



Ohio Legislative Service Commission

Bill Analysis

Jennifer Stump

S.B. 126

128th General Assembly
(As Introduced)

Sens. Fedor, Turner, Cafaro, Schiavoni, Morano, Kearney, Sawyer, D. Miller

BILL SUMMARY

- Requires school districts, community schools, and STEM schools to expand their existing student anti-harassment policies to cover incidents of harassment, intimidation, or bullying that occur (1) on school buses or (2) off of school property and materially disrupt the educational environment and discipline of the school.
- Requires the anti-harassment policies to prohibit harassment, intimidation, or bullying by electronic means.
- Specifies that the anti-harassment policies must include the following: (1) a statement providing for possible suspension of students who engage in cyberbullying, (2) means for making anonymous reports of incidents of harassment, intimidation, or bullying, (3) disciplinary procedures for students who make false reports, and (4) strategies for protecting other persons (in addition to the victim, as in current law) from harassment or retaliation after a report has been made.
- Directs school districts, community schools, and STEM schools to review their anti-harassment policies annually.
- Revises the requirement for school districts, community schools, and STEM schools to provide training on their anti-harassment policies to school employees and volunteers by (1) eliminating a provision making the requirement contingent on the availability of state or federal funds for that purpose, (2) requiring the training to be conducted annually by December 31, and (3) requiring parental notification if the training is not conducted.
- Prohibits a school district administrator from knowingly failing to report to law enforcement authorities menacing by stalking or telecommunications harassment committed on school premises, on a school bus, or at a school-sponsored event.

CONTENT AND OPERATION

School anti-harassment policies

(R.C. 3313.666)

Background--current law

Current law requires each school district, community (charter) school, and STEM school to adopt a policy prohibiting student harassment, intimidation, or bullying on school property or at school-sponsored events.¹ "Harassment, intimidation, or bullying" is defined as "any intentional written, verbal, or physical act that a student has exhibited toward another particular student more than once and the behavior both: (1) causes mental or physical harm to the other student [and] (2) is sufficiently severe, persistent, or pervasive that it creates an intimidating, threatening, or abusive educational environment for the other student."² The anti-harassment policy must include procedures for reporting and responding to prohibited incidents, procedures for notifying parents of students involved in a prohibited incident, strategies for protecting victims from retaliation or additional harassment after a report, and disciplinary procedures for perpetrators.

The bill

The bill makes several changes to the requirements for anti-harassment policies in public schools. First, it adds school buses to the school-related locations where student harassment, intimidation, or bullying must be prohibited under the policy. Moreover, it specifies that prohibited incidents that occur off of school property also are covered by the policy, if the off-site harassment, intimidation, or bullying "materially or substantially" disrupts the educational environment and discipline of the school.³

¹ R.C. 3314.03(A)(11)(d), 3313.666(B), and 3326.11 (first and last sections not in the bill). A STEM school is a public science, technology, engineering, and math school that operates under the direction of its own governing body (see R.C. Chapter 3326.).

² R.C. 3313.666(A).

³ Under current law, whether a school district's disciplinary policies cover conduct that occurs off school property is left to the discretion of each school district board of education. If a district board elects to cover off-premises conduct, the discipline must pertain only to conduct that either (1) is connected to activities or incidents that have occurred on school property or (2) is directed at the person or property of a district official or employee (R.C. 3313.661(A), not in the bill). These provisions also apply to community schools and STEM schools (R.C. 3314.03(A)(11)(d) and 3326.11, neither section in the bill).

Second, it expands the definition of "harassment, intimidation, or bullying" to account for cyberbullying techniques by specifically including acts committed through the use of a cell phone, computer, pager, personal communication device, or other electronic communication device. It also requires the anti-harassment policy to contain a statement expressly providing for the possibility of suspension for a student who engages in cyberbullying.

Third, the bill requires the anti-harassment policy to include the following additional elements:

(1) A means for a person to make an anonymous report of harassment, intimidation, or bullying;

(2) A strategy for protecting other students or persons, not just the victim of the incident, after a report has been made; and

(3) A prohibition against students deliberately making false reports of prohibited incidents and a disciplinary procedure for students who make false reports.

