

By: Menéndez

S.B. No. 2185

A BILL TO BE ENTITLED

AN ACT

relating to bullying, cyberbullying, and identity-based bullying
in public schools.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section [28.0022](#), Education Code, is amended by
adding Subsections (h) and (i) to read as follows:

(h) Nothing in this section may be construed as limiting a
teacher, administrator, or other employee of a state agency, school
district, or open-enrollment charter school from:

(1) implementing a strategy to prevent or mediate
either specific instances or cultures of bullying or harassment
that occur due to the victim's actual or perceived race, ethnicity,
color, national origin, sex, gender, religion, disability status,
or association with a person or group with one or more of those
actual or perceived characteristics, including a strategy
implemented pursuant to a policy adopted under Section [37.0832](#); or

(2) training teachers, administrators, or other
employees in the implementation of a strategy described by
Subdivision (1), including by providing staff development under
Section [21.451](#).

(i) In this section:

(1) "Bullying" has the meaning assigned by Section
[37.0832](#).

(2) "Harassment" has the meaning assigned by Section

1 37.001.

2 SECTION 2. Section 37.0832(a), Education Code, is amended
3 by amending Subdivision (1) and adding Subdivisions (3) and (4) to
4 read as follows:

5 (1) "Bullying":

6 (A) means a single significant act or a pattern
7 of acts by one or more students directed at another student that
8 exploits an imbalance of power and involves engaging in written or
9 verbal expression, expression through electronic means, or
10 physical conduct that satisfies the applicability requirements
11 provided by Subsection (a-1), and that:

12 (i) has the effect or will have the effect
13 of physically harming a student, damaging a student's property, or
14 placing a student in reasonable fear of harm to the student's person
15 or of damage to the student's property;

16 (ii) is sufficiently severe, persistent, or
17 pervasive enough that the action or threat creates an intimidating,
18 threatening, or abusive educational environment for a student;

19 (iii) materially and substantially
20 disrupts the educational process or the orderly operation of a
21 classroom or school; or

22 (iv) infringes on the rights of the victim
23 at school; and

24 (B) includes:

25 (i) cyberbullying; and

26 (ii) identity-based bullying.

27 (3) "Harassment" has the meaning assigned by Section

1 37.001.

2 (4) "Identity-based bullying" means bullying or
3 harassment that occurs due to the victim's:

4 (A) actual or perceived race, ethnicity, color,
5 national origin, sex, gender, religion, or disability status; or

6 (B) association with a person or group with one
7 or more of the actual or perceived characteristics listed in
8 Paragraph (A).

9 SECTION 3. Section 37.0832, Education Code, is amended by
10 adding Subsections (b), (b-1), (b-2), and (f) and amending
11 Subsections (c), (c-1), (d), and (e).

12 (b) [~~(e)~~] The board of trustees of each school district
13 shall adopt a policy, including any necessary procedures,
14 concerning bullying that:

15 (1) prohibits the bullying of a student;

16 (2) prevents and mediates bullying incidents between
17 students that:

18 (A) interfere with a student's educational
19 opportunities; or

20 (B) substantially disrupt the orderly operation
21 of a classroom, school, or school-sponsored or school-related
22 activity;

23 (3) prohibits retaliation against any person,
24 including a victim, a witness, or another person, who in good faith
25 provides information concerning an incident of bullying;

26 (4) requires a school district employee who, in the
27 course and scope of employment, witnesses or receives information

1 regarding an incident that the employee reasonably believes
2 constitutes bullying by or against a student who at the time of the
3 incident is enrolled in the district at which the employee is
4 employed to report the information to a campus behavior coordinator
5 or other appropriate district official;

6 (5) [~~4~~] establishes a procedure for providing notice
7 of an incident of bullying to:

8 (A) a parent or guardian of the alleged victim on
9 or before the third business day after the date the incident is
10 reported; and

11 (B) a parent or guardian of the student alleged
12 to have engaged in bullying [~~bully~~] within a reasonable amount of
13 time after the incident;

14 (6) [~~5~~] establishes the actions a student should
15 take to obtain assistance and intervention in response to bullying;

16 (7) [~~6~~] sets out the supportive measures provided by
17 the district under Subsection (b-1) and available to [~~available~~
18 ~~counseling options for~~] a student who is impacted by bullying,
19 including the alleged [~~a~~] victim of bullying, a person who
20 allegedly engaged in bullying, or a witness to bullying [~~or who~~
21 ~~engages in bullying~~];

22 (8) [~~7~~] establishes procedures for reporting an
23 incident of bullying, including procedures for a student to
24 anonymously report an incident of bullying;

25 (9) establishes procedures for[~~7~~] investigating a
26 reported incident of bullying, and determining whether the reported
27 incident of bullying occurred, which must include requiring:

1 (A) written notice of the investigation or a
2 reported incident of bullying to all students impacted by the
3 incident and the parents or legal guardians of those students;

4 (B) the provision of supportive measures under
5 Subsection (b-1) to students impacted by the incident throughout
6 the investigation;

7 (C) the issuance of an investigative report that
8 includes the identity of witnesses to the incident, a summary of
9 evidence considered, the investigator's determination as to
10 whether the reported incident occurred and, if so, the student or
11 students responsible for the incident, and the rationale for those
12 determinations;

13 (D) an opportunity for each impacted student and
14 that student's parent or legal guardian to review and comment on the
15 investigative report required under Paragraph (C) prior to the
16 report being finalized; and

17 (E) an opportunity for each impacted student to
18 appeal a determination of the investigator;

