

By: Meza

H.B. No. 498

A BILL TO BE ENTITLED

AN ACT

relating to policies and procedures for addressing bullying and harassment in public schools.

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

SECTION 1. Section 12.104(b), Education Code, as amended by Chapters 542 (S.B. 168), 887 (S.B. 1697), 915 (H.B. 3607), 974 (S.B. 2081), and 1046 (S.B. 1365), Acts of the 87th Legislature, Regular Session, 2021, is reenacted and amended to read as follows:

(b) An open-enrollment charter school is subject to:

(1) a provision of this title establishing a criminal offense;

(2) the provisions in Chapter 554, Government Code; and

(3) a prohibition, restriction, or requirement, as applicable, imposed by this title or a rule adopted under this title, relating to:

(A) the Public Education Information Management System (PEIMS) to the extent necessary to monitor compliance with this subchapter as determined by the commissioner;

(B) criminal history records under Subchapter C, Chapter 22;

(C) reading instruments and accelerated reading instruction programs under Section 28.006;

(D) accelerated instruction under Section

1 28.0211;
2 (E) high school graduation requirements under
3 Section 28.025;
4 (F) special education programs under Subchapter
5 A, Chapter 29;
6 (G) bilingual education under Subchapter B,
7 Chapter 29;
8 (H) prekindergarten programs under Subchapter E
9 or E-1, Chapter 29, except class size limits for prekindergarten
10 classes imposed under Section 25.112, which do not apply;
11 (I) extracurricular activities under Section
12 33.081;
13 (J) discipline management practices or behavior
14 management techniques under Section 37.0021;
15 (K) health and safety under Chapter 38;
16 (L) the provisions of Subchapter A, Chapter 39;
17 (M) public school accountability and special
18 investigations under Subchapters A, B, C, D, F, G, and J, Chapter
19 39, and Chapter 39A;
20 (N) the requirement under Section 21.006 to
21 report an educator's misconduct;
22 (O) intensive programs of instruction under
23 Section 28.0213;
24 (P) the right of a school employee to report a
25 crime, as provided by Section 37.148;
26 (Q) bullying and harassment prevention policies
27 and procedures under Section 37.0832;

1 (R) the right of a school under Section 37.0052
2 to place a student who has engaged in certain bullying behavior in a
3 disciplinary alternative education program or to expel the student;

4 (S) the right under Section 37.0151 to report to
5 local law enforcement certain conduct constituting assault or
6 harassment;

7 (T) a parent's right to information regarding the
8 provision of assistance for learning difficulties to the parent's
9 child as provided by Sections 26.004(b)(11) and 26.0081(c) and (d);

10 (U) establishment of residency under Section
11 25.001;

12 (V) school safety requirements under Sections
13 37.108, 37.1081, 37.1082, 37.109, 37.113, 37.114, 37.1141, 37.115,
14 37.207, and 37.2071;

15 (W) the early childhood literacy and mathematics
16 proficiency plans under Section 11.185;

17 (X) the college, career, and military readiness
18 plans under Section 11.186; and

19 (Y) [~~(X)~~] parental options to retain a student
20 under Section 28.02124.

21 SECTION 2. Section 33.006(b), Education Code, is amended to
22 read as follows:

23 (b) In addition to a school counselor's responsibility
24 under Subsection (a), the school counselor shall:

25 (1) participate in planning, implementing, and
26 evaluating a comprehensive developmental guidance program to serve
27 all students and to address the special needs of students:

1 (A) who are at risk of dropping out of school,
2 becoming substance abusers, participating in gang activity, or
3 committing suicide;

4 (B) who are in need of modified instructional
5 strategies; or

6 (C) who are gifted and talented, with emphasis on
7 identifying and serving gifted and talented students who are
8 educationally disadvantaged;

9 (2) consult with a student's parent or guardian and
10 make referrals as appropriate in consultation with the student's
11 parent or guardian;

12 (3) consult with school staff, parents, and other
13 community members to help them increase the effectiveness of
14 student education and promote student success;

15 (4) coordinate people and resources in the school,
16 home, and community;

17 (5) with the assistance of school staff, interpret
18 standardized test results and other assessment data that help a
19 student make educational and career plans;

20 (6) deliver classroom guidance activities or serve as
21 a consultant to teachers conducting lessons based on the school's
22 guidance curriculum; and

23 (7) serve as an impartial, nonreporting resource for
24 interpersonal conflicts and discord involving two or more students,
25 including accusations of bullying or harassment under Section
26 [37.0832](#).

27 SECTION 3. Section [37.0832](#), Education Code, is amended to

1 read as follows:

2 Sec. 37.0832. BULLYING AND HARASSMENT PREVENTION POLICIES
3 AND PROCEDURES. (a) In this section:

4 (1) "Bullying":

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

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

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

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

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

23 (B) includes cyberbullying.

24 (2) "Cyberbullying" means bullying that is done
25 through the use of any electronic communication device, including
26 through the use of a cellular or other type of telephone, a
27 computer, a camera, electronic mail, instant messaging, text

1 messaging, a social media application, an Internet website, or any
2 other Internet-based communication tool.

3 (3) "Harassment" has the meaning assigned by Section
4 37.001.

