

Regular Session, 2012

HOUSE BILL NO. 1101

BY REPRESENTATIVE SCHRODER

STUDENTS: Provides relative to harassment, intimidation, bullying, and cyberbullying in public schools

1 AN ACT

2 To amend and reenact R.S. 17:416.13(A) and (B) and to repeal R.S. 17:416.13(C), relative  
3 to harassment, intimidation, bullying, and cyberbullying in public schools; to provide  
4 relative to definitions; to provide relative to reporting; to remove provisions  
5 excepting certain parishes from certain requirements relative to student codes of  
6 conduct; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 17:416.13(A) and (B) are hereby amended and reenacted to read as  
9 follows:

10 §416.13. Student code of conduct; requirement; harassment, intimidation, and  
11 bullying; prohibition; ~~exemptions~~

12 A.(1) The legislature finds and declares that:

13 (a) A safe and civil environment in school is necessary for students to learn  
14 and achieve high academic standards.

15 (b) Harassment, intimidation, bullying, and cyberbullying, like other  
16 disruptive or violent behaviors, disrupt both a student's ability to learn and a school's  
17 ability to educate its students in a safe environment.

18 ~~By not later than August 1, 1999, each city, parish, and other local~~ (2) The  
19 governing authority of each public elementary and secondary school board shall  
20 adopt a student code of conduct for the students in its school system. Such code of

1           conduct shall be in compliance with all existing rules, regulations, and policies of the  
2           board and of the State Board of Elementary and Secondary Education and all state  
3           laws relative to student discipline and shall include any necessary disciplinary action  
4           to be taken against any student who violates the code of conduct.

5                    B.(1) ~~By not later than August 1, 2001, each city, parish, and other local~~ The  
6                    governing authority of each public elementary and secondary school board shall  
7                    adopt and incorporate into the student code of conduct as provided in this Section a  
8                    policy prohibiting the harassment, intimidation, ~~and~~ bullying, and cyberbullying of  
9                    a student by another student on all school premises, at school-sponsored functions  
10                   or activities, and while students are being transported via school-sponsored  
11                   transportation.

12                   (2) For purposes of this ~~Subsection;~~ Section, the following terms have the  
13                   following meanings:

14                   (a) ~~"harassment", "Harassment", "intimidation", and "bullying" shall~~ mean  
15                   any intentional gesture or written, verbal, or physical act that:

16                   ~~(a)~~ (i) A reasonable person under the circumstances should know will have  
17                   the effect of harming a student or damaging his property or placing a student in  
18                   reasonable fear of harm to his life or person or damage to his property; ~~and~~

19                   ~~(b)~~ (ii) Is so severe, persistent, or pervasive that it creates an intimidating,  
20                   threatening, or abusive educational environment for a student;

21                   (iii) Is systematic, repeated, or recurrent and serves as the greatest or sole  
22                   cause of a student's measurable physical harm or emotional distress;

23                   (iv) Is an expression that is lewd, indecent, obscene, or a severe and  
24                   pervasive use of threatening words that inflicts injury or is intended to incite an  
25                   immediate breach of peace or to advocate for illegal conduct; or

26                   (v) School administrators reasonably and objectively determine will cause  
27                   an actual, material disruption of school work.

28                   (b) "Cyberbullying" means the harassment, intimidation, or bullying of a  
29                   student on school premises by another student using a computer, mobile phone, or

1 other interactive or digital technology or the harassment, intimidation, or bullying  
2 of a student while off school premises by another student using any such means  
3 when the action or actions are intended to have an effect on the student when the  
4 student is on school premises.

5 (c) "School premises" means any building, structure, athletic field, sports  
6 stadium, or other real property owned, operated, leased, or rented by the school or  
7 its governing authority, including but not limited to any kindergarten, elementary  
8 school, or secondary school.

9 (d) "School-sponsored functions or activities" means any field trip, sporting  
10 event, or other activity that is officially sponsored by the school or its governing  
11 authority.

12 (e) "School-sponsored transportation" means a motor vehicle owned,  
13 operated, leased, rented, or subcontracted by the school or its governing authority.

