

SENATE BILL No. 45

January 19, 2011, Introduced by Senators ANDERSON, BIEDA, WHITMER, GREGORY, HOPGOOD, WARREN and HUNTER and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled
"The revised school code,"
(MCL 380.1 to 380.1852) by adding section 1310b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 1310B. (1) THE BOARD OF A SCHOOL DISTRICT OR BOARD OF
2 DIRECTORS OF A PUBLIC SCHOOL ACADEMY SHALL ADOPT A POLICY
3 PROHIBITING HARASSMENT OR BULLYING AT SCHOOL. THE CONTENT OF THE
4 POLICY SHALL BE DETERMINED LOCALLY, BUT THE POLICY SHALL CONTAIN AT
5 LEAST THE COMPONENTS IN SUBSECTION (2). THE POLICY SHOULD BE
6 ADOPTED THROUGH A PROCESS THAT INCLUDES REPRESENTATION OF PARENTS
7 OR GUARDIANS, SCHOOL EMPLOYEES, VOLUNTEERS, PUPILS, SCHOOL
8 ADMINISTRATORS, AND COMMUNITY REPRESENTATIVES.

9 (2) EACH SCHOOL DISTRICT'S OR PUBLIC SCHOOL ACADEMY'S POLICY
10 SHALL INCLUDE AT LEAST EACH OF THE FOLLOWING COMPONENTS:

1 (A) A STATEMENT PROHIBITING HARASSMENT OR BULLYING OF A PUPIL.

2 (B) A DEFINITION OF HARASSMENT OR BULLYING THAT INCLUDES AT
3 LEAST THE ACTS DESCRIBED IN THE DEFINITION IN THIS SECTION.

4 (C) A DESCRIPTION OF THE TYPE OF BEHAVIOR EXPECTED FROM EACH
5 PUPIL.

6 (D) AGE-APPROPRIATE CONSEQUENCES AND REMEDIAL ACTION FOR A
7 PERSON WHO VIOLATES THE POLICY.

8 (E) A PROCEDURE FOR REPORTING AN ACT OF HARASSMENT OR
9 BULLYING, INCLUDING A PROVISION THAT PERMITS A PERSON TO REPORT AN
10 ACT OF HARASSMENT OR BULLYING ANONYMOUSLY. HOWEVER, THIS
11 SUBDIVISION SHALL NOT BE CONSTRUED TO PERMIT FORMAL DISCIPLINARY
12 ACTION SOLELY ON THE BASIS OF AN ANONYMOUS REPORT.

13 (F) A PROCEDURE FOR PROMPT INVESTIGATION OF REPORTS OF
14 VIOLATIONS AND COMPLAINTS, IDENTIFYING EITHER THE PRINCIPAL OR THE
15 PRINCIPAL'S DESIGNEE AS THE PERSON RESPONSIBLE FOR THE
16 INVESTIGATION. THE POLICY SHALL REQUIRE THE INVESTIGATION TO BE
17 COMPLETED WITHIN 3 SCHOOL DAYS AFTER A REPORT OR COMPLAINT IS MADE.

18 (G) THE RANGE OF WAYS IN WHICH A SCHOOL WILL RESPOND ONCE AN
19 INCIDENT OF HARASSMENT OR BULLYING IS IDENTIFIED. THE RESPONSES
20 SHALL BE COMMENSURATE WITH THE SEVERITY OF THE INCIDENT AND WITH
21 THE OFFENDER'S RECORD OF BEHAVIOR. THE RANGE OF RESPONSES SHALL
22 INCLUDE REPORTING CRIMINAL ACTIVITY TO APPROPRIATE LAW ENFORCEMENT
23 OFFICERS. IF ACTION IS TAKEN AGAINST A PUPIL IN RESPONSE TO AN
24 INCIDENT, SCHOOL OFFICIALS SHALL INCLUDE A DESCRIPTION OF THE
25 INCIDENT AND OF THE ACTION TAKEN IN THE PUPILS' PERMANENT
26 DISCIPLINARY RECORD.