5 (a-1) This section applies to:

6 (1) bullying or harassment that occurs on or is
7 delivered to school property or to the site of a school-sponsored or
8 school-related activity on or off school property;

9 (2) bullying or harassment that occurs on a publicly
10 or privately owned school bus or vehicle being used for
11 transportation of students to or from school or a school-sponsored
12 or school-related activity; and

13 (3) cyberbullying that occurs off school property or
14 outside of a school-sponsored or school-related activity if the
15 cyberbullying:

16 (A) interferes with a student's educational
17 opportunities; or

18 (B) substantially disrupts the orderly operation
19 of a classroom, school, or school-sponsored or school-related
20 activity.

21 (b) Conduct that constitutes bullying or harassment may
22 include conduct that occurs due to:

23 (1) another student's actual or perceived race, color,
24 national origin, sex, disability status, sexual orientation,
25 gender identity, gender expression, ethnicity, or religion;

26 (2) a distinguishing characteristic of another
27 student; or

1 (3) a student's association with a person or group with
2 one or more of the actual or perceived characteristics described by
3 Subdivisions (1) and (2).

4 (c) The board of trustees of each school district shall
5 adopt a policy, including any necessary procedures, concerning
6 bullying and harassment that:

7 (1) prohibits the bullying or harassment of a student;

8 (2) prevents and mediates bullying or harassment
9 incidents between students that:

10 (A) interfere with a student's educational
11 opportunities; or

12 (B) substantially disrupt the orderly operation
13 of a classroom, school, or school-sponsored or school-related
14 activity;

15 (3) prohibits retaliation against any person,
16 including a victim, a witness, or another person, who in good faith
17 provides information concerning an incident of bullying or
18 harassment;

19 (4) establishes a procedure for providing notice,
20 while considering the circumstances of the incident and ensuring
21 the safety and well-being of the student, of an incident of bullying
22 or harassment to:

23 (A) a parent or guardian of the alleged victim on
24 or before the third business day after the date the incident is
25 reported; and

26 (B) a parent or guardian of the alleged bully or
27 harasser within a reasonable amount of time after the incident;

1 (5) establishes the actions a student should take to
2 obtain assistance and intervention in response to bullying or
3 harassment;

4 (6) sets out the available counseling options for a
5 student who is a victim of or a witness to bullying or harassment or
6 who engages in bullying or harassment;

7 (7) establishes procedures for reporting an incident
8 of bullying or harassment, including procedures for a student to
9 anonymously report an incident of bullying or harassment, promptly
10 investigating a reported incident of bullying or harassment, and
11 determining whether the reported incident of bullying or harassment
12 occurred;

13 (8) specifies that no remedial action may be taken
14 solely on the basis of an anonymous report of an incident of
15 bullying or harassment;

16 (9) prohibits the imposition of a disciplinary measure
17 on a student who, after an investigation, is found to be a victim of
18 bullying or harassment, on the basis of that student's use of
19 reasonable self-defense in response to the bullying or harassment;

20 (10) [~~(9)~~] requires that discipline for bullying or
21 harassment of a student with disabilities comply with applicable
22 requirements under federal law, including the Individuals with
23 Disabilities Education Act (20 U.S.C. Section 1400 et seq.); and

24 (11) [~~(10)~~] complies with the minimum standards
25 adopted by the agency under Subsection (c-1).

26 (c-1) The agency shall adopt minimum standards for a school
27 district's policy under Subsection (c). The standards must:

1 (1) include an emphasis on bullying and harassment
2 prevention by focusing on school climate and building healthy
3 relationships between students and staff;

4 (2) require each district campus to establish a
5 committee to address bullying and harassment by focusing on
6 prevention efforts and health and wellness initiatives;

7 (3) require students at each grade level to meet
8 periodically for instruction on building relationships and
9 preventing bullying, including cyberbullying, and harassment;

10 (4) include an emphasis on increasing student
11 reporting of bullying or harassment incidents to school employees
12 by:

13 (A) increasing awareness about district
14 reporting procedures; and

15 (B) providing for anonymous reporting of
16 bullying or harassment incidents;

17 (5) require districts to:

18 (A) collect information annually through student
19 surveys on bullying, including cyberbullying, and harassment; and

20 (B) use those survey results to develop action
21 plans to address student concerns regarding bullying, including
22 cyberbullying, and harassment; and

23 (6) require districts to develop a rubric or checklist
24 to assess an incident of bullying or harassment and to determine the
25 district's response to the incident.

26 (d) The policy and any necessary procedures adopted under
27 Subsection (c) must be included:

1 (1) annually, in the student and employee school
2 district handbooks and as part of any new employee training
3 materials; and

4 (2) in the district improvement plan under Section
5 [11.252](#).

6 (e) The procedure for reporting bullying or harassment
7 established under Subsection (c) must be posted on the district's
8 Internet website to the extent practicable.

9 SECTION 4. As soon as practicable after the effective date
10 of this Act, each school district shall adopt a policy concerning
11 bullying and harassment as required by Section [37.0832](#)(c),
12 Education Code, as amended by this Act.

13 SECTION 5. To the extent of any conflict, this Act prevails
14 over another Act of the 88th Legislature, Regular Session, 2023,
15 relating to nonsubstantive additions to and corrections in enacted
16 codes.

17 SECTION 6. This Act applies beginning with the 2023-2024
18 school year.

19 SECTION 7. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section [39](#), Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2023.