~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

January 15, 2020

**H. 4403**

Introduced by Reps. Bennett and Brown

S. Printed 1/15/20--H.

Read the first time April 4, 2019.

**THE COMMITTEE ON EDUCATION AND PUBLIC WORKS**

To whom was referred a Bill (H. 4403) to amend Section 59‑63‑120, Code of Laws of South Carolina, 1976, relating to bullying prohibition policies adopted by school districts, so as to provide procedures, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by deleting all after the enacting clause and inserting:

/ SECTION 1. Section 59‑63‑120 of the 1976 Code is amended to read:

“Section 59‑63‑120. As used in this article:

(1) ‘Harassment, intimidation, or bullying’ means ~~a gesture,~~ an unwanted behavior or gesture that involves a real or perceived power imbalance, and is repeated or has the potential to be repeated over time. This behavior may occur through an electronic communication, or a written, verbal, physical, or sexual act that is reasonably perceived to have the effect of:

(a) harming a student physically or emotionally or damaging a student’s property, or placing a student in reasonable fear of personal harm or property damage; ~~or~~

(b) substantially interfering with a student’s educational performance, opportunities, or benefits;

(c) substantially disrupting or interfering with the orderly operation of the school;

(d) creating a hostile or intimidating environment in the school, on school property, on a school bus, or other activity vehicle, or at a school‑sponsored event;

(e) insulting or demeaning a student or group of students causing substantial disruption in, or substantial interference with, the orderly operation of the school; or

(f) being sufficiently severe, persistent, or pervasive enough to create an intimidating, threatening, or abusive educational environment.

(2) ‘School’ means in a classroom, on school premises, on a school bus or other school‑related vehicle, at an official school bus stop, at a school‑sponsored activity or event whether or not it is held on school premises, or at another program or function where the school is responsible for the child.”

SECTION 2. Section 59‑63‑140(B) and (C) of the 1976 Code is amended to read:

“(B) The policy must include, but not be limited to, the following components:

(1) a statement prohibiting harassment, intimidation, or bullying of a student;

(2) a definition of harassment, intimidation, or bullying no less inclusive than the definition in Section 59‑63‑120;

(3) a description of appropriate student behavior;

(4) consequences and appropriate remedial actions for persons committing acts of harassment, intimidation, or bullying, and for persons engaging in reprisal or retaliation;

(5) procedures for reporting acts of harassment, intimidation, or bullying, to include a provision for reporting anonymously. However, formal disciplinary action must not be taken solely on the basis of an anonymous report. The procedures must identify the appropriate school personnel responsible for taking the report and investigating the complaint;

(6) ~~procedures for prompt investigation of reports of serious violations and complaints;~~

~~(7)~~ a statement that prohibits reprisal or retaliation against a person who reports an act of harassment, intimidation, or bullying;

(~~8~~7) consequences and appropriate remedial action for persons found to have falsely accused another;

(~~9~~8) a process for discussing the district’s harassment, intimidation, or bullying policy with students; ~~and~~

(~~10~~9) a statement of how the policy is to be publicized, including notice that the policy applies to participation in school‑sponsored functions;

(10) procedures for responding to reports of harassment, intimidation, or bullying, which must:

(a) identify school and district personnel charged with addressing complaints and include written procedures for:

(i) proper documentation of allegations at the school and district level;

(ii) timelines for response to allegations;

(iii) procedures for informing parents or guardians of the student alleged to have bullied; provided this communication must include information on the steps being taken to prevent further incidents, disciplinary action, and any additional recommendations for outside counseling; and

(iv) procedures for informing parents or guardians of the student alleged to have been bullied; provided this communication must include steps being taken to prevent further incidents and procedures for ensuring the student can safely report any further incidents.

(b) A school district shall adopt a policy for additional procedures that may include recommendations for out of school mediation or counseling and a process for ensuring that the parent or guardian has received the information.

(c) A school district shall include in an adopted policy disciplinary actions which may include, but are not limited to, imposing a series of graduated consequences that include alternative discipline. In determining the appropriate response to students who engage in bullying behavior, school administrators should consider the type of behaviors, the frequency and any pattern of behaviors, and other relevant circumstances. Alternative discipline includes, but is not limited to:

(i) meeting with the student and the student’s parent or guardian;

(ii) reflective activities, such as requiring the student to write an essay about the student’s misbehavior;

(iii) mediation, but only when there is mutual conflict between peers, rather than one‑way negative behavior, and both parties voluntarily choose this option; and

(iv) in‑school detention or suspension, which may take place during lunchtime, after school, or on weekends; and

(d) In an effort to remediate any substantiated incident of bullying, counter the negative impact of the bullying, and reduce the risk of future bullying incidents, a district may adopt a policy for referrals for services that may benefit the victim, perpetrator, or other involved person. Referrals must include, but are not limited to:

(i) counseling;

(ii) anger management;

(iii) health counseling or intervention;

(iv) mental health counseling;

(v) participation in skills building and resolution activities, such as social‑emotional cognitive skills building, resolution circles, and restorative conferencing;

(vi) community service; and

(11) procedures for appealing a decision of a school principal or a superintendent’s designee related to taking or not taking remedial action in accordance with this policy, which must include providing notice to parents, guardians, and students of the right to appeal. The appeals procedure must be consistent with other appeals procedures established by the school board and may include an appeal to the superintendent.

