

HOUSE BILL No. 2330

By Committee on Education

2-14

1 AN ACT concerning school districts; relating to bullying; requiring
2 policies to identify and investigate incidents thereof; amending K.S.A.
3 72-6147 and repealing the existing section.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 New Section 1. (a) The legislature recognizes that bullying,
7 harassment and cyberbullying, if not appropriately addressed, may lead to
8 mental health issues such as depression, anxiety or stress, and ultimately,
9 hopelessness or suicide. The legislature encourages proactive and local
10 solutions for the betterment of the general health and well-being of
11 students and school district personnel. It recognizes that existing
12 legislation has not provided a sufficient framework to adequately
13 counteract bullying, harassment and cyberbullying of students and school
14 district personnel. Therefore, the legislature enacts this legislation to
15 prevent or minimize bullying, harassment or cyberbullying. Bullying,
16 harassment or cyberbullying of a student or school district personnel is
17 prohibited. The provisions of this act shall be liberally construed to
18 achieve these goals.

19 (b) The board of education of each school district shall adopt a policy
20 prohibiting bullying, harassment or cyberbullying on school premises, in a
21 school vehicle or during a school-sponsored activity or event whether on
22 or off school premises. Any policy adopted pursuant to this section shall be
23 written through a process that includes representation of parents, school
24 district administrators, teachers, and other employees, school district
25 volunteers, students and members of the community.

26 (c) Any policy adopted pursuant to this section shall contain, at a
27 minimum, the following:

28 (1) A statement prohibiting bullying, harassment or cyberbullying of
29 a student or school district personnel;

30 (2) a definition of bullying, harassment and cyberbullying that is no
31 less inclusive than the definitions for such terms provided in K.S.A. 72-
32 6147, and amendments thereto;

33 (3) a description of the type of behavior expected from students,
34 parents and school district personnel;

35 (4) consequences and appropriate remedial actions for a person who
36 commits an act of bullying, harassment or cyberbullying;

1 (5) a procedure for reporting an act of bullying, harassment or
2 cyberbullying, including a provision that permits a person to report an act
3 of bullying, harassment or cyberbullying anonymously. Such procedure
4 shall require that:

5 (A) All acts of bullying, harassment or cyberbullying be reported
6 initially, either orally or in writing, to the school principal, or the
7 principal's designee, within 24 hours after the student or school district
8 personnel witnessed or received reliable information regarding any such
9 incident;

10 (B) the school principal inform the parents of all students involved in
11 the reported incident within 24 hours after receiving the initial report, and
12 discuss, as appropriate, the availability of counseling and other
13 intervention services; and

14 (C) all acts of bullying, harassment or cyberbullying be reported in
15 writing to the school principal, or the principal's designee, within two
16 school days after the student or school district personnel witnessed or
17 received reliable information regarding any such incident.

18 (6) a procedure for prompt investigation of reports of bullying,
19 harassment and cyberbullying. Such procedure, at a minimum, shall
20 provide that:

21 (A) The investigation be initiated by the school principal, or the
22 principal's designee, within one school day after the initial report of the
23 incident. The principal may appoint additional personnel to assist in the
24 investigation. The investigation shall be completed not later than 10 school
25 days from the date of the initial report of the incident. In the event there is
26 information relative to the investigation that is anticipated, but not yet
27 received by the end of such 10-day period, the initial written report may be
28 supplemented to include such additional information;

29 (B) the results of the investigation shall be reported to the
30 superintendent, or the superintendent's designee, within two school days
31 after the completion of the investigation, and the superintendent, or the
32 superintendent's designee, in accordance with rules and regulations
33 adopted by the state board of education, may decide to provide
34 intervention services, establish training programs to reduce bullying,
35 harassment and cyberbullying, impose discipline, order counseling or take
36 other appropriate action;

37 (C) the results of each investigation shall be reported to the board of
38 education no later than the date of the board's next meeting following the
39 completion of the investigation, along with information on any services
40 provided, training established, discipline imposed or other action taken by
41 the superintendent, or the superintendent's designee;

42 (D) to the extent permitted by federal and state laws and rules and
43 regulations adopted thereunder, parents of the students along with the

