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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. **3004**

04/19/2012 Authored by Davnie; Ward; Laine; Peterson, S., and Greene
The bill was read for the first time and referred to the Committee on Education Reform

1.1 A bill for an act
1.2 relating to education; providing for policies to prevent harassment, bullying,
1.3 intimidation, and violence in education; amending Minnesota Statutes 2010,
1.4 section 363A.13, subdivisions 1, 2; Minnesota Statutes 2011 Supplement,
1.5 sections 124D.10, subdivision 8; 127A.42, subdivision 2; proposing coding for
1.6 new law in Minnesota Statutes, chapter 121A; repealing Minnesota Statutes
1.7 2010, sections 121A.03; 121A.0695; 363A.27.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. **TITLE.**

1.10 This act shall be known as the "Safe Schools for All Students Act."

1.11 Sec. 2. **[121A.031] SCHOOL BOARD POLICY PROHIBITING**

1.12 **DISCRIMINATION UNDER THE MINNESOTA HUMAN RIGHTS ACT.**

1.13 Each school board shall adopt a written nondiscrimination policy in accordance
1.14 with chapter 363A which prohibits discrimination on the basis of actual or perceived
1.15 race; color; creed; religion; national origin; sex; marital status; familial status; disability;
1.16 sexual orientation, including gender identity and expression; and status with regard to
1.17 public assistance, age, and any additional characteristics as defined in chapter 363A, as
1.18 well as association with a person or group with any person with one or more of the actual
1.19 or perceived characteristics listed above. The policy shall apply to students, teachers,
1.20 administrators, independent contractors, and other school personnel. The policy must be
1.21 conspicuously posted throughout each school building, given to each district employee and
1.22 independent contractor at the time of entering into the person's employment contract, and
1.23 included in each school's student handbook on school policies. Each school must develop a
1.24 process for discussing the school's nondiscrimination with students and school employees.

2.1 Sec. 3. **[121A.0696] SCHOOL BOARD POLICY; PROHIBITING**
2.2 **INTIMIDATION, BULLYING, HARASSMENT, AND CYBERBULLYING.**

2.3 Subdivision 1. Definitions and scope of proscribed conduct. (a) This section
2.4 applies to conduct occurring on all public and nonpublic elementary and secondary
2.5 school premises, at any school-sponsored functions or activities, and on school-sponsored
2.6 transportation. This section also applies to usage of electronic technology and electronic
2.7 communications that occurs on all public and nonpublic elementary and secondary
2.8 school premises, at any school-sponsored functions or activities, on school-sponsored
2.9 transportation, and on school computers, networks, forums, and mailing lists. This section
2.10 also applies to usage of electronic technology and electronic communications that occurs
2.11 outside of school premises to the extent that prohibited conduct is reasonably foreseeable
2.12 to substantially and materially disrupt education or the school environment.

2.13 (b) As used in this chapter:

2.14 (1) the term "intimidation, bullying, harassment, or cyberbullying":

2.15 (i) means conduct that adversely affects the ability of one or more students to
2.16 participate in or benefit from the school's educational programs or activities by placing a
2.17 student in reasonable fear of physical harm or participate in or benefit from the school's
2.18 educational programs or activities because the conduct as reasonably perceived by the
2.19 student is severe, persistent, or pervasive;

2.20 (ii) includes, but is not limited to, conduct based on a student's actual or perceived
2.21 race; color; creed; religion; national origin; sex; marital status; familial status; disability;
2.22 status with regard to public assistance; sexual orientation, including gender identity and
2.23 expression; age; or any other distinguishing characteristics that may be defined by the
2.24 commissioner; and

2.25 (iii) includes conduct based on association with a person or group with any person
2.26 with one or more of the actual or perceived characteristics listed in item (ii);

2.27 (2) the term "educational institution" means the school board of any school district,
2.28 the governing body of any charter school, or the governing body of any nonpublic school;
2.29 and

