

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S

D

SENATE DRS75121-LE-45A* (12/30)

Short Title: School Violence Prevention Act.

(Public)

Sponsors: Senator Boseman.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ENACT THE SCHOOL VIOLENCE PREVENTION ACT.

Whereas, the General Assembly of North Carolina finds that a safe and civil environment in school is necessary in order for students to learn and achieve high academic standards; and

Whereas, bullying and harassment, like other disruptive or violent behaviors, is conduct that disrupts both a student's ability to learn and a school's ability to educate its students in a safe environment; and

Whereas, bullying and harassing behaviors create a climate that fosters violence in our schools; and

Whereas, it is essential to enact a law that seeks to protect the health and welfare of North Carolina students and improve the learning environment for North Carolina students; and

Whereas, to do so, State and national data and anecdotal evidence have established the need to identify the most vulnerable targets and potential victims of bullying and harassment; and

Whereas, the sole purpose of this law is to protect all children from bullying and harassment, and no other legislative purpose is intended nor should any other intent be construed from passage of this law; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Subchapter VI of Chapter 115C of the General Statutes is amended by adding a new Article to read:

"Article 29B.

"School Violence Prevention.

"§ 115C-407.5. Bullying and harassing behavior.

(a) As used in this Article, "bullying or harassing behavior" is any pattern of gestures or written, electronic, or verbal communications, or any physical act or any threatening communication, that takes place on school property, at any school-sponsored function, or on a school bus, and that:

(1) Places a student or school employee in actual and reasonable fear of harm to his or her person or damage to his or her property; or

(2) Creates or is certain to create a hostile environment by substantially interfering with or impairing a student's educational performance, opportunities, or benefits. For purposes of this section, "hostile environment" means that the victim subjectively views the conduct as bullying or



1 harassing behavior and the conduct is objectively severe or pervasive enough
2 that a reasonable person would agree that it is bullying or harassing
3 behavior.

4 Bullying or harassing behavior includes, but is not limited to, acts reasonably perceived as
5 being motivated by any actual or perceived differentiating characteristic, such as race, color,
6 religion, ancestry, national origin, gender, socioeconomic status, academic status, gender
7 identity or expression, physical appearance, sexual orientation, or mental, physical,
8 developmental, or sensory disability, or by association with a person who has or is perceived to
9 have one or more of these characteristics.

10 (b) No student or school employee shall be subjected to bullying or harassing behavior
11 by school employees or students.

12 (c) No person shall engage in any act of reprisal or retaliation against a victim, witness,
13 or a person with reliable information about an act of bullying or harassing behavior.

14 (d) A school employee, student, or volunteer who has witnessed or has reliable
15 information that a student or school employee has been subject to any act of bullying or
16 harassing behavior shall report the incident to the appropriate school official.

17 **§ 115C-407.6. Policy against bullying or harassing behavior.**

18 (a) Before December 31, 2009, each local school administrative unit shall adopt a
19 policy prohibiting bullying or harassing behavior.

20 (b) The policy shall contain, at a minimum, the following components:

21 (1) A statement prohibiting bullying or harassing behavior.

22 (2) A definition of bullying or harassing behavior no less inclusive than that set
23 forth in this Article.

24 (3) A description of the type of behavior expected from each student and school
25 employee.

26 (4) Consequences and appropriate remedial action for a person who commits an
27 act of bullying or harassment.

28 (5) A procedure for reporting an act of bullying or harassment, including a
29 provision that permits a person to report such an act anonymously. This shall
30 not be construed to permit formal disciplinary action solely on the basis of
31 an anonymous report.

32 (6) A procedure for prompt investigation of reports of serious violations and
33 complaints of any act of bullying or harassment, identifying either the
34 principal or the principal's designee as the person responsible for the
35 investigation.

36 (7) A statement that prohibits reprisal or retaliation against any person who
37 reports an act of bullying or harassment, and the consequence and
38 appropriate remedial action for a person who engages in reprisal or
39 retaliation.

40 (8) A statement of how the policy is to be disseminated and publicized,
41 including notice that the policy applies to participation in school-sponsored
42 functions.

43 (c) Nothing in this Article shall prohibit a local school administrative unit from
44 adopting a policy that includes components beyond the minimum components provided in this
45 section or that is more inclusive than the requirements of this Article.

46 (d) Notice of the local policy shall appear in any school unit publication that sets forth
47 the comprehensive rules, procedures, and standards of conduct for schools within the school
48 unit and in any student and school employee handbook.

49 (e) Information regarding the local policy against bullying or harassing behavior shall
50 be incorporated into a school's employee training program.

1 (f) To the extent funds are appropriated for these purposes, a local school
2 administrative unit shall, by March 1, 2010, provide training on the local policy to school
3 employees and volunteers who have significant contact with students.

4 **"§ 115C-407.7. Prevention of school violence.**

5 Schools shall develop and implement methods and strategies for promoting school
6 environments that are free of bullying or harassing behavior.

7 **"§ 115C-407.8. Construction of this Article.**

8 (a) This Article shall not be construed to permit school officials to punish student
9 expression or speech based on an undifferentiated fear or apprehension of disturbance or out of
10 a desire to avoid the discomfort and unpleasantness that always accompany an unpopular
11 viewpoint.

12 (b) This Article shall not be interpreted to prevent a victim of bullying or harassing
13 behavior from seeking redress under any other available law, either civil or criminal.

14 (c) Nothing in this Article shall be construed to require an exhaustion of the
15 administrative complaint process before civil or criminal law remedies may be pursued
16 regarding bullying or harassing behavior.

17 (d) The provisions of this Article are severable, and if any provision of this Article is
18 held invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions
19 of this Article which can be given effect without the invalid provision.

20 (e) The provisions of this Article shall be liberally construed to give effect to its
21 purposes.

22 (f) Nothing in this act shall be construed to create any classification, protected class,
23 suspect category, or preference beyond those existing in present statute or case law."

24 **SECTION 2.** This act is effective when it becomes law and applies, unless
25 otherwise provided in G.S. 115C-407.6 as enacted by Section 1 of this act, beginning with the
26 2009-2010 school year.