

By: Davis

S.B. No. 245

A BILL TO BE ENTITLED

AN ACT

relating to bullying, including cyberbullying, in public schools.

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

SECTION 1. Section 21.451(d), Education Code, is amended to read as follows:

(d) The staff development:

(1) may include training in:

(A) technology;

(B) conflict resolution; and

(C) discipline strategies, including classroom management, district discipline policies, and the student code of conduct adopted under Section 37.001 and Chapter 37; ~~and~~

(2) subject to Subsection (e), must include training based on scientifically based research, as defined by Section 9101, No Child Left Behind Act of 2001 (20 U.S.C. Section 7801), that:

(A) relates to instruction of students with disabilities; and

(B) is designed for educators who work primarily outside the area of special education; and

(3) must include the training required under Section 37.0832(g)(1) in preventing, identifying, responding to, and reporting incidents of bullying.

SECTION 2. The heading to Section 25.0342, Education Code, is amended to read as follows:

1 Sec. 25.0342. TRANSFER OF STUDENTS WHO ARE VICTIMS OF OR
2 HAVE ENGAGED IN BULLYING.

3 SECTION 3. Section 25.0342, Education Code, is amended by
4 amending Subsections (a), (c), and (e) and adding Subsections (b-1)
5 and (b-2) to read as follows:

6 (a) In this section, "bullying" has the meaning assigned by
7 Section 37.0832 [~~means engaging in written or verbal expression or~~
8 ~~physical conduct that a school district board of trustees or the~~
9 ~~board's designee determines:~~

10 ~~[(1) will have the effect of physically harming a~~
11 ~~student, damaging a student's property, or placing a student in~~
12 ~~reasonable fear of harm to the student's person or of damage to the~~
13 ~~student's property; or~~

14 ~~[(2) is sufficiently severe, persistent, or pervasive~~
15 ~~enough that the action or threat creates an intimidating,~~
16 ~~threatening, or abusive educational environment for a student].~~

17 (b-1) On the request of a parent or other person with
18 authority to act on behalf of a student who is a victim of bullying,
19 the board of trustees of a school district or the board's designee
20 may transfer the student who engaged in bullying to:

21 (1) another classroom at the campus to which the
22 victim was assigned at the time the bullying occurred; or

23 (2) a campus in the district other than the campus to
24 which the victim was assigned at the time the bullying occurred.

25 (b-2) To the extent practicable, the board of trustees and
26 each district educator with knowledge of the request shall keep a
27 request received under Subsection (b) or (b-1) confidential.

1 (c) The board of trustees or the board's designee shall
2 verify that a student has been a victim of or has engaged in
3 bullying, as applicable, before transferring the student under this
4 section.

5 (e) A [~~The~~] determination by the board of trustees or the
6 board's designee under this section is final and may not be
7 appealed.

8 SECTION 4. Section 37.001(b), Education Code, is amended to
9 read as follows:

10 (b) In this section:

11 (1) "Bullying" has the meaning assigned by Section
12 37.0832.

13 (2) "Harassment" means threatening to cause harm or
14 bodily injury to another student, engaging in sexually intimidating
15 conduct, causing physical damage to the property of another
16 student, subjecting another student to physical confinement or
17 restraint, or maliciously taking any action that substantially
18 harms another student's physical or emotional health or safety.

19 (3) [~~(2)~~] "Hit list" means a list of people targeted
20 to be harmed, using:

21 (A) a firearm, as defined by Section 46.01(3),
22 Penal Code;

23 (B) a knife, as defined by Section 46.01(7),
24 Penal Code; or

25 (C) any other object to be used with intent to
26 cause bodily harm.

27 SECTION 5. Section 37.083(a), Education Code, is amended to

1 read as follows:

2 (a) Each school district shall adopt and implement a
3 discipline management program to be included in the district
4 improvement plan under Section 11.252. The program must provide
5 for prevention of and education concerning unwanted physical or
6 verbal aggression and~~[,]~~ sexual harassment~~[, and other forms of~~
7 ~~bullying]~~ in school, on school grounds, and in school vehicles.

8 SECTION 6. Subchapter C, Chapter 37, Education Code, is
9 amended by adding Section 37.0832 to read as follows:

10 Sec. 37.0832. BULLYING, INCLUDING CYBERBULLYING: POLICIES,
11 PROCEDURES, AND TRAINING. (a) In this section:

12 (1) "Bullying":

13 (A) means engaging in written or verbal
14 expression or physical conduct, including an action motivated by a
15 perceived imbalance of power based on another student's actual or
16 perceived personal characteristics, behavior, or beliefs or by
17 another student's association with a third person and based on the
18 third person's characteristics, behavior, or beliefs, that:

19 (i) has the effect or will have the effect
20 of physically harming a student, damaging a student's property, or
21 placing a student in reasonable fear of harm to the student's person
22 or of damage to the student's property;

23 (ii) is sufficiently severe, persistent,
24 or pervasive enough that the action or threat creates an
25 intimidating, threatening, or abusive educational environment for
26 a student;

27 (iii) interferes with a student's

1 educational opportunities; or

2 (iv) substantially disrupts the orderly
3 operation of a school; and

4 (B) includes cyberbullying.

5 (2) "Cyberbullying" means bullying that is done using
6 electronic communication, including electronic media.

7 (b) This section applies to bullying that:

8 (1) occurs on or is delivered to school property or to
9 the site of a school-sponsored or school-related activity on or off
10 school property; or

11 (2) occurs off school property or outside of a
12 school-sponsored or school-related activity, if the conduct
13 interferes with a student's educational opportunities or
14 substantially disrupts the orderly operation of a school or
15 school-sponsored or school-related activity.