14 (3)(a) Any student who believes he has been or is currently the victim of  
15 harassment, intimidation, bullying, or cyberbullying may report the situation to the  
16 school principal or his designee. The student may also report concerns to a teacher  
17 or counselor who shall notify the appropriate school administrator. Students, school  
18 employees, and any other individuals may report any situation that they observe and  
19 believe to be harassment, intimidation, bullying, or cyberbullying directed toward  
20 a student.

21 (b) Any student, school employee, or ~~school volunteer~~ other person who in  
22 good faith reports an incident of harassment, intimidation, ~~or~~ bullying, or  
23 cyberbullying to the appropriate school official in accordance with the procedures  
24 set forth in this Subsection and established by ~~local board~~ the school governing  
25 authority's policy shall be immune from a right of action for damages arising from  
26 any failure to remedy the reported incident.

27 (4) ~~The provisions of this Subsection shall not apply to the parishes of~~  
28 ~~Livingston, East Baton Rouge, East Feliciana, West Feliciana, St. Helena, and~~  
29 ~~Tangipahoa.~~ Every complaint about behavior that may violate the provisions of this

1        Section that is reported as provided in Subparagraph (3)(b) of this Subsection shall  
2        be investigated by a designee of a school administrator not later than fourteen days  
3        after the complaint is received. School administrators shall not be required to  
4        investigate a report made anonymously unless good cause is shown or stated for  
5        reporting anonymously or the school administrator has reason to believe that a  
6        student may be at imminent risk of physical harm.

7                (5)(a) If the individual designated by the school administrator to investigate  
8        a complaint of harassment, intimidation, bullying, or cyberbullying determines that  
9        such behavior has occurred, the parents of the students involved shall be notified and  
10        prompt and appropriate disciplinary action shall be taken. School administrators or  
11        their designees may also refer students to law enforcement if such alleged acts are  
12        violations of state or local laws.

13                (b) Prior to any student being interviewed by school personnel as part of an  
14        investigation, the school principal or his designee shall notify the student's parent or  
15        legal guardian of the allegations made and the parent or legal guardian shall have the  
16        opportunity to attend any such interview with his child. The notice may be delivered  
17        by telephone or electronic mail and shall be confirmed in writing and mailed to the  
18        home of the parent or legal guardian. School personnel shall not charge any student  
19        with the responsibility of delivering any such communication to his parent or legal  
20        guardian.

21                (6)(a) Retaliation against any person who reports suspected harassment,  
22        intimidation, bullying, or cyberbullying in good faith, or who is thought to have  
23        reported or filed a complaint, or who otherwise participates in an investigation or  
24        inquiry concerning allegations of such behavior is prohibited and shall be subject to  
25        discipline according to policies adopted by the school's governing authority.  
26        Suspected retaliation shall be reported in the same manner as harassment,  
27        intimidation, bullying, or cyberbullying is reported.

28                (b) Any student or school employee who intentionally makes false reports  
29        about harassment, intimidation, bullying, or cyberbullying for the purpose of

1 initiating disciplinary action against a student shall be disciplined according to  
2 policies adopted by the school's governing authority.

3 (7) Nothing in this Section shall be interpreted to infringe upon the rights  
4 granted to any student under the First Amendment of the Constitution of the United  
5 States of America or is intended to prohibit expression of religious, philosophical,  
6 or political views, provided that such expression does not cause an actual, material  
7 disruption to the work of any public school.

8 (8) Nothing in this Section shall impede or preclude a student, the student's  
9 parent or legal guardian, or a school administrator from directly reporting to law  
10 enforcement any behavior that constitutes a violation of criminal law.

11 \* \* \*

12 Section 2. R.S. 17:413.16(C) is hereby repealed in its entirety.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Schroder

HB No. 1101

**Abstract:** Relative to harassment, intimidation, bullying, and cyberbullying in public schools, provides for definitions, reporting procedures, and discipline and removes exception of certain parishes from certain student code of conduct requirements.

Present law requires each public school board to adopt and incorporate into its student code of conduct a policy prohibiting the harassment, intimidation, bullying, and cyberbullying of a student by another student.

