

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: SB 1218

INTRODUCER: Senator Diaz

SUBJECT: Anti-bullying and Anti-harassment in Schools

DATE: January 27, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brick</u>	<u>Sikes</u>	<u>ED</u>	Favorable
2.	<u>Delia</u>	<u>Hendon</u>	<u>CF</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 1218 enhances student safety by extending requirements related to bullying and harassment policies in public schools to private schools participating in a state educational scholarship program (private scholarship schools). The bill also requires private scholarship schools to:

- Meet with a student and his or her parent or guardian prior to enrollment to review information about the private scholarship school; and
- Publish on the school’s website and provide in a written format information regarding the school, including the code of student conduct, ethical conduct policies, and bullying and harassment policies.

The bill has no fiscal impact on state revenues or expenditures and is not expected to have a significant fiscal impact on private schools.

The bill takes effect upon becoming law.

II. Present Situation:

Bullying and Harassment

In 2008,¹ the Florida Legislature enacted the Jeffrey Johnston Stand Up for All Students Act, which prohibits the bullying and harassment of any student or employee of a public K-12 educational institution.² The prohibition applies to bullying and harassment:³

- During any education program or activity conducted by a public K-12 educational institution;
- During any school-related or school-sponsored program or activity or on a school bus of a public K-12 educational institution;

¹ Chapter 2008-123, L.O.F., codified as s. 1006.147, F.S.

² Section 1006.147(2), F.S.

³ Section 1006.147(2), F.S.

- Through the use of data or computer software that is accessed through a computer, computer system, or computer network within the scope of a public K-12 institution⁴; or
- Through the use of data or computer software that is accessed at a non-school-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.

Bullying includes cyberbullying and means systematically and chronically inflicting physical hurt or psychological distress on one or more students and may involve: teasing; social exclusion; threat; intimidation; stalking; physical violence; theft; sexual, religious, or racial harassment; public or private humiliation; or destruction of property.⁵

Cyberbullying means bullying through the use of technology or any electronic communication, including electronic mail, internet communications, instant messages, or facsimile communication.⁶ Cyberbullying includes the creation of a webpage or weblog in which the creator assumes the identity of another person, or the knowing impersonation of another person as the author of posted content or messages, if the creation or impersonation creates any of the conditions of bullying.⁷ Cyberbullying also includes the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more persons if the distribution or posting creates any of the conditions enumerated in the definition of bullying.⁸

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:⁹

- Places a student or school employee in reasonable fear of harm to his or her person or damage or 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.

School District Policy

Each school district must adopt and review, at least every 3 years, a policy prohibiting the bullying and harassment of any student or employee.¹⁰ The school district must involve students, parents, teachers, administrators, school staff, school volunteers, community representatives, and

⁴ "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.

⁵ Section 1006.147(3)(a), F.S.

⁶ Section 1006.147(3)(b), F.S.

⁷ *Id.*

⁸ Section 1006.147(3)(d), F.S.

⁹ Section 1006.147(3)(c), F.S.

¹⁰ Section 1006.147(4), F.S.

local law enforcement agencies in the process of adopting and reviewing the policy.¹¹ The law outlines minimum requirements that the policy must include, such as:¹²

- A description of the type of behavior expected from each student and employee of a public K-12 educational institution, including a statement prohibiting and defining bullying and harassment.
- The consequences for a student or employee who commits an act of bullying or harassment or who is found to have wrongfully and intentionally accused another of an act of bullying or harassment.
- A procedure for receiving reports of an alleged act of bullying or harassment and for the prompt investigation of such incident, including allowing a person to anonymously report such an act. The policy must not permit formal disciplinary action to be based solely on an anonymous report.¹³
- A procedure to immediately notify the parents of a victim of bullying or harassment and the parents of the perpetrator of an act of bullying or harassment, as well as notification to all local agencies where criminal charges may be pursued against the perpetrator.
- A procedure to refer victims and perpetrators of bullying or harassment for counseling.
- A procedure for publicizing the policy, which must include publishing the policy in the code of student conduct and in all employee handbooks.

School Safety and Discipline Reporting

The School Environmental Safety Incident Reporting (SESIR) system assists schools, districts, and the Florida Department of Education (DOE) staff in assessing the extent and nature of problems in school safety.¹⁴ The SESIR system requires all public schools to report certain safety incidents, including incidents of bullying and harassment that occur on school grounds, on school transportation, and at off-campus, school-sponsored events.¹⁵

On or before January 1 of each year, the Commissioner of Education (commissioner) must report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the implementation of bullying and harassment prohibitions in public schools.¹⁶ School districts reported a total of 5,377 verified incidents and 5,482 unsubstantiated incidents of bullying and harassment for the 2018-2019 academic year.¹⁷ 4,648 incidents resulted in some form of discipline against the responsible student.¹⁸

Private School Choice Programs

Various scholarship programs promote school choice and assist parents in the placement of their children in diverse educational settings, including private schools.¹⁹ For example, the Hope

¹¹ *Id.*

¹² *Id.* at (4)(a)-(n).

¹³ Section 1006.147(4)(f), F.S.

¹⁴ Florida Department of Education, *School Environmental Safety Incident Reporting (SESIR)*, <http://www.fldoe.org/safe-schools/sesir-discipline-data/> (last visited Jan. 23, 2020).