19 (10) requires investigations conducted pursuant to
20 the procedures established under Subdivision (9) to be completed
21 not later than the 10th business day after the district receives a
22 report of bullying submitted pursuant to the procedures established
23 under Subdivision (8), unless the time period is extended for good
24 cause and a written notice of the extension and rationale is
25 provided to impacted students and those students' parents or legal
26 guardians;

27 (11) [~~(8)~~] prohibits the imposition of a disciplinary

1 measure on a student who, after an investigation, is found to be a
2 victim of bullying, on the basis of that student's use of reasonable
3 self-defense in response to the bullying;

4 (12) [~~(9)~~] requires that discipline for bullying of a
5 student with disabilities comply with applicable requirements
6 under federal law, including the Individuals with Disabilities
7 Education Act (20 U.S.C. Section 1400 et seq.); and

8 (13) (10) complies with the minimum standards adopted
9 by the agency under Subsection (c) [~~(c-1)~~].

10 (b-1) The board of trustees of each school district shall
11 provide to a student impacted by bullying supportive measures that
12 are not disciplinary or punitive and are individualized to the
13 student. Measures provided under this subsection shall be designed
14 to:

15 (1) protect the safety of all students, teachers, and
16 other school staff in the district; and

17 (2) ensure a student impacted by bullying has
18 continued access to the school's educational program, including the
19 student's normal instructional lessons and activities, and may
20 include:

21 (A) counseling;

22 (B) the extension of a deadline for turning in
23 coursework or other instruction-related adjustments;

24 (C) modifications to a class schedule;

25 (D) requiring an employee of the district to
26 escort a student while the student is on a district campus;

27 (E) a transfer under Section [25.0342](#);

1 (F) restrictions on contact between students
2 impacted by an incident of bullying; and

3 (G) other similar measures.

4 (b-2) A school district must provide supportive measures
5 under Subsection (b-1):

6 (1) without fee or charge; and

7 (2) regardless of whether the student elects to
8 cooperate with an investigation conducted pursuant to the
9 procedures established under Subsection (b)(9).

10 (c) [~~(c-1)~~] The agency shall adopt minimum standards for a
11 school district's policy under Subsection (b) [~~(c)~~]. The standards
12 must:

13 (1) include an emphasis on bullying prevention by
14 focusing on school climate, ~~and~~ building healthy relationships
15 between students and staff, and engaging in dialogue to create a
16 culture of understanding and respect;

17 (2) require each district campus to establish a
18 committee to address bullying by focusing on prevention efforts and
19 health and wellness initiatives;

20 (3) require students at each grade level to meet
21 periodically for instruction on building relationships and
22 preventing bullying, including cyberbullying and identity-based
23 bullying;

24 (4) include an emphasis on increasing student
25 reporting of bullying incidents to school employees by:

26 (A) increasing awareness about district
27 reporting procedures; and

1 (B) providing for anonymous reporting of
2 bullying incidents;

3 (5) require districts to:

4 (A) collect information annually through student
5 surveys on bullying, including cyberbullying and identity-based
6 bullying; and

7 (B) use those survey results to develop action
8 plans to address student concerns regarding bullying, including
9 cyberbullying and identity-based bullying; and

10 (6) require districts to develop a rubric or checklist
11 to assess an incident of bullying and to determine the district's
12 response to the incident.

13 (d) The policy and any necessary procedures adopted under
14 Subsection (b) [~~(c)~~] must be included:

15 (1) annually, in the student and employee school
16 district handbooks; and

17 (2) in the district improvement plan under Section
18 [11.252](#).

19 (e) The procedure for reporting bullying established under
20 Subsection (b) [~~(c)~~] must be posted on the district's Internet
21 website to the extent practicable.

22 (f) The board of trustees of each school district shall
23 annually publish a written summary of all incidents of bullying
24 reported at each campus within the district. The summary must be
25 posted on the district's Internet website and sent to all parents
26 and legal guardians of students enrolled in the district at the
27 beginning of each school year and:

1 (1) may not identify any person; and

2 (2) must include:

3 (A) the number of reported incidents of bullying
4 at each district campus, including the number of reported incidents
5 of cyberbullying and identity-based bullying;

6 (B) the number of investigations conducted as a
7 result of reported incidents of bullying;

8 (C) the disposition, if applicable, of any
9 disciplinary processes arising from the reported incidents of
10 bullying, including a summary of the nature of an incident that
11 resulted in a disciplinary process, the rationale behind the
12 determination of responsibility, if applicable, and any
13 disciplinary measure imposed; and

14 (D) the number of reports for which the district
15 determined not to initiate an investigation or impose disciplinary
16 measures and the reasons for each determination.

17 SECTION 4. Section 48.009(b-4), Education Code, as added by
18 Chapter 972 (S.B. 2050), Acts of the 87th Legislature, Regular
19 Session, 2021, is amended to read as follows:

20 (b-4) The commissioner by rule shall require each school
21 district and open-enrollment charter school to annually report
22 through the Public Education Information Management System the
23 number of reported incidents of bullying that have occurred at each
24 campus. The commissioner's rules shall require a district or
25 school to specify the number of incidents of bullying that included
26 cyberbullying and identity-based bullying.

27 SECTION 5. Not later than 45 days after the effective date

1 of this Act, the Texas Education Agency shall adopt or revise
2 minimum standards as necessary to comply with Section 37.0832(c),
3 Education Code, as amended by this Act.

4 SECTION 6. This Act applies beginning with the 2023-2024
5 school year.

6 SECTION 7. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2023.