2.30 (3) the term "remedial response" means measures designed to correct the
2.31 inappropriate behavior, prevent another occurrence of the behavior, and protect the victim
2.32 of the act. Appropriate remedial measures may include, but are not limited to:

2.33 (i) restitution and restoration;

2.34 (ii) peer support group;

2.35 (iii) corrective instruction or other relevant learning or service experience;

2.36 (iv) supportive intervention;

- (v) behavioral assessment or evaluation;
- (vi) student counseling;
- (vii) parent conferences;
- (viii) student treatment or therapy;
- (ix) adoption of research-based, systemic bullying prevention programs;
- (x) modification of schedules;
- (xi) adjustment in hallway traffic and other student routes of travel;
- (xii) targeted use of monitors;
- (xiii) staff professional development; or
- (xiv) involvement of parent-teacher organizations.

Subd. 2. **Department of Education intimidation, bullying, harassment, and cyberbullying policy.** (a) To assist educational institutions to develop policies for the prevention of intimidation, bullying, harassment, and cyberbullying, the commissioner shall develop and maintain a model policy that:

(1) contains definitions of intimidation, bullying, harassment, and cyberbullying consistent with this section;

(2) contains each of the intimidation, bullying, harassment, and cyberbullying policy components described in this section; and

(3) may encourage violence prevention and character development education programs, consistent with section 120B.232, subdivision 1.

(b) To assist with implementation of this section, the commissioner shall:

(1) compile and make available to all educational institutions a list of programs appropriate for the prevention of intimidation, bullying, harassment, and cyberbullying of students; and

(2) establish and maintain a central repository for the collection and analysis of information regarding intimidation, bullying, harassment, and cyberbullying, including, but not limited to:

(i) training materials;

(ii) curriculum; and

(iii) other resources aimed at improving school climate and preventing intimidation, bullying, harassment, and cyberbullying.

(c) The commissioner shall adopt rules to implement this section no later than nine months after enactment of this section.

(d) The commissioner shall develop appropriate procedures within the Department of Education for:

4.1 (1) biannual review of school district programs and policies to determine whether
4.2 the school districts are complying with this section;

4.3 (2) investigating, reporting, and responding to failures to implement this section
4.4 by districts, schools, and administrators;

4.5 (3) annual publication of statewide statistics concerning intimidation, bullying,
4.6 harassment, and cyberbullying, as defined in this section; and

4.7 (4) students, parents, and educators to file complaints with the commissioner
4.8 regarding failure to develop and implement policies that provide the protections set forth
4.9 in this section.

4.10 (e) The commissioner shall require that:

4.11 (1) any candidate in a program of teacher preparation leading to professional
4.12 certification shall complete a component of the program focused on school intimidation,
4.13 bullying, harassment, and cyberbullying, as defined in this section; and

4.14 (2) a teacher must understand how to create a learning environment free of
4.15 intimidation, bullying, harassment, and cyberbullying, as a standard for effective practice
4.16 for teachers.

4.17 **Subd. 3. School board intimidation, bullying, harassment, and cyberbullying**
4.18 **policy.** (a) Each educational institution shall adopt a policy prohibiting intimidation,
4.19 bullying, harassment, and cyberbullying as defined in this section. The policies shall, at
4.20 a minimum, incorporate each of the components described in this subdivision. Each
4.21 educational institution must submit to the commissioner a copy of the intimidation,
4.22 bullying, harassment, and cyberbullying policy the educational institution has adopted.