¹⁵ *Id.*

¹⁶ Section 1006.147(8), F.S.

¹⁷ Florida Department of Education, *Report on Implementation of Section 1006.147, Florida Statutes* (Jan. 1, 2020), at 10-13.

¹⁸ *Id.*

¹⁹ Sections 1002.385, 1002.39, 1002.394, 1002.395, and 1002.40, F.S.

Scholarship Program provides the parent of a public school student who was subjected to an incident of battery, harassment, hazing, bullying, kidnapping, physical attack, robbery, sexual offense, assault, threat, intimidation, or fighting at school, with the option to transfer the student to another public school or a scholarship to attend an eligible private school.²⁰ During the 2018-2019 academic year, 2,174 private schools participated in at least one state scholarship program.²¹

Private School Obligations

A private school participating in an educational scholarship program (private scholarship school) must meet certain statutory accountability requirements.²² For example, a private scholarship school must:

- Not discriminate on the basis of race, color, or national origin.
- Demonstrate fiscal soundness and accountability to the DOE.
- Meet applicable state and local health, safety, and welfare laws, codes, and rules.
- Employ or contract with teachers who hold baccalaureate or higher degrees, have at least 3 years of teaching experience in public or private schools, or have special skills, knowledge, or expertise that qualifies them to provide instruction in subjects taught.
- Publish on the school's website, or provide in a written format, information for parents regarding the school, including, but not limited to, programs, services, and the qualifications of classroom teachers.
- Require state and national background screening for each employee and contracted personnel with direct student contact.
- Adopt policies establishing standards of ethical conduct for instructional personnel and school administrators.

Department of Education Responsibilities

The DOE is required to oversee private scholarship school compliance with statutory accountability requirements.²³ In this regard, the DOE must:

- Verify private scholarship school eligibility to participate in the various educational scholarship programs.
- Establish a toll-free hotline that provides parents and private schools with information on participation in the scholarship programs.
- Establish a process by which individuals may notify the DOE of any violation by a parent, private school, or school district of state laws relating to scholarship program participation.
- Conduct inquiries or make referrals to appropriate regulatory agencies upon a reasonable belief that an incident of noncompliance has occurred.
- Require annual, notarized, sworn compliance statements from private scholarship schools.
- Coordinate with entities conducting health inspections of private scholarship schools and obtain copies of the inspection reports.

²⁰ Section 1002.40(1), F.S.

²¹ Florida Department of Education, Florida School Choice, *Florida Private Schools Directory*, <http://www.floridaschoolchoice.org/information/privateschooldirectory/DownloadExcelFile.aspx> (follow the "All Schools" hyperlink; sort by scholarship participation), (last visited Jan. 23, 2020).

²² Section 1002.421, F.S.

²³ Section 1002.421(2)(a), F.S.

- Conduct site visits to private schools entering a scholarship program for the first time.
- Coordinate with the State Fire Marshal to obtain access to fire inspection reports for private scholarship schools.

The DOE is required to suspend the payment of funds to a private scholarship school that knowingly fails to comply with statutory requirements and prohibit the school from enrolling new scholarship students for one fiscal year and until the school complies. If a private school fails to comply with statutory requirements, the commissioner is authorized to determine that the private school is ineligible to participate in a scholarship program.²⁴

III. Effect of Proposed Changes:

Section 1 amends s. 1002.421, F.S., by enhancing student safety by extending requirements related to bullying and harassment policies in public schools to private schools participating in a state educational scholarship program (private scholarship schools). The bill also requires private scholarship schools to:

- Meet with a student and his or her parent or guardian prior to enrollment to review information about the private scholarship school; and
- Publish on the school's website and provide in a written format information regarding the school, including the code of student conduct, ethical conduct policies, and bullying and harassment policies.

The bill requires a private scholarship school to adopt policies that comply with the bullying and harassment definitions, responsibilities, protections, and reporting required of public schools. The bill also adds to the existing private scholarship school requirements by requiring that the private scholarship school must publish on the school's website and provide in a written format additional information including the school's code of student conduct, policies related to ethical conduct for school personnel, and policies related to bullying and harassment.

The bill requires a private scholarship school principal or the principal's designee to meet with a student and his or her parent or guardian before the student's enrollment in the private scholarship school to review information about the school. The information reviewed must include the school's academic programs and services, customized educational programs, code of student conduct, attendance policies, bullying and harassment policies, and ethical conduct policies.

The bill requires the Department of Education (DOE) to include data on bullying and harassment in private scholarship schools in the DOE's annual reports on bullying and harassment and private school accountability required pursuant to existing law.

Extending requirements related to bullying and harassment policies to private scholarship schools pursuant to this bill may enhance student safety and reduce incidents of bullying and harassment in private scholarship schools. Requiring private scholarship schools to provide additional information and meet with a student and his or her parent or guardian prior to

²⁴ Section 1002.421, F.S.

enrollment may assist students and parents in making informed decisions regarding school choice.

Section 2 provides that the bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Private schools participating in a state educational scholarship program (private scholarship schools) may experience incidental costs associated with the additional requirements of the bill.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

1002.421

This bill substantially amends s. 1002.421, F.S.

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.

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