1 school district personnel involved in the investigation shall receive
2 information about the investigation, including the nature of the
3 investigation, whether the school district found evidence of bullying,
4 harassment or cyberbullying and whether discipline was imposed or
5 services provided to address the incident. This information shall be
6 provided in writing within five school days after the results of the
7 investigation are completed;

8 (E) a parent or school district personnel may make a written request
9 for a hearing before the board of education after receiving the investigation
10 report. Such hearing shall be held within 10 days after receipt of the
11 request. The hearing shall be conducted in executive session to protect the
12 confidentiality of the students involved. At the hearing, the board may hear
13 from the investigator, the students involved in the investigation, the
14 parents of such students, the school district personnel involved in the
15 investigation and any other person the board deems appropriate. The board
16 shall consider the information presented at the hearing when deciding
17 whether to affirm, reject or modify the decision of the superintendent, or
18 the superintendent's designee; and

19 (F) at the next board of education meeting following the board's
20 receipt of the completed investigation report, the board shall issue a
21 decision, in writing, to affirm, reject or modify the decision of the
22 superintendent, or the superintendent's designee. The board's decision may
23 be appealed to the commissioner of education, in accordance with rules
24 and regulations adopted by the state board of education, no later than 90
25 days after the issuance of the board's decision;

26 (7) a list of appropriate responses to an incident of bullying,
27 harassment or cyberbullying, including, but not limited to, counseling,
28 support services, intervention services and any other actions or programs
29 recommended by the state board of education;

30 (8) a statement that prohibits reprisal or retaliation against any person
31 who reports an act of bullying, harassment or cyberbullying, and the
32 consequences and appropriate remedial actions for a person who engages
33 in reprisal or retaliation;

34 (9) consequences and appropriate remedial actions for a person found
35 to have falsely accused another individual of bullying, harassment or
36 cyberbullying;

37 (10) a statement of how the policy is to be publicized, including
38 notice that the policy applies to participation in school-sponsored activities
39 and events whether on or off school premises;

40 (11) a requirement that a link to the policy be prominently posted on
41 the school district's website homepage and distributed annually to parents
42 who have children enrolled in a school operated by the school district; and

43 (12) a requirement that the name, phone number, address and email

1 address of the person designated by the school district to receive reports of
2 bullying, harassment or cyberbullying be listed on the school district's
3 website homepage and the website homepage of each school building.
4 Such contact information also shall be maintained on the department of
5 education's website.

6 (d) Any time frames included in a policy adopted pursuant to this
7 section may be reasonably extended for good cause. The person requesting
8 an extension of time shall keep a written record of the reason such
9 extension was requested, and any such extension and the reason therefor
10 shall be included in all subsequent reports on the incident.

11 (e) To the extent permitted by state and federal law and rules and
12 regulations adopted thereunder, each school year, at the board of education
13 meetings held in December and June, the superintendent of the school
14 district shall report to the board on all acts of bullying, harassment and
15 cyberbullying that were reported during the immediately preceding six-
16 month period. The report shall include the number of reports of bullying,
17 harassment and cyberbullying, the status of the investigation of each
18 incident, the names of the investigators, the type and nature of any
19 discipline imposed and any training, educational programs or other
20 measures taken to reduce the incidence of bullying, harassment and
21 cyberbullying. The report shall present the information on both a district-
22 wide basis and by each school within the district. The superintendent shall
23 also submit the report to the department of education within 30 days after
24 the board of education meeting.

25 (f) To assist school districts in developing policies for the prevention
26 of bullying, harassment or cyberbullying, the state board of education shall
27 develop a model policy applicable to kindergarten and grades one through
28 12 that reflects the provisions of this section. Such model policy shall
29 include an age-appropriate range of consequences for bullying, harassment
30 or cyberbullying that shall include, at a minimum, disciplinary action or
31 counseling as appropriate under the circumstances. The model policy shall
32 be provided to school districts on or before September 1, 2019.

33 (g) On or before November 1, 2019, each board of education shall
34 revise its policy on bullying, harassment and cyberbullying and transmit a
35 copy of such policy to the state board of education. Each school year, the
36 board of education of each school district shall conduct a review and
37 evaluation of such policy, and make any necessary revisions. In
38 conducting such review and evaluation the board may receive information
39 from the department of education. The school district shall transmit a copy
40 of any revised policy to the state board of education within 30 days after
41 its adoption.