27 (H) A STATEMENT THAT PROHIBITS REPRISAL OR RETALIATION AGAINST

1 ANY PERSON WHO REPORTS AN ACT OF HARASSMENT OR BULLYING AND THE
2 CONSEQUENCES AND APPROPRIATE REMEDIAL ACTION FOR A PERSON WHO
3 ENGAGES IN THAT TYPE OF REPRISAL OR RETALIATION.

4 (I) CONSEQUENCES AND APPROPRIATE REMEDIAL ACTION FOR A PERSON
5 FOUND TO HAVE FALSELY ACCUSED ANOTHER OF HARASSMENT OR BULLYING.

6 (J) A STATEMENT OF HOW THE POLICY IS TO BE PUBLICIZED, BOTH
7 INITIALLY AND ON AN ONGOING BASIS.

8 (K) PROVISIONS ENCOURAGING INDIVIDUALS TO REPORT INCIDENTS OF
9 HARASSMENT OR BULLYING TO THE APPROPRIATE SCHOOL OFFICIAL
10 DESIGNATED IN THE POLICY.

11 (L) A REQUIREMENT THAT A SCHOOL EMPLOYEE WHO HAS WITNESSED AN
12 INCIDENT OF HARASSMENT OR BULLYING OR WHO HAS RELIABLE INFORMATION
13 THAT AN INCIDENT OF HARASSMENT OR BULLYING HAS OCCURRED SHALL
14 REPORT THE INCIDENT TO THE PRINCIPAL OR HIS OR HER DESIGNEE.

15 (3) EACH BOARD OR BOARD OF DIRECTORS SHALL ADOPT THE POLICY
16 UNDER THIS SECTION BY DECEMBER 31, 2011. NOT LATER THAN 30 DAYS
17 AFTER ADOPTING THE POLICY, THE BOARD OR BOARD OF DIRECTORS SHALL
18 SUBMIT A COPY OF ITS POLICY TO THE DEPARTMENT.

19 (4) TO ASSIST SCHOOL DISTRICTS AND PUBLIC SCHOOL ACADEMIES IN
20 DEVELOPING POLICIES FOR THE PREVENTION OF HARASSMENT OR BULLYING,
21 THE DEPARTMENT SHALL DEVELOP A MODEL POLICY APPLICABLE TO GRADES K-
22 12. THE DEPARTMENT SHALL ISSUE THIS MODEL POLICY NO LATER THAN JUNE
23 1, 2011.

24 (5) THE DEPARTMENT SHALL DEVELOP APPROPRIATE PROCEDURES FOR
25 INVESTIGATING, REPORTING, AND RESPONDING TO VIOLATIONS OF THIS
26 SECTION BY A SCHOOL DISTRICT OR PUBLIC SCHOOL.

27 (6) A BOARD OR BOARD OF DIRECTORS SHALL ENSURE THAT NOTICE OF

1 THE SCHOOL DISTRICT'S OR PUBLIC SCHOOL ACADEMY'S POLICY UNDER THIS
2 SECTION IS INCLUDED IN ANY PUBLICATION OF THE SCHOOL DISTRICT OR
3 PUBLIC SCHOOL ACADEMY THAT SETS FORTH THE COMPREHENSIVE RULES,
4 PROCEDURES, AND STANDARDS OF CONDUCT FOR ITS SCHOOLS, AND IN ITS
5 PUPIL HANDBOOKS.

6 (7) A SCHOOL EMPLOYEE WHO PROMPTLY REPORTS AN INCIDENT OF
7 HARASSMENT OR BULLYING TO THE APPROPRIATE SCHOOL OFFICIAL
8 DESIGNATED BY THE SCHOOL DISTRICT'S OR PUBLIC SCHOOL ACADEMY'S
9 POLICY, AND WHO MAKES THIS REPORT IN COMPLIANCE WITH THE PROCEDURES
10 IN THE POLICY PROHIBITING HARASSMENT OR BULLYING IS NOT LIABLE FOR
11 DAMAGES ARISING FROM ANY FAILURE TO REMEDY THE REPORTED INCIDENT.

