



Ohio Legislative Service Commission

Final Analysis

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Sub. H.B. 116

129th General Assembly
(As Passed by the General Assembly)

Reps. Barnes, Patmon, Fedor, Yuko, Letson, Antonio, Luckie, Beck, Buchy, Carney, Driehaus, Duffey, Foley, Garland, Goyal, Mallory, Milkovich, O'Brien, Ramos, Reece, Weddington, Winburn, Batchelder

Sens. Sawyer, Beagle, Coley, Hite, Brown, Cafaro, Gentile, Kearney, Lehner, Manning, Obhof, Patton, Schiavoni, Skindell, Smith, Tavares, Turner, Wagoner

Effective date: May 4, 2012; anti-bullying provisions effective November 4, 2012

ACT SUMMARY

- Requires school districts, community schools, and STEM schools to expand their existing student anti-bullying policies to cover incidents of harassment, intimidation, or bullying that occur on school buses.
- Requires the anti-bullying policies to prohibit harassment, intimidation, or bullying by electronic means (cyberbullying).
- Specifies that anti-bullying policies must include: (1) a statement providing for possible suspension of students who engage in cyberbullying, (2) means for making anonymous reports of incidents, (3) disciplinary procedures for students who make false reports, and (4) strategies for protecting other persons (in addition to the victim, as in pre-existing law) from harassment or retaliation after a report has been made.
- Specifies that the process a school district, community school, or STEM school must develop for educating students about its anti-bullying policy, if state or federal funds are appropriated for that purpose, must consist of annual, age-appropriate instruction that includes a discussion of consequences for violating the policy.
- Requires school districts, community schools, and STEM schools to (1) make available to students and parents an explanation of the seriousness of cyberbullying

and (2) annually issue a written anti-bullying policy statement to be sent home to parents.

- Specifies that it is a student's "custodial" parent or guardian who must be notified of and have access to reports of a bullying incident.
- Requires school districts, community schools, STEM schools, and educational service centers to provide training on their anti-bullying policies as a part of the in-service training required for all teachers, administrators, counselors, nurses, and school psychologists.
- Grants residency status, for purposes of in-state tuition, to students who completed their homeschooling in Ohio and re-establish domicile in Ohio to enroll in a state institution of higher education, regardless of their residence prior to enrollment.
- Entitles the act the "Jessica Logan Act."

CONTENT AND OPERATION

School anti-bullying policies

The act makes several changes to the requirements for anti-bullying policies in school districts, community (charter) schools, and STEM schools. All of the act's provisions regarding anti-bullying policies take effect November 4, 2012, which is six months after the normal 90-day effective date.¹

First, the act expressly adds school buses to the school-related locations where student harassment, intimidation, or bullying must be prohibited under the policy.²

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 requires the anti-bullying policy to contain a statement expressly providing for the possibility of suspension for a student who engages in cyberbullying.³

Finally, the act requires the anti-bullying policy to include the following additional elements:

¹ Section 3 of the act.

² R.C. 3313.666(B)(1).

³ R.C. 3313.666(A) and (B)(1).

(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.⁴

Instruction on anti-bullying policy

The act requires each school district, community school, and STEM school annually to provide students with instruction on the district's or school's anti-bullying policy, to the extent that state or federal funds are appropriated for this purpose. Under the act, the instruction must be age-appropriate and include a written or verbal discussion of the consequences for violations of the policy.⁵ Former law required each school district, community school, and STEM school to develop a process for educating students about the policy to the extent that state or federal funds were appropriated for that purpose, but did not specify the content of the instruction on the policy.⁶

Parent and student notification

The act requires each school district, community school, and STEM school to make its anti-bullying policy and an explanation of the seriousness of cyberbullying available to students and their parents. It further requires schools to send home a written statement describing the policy and consequences of violating the policy to each student's custodial parent or guardian. Statements must be distributed to parents annually and may be sent with regular student report cards or delivered electronically.⁷

Finally, the act specifies that it is a student's "custodial" parent or guardian who must be notified of the student's involvement in a bullying incident and have access to the incident reports, to the extent allowed under state and federal privacy laws. Prior law simply stated that "parents or guardians" had to be notified of and have access to the reports.⁸

⁴ R.C. 3313.666(B)(8) and (10).

⁵ R.C. 3313.666(D)(1).

⁶ R.C. 3313.667.

⁷ R.C. 3313.666(C) and (D)(2).

⁸ R.C. 3313.666(B)(5).