Finally, the bill requires each school district, community school, and STEM school to review its anti-harassment policy annually. The district or school must make its policy and an explanation of the seriousness of cyberbullying available to all students and their parents.

Employee training on anti-harassment policies

(R.C. 3313.667)

Under current law, to the extent that state or federal funds are appropriated for these purposes, school districts, community schools, and STEM schools must (1) provide training on their anti-harassment policies for school employees and volunteers who have direct contact with students and (2) develop a process for educating students about the policies.⁴ The bill repeals the language making implementation of these requirements contingent on the availability of funding. Consequently, the provision of both the staff training and student education is always mandatory under the bill, even if districts and schools must use their own funds to comply.

⁴ Under continuing law, districts and schools also are explicitly authorized to form bullying prevention task forces and other initiatives involving volunteers, parents, law enforcement personnel, and community members (current R.C. 3313.667(A), which is moved to R.C. 3313.666(F) by the bill).

With respect to the training for employees and volunteers, the bill specifies that the training must be conducted annually by December 31.⁵ If a district or school fails to meet that deadline, it must mail a notification to the parents of students enrolled in the noncompliant schools indicating that the required training has not been completed. This notification, to be sent by January 30, must be clearly distinguishable from other parent mailings. If the notification is not sent, the parent of any student enrolled in the district or school may apply to the applicable common pleas court for an order compelling compliance with the training or notification requirement or granting other equitable relief.

School administrators' duty to report certain harassment to police

(R.C. 2921.22)

The bill prohibits a school district employee who is licensed by the State Board of Education and works as an administrator from knowingly failing to report to law enforcement authorities when the employee knows that menacing by stalking or telecommunications harassment has been or is being committed on school premises, a school bus operated by the district, or at a school-sponsored event.⁶ It appears that the

⁵ The bill retains current law specifying that the time spent by employees in the training must count toward any state- or district-mandated continuing education requirements.

⁶ Menacing by stalking is (1) knowingly engaging in a pattern of conduct to cause mental distress to another person or to cause the other person to believe the offender will cause the person physical harm or (2) using an electronic method to post a message inciting another person to engage in such a pattern of conduct (R.C. 2903.211, not in the bill).

Telecommunications harassment is making or causing to be made a telecommunication, or permitting a telecommunication to be made from a device under the person's control, (1) with the purpose to abuse, threaten, or harass another person or (2) when the caller does any of the following:

(a) Fails to identify the caller to the recipient of the telecommunication and makes the telecommunication with purpose to harass or abuse any person at the premises to which the telecommunication is made;

(b) Describes or suggests that the caller, the recipient, or any other person engage in sexual activity, and the recipient or another person at the premises to which the telecommunication is made has requested that the caller not make a telecommunication to the recipient or to those premises;

(c) Commits aggravated menacing during the telecommunication;

(d) Knowingly states to the recipient that the caller intends to cause damage to property, and the recipient, any member of the recipient's family, or any other person who resides at the premises to which the telecommunication is made owns, leases, resides, or works in, will at the time of the damaging be near or in, has the responsibility of protecting, or insures the property that will be damaged; or

(e) Knowingly makes the telecommunication to the recipient, to another person at the premises to which the telecommunication is made, or to those premises, and the recipient or another person at those

prohibition does not apply to administrators employed by community schools or STEM schools. A violation of the prohibition is the crime of failure to report a crime, but the bill does not specify a penalty for the violation.

The bill does not define "administrator" for purposes of the prohibition. However, under continuing law, the reporting procedures in a school district's anti-harassment policy must include a requirement for school personnel to report incidents of harassment, intimidation, or bullying of which they are aware to the school principal or another designated administrator.⁷ Presumably, then, the principal or designated administrator would be subject to the duty to report the incident to law enforcement authorities if the incident qualifies as menacing by stalking or telecommunications harassment.

HISTORY

ACTION	DATE
Introduced	05-05-09

s0126-i-128.docx/kl

premises previously has told the caller not to make a telecommunication to those premises or to any persons at those premises (R.C. 2917.21, not in the bill).

⁷ R.C. 3313.666(B)(4). Continuing law grants civil immunity to school employees who promptly report an incident of harassment, intimidation, or bullying in good faith and in accordance with the procedures outlined in the anti-harassment policy (R.C. 3313.666(D)).