12 (8) PUBLIC SCHOOLS AND SCHOOL DISTRICTS ARE ENCOURAGED TO FORM
13 BULLYING PREVENTION TASK FORCES, PROGRAMS, AND OTHER INITIATIVES
14 INVOLVING SCHOOL STAFF, PUPILS, ADMINISTRATORS, VOLUNTEERS,
15 PARENTS, LAW ENFORCEMENT, AND COMMUNITY MEMBERS, TO ASSIST IN THE
16 IMPLEMENTATION OF THIS SECTION.

17 (9) EACH SCHOOL DISTRICT OR PUBLIC SCHOOL ACADEMY SHALL DO ALL
18 OF THE FOLLOWING:

19 (A) PROVIDE ANNUAL TRAINING ON THE SCHOOL DISTRICT'S OR PUBLIC
20 SCHOOL ACADEMY'S HARASSMENT OR BULLYING POLICIES TO SCHOOL
21 EMPLOYEES AND VOLUNTEERS WHO HAVE SIGNIFICANT CONTACT WITH PUPILS.

22 (B) DEVELOP A PROCESS FOR DISCUSSING HARASSMENT OR BULLYING
23 AND THE HARASSMENT OR BULLYING POLICY WITH PUPILS.

24 (10) A SCHOOL DISTRICT OR PUBLIC SCHOOL ACADEMY SHALL
25 INCORPORATE INFORMATION REGARDING THE SCHOOL DISTRICT OR PUBLIC
26 SCHOOL ACADEMY POLICY AGAINST HARASSMENT OR BULLYING INTO EACH
27 SCHOOL'S EMPLOYEE TRAINING PROGRAM.

1 (11) THIS SECTION DOES NOT PREVENT A VICTIM FROM SEEKING
2 REDRESS UNDER ANY OTHER AVAILABLE LAW, EITHER CIVIL OR CRIMINAL.
3 THIS SECTION DOES NOT CREATE OR ALTER ANY TORT LIABILITY.

4 (12) THE DEPARTMENT SHALL ESTABLISH A FORM AND PROCEDURE FOR
5 SCHOOL DISTRICTS AND PUBLIC SCHOOL ACADEMIES TO REPORT INCIDENTS OF
6 HARASSMENT OR BULLYING TO THE DEPARTMENT ON AN ANNUAL BASIS AND
7 SHALL MAKE THIS INFORMATION READILY AVAILABLE TO THE PUBLIC.

8 (13) IF AN INVESTIGATION UNDER THIS SECTION RESULTS IN A
9 REPORT TO A LAW ENFORCEMENT AGENCY, THE LAW ENFORCEMENT AGENCY
10 SHALL INITIATE ITS INVESTIGATION WITHIN 3 DAYS AFTER THE REPORT IS
11 MADE.

12 (14) UPON REQUEST BY A LAW ENFORCEMENT AGENCY INVESTIGATING A
13 REPORT OR COMPLAINT UNDER THIS SECTION, A SCHOOL DISTRICT OR PUBLIC
14 SCHOOL ACADEMY SHALL PROVIDE TO THE LAW ENFORCEMENT AGENCY
15 DIRECTORY INFORMATION CONCERNING ITS PUPILS.

16 (15) AS USED IN THIS SECTION:

17 (A) "AT SCHOOL" MEANS IN A CLASSROOM, ELSEWHERE ON OR
18 IMMEDIATELY ADJACENT TO SCHOOL PREMISES, ON A SCHOOL BUS OR OTHER
19 SCHOOL-RELATED VEHICLE, AT AN OFFICIAL SCHOOL BUS STOP, ON A
20 PUPIL'S WAY TO OR FROM SCHOOL, OR AT A SCHOOL-SPONSORED ACTIVITY OR
21 EVENT WHETHER OR NOT IT IS HELD ON SCHOOL PREMISES. "AT SCHOOL"
22 INCLUDES CONDUCT USING A TELECOMMUNICATIONS ACCESS DEVICE OR
23 TELECOMMUNICATIONS SERVICE PROVIDER THAT OCCURS OFF SCHOOL PREMISES
24 IF THE TELECOMMUNICATIONS ACCESS DEVICE OR THE TELECOMMUNICATIONS
25 SERVICE PROVIDER IS OWNED BY OR UNDER THE CONTROL OF THE SCHOOL
26 DISTRICT OR PUBLIC SCHOOL ACADEMY.

