



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB5707

by Rep. Kelly M. Cassidy

SYNOPSIS AS INTRODUCED:

105 ILCS 5/27-23.7
105 ILCS 5/27A-5

Amends the School Code in provisions concerning bullying prevention. Sets forth definitions for "policy on bullying" and "restorative measures". Makes changes concerning the creation, maintenance, and implementation of a policy on bullying. Deletes the requirement that each school district, charter school, and non-public, non-sectarian elementary or secondary school must communicate its policy on bullying to its students and their parent or guardian on an annual basis. Provides that on an annual basis, school districts, charter schools, and non-public, non-sectarian schools are required to collect, maintain, analyze, and submit to the State Board of Education data relating to the prevalence of bullying within the school district or non-public, non-sectarian elementary or secondary school, as well as the climate of the school district or non-public, non-sectarian elementary or secondary school. Moves the provision concerning the right to exercise free expression or the free exercise of religion or religiously based views protected under the United States and Illinois Constitutions. Effective immediately.

LRB098 18990 OMW 54139 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The School Code is amended by changing Sections
5 27-23.7 and 27A-5 as follows:

6 (105 ILCS 5/27-23.7)

7 Sec. 27-23.7. Bullying prevention.

8 (a) The General Assembly finds that a safe and civil school
9 environment is necessary for students to learn and achieve and
10 that bullying causes physical, psychological, and emotional
11 harm to students and interferes with students' ability to learn
12 and participate in school activities. The General Assembly
13 further finds that bullying has been linked to other forms of
14 antisocial behavior, such as vandalism, shoplifting, skipping
15 and dropping out of school, fighting, using drugs and alcohol,
16 sexual harassment, and sexual violence. Because of the negative
17 outcomes associated with bullying in schools, the General
18 Assembly finds that school districts and non-public,
19 non-sectarian elementary and secondary schools should educate
20 students, parents, and school district, charter schools, or
21 non-public, non-sectarian elementary or secondary school
22 personnel about what behaviors constitute prohibited bullying.

23 Bullying on the basis of actual or perceived race, color,

1 religion, sex, national origin, ancestry, age, marital status,
2 physical or mental disability, military status, sexual
3 orientation, gender-related identity or expression,
4 unfavorable discharge from military service, association with
5 a person or group with one or more of the aforementioned actual
6 or perceived characteristics, or any other distinguishing
7 characteristic is prohibited in all school districts, charter
8 schools, and non-public, non-sectarian elementary and
9 secondary schools. No student shall be subjected to bullying:

10 (1) during any school-sponsored education program or
11 activity;

12 (2) while in school, on school property, on school
13 buses or other school vehicles, at designated school bus
14 stops waiting for the school bus, or at school-sponsored or
15 school-sanctioned events or activities; or

16 (3) through the transmission of information from a
17 school computer, a school computer network, or other
18 similar electronic school equipment.

19 (a-5) Nothing in this Section is intended to infringe upon
20 any right to exercise free expression or the free exercise of
21 religion or religiously based views protected under the First
22 Amendment to the United States Constitution or under Section 3
23 or 4 of Article I of the Illinois Constitution.

24 (b) In this Section:

25 "Bullying" means any severe or pervasive physical or verbal
26 act or conduct, including communications made in writing or

1 electronically, directed toward a student or students that has
2 or can be reasonably predicted to have the effect of one or
3 more of the following:

4 (1) placing the student or students in reasonable fear
5 of harm to the student's or students' person or property;

6 (2) causing a substantially detrimental effect on the
7 student's or students' physical or mental health;

8 (3) substantially interfering with the student's or
9 students' academic performance; or

10 (4) substantially interfering with the student's or
11 students' ability to participate in or benefit from the
12 services, activities, or privileges provided by a school.

13 Bullying, as defined in this subsection (b), may take
14 various forms, including without limitation one or more of the
15 following: harassment, threats, intimidation, stalking,
16 physical violence, sexual harassment, sexual violence, theft,
17 public humiliation, destruction of property, or retaliation
18 for asserting or alleging an act of bullying. This list is
19 meant to be illustrative and non-exhaustive.

20 "Policy on bullying" means a bullying prevention policy
21 that meets the following criteria:

22 (1) Includes the bullying definition provided in this
23 Section.

24 (2) Includes a statement that bullying is contrary to
25 State law and the policy of the school district, charter
26 schools, or non-public, non-sectarian elementary or

1 secondary school and is consistent with subsection (a-5) of
2 this Section.

