



SPONSOR: Rep. Spence & Rep. Manolakos & Sen. DeLuca &
Sen. Sokola;
Reps. Hudson, Maier, Schooley, Sens. Cloutier, Bunting,
Peterson

HOUSE OF REPRESENTATIVES

144th GENERAL ASSEMBLY

HOUSE BILL NO. 7

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE TO ESTABLISH THE SCHOOL BULLYING
PREVENTION ACT.

1 WHEREAS, the General Assembly recognizes that safe learning environments are necessary for students to learn
2 and achieve high academic standards; and

3 WHEREAS, it is the intent of the General Assembly to provide safe learning environments for all students; and

4 WHEREAS, the General Assembly further intends to create a safe work environment for all public education
5 employees.

6 NOW THEREFORE:

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

8 Section 1. Amend Title 14 of the Delaware Code by adding thereto a new § 4123A to read as follows:

9 "§ 4123A. School Bullying Prevention and Criminal Youth Gang Detection Training.

10 (a) Each school district and charter school shall ensure that its public school employees receive combined
11 training each year totaling one (1) hour in the identification and reporting of criminal youth gang activity pursuant to § 617,
12 Title 11 of the Delaware Code and bullying prevention pursuant to § 4112D, Title 14 of the Delaware Code. The training
13 materials shall be prepared by the Department of Justice and the Department of Education in collaboration with law
14 enforcement agencies, the Delaware State Education Association, the Delaware School Boards Association and the
15 Delaware Association of School Administrators.

16 (b) Any in-service training required by this section shall be provided within the contracted school year as
17 provided in § 1305(e) of this Title."

18 Section 2. Amend Chapter 41, Title 14 of the Delaware Code by adding thereto a new § 4112D, to read as
19 follows:

20 "§ 4112D. School Bullying Prevention.

21 (a) Definition of bullying.

22 As used in this section, bullying means any intentional written, electronic, verbal or physical act or
23 actions against another person that a reasonable person under the circumstances should know will have the effect
24 of:

25 (1) Placing a person in reasonable fear of substantial harm to his or her emotional or physical well-
26 being or substantial damage to his or her property.

27 (2) Creating a hostile, threatening, humiliating or abusive educational environment due to the
28 pervasiveness or persistence of actions or due to a power differential between the bully and the target; or

29 (3) Interfering with a student having a safe school environment that is necessary to facilitate
30 educational performance, opportunities or benefits; or

31 (4) Perpetuating bullying by inciting, soliciting or coercing an individual or group to demean,
32 dehumanize, embarrass or cause emotional, psychological or physical harm to another person.

33 (b) Prohibition of bullying.

34 (1) Each school district and charter school shall prohibit bullying and reprisal, retaliation or false
35 accusation against a target, witness or one with reliable information about an act of bullying.

36 (2) Each school district and charter school shall establish a policy which, at a minimum, includes the
37 following components:

38 (A) A statement prohibiting bullying of any person on school property or at school
39 functions or by use of data or computer software that is accessed through a computer, computer system,
40 computer network or other electronic technology of a school district and charter school from grades
41 kindergarten through grade twelve. For purposes of this section, school property and school functions
42 have the same definition as in § 4112 of this Title.

43 (B) A definition of bullying no less inclusive than that in (a) of this section.

44 (C) Direction to develop a school-wide bullying prevention program.

45 (D) A requirement that each school establish a site-based committee that is responsible for
46 coordinating the school's bully prevention program including the design, approval and monitoring of the
47 program. A majority of the members of the site-based committee shall be members of the school
48 professional staff, of which a majority shall be instructional staff. The committee also shall contain
49 representatives of the administrative staff, support staff, student body (for school enrolling students in
50 grades 7 through 12), parents and staff from the before- or after-school program(s). These representatives

51 shall be chosen by members of each respective group except that representatives of the non-employee
52 groups shall be appointed by the school principal. The committee shall operate on a 1-person, 1-vote
53 principle. In the event a site-based school discipline committee has been established pursuant to § §
54 1605(7)(a) and (b), of Title 14 of the Delaware Code, that committee shall vote whether or not to accept
55 the aforementioned responsibilities.

56 (E) A requirement that any school employee that has reliable information that would lead a
57 reasonable person to suspect that a person is a target of bullying shall immediately report it to the
58 administration.

59 (F) A requirement that each school have a procedure for the administration to promptly
60 investigate in a timely manner and determine whether bullying has occurred.