(C) To assist local school districts in developing policies for the prevention of harassment, intimidation, or bullying, the State Board of Education shall develop model policies applicable to grades kindergarten through twelve, and shall denote requirements that must be met in policies adopted by local school districts. Local districts shall adopt policies that are at least as stringent as the model policies. The State Board of Education shall approve local policies to ensure that they meet the minimum requirements. If, in the determination of the State Board of Education, the local policies fail to meet the minimum requirements the local district has sixty calendar days from the date of notification from the board to submit corrected policies for approval. The model policy must serve as the district policy in the interim. Additionally, the State Board of Education shall develop teacher preparation program standards on the identification and prevention of bullying. The model policies and standards must be developed no later than September 1, 2006.”

SECTION 3. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

MERITA A. ALLISON for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Introduced on April 4, 2019**

**State Expenditure**

This bill adds to the list of components that local school districts must include in their policies’ prohibiting harassment, intimidation, or bullying at school. The additions include procedures for responding to reports of harassment, intimidation, or bullying, procedures for remediation, and procedures for appealing a decision related to taking or not taking remedial action in accordance with the policy. Notice of the right to appeal must be provided to parents, guardians, and students. The appeals procedure must be consistent with other appeals procedures established by the school board and may include an appeal to the superintendent. The bill expands the definition of harassment, intimidation, or bullying to include substantially interfering with a student’s educational performance, substantially disrupting or interfering with the orderly operation of the school, and other similar items. It also expands the definition of school to include school buses, bus stops, school sponsored activities, and other programs or functions where the school is responsible for the child. Also, the bill charges school districts with the responsibility for identifying personnel charged with addressing complaints and requires the development of written procedures for documentation and notification of parents. Additionally, the bill clarifies the manner of remediation after bullying incidents by allowing a school district to adopt a policy to refer individuals involved in bullying incidents for outside services. Further, the bill requires the State Board of Education to denote requirements that must be met in policies adopted by local school districts. Local districts must adopt policies that are at least as stringent as the model policies. The state Superintendent must approve local policies to ensure that they meet minimum requirements. If local policies fail to meet the minimum requirements, the model policy must become the policy of the local school district.

SDE indicates that this bill requires the agency to perform activities that can be conducted within the normal course of business. Therefore, this bill will have no expenditure impact on the agency.

**Local Expenditure**

This bill adds to the list of components that local school districts must include in their policies’ prohibiting harassment, intimidation, or bullying at school. The additions include procedures for responding to reports of harassment, intimidation, or bullying, procedures for remediation, and procedures for appealing a decision related to taking or not taking remedial action in accordance with the policy. Notice of the right to appeal must be provided to parents, guardians, and students. The appeals procedure must be consistent with other appeals procedures established by the school board and may include an appeal to the superintendent. The bill expands the definition of harassment, intimidation, or bullying to include substantially interfering with a student’s educational performance, substantially disrupting or interfering with the orderly operation of the school, and other similar items. It also expands the definition of school to include school buses, bus stops, school sponsored activities, and other programs or functions where the school is responsible for the child. Also, the bill charges school districts with the responsibility for identifying personnel charged with addressing complaints and requires the development of written procedures for documentation and notification of parents. Additionally, the bill clarifies the manner of remediation after bullying incidents by allowing a school district to adopt a policy to refer individuals involved in bullying incidents for outside services. Further, the bill requires the State Board of Education to denote requirements that must be met in policies adopted by local school districts. Local districts must adopt policies that are at least as stringent as the model policies. The state Superintendent must approve local policies to ensure that they meet minimum requirements. If local policies fail to meet the minimum requirements, the model policy must become the policy of the local school district.

SDE indicates that the bill will have an undetermined expenditure impact on local school districts. Although the bill does not require school districts to implement any specific disciplinary actions, interventions, or to refer students to outside services, districts may choose an intervention or service that has an associated expense. These expenses will vary by district.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 59‑63‑120, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO BULLYING PROHIBITION POLICIES ADOPTED BY SCHOOL DISTRICTS, SO AS TO PROVIDE PROCEDURES FOR RESPONDING TO AND REMEDIATING ALLEGATIONS OF BULLYING, TO REQUIRE AN APPEALS PROCEDURE, AND TO PROVIDE CERTAIN ADDITIONAL REQUIREMENTS OF SCHOOL DISTRICTS AND THE SUPERINTENDENT OF EDUCATION.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 59‑63‑120 of the 1976 Code is amended to read:

“Section 59‑63‑120. As used in this article:

(1) ‘Harassment, intimidation, or bullying’ means a gesture, an electronic communication, or a written, verbal, physical, or sexual act that is reasonably perceived to have the effect of:

(a) harming a student physically or emotionally or damaging a student’s property, or placing a student in reasonable fear of personal harm or property damage; ~~or~~

(b) substantially interfering with a student’s educational performance, opportunities, or benefits;

(c) substantially disrupting or interfering with the orderly operation of the school;

(d) creating a hostile or intimidating environment in the school, on school property, on a school bus, or other activity vehicle, or at a school‑sponsored event;

(e) insulting or demeaning a student or group of students causing substantial disruption in, or substantial interference with, the orderly operation of the school; or

(f) being sufficiently severe, persistent, or pervasive enough to create an intimidating, threatening, or abusive educational environment.