42 (h) Notice of the school district's policy shall appear in any
43 publication of the school district that sets forth the comprehensive rules,

1 procedures and standards of conduct for schools within the school district,
2 and in any student handbook.

3 (i) Nothing in this section shall be construed to:

4 (1) Restrict a school district from adopting and implementing policies
5 against bullying, harassment, cyberbullying or school violence or to
6 promote civility and dignity by students, parents and school district
7 personnel that are more inclusive than the policies required under this
8 section;

9 (2) permit formal disciplinary action solely on the basis of an
10 anonymous report;

11 (3) permit the public distribution of information deemed confidential
12 and that is prohibited by federal or state law from being made available to
13 the public; or

14 (4) unconstitutionally restrict protected rights of freedom of speech,
15 freedom of religious exercise or freedom of assembly.

16 New Sec. 2. (a) A student or school district personnel who has
17 witnessed or has reliable information that a student or school district
18 personnel has been subjected to bullying, harassment or cyberbullying
19 shall report the incident within 24 hours to the appropriate school official
20 designated by the school district's policy, or to the school principal, who
21 shall promptly initiate the school district's procedures concerning a report
22 of bullying, harassment or cyberbullying.

23 (b) No individual shall engage in reprisal, retaliation or false
24 accusation against a victim of bullying, harassment or cyberbullying or
25 against a witness or other individual with reliable information about an act
26 of bullying, harassment or cyberbullying.

27 (c) A student or school district personnel who reports an incident of
28 bullying, harassment or cyberbullying to the appropriate school official
29 designated by the school district's policy, or to the school principal, and
30 who makes this report in compliance with the district's policy, shall not be
31 civilly liable for any damages arising as the result of making such report.

32 (d) A school principal, or other school official designated to receive
33 reports of bullying, harassment and cyberbullying who receives a report of
34 bullying, harassment or cyberbullying from a student, school district
35 personnel or parent and fails to initiate or conduct an investigation, or who
36 reasonably should have known of an incident of bullying, harassment or
37 cyberbullying and fails to take sufficient action to minimize or eliminate
38 the bullying, harassment or cyberbullying, shall be subject to disciplinary
39 action by the school district superintendent or the department of education
40 educator licensure team for possible revocation of such individual's school
41 administrator's certificate.

42 New Sec. 3. (a) Remedial or disciplinary action shall be taken for all
43 offenses or violations in accordance with policies adopted by the board of

1 education of the school district. Offending students, parents or school
2 district personnel shall receive appropriate counseling or other remedial
3 instruction, guidance, action or discipline.

4 (b) The legislature encourages school districts, whenever possible and
5 appropriate, to consider and use proactive and educational measures for
6 discipline. Reported instances of bullying, harassment or cyberbullying
7 may be addressed with students, parents or school district personnel, to
8 develop and encourage age-appropriate behavior, by use of the following
9 non-exhaustive list of techniques: (1) Correction and conferences with the
10 offending student, victim, parents or school district personnel; (2) self-
11 reflection or self-evaluation, including written identification of the
12 problem and corresponding plan of action or solution, such as from the
13 offending student, victim, parents or school district personnel; (3) limiting
14 access to certain areas or restricting seating to certain areas during school
15 hours or school-sponsored activities or events; (4) educational conferences
16 or programs to promote the type of behavior expected from students,
17 parents and school district personnel as described in the policy adopted
18 pursuant to section 1, and amendments thereto; (5) in-school detention or
19 suspension; (6) crisis removal or disciplinary transfer of the offending
20 student from the school building; (7) individualized instruction related to
21 the offending student's problematic actions or behavior; (8) interim
22 alternate education setting for the offending student; (9) loss of privileges,
23 such as attendance at or participation in school-sponsored activities or
24 events; (10) time in the school building office; (11) escalating periods of
25 suspension or discipline for repetitive offending behavior; (12) community
26 service hours for reinstatement of privileges; (13) expulsion; (14)
27 restitution paid to the victim by the offending student, parent or school
28 district personnel; or (15) teen court or similar programs. School districts
29 should consider or use with reluctance policies that suspend or expel
30 students upon the first occurrence of bullying, harassment or
31 cyberbullying.