27 (B) "BULLYING" MEANS CONDUCT, INCLUDING, BUT NOT LIMITED TO,

1 CONDUCT IN PERSON OR USING A TELECOMMUNICATIONS ACCESS DEVICE, THAT
2 MEETS ALL OF THE FOLLOWING:

3 (i) IS DIRECTED AT 1 OR MORE PUPILS.

4 (ii) SUBSTANTIALLY INTERFERES WITH EDUCATIONAL OPPORTUNITIES,
5 BENEFITS, OR PROGRAMS OF 1 OR MORE PUPILS.

6 (iii) ADVERSELY AFFECTS THE ABILITY OF A PUPIL TO PARTICIPATE IN
7 OR BENEFIT FROM THE SCHOOL DISTRICT'S OR PUBLIC SCHOOL'S
8 EDUCATIONAL PROGRAMS OR ACTIVITIES BY PLACING THE PUPIL IN
9 REASONABLE FEAR OF PHYSICAL HARM OR BY CAUSING EMOTIONAL DISTRESS.

10 (iv) IS BASED ON A PUPIL'S ACTUAL OR PERCEIVED RELIGION, RACE,
11 COLOR, NATIONAL ORIGIN, AGE, SEX, SEXUAL ORIENTATION, DISABILITY,
12 HEIGHT, WEIGHT, GENDER IDENTITY, SOCIOECONOMIC STATUS, OR ANY OTHER
13 DISTINGUISHING CHARACTERISTIC OR IS BASED ON ASSOCIATION WITH
14 ANOTHER PERSON WHO HAS OR IS PERCEIVED TO HAVE ANY OF THESE
15 CHARACTERISTICS.

16 (C) "HARASSMENT" MEANS CONDUCT, INCLUDING, BUT NOT LIMITED TO,
17 CONDUCT IN PERSON OR USING A TELECOMMUNICATIONS ACCESS DEVICE, THAT
18 MEETS ALL OF THE FOLLOWING:

19 (i) IS DIRECTED AT 1 OR MORE PUPILS.

20 (ii) SUBSTANTIALLY INTERFERES WITH EDUCATIONAL OPPORTUNITIES,
21 BENEFITS, OR PROGRAMS OF 1 OR MORE PUPILS.

22 (iii) ADVERSELY AFFECTS THE ABILITY OF A PUPIL TO PARTICIPATE IN
23 OR BENEFIT FROM THE SCHOOL DISTRICT'S OR PUBLIC SCHOOL'S
24 EDUCATIONAL PROGRAMS OR ACTIVITIES BECAUSE THE CONDUCT AS
25 REASONABLY PERCEIVED BY THE PUPIL IS SO SEVERE, PERVASIVE, AND
26 OBJECTIVELY OFFENSIVE AS TO HAVE THIS EFFECT.

27 (iv) IS BASED ON A PUPIL'S ACTUAL OR PERCEIVED RELIGION, RACE,

1 COLOR, NATIONAL ORIGIN, AGE, SEX, SEXUAL ORIENTATION, DISABILITY,
2 HEIGHT, WEIGHT, GENDER IDENTITY, SOCIOECONOMIC STATUS, OR ANY OTHER
3 DISTINGUISHING CHARACTERISTIC OR IS BASED ON ASSOCIATION WITH
4 ANOTHER PERSON WHO HAS OR IS PERCEIVED TO HAVE ANY OF THESE
5 CHARACTERISTICS.

6 (D) "TELECOMMUNICATIONS ACCESS DEVICE" AND "TELECOMMUNICATIONS
7 SERVICE PROVIDER" MEAN THOSE TERMS AS DEFINED IN SECTION 219A OF
8 THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.219A.

9 (16) THIS SECTION SHALL BE KNOWN AS "MATT'S SAFE SCHOOL LAW".