(2) ‘School’ means in a classroom, on school premises, on a school bus or other school‑related vehicle, at an official school bus stop, at a school‑sponsored activity or event whether or not it is held on school premises, or at another program or function where the school is responsible for the child.”

SECTION 2. Section 59‑63‑140(B) and (C) of the 1976 Code is amended to read:

“(B) The policy must include, but not be limited to, the following components:

(1) a statement prohibiting harassment, intimidation, or bullying of a student;

(2) a definition of harassment, intimidation, or bullying no less inclusive than the definition in Section 59‑63‑120;

(3) a description of appropriate student behavior;

(4) consequences and appropriate remedial actions for persons committing acts of harassment, intimidation, or bullying, and for persons engaging in reprisal or retaliation;

(5) procedures for reporting acts of harassment, intimidation, or bullying, to include a provision for reporting anonymously. However, formal disciplinary action must not be taken solely on the basis of an anonymous report. The procedures must identify the appropriate school personnel responsible for taking the report and investigating the complaint;

(6) ~~procedures for prompt investigation of reports of serious violations and complaints;~~

~~(7)~~ a statement that prohibits reprisal or retaliation against a person who reports an act of harassment, intimidation, or bullying;

(~~8~~7) consequences and appropriate remedial action for persons found to have falsely accused another;

(~~9~~8) a process for discussing the district’s harassment, intimidation, or bullying policy with students; ~~and~~

(~~10~~9) a statement of how the policy is to be publicized, including notice that the policy applies to participation in school‑sponsored functions;

(10) procedures for responding to reports of harassment, intimidation, or bullying, which must:

(a) identify school and district personnel charged with addressing complaints and include written procedures for:

(i) proper documentation of allegations at the school and district level;

(ii) timelines for response to allegations;

(iii) procedures for informing parents or guardians of the student alleged to have bullied; provided this communication must include information on the steps being taken to prevent further incidents, disciplinary action, and any additional recommendations for outside counseling; and

(iv) procedures for informing parents or guardians of the student alleged to have been bullied; provided this communication must include steps being taken to prevent further incidents and procedures for ensuring the student can safely report any further incidents.

(b) A school district shall adopt a policy for additional procedures that may include referrals for out of school mediation or counseling and a process for making such referrals to ensure that the parent or guardian has received the information.

(c) A school district shall include in an adopted policy disciplinary actions which may include, but are not limited to, imposing a series of graduated consequences that include alternative discipline. In determining the appropriate response to students who engage in bullying behavior, school administrators should consider the type of behaviors, the frequency and any pattern of behaviors, and other relevant circumstances. Alternative discipline includes, but is not limited to:

(i) meeting with the student and the student’s parent or guardian;

(ii) reflective activities, such as requiring the student to write an essay about the student’s misbehavior;

(iii) mediation, but only when there is mutual conflict between peers, rather than one‑way negative behavior, and both parties voluntarily choose this option; and

(iv) in‑school detention or suspension, which may take place during lunchtime, after school, or on weekends; and

(d) In an effort to remediate any substantiated incident of bullying, counter the negative impact of the bullying, and reduce the risk of future bullying incidents, a district may adopt a policy for referrals for outside services that may benefit the victim, perpetrator, or other involved person. Referrals must include, but are not limited to:

(i) counseling;

(ii) anger management;

(iii) health counseling or intervention;

(iv) mental health counseling;

(v) participation in skills building and resolution activities, such as social‑emotional cognitive skills building, resolution circles, and restorative conferencing;

(vi) community service; and

(11) procedures for appealing a decision of a school principal or a superintendent’s designee related to taking or not taking remedial action in accordance with this policy, which must include providing notice to parents, guardians, and students of the right to appeal. The appeals procedure must be consistent with other appeals procedures established by the school board and may include an appeal to the superintendent.

(C) To assist local school districts in developing policies for the prevention of harassment, intimidation, or bullying, the State Board of Education shall develop model policies applicable to grades kindergarten through twelve, and shall denote requirements that must be met in policies adopted by local school districts. Local districts shall adopt policies that are at least as stringent as the model policies. The State Superintendent shall approve local policies to ensure that they meet the minimum requirements of the policies adopted by the State Board of Education. If, in the determination of the State Superintendent, the local policies fail to meet the minimum requirements established by the State Board of Education, the model policies shall become the policy of the local district until such time as an acceptable policy is submitted and approved. Additionally, the State Board of Education shall develop teacher preparation program standards on the identification and prevention of bullying. The model policies and standards must be developed no later than September 1, 2006.”

SECTION 3. This act takes effect upon approval by the Governor.

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