87R8017 BDP-D

By:  Talarico H.B. No. 4416

A BILL TO BE ENTITLED

AN ACT

relating to school district policies on dating violence, sexual assault, stalking, sexual abuse, and sexual harassment; providing an administrative penalty.

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

SECTION 1.  Section 37.0812, Education Code, is amended by adding Subsection (c) to read as follows:

(c)  A school district peace officer or school resource officer shall complete the school district's comprehensive training program on dating violence, sexual assault, stalking, sexual abuse, and sexual harassment as required by Section 37.0831.

SECTION 2.  Section 37.0831, Education Code, is amended to read as follows:

Sec. 37.0831.  DATING VIOLENCE, SEXUAL ASSAULT, STALKING, SEXUAL ABUSE, AND SEXUAL HARASSMENT POLICIES. (a) Each school district shall adopt and implement a [~~dating violence~~] policy on dating violence, sexual assault, stalking, sexual abuse, and sexual harassment to be included in the district improvement plan under Section 11.252.

(b)  The [~~A dating violence~~] policy must:

(1)  include:

(A)  definitions of "dating violence," "sexual assault," and "stalking" that have the meanings assigned by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 U.S.C. Section 1092(f)(6)(A)); and

(B)  a definition of "sexual harassment" that means unwelcome, sex-based verbal or physical conduct that:

(i)  in the employment context, unreasonably interferes with a person's work performance or creates an intimidating, hostile, or offensive work environment; or

(ii)  in the education context, is sufficiently severe, persistent, or pervasive that the conduct interferes with a student's ability to participate in or benefit from education programs or activities at a secondary school [~~a definition of dating violence that includes the intentional use of physical, sexual, verbal, or emotional abuse by a person to harm, threaten, intimidate, or control another person in a dating relationship, as defined by Section 71.0021, Family Code~~]; and

(2)  address safety planning, enforcement of protective orders, [~~school-based alternatives to protective orders, training for teachers and administrators,~~] counseling for affected students, and awareness education for students and parents; and

(3)  include:

(A)  a comprehensive training program in accordance with Subsection (c) or (d);

(B)  a protocol for reporting and responding to reports of dating violence, sexual assault, stalking, sexual abuse, and sexual harassment; and

(C)  interim measures to protect victims of dating violence, sexual assault, stalking, sexual abuse, and sexual harassment during the pendency of the school's disciplinary process, including protection from retaliation, and any other accommodations available to those victims at the school.

(c)  The comprehensive training program:

(1)  must be provided annually to school counselors, teachers, nurses, administrators, and other staff, as well as law enforcement officers and social workers who regularly interact with students;

(2)  must be completed not later than the 30th instructional day following the first day of school and may be offered online;

(3)  must be included in the employee school district handbook;

(4)  may include participation by community organizations with relevant existing research-based programs aimed at providing training for school staff;

(5)  must include information on:

(A)  the meanings of and methods for preventing and identifying incidents of dating violence, sexual assault, stalking, sexual abuse, and sexual harassment;

(B)  the school district's policy on dating violence, sexual assault, stalking, sexual abuse, and sexual harassment;

(C)  a protocol for responding to and reporting incidents of dating violence, sexual assault, stalking, sexual abuse, and sexual harassment; and

(D)  the name, location, and contact information of the district's Title IX coordinator; and

(6)  may include information relating to the district's trauma-informed care policy under Section 38.036.

(d)  If a school district does not have sufficient resources to provide the comprehensive training program required under Subsection (c), the district shall work in conjunction with a community organization to provide the training at no cost to the district.

(e)  Not later than the 30th instructional day following the first day of school, each school district shall make the school's policy on dating violence, sexual assault, stalking, sexual abuse, and sexual harassment available to parents and students by:

(1)  including the policy in the annual student handbook;

(2)  posting the policy on the school's Internet website that is accessible from the home page of the Internet website by use of not more than three links; and

(3)  providing a written copy of the policy to the parent of or other person standing in parental relation to each student enrolled in the school.

(f)  Each school district shall ensure that any informational materials distributed to students are age-appropriate.

(g)  Not later than the 30th day following the last instructional day of the school year, the Title IX coordinator of each school district shall prepare and submit an annual written report to the agency regarding incidents of dating violence, sexual assault, stalking, sexual abuse, and sexual harassment at the district. The report must include:

(1)  a certification by the superintendent that each school within the district is in substantial compliance with the training and reporting requirements under this section;

(2)  the total number of reported incidents of dating violence, sexual assault, stalking, sexual abuse, and sexual harassment;

(3)  a summary of each investigation of a reported incident; and

(4)  a summary of the disposition of each reported incident:

(A)  that resulted in disciplinary measures by the district; or

(B)  for which the district determined that disciplinary measures were not necessary.

(h)  If the agency determines that a school district is not in compliance with the training or reporting requirements, the commissioner may take any appropriate action authorized to be taken by the commissioner under Chapter 39A.

(i)  The agency shall prepare and submit an annual written report to the governor, lieutenant governor, speaker of the house of representatives, and standing committees with primary jurisdiction over education that includes:

(1)  the number of incidents of dating violence, sexual assault, stalking, sexual abuse, and sexual harassment in each school district;

(2)  a list of school districts that are in compliance or out of compliance with the training and reporting requirements under this section; and

(3)  penalties imposed on any district.

SECTION 3.  Each school district shall implement a policy on dating violence, sexual assault, stalking, sexual abuse, and sexual harassment as required by Section 37.0831, Education Code, as amended by this Act, not later than the beginning of the 2021-2022 school year.

SECTION 4.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.