State model policy

Not later November 4, 2012, the State Board of Education must update its model anti-bullying policy to address cyberbullying.⁹

Employee training

The act makes anti-bullying policy training for several categories of school employees mandatory, by requiring it to be part of a school's existing in-service training on school safety and violence prevention. Specifically, the act requires school districts, community schools, STEM schools, and educational service centers to provide training on their anti-bullying policies for all employees who work as teachers, administrators, counselors, nurses, or school psychologists, as part of their mandatory in-service program. Each district, school, and service center must develop its own curriculum for the training. Under prior law, the training of these employees was mandatory only to the extent that state and federal funds were appropriated for it.¹⁰

Background

Anti-bullying policies

Continuing law requires each school district (including a joint vocational school district), community school, and STEM school to adopt a policy prohibiting student harassment, intimidation, or bullying on school property or at a school-sponsored activity. Each policy must define the term "harassment, intimidation, or bullying" in a manner that includes the definition prescribed in statute. That definition specifies that "harassment, intimidation, or bullying" is either:

(1) An intentional written, verbal, or physical act that a student has exhibited toward another particular student more than once and the behavior both (a) causes mental or physical harm to the other student, and (b) is sufficiently severe, persistent, or pervasive that it creates an intimidating, threatening, or abusive educational environment for the other student; or

(2) Violence within a dating relationship.

Each policy must include procedures for reporting and responding to prohibited incidents, procedures for notifying parents of students involved in a prohibited

⁹ Section 4 of the act. The model policy is mandated by R.C. 3301.22, not in the act, and is available through the Department of Education's web site, www.education.ohio.gov. Click on "Learning Supports" and then on "Safe and Supportive Learning."

¹⁰ R.C. 3313.667(B) and 3319.073.

incident, strategies for protecting victims from retaliation or additional harassment after a report, and disciplinary procedures for perpetrators.

The policy must be included in student handbooks and in publications that set forth the standards of conduct for schools and students. Employee training materials must also include information on the policy.

Finally, a school employee, student, or volunteer is immune from civil liability for damages that arise from the reporting of an incident of harassment, intimidation, or bullying. A person qualifies for immunity only if the person reports the incident promptly in good faith and in compliance with the procedures specified in the district's or school's policy.¹¹

Student misconduct outside of school

Continuing law authorizes a school district, community school, or STEM school to include in its student code of conduct discipline for misconduct "that occurs off of property owned or controlled by the district [or school] but that is connected to activities or incidents that have occurred on property owned or controlled by that district [or school]" and for misconduct "regardless of where it occurs [that is] directed at a district [or school] official or employee, or the property of such official or employee."¹²

In-service training on school safety and violence prevention

The in-service training, into which the act incorporates training in the school's anti-bullying policy, must be provided by districts, community schools, and STEM schools to their teachers, administrators, counselors, nurses, and school psychologists. These designated employees must receive in-service training in (1) the prevention of child abuse, violence, and substance abuse, (2) school safety, (3) the promotion of positive youth development, and (4) in the case of middle school and high school employees, the prevention of dating violence. Employees must complete at least four hours of the in-service training within two years after commencing employment and every five years thereafter.¹³

¹¹ R.C. 3313.666. The requirements are applied to community schools and STEM schools by R.C. 3314.03(A)(11)(d) and 3326.11 (neither section in the act).

¹² R.C. 3313.661(A), 3314.03(A)(11)(d), and 3326.11, none in the act.

¹³ R.C. 3319.073; see also R.C. 3314.03(A)(11)(d) and 3326.11 (neither section in the act).

Residency status for in-state tuition

The act grants residency status, for purposes of in-state tuition, to students who finish their final year of homeschooling in Ohio, subsequently move out of state, and then relocate back to Ohio to enroll in an institution of higher education.¹⁴ This grant expands a provision enacted in H.B. 153 of the 129th General Assembly (the main operating budget for the 2012-2013 fiscal biennium), commonly known as the Forever Buckeye program. Under the existing program, a student who graduated from an Ohio high school, and was eligible for in-state tuition at the time of high school graduation, may re-establish domicile in Ohio *at any time* to qualify for in-state tuition rates. The program essentially exempts eligible students from the typical 12-month waiting period necessary to establish Ohio residency.¹⁵ Under the act, homeschooled students also may qualify for the program.

HISTORY

ACTION	DATE
Introduced	02-22-11
Reported, H. Education	06-09-11
Passed House (84-12)	06-21-11
Reported, S. Education	01-10-12
Passed Senate (31-1)	01-18-12
House concurred in Senate amendments (91-4)	01-25-12

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¹⁴ R.C. 3333.31.

¹⁵ Ohio Administrative Code 3333-1-10.