4.23 (b) Each educational institution shall adopt policies pursuant to this section that,
4.24 at a minimum:

4.25 (1) prohibit intimidation, bullying, harassment, and cyberbullying against all
4.26 students, as specified and defined in this section;

4.27 (2) designate one administrator in each educational institution as the primary contact
4.28 regarding the antibullying and harassment policy. The primary contact shall receive copies
4.29 of all formal and informal complaints, have responsibility for assuring the implementation
4.30 of the policy and procedure, and serve as the primary contact on the policy and procedures
4.31 between the educational institution and the Department of Education;

4.32 (3) require that school employees and trained volunteers who witness incidents
4.33 of intimidation, bullying, harassment, or cyberbullying or possess reliable information
4.34 that would lead a reasonable person to suspect that a student is a target of intimidation,
4.35 bullying, harassment, or cyberbullying promptly report that information to the school
4.36 principal or designee;

5.1 (4) provide a procedure for promptly beginning investigation of reports of
5.2 intimidation, bullying, harassment, or cyberbullying within three days of the report,
5.3 identifying either the principal or the principal's designee as the person responsible for the
5.4 investigation;

5.5 (5) delineate the range of ways in which a school will respond once an incident
5.6 of intimidation, bullying, harassment, or cyberbullying is identified, including a range
5.7 of age-appropriate remedial responses and consequences that may or will attach to the
5.8 prohibited bullying and harassment, and provide that any consequences shall be tailored
5.9 to the individual incident and vary in method and severity according to the nature of
5.10 the behavior, the developmental age of the student, and the student's history of problem
5.11 behaviors;

5.12 (6) prohibit reprisal or retaliation against any person who reports an act
5.13 of intimidation, bullying, harassment, or cyberbullying and describe appropriate
5.14 consequences for a person who engages in reprisal or retaliation;

5.15 (7) allow for anonymous reporting while clarifying that no punishments may be
5.16 issued solely on the basis of an anonymous report;

5.17 (8) include a statement of how the policy is to be publicized, including that the
5.18 school district's policy shall appear in new employee training materials, any publication of
5.19 the school district that sets forth the comprehensive rules, procedures, and standards of
5.20 conduct for schools within the school district, and any student handbook;

5.21 (9) describe a process by which data on incidents of intimidation, bullying,
5.22 harassment, and cyberbullying shall be collected, reported, and analyzed at least on an
5.23 annual basis; and

5.24 (10) require ongoing professional development to build the skills of all school
5.25 employees and volunteers, including, but not limited to, educators; administrators;
5.26 school nurses; cafeteria workers; custodians; bus drivers; athletic coaches; advisors to
5.27 extracurricular activities; volunteers; and paraprofessionals, to prevent, identify, and
5.28 respond to intimidation, bullying, harassment, and cyberbullying. The content of the
5.29 professional development shall include, but not be limited to:

5.30 (i) developmentally appropriate strategies to prevent incidents of intimidation,
5.31 bullying, harassment, and cyberbullying;

5.32 (ii) developmentally appropriate strategies for immediate, effective interventions to
5.33 stop incidents of intimidation, bullying, harassment, and cyberbullying;

5.34 (iii) information regarding the complex interaction and power differential that can
5.35 take place between and among a perpetrator, victim, and witnesses to the intimidation,
5.36 bullying, harassment, and cyberbullying;

(iv) research findings on intimidation, bullying, harassment, and cyberbullying, including information about specific categories of students who have been shown to be particularly at risk for intimidation, bullying, harassment, and cyberbullying in the school environment;

(v) information on the incidence and nature of cyberbullying; and

(vi) Internet safety issues as they relate to cyberbullying.

Subd. 4. **Relation to existing law.** (a) This section is not intended to establish any private right of action.

(b) This section is not intended to limit the rights of any individual currently available under any other available law, civil or criminal, including, but not limited to, chapter 363A.

(c) Nothing in this section is intended to interfere with the rights of free speech and expression under the first amendment of the Unites States Constitution of any person affected.

(d) Disciplinary actions based on this section must conform with collective bargaining agreements and sections 121A.41 to 121A.56.

Sec. 4. Minnesota Statutes 2011 Supplement, section 124D.10, subdivision 8, is amended to read:

Subd. 8. **Federal, state, and local requirements.** (a) A charter school shall meet all federal, state, and local health and safety requirements applicable to school districts.

(b) A school must comply with statewide accountability requirements governing standards and assessments in chapter 120B.

(c) A school authorized by a school board may be located in any district, unless the school board of the district of the proposed location disapproves by written resolution.