61 (G) A requirement that, to the extent that funding is available, each school develop a plan
62 for a system of supervision in non-classroom areas. The plan shall provide for the review and exchange
63 of information regarding non-classroom areas.

64 (H) An identification of an appropriate range of consequences for bullying.

65 (I) A procedure for a student and parent, guardian or relative caregiver pursuant to § 202(f)
66 of this Title or legal guardian to provide information on bullying activity. However, this paragraph does
67 not permit formal disciplinary action solely based on an anonymous report.

68 (J) A requirement that a parent, guardian or relative caregiver pursuant to § 202(f) of this
69 Title or legal guardian of any target of bullying or person who bullies another as defined herein, be
70 notified.

71 (K) A requirement that all bullying incidents be reported to the Department of Education
72 within five (5) working days pursuant to Department of Education regulations.

73 (L) A statement prohibiting retaliation following a report of bullying.

74 (M) A procedure for communication between school staff members and medical
75 professionals who are involved in treating students for bullying issues.

76 (N) A requirement that the school bullying prevention program be implemented throughout
77 the year, and integrated with the school's discipline policies and § 4112 of this Title.

78 (c) Dissemination of Policy and Accountability.

79 (1) Each school district and charter school shall adopt the policy consistent with section (b) of this
80 section and submit a copy to the Delaware Department of Education by January 1, 2008.

81 (2) The policy shall appear in the student and staff handbook and if no handbook is available, or it is
82 not practical to reprint new handbooks, a copy of the policy will be distributed annually to all students, parents,
83 faculty and staff.

84 (3) The policy shall be submitted to the Delaware Department of Education by the first day of
85 January each subsequent year. The Department shall review such policy annually for compliance with State and
86 federal law and regulations promulgated by the Department of Education.

87 (4) The Delaware Department of Education shall prepare an annual report, which shall include a
88 summary of reported and substantiated incidences of bullying.

89 (d) Duties of the Department of Education.

90 (1) The Delaware Department of Education shall collaborate with the Delaware Department of
91 Justice to develop a model policy, that may change from time to time, that is applicable to kindergarten through
92 grade 12, and post this policy on their websites in order to assist the school districts and charter schools.

93 (2) Distribution of the Comprehensive School Discipline Improvement Program funds to a school
94 district and charter school provided in the General Appropriations Act starting in Fiscal Year 2009 and thereafter
95 is contingent upon Department of Education approval of the school district's or charter school's bullying
96 prevention policy.

97 (3) To the extent that funding is available the State Department of Education will provide for an
98 award system for schools with exemplary programs based on criteria promulgated by the Delaware Department of
99 Education.

100 (e) Immunity.

101 A school employee, school volunteer, student, parent, legal guardian or relative caregiver pursuant to §
102 202(f) of this Title is individually immune from a cause of action for damages arising from reporting bullying in
103 good faith and to the appropriate person or persons using the procedures specified in the school district and charter
104 school's bullying prevention policy.

105 (f) Other Defenses.

106 (1) The physical location or time of access of a technology-related incident is not a valid defense in
107 any disciplinary action by the school district and charter school initiated under this section provided there is
108 sufficient school nexus.

109 (2) This section does not apply to any person who uses data or computer software that is accessed
110 through a computer, computer system, computer network or other electronic technology when acting within the
111 scope of his or her lawful employment or investigation a violation of this section in accordance with school district
112 or charter school policy.

113 (g) Relationship to School Crime Reporting Law.

114 An incident may meet the definition of bullying and also the definition of a particular crime under State
115 or federal law. Nothing in this section or in the policies promulgated as a result thereof shall prevent school
116 officials from fulfilling all of the reporting requirements of § 4112, Title 14 of the Delaware Code, or from
117 reporting probable crimes that occur on school property or at a school function which are not required to be
118 reported under that section. Nothing in this section shall abrogate the reporting requirements for child abuse or
119 sexual abuse set forth in § 906 et seq. of Title 16 of the Delaware Code, or any other reporting requirement under
120 State or federal law.

121 (g) Rules and Regulations.

122 Notwithstanding any provision to the contrary, the Delaware Department of Education may promulgate
123 rules and regulations necessary to implement this section."

SYNOPSIS

This Bill creates the School Bullying Prevention Act. The goals of this Act is to provide a safer learning environment for students attending public schools, including charter schools, in the State of Delaware and for the staff members of those institutions.

This Bill requires each school district and charter school to establish a policy on bullying prevention with certain minimal requirements including, but not limited to developing a bullying prevention program and reporting bullying to the Delaware Department of Education.