32 (c) Remedial or disciplinary action may be carried over to the next
33 school year or subsequent years if deemed reasonably appropriate or
34 necessary.

35 New Sec. 4. Nothing in K.S.A. 72-6147, and amendments thereto,
36 and sections 1 through 3, and amendments thereto, shall be construed to
37 alter any duty of school district personnel to report or take other
38 appropriate action with respect to suspected child abuse or neglect.

39 Sec. 5. K.S.A. 72-6147 is hereby amended to read as follows: 72-
40 6147. ~~(a)~~ As used in this section *and sections 1 through 3, and*
41 *amendments thereto:*

42 ~~(+)(a) "Bullying" means: (A) Any intentional gesture or any~~
43 ~~intentional written, verbal, electronic or physical act or threat either by any~~

1 student, staff member or parent towards a student or by any student, staff
 2 member or parent towards a staff member that is sufficiently severe,
 3 persistent or pervasive that such gesture, act or threat creates an
 4 intimidating, threatening or abusive educational environment that a
 5 reasonable person, under the circumstances, knows or should know will
 6 have the effect of:

7 (i) ~~Harming a student or staff member, whether physically or~~
 8 ~~mentally;~~

9 (ii) ~~damaging a student's or staff member's property;~~

10 (iii) ~~placing a student or staff member in reasonable fear of harm to~~
 11 ~~the student or staff member; or~~

12 (iv) ~~placing a student or staff member in reasonable fear of damage to~~
 13 ~~the student's or staff member's property;~~

14 (B) ~~cyberbullying; or~~

15 (C) ~~any other form of intimidation or harassment prohibited by the~~
 16 ~~board of education of the school district in policies concerning bullying~~
 17 ~~adopted pursuant to this section or subsection (c) of K.S.A. 72-1138, and~~
 18 ~~amendments thereto the intentional or knowing harassment, intimidation,~~
 19 ~~humiliation, ridicule, defamation, threat or incitement of violence by a~~
 20 ~~student, parent or school district personnel against a student or school~~
 21 ~~district personnel by a written, verbal, electronic or physical act that may~~
 22 ~~address an attribute of the other student or school district personnel, or a~~
 23 ~~person with whom such other student or school district personnel is~~
 24 ~~associated, and that causes or creates actual or reasonably foreseeable:~~

25 (1) *Physical harm to a student or school district personnel, or*
 26 *damage to the property of a student or school district personnel;*

27 (2) *substantial interference with a student's education, or with school*
 28 *district personnel duties and responsibilities;*

29 (3) *hostile educational environments for one or more students or*
 30 *school district personnel due to the severity, persistence or pervasiveness*
 31 *of the act; or*

32 (4) *substantial disruption of the orderly operation of the school,*
 33 *school-sponsored event or educational environment.*

34 (2)(b) (1) ~~"Cyberbullying" means bullying by use of any electronic~~
 35 ~~communication device through means electronically transmitted~~
 36 ~~communications, including, but not limited to, e-mail, social media~~
 37 ~~applications, instant messaging, text messages, blogs, mobile phones,~~
 38 ~~paggers, online games and, websites, drawings and video clips, that a~~
 39 ~~student has knowingly created or exhibited toward another student or~~
 40 ~~school district personnel with the intention to frighten, coerce, intimidate,~~
 41 ~~abuse, harass or alarm such other student or school district personnel,~~
 42 ~~and is sufficiently severe, persistent or pervasive that it creates an~~
 43 ~~intimidating, threatening or abusive educational environment. It shall be~~

1 considered cyberbullying, regardless of whether the communication is
2 conducted:

3 (A) On campus or other school premises, in a school vehicle or
4 during a school-sponsored activity or event whether on or off school
5 premises;

6 (B) through the use of school district computer networks; or

7 (C) through the use of computer networks not owned or otherwise
8 controlled by a school district.

9 (2) In evaluating whether the conduct constitutes cyberbullying,
10 special attention shall be given to the words chosen or the actions taken,
11 whether the conduct occurred in front of other individuals, was published
12 publicly or privately or was communicated to other individuals, how the
13 perpetrator interacted with the victim, and the motivation for the conduct,
14 whether admitted or appropriately inferred.