(d) A charter school must be nonsectarian in its programs, admission policies, employment practices, and all other operations. An authorizer may not authorize a charter school or program that is affiliated with a nonpublic sectarian school or a religious institution. A charter school student must be released for religious instruction, consistent with section 120A.22, subdivision 12, clause (3).

(e) Charter schools must not be used as a method of providing education or generating revenue for students who are being home-schooled.

(f) The primary focus of a charter school must be to provide a comprehensive program of instruction for at least one grade or age group from five through 18 years of age. Instruction may be provided to people younger than five years and older than 18 years of age.

7.1 (g) A charter school may not charge tuition.

7.2 (h) A charter school is subject to and must comply with chapter 363A and ~~section~~
7.3 sections 121A.031, 121A.04, and 121A.0696.

7.4 (i) A charter school is subject to and must comply with the Pupil Fair Dismissal
7.5 Act, sections 121A.40 to 121A.56, and the Minnesota Public School Fee Law, sections
7.6 123B.34 to 123B.39.

7.7 (j) A charter school is subject to the same financial audits, audit procedures, and
7.8 audit requirements as a district. Audits must be conducted in compliance with generally
7.9 accepted governmental auditing standards, the federal Single Audit Act, if applicable,
7.10 and section 6.65. A charter school is subject to and must comply with sections 15.054;
7.11 118A.01; 118A.02; 118A.03; 118A.04; 118A.05; 118A.06; 471.38; 471.391; 471.392; and
7.12 471.425. The audit must comply with the requirements of sections 123B.75 to 123B.83,
7.13 except to the extent deviations are necessary because of the program at the school.
7.14 Deviations must be approved by the commissioner and authorizer. The Department of
7.15 Education, state auditor, legislative auditor, or authorizer may conduct financial, program,
7.16 or compliance audits. A charter school determined to be in statutory operating debt under
7.17 sections 123B.81 to 123B.83 must submit a plan under section 123B.81, subdivision 4.

7.18 (k) A charter school is a district for the purposes of tort liability under chapter 466.

7.19 (l) A charter school must comply with chapters 13 and 13D; and sections 120A.22,
7.20 subdivision 7; 121A.75; and 260B.171, subdivisions 3 and 5.

7.21 (m) A charter school is subject to the Pledge of Allegiance requirement under
7.22 section 121A.11, subdivision 3.

7.23 (n) A charter school offering online courses or programs must comply with section
7.24 124D.095.

7.25 (o) A charter school and charter school board of directors are subject to chapter 181.

7.26 (p) A charter school must comply with section 120A.22, subdivision 7, governing
7.27 the transfer of students' educational records and sections 138.163 and 138.17 governing
7.28 the management of local records.

7.29 (q) A charter school that provides early childhood health and developmental
7.30 screening must comply with sections 121A.16 to 121A.19.

7.31 (r) A charter school that provides school-sponsored youth athletic activities must
7.32 comply with section 121A.38.

7.33 Sec. 5. Minnesota Statutes 2011 Supplement, section 127A.42, subdivision 2, is
7.34 amended to read:

Subd. 2. **Violations of law.** The commissioner may reduce or withhold the district's state aid for any school year whenever the board of the district authorizes or permits violations of law within the district by:

(1) employing a teacher who does not hold a valid teaching license or permit in a public school;

(2) noncompliance with a mandatory rule of general application promulgated by the commissioner in accordance with statute, unless special circumstances make enforcement inequitable, impose an extraordinary hardship on the district, or the rule is contrary to the district's best interests;

(3) the district's continued performance of a contract made for the rental of rooms or buildings for school purposes or for the rental of any facility owned or operated by or under the direction of any private organization, if the contract has been disapproved, the time for review of the determination of disapproval has expired, and no proceeding for review is pending;

(4) any practice which is a violation of sections 1 and 2 of article 13 of the Constitution of the state of Minnesota;

(5) failure to reasonably provide for a resident pupil's school attendance under Minnesota Statutes;

(6) noncompliance with state laws prohibiting discrimination because of race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, including gender identity or expression, or disability, as defined in sections 363A.03, 363A.08 to 363A.19₂ and 363A.28, subdivision 10; or

(7) using funds contrary to the statutory purpose of the funds.