16 (c) The board of trustees of each school district shall
17 adopt a policy concerning bullying that:

18 (1) prohibits bullying of a student;

19 (2) prohibits retaliation against any person,
20 including a victim, witness, or another person, who in good faith
21 provides information concerning an incident of bullying;

22 (3) provides for the appropriate intervention for a
23 student who engages in bullying or falsely accuses another of
24 bullying;

25 (4) requires each school principal or the principal's
26 designee to develop a campus strategy for protecting each campus
27 student from being bullied or related retaliation that includes

1 imposing appropriate discipline to reduce the risk of incidents of
2 bullying and offering appropriate assistance to a victim of
3 bullying or a student engaging in bullying;

4 (5) establishes a procedure for reporting an incident
5 of bullying within a district and on each district campus that
6 specifies the action a student should take in case of bullying; and

7 (6) addresses any other issue concerning bullying that
8 the board of trustees determines to be appropriate.

9 (d) The procedure under Subsection (c)(5):

10 (1) must enable a student to report an incident of
11 bullying to any school district employee;

12 (2) must require the posting of a list on each campus
13 that identifies each person who has special training or designation
14 to receive a report of an incident of bullying;

15 (3) may establish an anonymous reporting system; and

16 (4) may include any other provision concerning
17 reporting an incident of bullying that the board of trustees
18 determines to be appropriate.

19 (e) Except as otherwise provided by this subsection, not
20 later than the second school day after the date a school principal
21 acquires knowledge of an incident of bullying, the school district
22 superintendent or the superintendent's designee shall, by
23 telephone or electronic communication, provide notice of the
24 incident to the parent or guardian of the victim of the alleged
25 bullying and the parent or guardian of the student who allegedly
26 engaged in the bullying. In accordance with a policy adopted by the
27 district board of trustees, the superintendent or the

1 superintendent's designee may notify other persons, as
2 appropriate. If the superintendent or the superintendent's
3 designee is not successful in reaching a parent or guardian by
4 telephone or electronic communication, the superintendent or the
5 superintendent's designee shall contact the parent or guardian in
6 writing as soon as practicable. The principal shall inform a victim
7 of bullying of the victim's right to request that the victim's
8 parent or guardian not be notified of the incident. On a request
9 from a victim, the principal shall request the superintendent or
10 the superintendent's designee to grant a waiver from the
11 notification requirement under this subsection. Granting or denial
12 of the waiver is at the sole discretion of the superintendent or the
13 superintendent's designee, must be based on the facts of the case,
14 and must be documented in writing. Granting a waiver under this
15 subsection does not relieve a district employee of any other duty
16 imposed by the policy adopted under Subsection (c).

17 (f) Each school district shall provide annual written
18 notice of the policy adopted under Subsection (c) and the
19 notification requirements under Subsection (e) to each district
20 student, the parent or guardian of each district student, and each
21 district employee or volunteer. The notice must be posted on the
22 district's Internet website and at each district campus in the
23 cafeteria, on each major bulletin board, in a prominent place in the
24 area of campus administrative offices, and at any other appropriate
25 location determined by the school principal. The policy also must
26 be included in each student and employee handbook.

27 (g) Each school district shall provide the following

1 training concerning bullying:

2 (1) annual training in preventing, identifying,
3 responding to, and reporting incidents of bullying for district
4 administrators and for other district employees and volunteers who
5 have significant contact with students;

6 (2) instruction to district students regarding the
7 elements of bullying; and

8 (3) an educational program for district students and
9 the parents and guardians of district students in preventing,
10 identifying, responding to, and reporting incidents of bullying.

11 SECTION 7. Section 39.306(a), Education Code, is amended to
12 read as follows:

13 (a) Each board of trustees shall publish an annual report
14 describing the educational performance of the district and of each
15 campus in the district that includes uniform student performance
16 and descriptive information as determined under rules adopted by
17 the commissioner. The annual report must also include:

18 (1) campus performance objectives established under
19 Section 11.253 and the progress of each campus toward those
20 objectives, which shall be available to the public;

21 (2) information indicating the district's
22 accreditation status and identifying each district campus awarded a
23 distinction designation under Subchapter G or considered an
24 unacceptable campus under Subchapter E;

25 (3) the district's current special education
26 compliance status with the agency;

27 (4) a statement of the number, rate, and type of

1 violent or criminal incidents that occurred on each district
2 campus, to the extent permitted under the Family Educational Rights
3 and Privacy Act of 1974 (20 U.S.C. Section 1232g);

4 (5) information concerning bullying, including
5 cyberbullying, harassment, sexual harassment, and school violence
6 prevention and violence intervention policies and procedures that
7 the district is using to protect students;

8 (6) the findings that result from evaluations
9 conducted under the Safe and Drug-Free Schools and Communities Act
10 [~~of 1994~~] (20 U.S.C. Section 7101 et seq.); [~~and~~]

11 (7) information received under Section 51.403(e) for
12 each high school campus in the district, presented in a form
13 determined by the commissioner; and

14 (8) a statement of the number, rate, and type of
15 incidents of bullying, including cyberbullying, harassment, sexual
16 harassment, and discrimination against any student on the basis of
17 the actual or perceived race, ethnicity, color, religion, gender,
18 sexual orientation, gender identity and expression, national
19 origin, or disability of the alleged perpetrator or victim that
20 occurred on each district campus, to the extent permitted under the
21 Family Educational Rights and Privacy Act of 1974 (20 U.S.C.
22 Section 1232g).

23 SECTION 8. This Act applies beginning with the 2011-2012
24 school year.

25 SECTION 9. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

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1 Act does not receive the vote necessary for immediate effect, this

2 Act takes effect September 1, 2011.