

# State of South Dakota

EIGHTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2012

479T0491

## HOUSE EDUCATION ENGROSSED NO. **SB 130** 2/27/2012

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Senators Lederman, Adelstein, Gray, Schlekeway, and Sutton and Representative Sly

1 FOR AN ACT ENTITLED, An Act to require the school board of each school district to adopt  
2 a policy prohibiting bullying.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. If a school district does not have a bullying policy, the school district shall follow  
5 the model bullying policy in section 6 of this Act until such time as the school district adopts  
6 its own bullying policy. Nothing in this Act supplants or preempts an existing school district  
7 policy.

8 Section 2. Bullying is a pattern of repeated conduct that causes physical hurt or  
9 psychological distress on one or more students that may include threats, intimidation, stalking  
10 as defined in chapter 22-19A, physical violence, theft, destruction of property, any threatening  
11 use of data or computer software, written or verbal communication, or conduct directed against  
12 a student that:

13 (1) Places a student in reasonable fear of harm to his or her person or damage to his or  
14 her property; and either



- 1       (2)   Substantially interferes with a student's educational performance; or
- 2       (3)   Substantially disrupts the orderly operation of a school.

3       For the purposes of this Act, bullying also includes retaliation against a student for asserting  
4 or alleging an act of bullying.

5       Section 3. Each school district policy developed pursuant to this Act may contain the  
6 following provisions:

- 7       (1)   A statement prohibiting bullying and a definition of bullying that includes the  
8           definition listed in section 2 of this Act;
- 9       (2)   A description of the type of behavior expected from each student of the school  
10           district, and the consequences for a student of the school district who commits an act  
11           of bullying;
- 12       (3)   A procedure for reporting an act of bullying, including provisions that permit a  
13           person to anonymously report such an act, although formal disciplinary action may  
14           not be based solely on an anonymous report;
- 15       (4)   A procedure for the prompt investigation and response to any report of bullying,  
16           including a requirement that an investigation be conducted on any alleged incident  
17           of bullying committed against a child while the child is aboard a school bus, at a  
18           school bus stop, or at a school-sponsored event; and
- 19       (5)   A statement that all students are protected with no mention of any protected classes  
20           of students.

21       Section 4. Any school district employee, school volunteer, student, or parent who promptly  
22 reports in good faith an act of bullying to the appropriate school district official as designated  
23 in the school district's policy, and who makes the report in compliance with the provisions of  
24 the school district's policy is immune from any cause of action for damages arising from failure

1 to remedy the reported incident.

2 Section 5. Neither the physical location nor the time of day of any incident involving the use  
3 of computers or other electronic devices is a defense to any disciplinary action taken by a school  
4 district for conduct determined to meet the definition of bullying in section 2 of this Act.

5 Section 6. The model bullying policy pursuant to this Act is as follows:

6 **PROHIBITION OF HARASSMENT, INTIMIDATION, AND BULLYING**

7 The School District is committed to maintaining a constructive, safe school climate that is  
8 conducive to student learning and fostering an environment in which all students are treated  
9 with respect and dignity.

10 Persistent bullying can severely inhibit a student's ability to learn and may have lasting  
11 negative effects on a student's life. The bullying of students by students, staff, or third parties  
12 is strictly prohibited and will not be tolerated.

13 Bullying consists of repeated physical, verbal, non-verbal, written, electronic, or any conduct  
14 directed toward a student that is so pervasive, severe, and objectively offensive that it:

- 15 (1) Has the purpose of creating or resulting in an intimidating, hostile, or offensive  
16 academic environment; or  
17 (2) Has the purpose or effect of substantially or unreasonably interfering with a student's  
18 academic performance which deprives the student access to educational  
19 opportunities.

20 Any staff member observing or suspecting bullying toward another individual is required  
21 to report the issue to his or her building supervisor.

22 This policy is in effect while students are on property within the jurisdiction of the School  
23 Board; while students are in school-owned or school-operated vehicles; and while students are  
24 attending or engaged in school-sponsored activities.

1       The District will act to investigate all complaints (formal or informal, verbal or written) of  
2       bullying. A formal complaint may be submitted to the building principal. Any student engaging  
3       in an act of bullying is subject to discipline pursuant to the District's student discipline  
4       procedure.

5       This policy may not be interpreted to prohibit civil exchange of opinions or debate protected  
6       under the state or federal constitutions if the opinion expressed does not otherwise materially  
7       or substantially disrupt the education process or intrude upon the rights of others.