSMENT OR BULLYING POLICY WITH PUPILS.

22 (10) A SCHOOL DISTRICT OR PUBLIC SCHOOL ACADEMY SHALL
23 INCORPORATE INFORMATION REGARDING THE SCHOOL DISTRICT OR PUBLIC
24 SCHOOL ACADEMY POLICY AGAINST HARASSMENT OR BULLYING INTO EACH
25 SCHOOL'S EMPLOYEE TRAINING PROGRAM.

26 (11) THIS SECTION DOES NOT PREVENT A VICTIM FROM SEEKING
27 REDRESS UNDER ANY OTHER AVAILABLE LAW, EITHER CIVIL OR CRIMINAL.

1 THIS SECTION DOES NOT CREATE OR ALTER ANY TORT LIABILITY.

2 (12) THE DEPARTMENT SHALL ESTABLISH A FORM AND PROCEDURE FOR
3 SCHOOL DISTRICTS AND PUBLIC SCHOOL ACADEMIES TO REPORT INCIDENTS OF
4 HARASSMENT OR BULLYING TO THE DEPARTMENT ON AN ANNUAL BASIS AND
5 SHALL MAKE THIS INFORMATION READILY AVAILABLE TO THE PUBLIC.

6 (13) IF AN INVESTIGATION UNDER THIS SECTION RESULTS IN A
7 REPORT TO A LAW ENFORCEMENT AGENCY, THE LAW ENFORCEMENT AGENCY
8 SHALL INITIATE ITS INVESTIGATION WITHIN 3 DAYS AFTER THE REPORT IS
9 MADE.

10 (14) UPON REQUEST BY A LAW ENFORCEMENT AGENCY INVESTIGATING A
11 REPORT OR COMPLAINT UNDER THIS SECTION, A SCHOOL DISTRICT OR PUBLIC
12 SCHOOL ACADEMY SHALL PROVIDE TO THE LAW ENFORCEMENT AGENCY
13 DIRECTORY INFORMATION CONCERNING ITS PUPILS.

14 (15) AS USED IN THIS SECTION:

15 (A) "AT SCHOOL" MEANS IN A CLASSROOM, ELSEWHERE ON OR
16 IMMEDIATELY ADJACENT TO SCHOOL PREMISES, ON A SCHOOL BUS OR OTHER
17 SCHOOL-RELATED VEHICLE, AT AN OFFICIAL SCHOOL BUS STOP, ON A
18 PUPIL'S WAY TO OR FROM SCHOOL, OR AT A SCHOOL-SPONSORED ACTIVITY OR
19 EVENT WHETHER OR NOT IT IS HELD ON SCHOOL PREMISES. "AT SCHOOL"
20 INCLUDES CONDUCT USING A TELECOMMUNICATIONS ACCESS DEVICE OR
21 TELECOMMUNICATIONS SERVICE PROVIDER THAT OCCURS OFF SCHOOL PREMISES
22 IF THE TELECOMMUNICATIONS ACCESS DEVICE OR THE TELECOMMUNICATIONS
23 SERVICE PROVIDER IS OWNED BY OR UNDER THE CONTROL OF THE SCHOOL
24 DISTRICT OR PUBLIC SCHOOL ACADEMY.

25 (B) "BULLYING" MEANS CONDUCT, INCLUDING, BUT NOT LIMITED TO,
26 CONDUCT IN PERSON OR USING A TELECOMMUNICATIONS ACCESS DEVICE, THAT
27 MEETS ALL OF THE FOLLOWING:

1 (i) IS DIRECTED AT 1 OR MORE PUPILS.

2 (ii) SUBSTANTIALLY INTERFERES WITH EDUCATIONAL OPPORTUNITIES,
3 BENEFITS, OR PROGRAMS OF 1 OR MORE PUPILS.

4 (iii) ADVERSELY AFFECTS THE ABILITY OF A PUPIL TO PARTICIPATE IN
5 OR BENEFIT FROM THE SCHOOL DISTRICT'S OR PUBLIC SCHOOL'S
6 EDUCATIONAL PROGRAMS OR ACTIVITIES BY PLACING THE PUPIL IN
7 REASONABLE FEAR OF PHYSICAL HARM OR BY CAUSING EMOTIONAL DISTRESS.

8 (iv) IS BASED ON A PUPIL'S ACTUAL OR PERCEIVED RELIGION, RACE,
9 COLOR, NATIONAL ORIGIN, AGE, SEX, SEXUAL ORIENTATION, DISABILITY,
10 HEIGHT, WEIGHT, GENDER IDENTITY, SOCIOECONOMIC STATUS, OR ANY OTHER
11 DISTINGUISHING CHARACTERISTIC OR IS BASED ON ASSOCIATION WITH
12 ANOTHER PERSON WHO HAS OR IS PERCEIVED TO HAVE ANY OF THESE
13 CHARACTERISTICS.

14 (C) "HARASSMENT" MEANS CONDUCT, INCLUDING, BUT NOT LIMITED TO,
15 CONDUCT IN PERSON OR USING A TELECOMMUNICATIONS ACCESS DEVICE, THAT
16 MEETS ALL OF THE FOLLOWING:

17 (i) IS DIRECTED AT 1 OR MORE PUPILS.

18 (ii) SUBSTANTIALLY INTERFERES WITH EDUCATIONAL OPPORTUNITIES,
19 BENEFITS, OR PROGRAMS OF 1 OR MORE PUPILS.

20 (iii) ADVERSELY AFFECTS THE ABILITY OF A PUPIL TO PARTICIPATE IN
21 OR BENEFIT FROM THE SCHOOL DISTRICT'S OR PUBLIC SCHOOL'S
22 EDUCATIONAL PROGRAMS OR ACTIVITIES BECAUSE THE CONDUCT AS
23 REASONABLY PERCEIVED BY THE PUPIL IS SO SEVERE, PERVASIVE, AND
24 OBJECTIVELY OFFENSIVE AS TO HAVE THIS EFFECT.

25 (iv) IS BASED ON A PUPIL'S ACTUAL OR PERCEIVED RELIGION, RACE,
26 COLOR, NATIONAL ORIGIN, AGE, SEX, SEXUAL ORIENTATION, DISABILITY,
27 HEIGHT, WEIGHT, GENDER IDENTITY, SOCIOECONOMIC STATUS, OR ANY OTHER

1 DISTINGUISHING CHARACTERISTIC OR IS BASED ON ASSOCIATION WITH
2 ANOTHER PERSON WHO HAS OR IS PERCEIVED TO HAVE ANY OF THESE
3 CHARACTERISTICS.

4 (D) "TELECOMMUNICATIONS ACCESS DEVICE" AND "TELECOMMUNICATIONS
5 SERVICE PROVIDER" MEAN THOSE TERMS AS DEFINED IN SECTION 219A OF
6 THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.219A.

7 (16) THIS SECTION SHALL BE KNOWN AS "MATT'S SAFE SCHOOL LAW".