15 (c) "Harassment" means engaging in any of the following conduct
16 with the intention or reasonable likelihood to frighten, coerce, intimidate,
17 abuse or alarm another student or school district personnel:

18 (1) Striking, shoving, kicking or otherwise touching a student or
19 school district personnel in an offensive manner or subjecting such person
20 to offensive physical contact;

21 (2) insulting, taunting or challenging another student or school
22 district personnel in a manner likely to provoke a violent response;

23 (3) making verbal or non-verbal expressions that causes another
24 student or school district personnel to feel uncomfortable, pressured,
25 threatened or in danger because of reasons that include, but are not
26 limited to, such person's race, color, national origin, ancestry, sex,
27 religion, disability, sexual orientation or gender identity or expression that
28 creates an intimidating, hostile or offensive educational environment, or
29 interferes with the education of a student, or otherwise adversely affects
30 the educational opportunity of a student;

31 (4) name-calling, making rude gestures, insulting or teasing another
32 student or school district personnel with the intent to humiliate, intimidate,
33 threaten or embarrass such student or school district personnel;

34 (5) directing anonymous communications to another student or
35 school district personnel repeatedly, at inconvenient times or with the use
36 of offensive language;

37 (6) causing fear so as to prevent or inhibit another student or school
38 district personnel from accessing or using school buildings, facilities,
39 services or other premises; or

40 (7) physically harming, physically restraining, threatening or stalking
41 another student or school district personnel, or a combination of any of
42 the foregoing.

43 (3)(d) "Parent" includes a guardian, custodian or other person with

1 authority to act on behalf of the ~~child~~ *student*.

2 ~~(4)(e)~~ "School district" or "district" means any unified school district
3 organized and operating under the laws of this state.

4 ~~(f)~~ "*School district personnel*" means an individual employed by a
5 school district, a member of the board of education, a volunteer or a
6 contract service provider.

7 ~~(5)(g)~~ "School vehicle" means any school bus, school van, other
8 school vehicle and private vehicle used to transport students or staff
9 members to and from school or any school-sponsored activity or event.

10 ~~(6)~~ "Staff member" means any person employed by a school district.

11 ~~(b)~~ The board of education of each school district shall adopt a policy
12 to prohibit bullying either by any student, staff member or parent towards
13 a student or by a student, staff member or parent towards a staff member
14 on or while utilizing school property, in a school vehicle or at a school-
15 sponsored activity or event.

16 ~~(c)~~ The board of education of each school district shall adopt and
17 implement a plan to address bullying either by any student, staff member
18 or parent towards a student or by a student, staff member or parent towards
19 a staff member on school property, in a school vehicle or at a school-
20 sponsored activity or event. Such plan shall include provisions for the
21 training and education for staff members and students.

22 ~~(d)~~ The board of education of each school district may adopt
23 additional policies relating to bullying pursuant to subsection (c) of K.S.A.
24 72-1138, and amendments thereto.

25 ~~(e)~~ Nothing in this section shall be construed to limit or supersede or
26 in any manner affect or diminish the requirements of compliance by a staff
27 member with the provisions of K.S.A. 2018 Supp. 38-2223 or 38-2226,
28 and amendments thereto.

29 ~~(h)~~ "*Student*" means a person enrolled in a public school operated by
30 a school district.

31 ~~(i)~~ "*Substantial disruption*" means the occurrence of any one or more
32 of the following as a result of bullying:

33 (1) *Necessary or appropriate cessation of instruction or educational*
34 *activities;*

35 (2) *inability of students or educational staff to focus on learning or*
36 *function as an educational unit because of a hostile educational*
37 *environment;*

38 (3) *imposition of severe or repetitive disciplinary measures in the*
39 *classroom or during educational activities; or*

40 (4) *exhibition of other behaviors that substantially interfere with the*
41 *educational environment or school-sponsored activity.*

42 Sec. 6. K.S.A. 72-6147 is hereby repealed.

43 Sec. 7. This act shall take effect and be in force from and after its

- 1 publication in the statute book.