



- On a public K-12 school bus.
- Through the use of:
  - Data or computer software accessed through a computer, computer system, or computer network within the scope of a public K-12 educational institution;<sup>3</sup> or
  - Data or computer software accessed at a nonschool-related location, activity, function, or program or through the use of technology or an electronic device that is not owned, leased, or used by a school district or school, if the bullying substantially interferes with or limits the victim’s ability to participate in or benefit from the services, activities, or opportunities offered by a school or substantially disrupts the education process or orderly operation of a school.<sup>4</sup>

The terms “bullying” and “harassment” include the following behaviors or conditions:

- **Bullying** means systemically and chronically inflicting physical hurt or psychological distress on one or more students, including cyberbullying,<sup>5</sup> and may involve:<sup>6</sup>
  - Teasing;
  - Social exclusion;
  - Threat;
  - Intimidation;
  - Stalking;
  - Physical violence;
  - Theft;
  - Sexual, religious, or racial harassment;
  - Public humiliation; or
  - Destruction of property.
- **Harassment** means any threatening, insulting, or dehumanizing gesture, use of data or computer software, or written, verbal, or physical conduct directed against a student or school employee that:<sup>7</sup>
  - Places a student or school employee in reasonable fear of harm to his or her person or damage to his or her property;
  - Has the effect of substantially interfering with a student’s educational performance, opportunities, or benefits; or
  - Has the effect of substantially disrupting the orderly operation of a school.

The law further specifies that bullying and harassment include:<sup>8</sup>

- Retaliating against a student or school employee for reporting bullying or harassment;
- Reporting bullying or harassment in bad faith;

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<sup>3</sup> “Within the scope of a public K-12 educational institution” means, regardless of ownership, any computer, computer system, or computer network that is physically located on school property or at a school-related or school-sponsored program or activity. Section 1006.147(3)(d), F.S.

<sup>4</sup> The law does not require a school to staff or monitor any non-school related activity, function, or program in its efforts to prevent bullying and harassment. Section 1006.147(2)(d), F.S.

<sup>5</sup> “Cyberbullying” is a form of bullying through the use of technology or other means of electronic communication, including, but not limited to, creating webpages or blogs and distributing or posting materials that perpetuate the conduct. Section 1006.147(3)(b), F.S.

<sup>6</sup> Section 1006.147(3)(a), F.S.

<sup>7</sup> *Id.* at (3)(b).

<sup>8</sup> *Id.* at (3)(f).

- Perpetuating bullying or harassment with the intent to demean, dehumanize, embarrass, or cause physical harm to a student or school employee by:
  - Incitement or coercion;
  - Accessing or providing access to a school district’s computer, computer system, or computer network; or
  - Engaging in conduct substantially similar in effect to bullying or harassment.

### **Policy and Reporting Requirements**

Each school district is required to adopt a policy prohibiting the bullying and harassment of a student or employee of a public K-12 educational institution.<sup>9</sup> The school district must involve students, parents, teachers, administrators, school volunteers, community representatives, and local law enforcement agencies in the process of adopting the policy.<sup>10</sup> The policy must, at a minimum:<sup>11</sup>

- Prohibit and define bullying and harassment.
- Describe the type of behavior expected from each student and employee of a public K-12 educational institution.
- Identify the consequences for a student or employee of a public K-12 educational institution who commits an act of bullying or harassment.
- Establish procedures for:
  - Reporting and investigating acts of bullying and harassment;
  - Immediately notifying a victim’s parents, the parents of the perpetrator, and all local agencies where criminal charges may be pursued;
  - Referring victims and perpetrators to counseling;
  - Including incidents of bullying or harassment in each school’s safety and discipline report submitted to the Department of Education;<sup>12</sup> and
  - Providing instruction to students, parents, teachers, school administrators, counseling staff, and school volunteers on identifying, preventing, and responding to bullying or harassment, including instruction on recognizing behaviors that leads to bullying and harassment and taking appropriate preventative action based on those observations;
  - Regularly reporting to a victim’s parents the actions taken to protect the victim; and
  - Publicizing the policy, including publication in the code of student conduct and all employee handbooks.

The policy must be implemented in a manner that is ongoing throughout the school year and integrated with a school’s curriculum, a school’s discipline policies, and other violence prevention efforts.<sup>13</sup>

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<sup>9</sup> *Id.* at (4). The policy must be in substantial compliance with the Department of Education’s model policy. *Id.* See Florida Department of Education, Bullying Prevention, *Model Policy Against Bullying and Harassment* (Revised July 2013), <http://www.fldoe.org/schools/safe-healthy-schools/safe-schools/bullying-prevention.stml> (last visited January 29, 2016).

<sup>10</sup> Section 1006.147(4), F.S.

<sup>11</sup> *Id.*

<sup>12</sup> Section 1006.09(6), F.S. The School Environmental Safety Incident Reporting (SESIR) System is used by the Office for Safe Schools within the Florida Department of Education to compile data on incidents of crime, violence, and disruptive behaviors that occur on school grounds, on school transportation, and at off-campus, school-sponsored events. Such data is contained in the *Statewide Report on School Safety and Discipline Data*, <http://www.fldoe.org/safeschools/sesir.asp> (last visited January 29, 2016).

<sup>13</sup> Section 1006.147(4), F.S.

Distribution of safe schools funds to a school district is contingent upon the school district's compliance with implementing the reporting procedures required as part of its bullying and harassment policy.<sup>14</sup>

By January 1 of each year, the Commissioner of Education must submit a report on the statewide implementation of bullying and harassment policies, including data regarding incidents of bullying and harassment and resulting consequences, to the Governor, the President of the Senate, and the Speaker of the House of Representatives.<sup>15</sup>

### **III. Effect of Proposed Changes:**

SB 268 requires periodic revision of a school district's anti-bullying and harassment policy, modifies the information that must be contained in the policy, and requires schools to implement the policy.

Specifically, the bill adds the requirements that each:

- School district revise its anti-bullying and harassment policy at least every 3 years.
- School implement the school district's anti-bullying and harassment policy.
- School district's anti-bullying and harassment policy:
  - Make the reporting of bullying or harassment mandatory; and
  - Include a list of bullying prevention and intervention programs authorized by the school district to provide instruction to students, parents, teachers, school administrators, counseling staff, and school volunteers on identifying, preventing, and responding to bullying or harassment.

The bill may require a school to create a bullying prevention and intervention program by:

- Removing the requirement that a school district's anti-bullying and harassment policy contain a procedure for providing instruction on identifying, preventing, and adding a requirement that the school district's policy contain a list of programs authorized by the school district to provide such instruction.
- Adding a requirement that the school district's anti-bullying and harassment policy be implemented in a manner that is ongoing throughout the school year and integrated with the school's bullying prevention and intervention program.

The bill provides an effective date of July 1, 2016.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

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<sup>14</sup> Section 1006.09(7), F.S.

<sup>15</sup> *Id.* at (8).

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

According to the Florida Department of Education, if school districts hire private providers to offer bullying and harassment instruction, rather than provide the instruction directly, those private providers may experience an increase in revenue.<sup>16</sup>

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

The bill substantially amends section 1006.147 of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>16</sup> Florida Department of Education, *2016 Agency Legislative Bill Analysis* (SB 268), at 4 (on file with the staff of the Senate Committee on Education Pre-K – 12).