The reduction or withholding must be made in the amount and upon the procedure provided in this section, or, in the case of the violation stated in clause (1), upon the procedure provided in section 127A.43.

Sec. 6. Minnesota Statutes 2010, section 363A.13, subdivision 1, is amended to read:

Subdivision 1. **Utilization; benefit or services.** It is an unfair discriminatory practice to discriminate in any manner in the full utilization of or benefit from any educational institution, or the services rendered thereby to any person because of race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, or disability, or to fail to ensure physical and program access for disabled persons. For purposes of this subdivision, program access includes but is not limited to providing taped texts, interpreters or other methods of making orally delivered materials available, readers in libraries, adapted classroom

9.1 equipment, and similar auxiliary aids or services. Program access does not include
9.2 providing attendants, individually prescribed devices, readers for personal use or study, or
9.3 other devices or services of a personal nature.

9.4 Sec. 7. Minnesota Statutes 2010, section 363A.13, subdivision 2, is amended to read:

9.5 Subd. 2. **Exclude, expel, or selection.** It is an unfair discriminatory practice to
9.6 exclude, expel, or otherwise discriminate against a person seeking admission as a student,
9.7 or a person enrolled as a student because of race, color, creed, religion, national origin,
9.8 sex, age, marital status, familial status, status with regard to public assistance, sexual
9.9 orientation, or disability.

9.10 Sec. 8. **REPEALER.**

9.11 Minnesota Statutes 2010, sections 121A.03; 121A.0695; and 363A.27, are repealed.

121A.03 MODEL POLICY.

Subdivision 1. **Model policy.** The commissioner shall maintain and make available to school boards a model sexual, religious, and racial harassment and violence policy. The model policy shall address the requirements of subdivision 2, and may encourage violence prevention and character development education programs, consistent with section 120B.232, subdivision 1, to prevent and reduce policy violations.

Subd. 2. **Sexual, religious, and racial harassment and violence policy.** A school board must adopt a written sexual, religious, and racial harassment and sexual, religious, and racial violence policy that conforms with chapter 363A. The policy shall apply to pupils, teachers, administrators, and other school personnel, include reporting procedures, and set forth disciplinary actions that will be taken for violation of the policy. Disciplinary actions must conform with collective bargaining agreements and sections 121A.41 to 121A.56. The policy must be conspicuously posted throughout each school building, given to each district employee and independent contractor at the time of entering into the person's employment contract, and included in each school's student handbook on school policies. Each school must develop a process for discussing the school's sexual, religious, and racial harassment and violence policy with students and school employees.

Subd. 3. **Submission to commissioner.** Each school board must submit to the commissioner a copy of the sexual, religious, and racial harassment and sexual, religious, and racial violence policy the board has adopted.

121A.0695 SCHOOL BOARD POLICY; PROHIBITING INTIMIDATION AND BULLYING.

Each school board shall adopt a written policy prohibiting intimidation and bullying of any student. The policy shall address intimidation and bullying in all forms, including, but not limited to, electronic forms and forms involving Internet use.

363A.27 CONSTRUCTION OF LAW.

Nothing in this chapter shall be construed to:

- (1) mean the state of Minnesota condones homosexuality or bisexuality or any equivalent lifestyle;
- (2) authorize or permit the promotion of homosexuality or bisexuality in education institutions or require the teaching in education institutions of homosexuality or bisexuality as an acceptable lifestyle;
- (3) authorize or permit the use of numerical goals or quotas, or other types of affirmative action programs, with respect to homosexuality or bisexuality in the administration or enforcement of the provisions of this chapter; or
- (4) authorize the recognition of or the right of marriage between persons of the same sex.