Proposed law adds that this prohibition shall be applicable:

- (1) On all school premises (defined as any building, structure, athletic field, sports stadium, or other real property owned, operated, leased, or rented by the school or its governing authority, including but not limited to any kindergarten, elementary school or secondary school).
- (2) At school-sponsored functions or activities (defined as any field trip, sporting event, or other activity that is officially sponsored by the school or its governing authority).
- (3) While students are being transported via school-sponsored transportation (defined as a motor vehicle owned, operated, leased, rented, or subcontracted by the school or its governing authority).

Present law defines the terms "harassment", "intimidation", and "bullying" as any intentional gesture or written, verbal, or physical act that:

- (1) A reasonable person under the circumstances should know will have the effect of harming a student or damaging his property or placing a student in reasonable fear of harm to his life or person or damage to his property; and
- (2) Is so severe, persistent, or pervasive that it creates an intimidating, threatening, or abusive educational environment for a student.

Proposed law changes the definition of harassment, intimidation, and bullying to mean either (1) or (2) above or any intentional gesture or written, verbal, or physical act that meets any one of the following criteria:

- (1) Is systematic, repeated, or recurrent and serves as the greatest or sole cause of a student's measurable physical harm or emotional distress.
- (2) Is an expression that is lewd, indecent, obscene, or a severe and pervasive use of threatening words that inflicts injury or is intended to incite an immediate breach of peace or to advocate for illegal conduct.
- (3) School administrators reasonably and objectively determine will cause an actual, material disruption of school work.

Present law requires student codes of conduct to prohibit cyberbullying, defined as the harassment, intimidation, or bullying of a student on school property using a computer, mobile phone, or other interactive or digital technology or harassment, intimidation, or bullying of a student while off school property using any such means when the action or actions are intended to have an effect on the student when on school property. Proposed law retains present law but changes terminology from "school property" to "school premises".

Proposed law further adds the following:

- (1) Authorizes a student who believes he has been or is currently the victim of harassment, intimidation, bullying, or cyberbullying to report the situation to the school principal or his designee or to a teacher or counselor who shall notify a school administrator. Authorizes students, school employees, and any other individuals to report any situation that they observe and believe to be harassment, intimidation, bullying, or cyberbullying.
- (2) Requires a designee of a school administrator to investigate every properly reported complaint of harassment, intimidation, bullying, and cyberbullying not later than 14 days after the complaint is received. Provides that he is not required to investigate a report if made anonymously unless good cause is shown or stated for filing anonymously or the school administrator has reason to believe that a student may be at imminent risk of physical harm.
- (3) Requires, if the person investigating the complaint determines that such behavior has occurred, that the parents of the students involved be notified and that prompt and appropriate disciplinary action be taken. Authorizes school administrators or their designees to refer students to law enforcement if such alleged acts are violations of present law on the state or local level.
- (4) Provides that prior to any student being interviewed by school personnel as part of an investigation, the school principal or his designee shall notify the student's parent or legal guardian of the allegations made and the parent or legal guardian shall have the opportunity to attend any such interview with his child. Provides relative to such notice.
- (5) Prohibits retaliation against any person who reports suspected harassment, intimidation, bullying, or cyberbullying in good faith, is thought to have reported or

- filed a complaint, or otherwise participates in an investigation or inquiry concerning allegations of such behavior. Provides that retaliation is subject to discipline according to the policy of the school governing authority. Requires reporting of suspected retaliation in the same manner as harassment, intimidation, bullying, and cyberbullying.
- (6) Provides for disciplinary action against a student or school employee for intentional, false reports about harassment, intimidation, bullying, or cyberbullying intended to initiate disciplinary action against a student.
- (7) Provides that nothing in present law or proposed law shall:
- (a) Be interpreted to infringe upon the rights granted to any student under the First Amendment of the U.S. Constitution or prohibit expression of religious, philosophical, or political views, provided that such expression does not cause an actual, material disruption to the work of any public school.
  - (b) Impede or preclude a student, the student's parent or legal guardian, or a school administrator from directly reporting to law enforcement any behavior that constitutes a violation of criminal law.

Present law excepts the parishes of Livingston, East Baton Rouge, East Feliciana, West Feliciana, St. Helena, and Tangipahoa from the present law requirement that each school board adopt and incorporate into its student code of conduct a policy prohibiting harassment, intimidation, and bullying. Proposed law deletes this exception.

(Amends R.S. 17:416.13(A) and (B); Repeals R.S. 17:416.13(C))