3 (3) Includes procedures for promptly reporting
4 bullying, including, but not limited to, identifying a
5 person or persons responsible for receiving such reports
6 and a procedure for anonymous reporting; however, this
7 shall not be construed to permit formal disciplinary action
8 solely on the basis of an anonymous report. The procedures
9 shall include, but not be limited to, the following:

10 (A) All acts of bullying shall be reported verbally
11 to the school principal or his or her designee on the
12 same day that the school employee or contracted service
13 provider witnessed or received reliable information
14 regarding any such incident.

15 (B) The principal or his or her designee shall
16 inform the parents or guardians of all students
17 involved in the alleged incident and discuss, as
18 appropriate, the availability of counseling
19 intervention services and other restorative measures.

20 (C) All acts of bullying shall be reported in
21 writing to the school principal or his or her designee
22 within 2 school days of the date that the school
23 employee or contracted service provider witnessed or
24 received reliable information that a student had been
25 subject to bullying.

26 (4) Includes procedures for promptly investigating and

1 addressing reports of bullying. The procedures shall
2 include, but not be limited to, the following:

3 (A) The investigation shall be initiated by the
4 principal or his or her designee within one school day
5 of the report of the incident and be conducted by a
6 school counselor, school social worker, or other
7 designated school personnel who has received, or shall
8 receive, training or resources related to bullying
9 intervention and best practices.

10 (B) The investigation shall be completed as soon as
11 possible, but not later than 10 school days after the
12 date of the report of the incident of bullying. In the
13 event that there is information relative to the
14 investigation that is anticipated but not yet received
15 before that 10-day period, the school counselor,
16 school social worker, or other designated personnel
17 may amend the original report of the results of the
18 investigation to reflect the information.

19 (C) The results of the investigation shall be
20 reported to the school principal or his or her designee
21 within 2 school days of the completion of the
22 investigation, and the principal may decide to provide
23 intervention services or restorative measures,
24 establish training programs to reduce bullying and
25 enhance school climate, order counseling, or take or
26 recommend other appropriate action as a result of the

1 findings of the investigation.

2 (D) Parents or guardians of the students who are
3 parties to the investigation shall be entitled to
4 receive information about the investigation in
5 accordance with federal and State law and regulation,
6 including the nature of the investigation, whether the
7 investigation found evidence of bullying, or whether
8 intervention services, restorative measures, or other
9 appropriate action were imposed or provided to address
10 the incident of bullying. This information shall be
11 provided in writing within 5 school days after the
12 results of the investigation are reported to the school
13 principal or his or her designee.

14 (E) A parent or guardian may request a meeting
15 before the school principal or his or her designee and
16 the board after receiving the information, and the
17 meeting shall be held within 10 days of the request.

18 (5) Includes the interventions that can be taken to
19 address bullying, which may include, but are not limited
20 to, school social worker interventions, restorative
21 measures, social-emotional skill building, counseling,
22 school psychological services, and community-based
23 services.

24 (6) Includes a statement prohibiting reprisal or
25 retaliation against any person who reports an act of
26 bullying and the consequences and appropriate remedial

1 actions for a person who engages in reprisal or
2 retaliation.

3 (7) Includes consequences and appropriate remedial
4 actions for a person found to have falsely accused another
5 as a means of retaliation or as a means of bullying.

6 (8) Is based on the engagement of a range of school
7 stakeholders, including students and families.

8 (9) Is posted on the school district's, charter
9 school's, or non-public, non-sectarian elementary or
10 secondary school's existing Internet website and is
11 included in the student handbook, and, where applicable,
12 posted where other policies, rules, and standards of
13 conduct are currently posted in the school, and is
14 distributed annually to parents, guardians, students, and
15 school personnel, including new employees when hired.

16 (10) If applicable, includes a requirement that the
17 name, school phone number, school address, and school
18 e-mail address of the district anti-bullying coordinator
19 be listed on the home page of the school district's
20 Internet website.

21 (11) If applicable, includes a requirement that the
22 name, school phone number, school address, and school
23 e-mail address of the school's anti-bullying specialist
24 and the school district's anti-bullying coordinator be
25 listed on the home page of each school's Internet website.

26 (12) Is consistent with the school district's board

1 policies, charter school policies, or non-public,
2 non-sectarian elementary or secondary school's
3 administrative policies.

4 Nothing in this Section shall prohibit a school district,
5 charter school, or non-public, non-sectarian elementary or
6 secondary school from adopting a policy that includes
7 components that are more detailed than the components set forth
8 in this Section.

9 "Restorative measures" means a continuum of school-based
10 alternatives to exclusionary discipline, such as suspensions
11 and expulsions, that: (i) are adapted to the particular needs
12 of the school and community, (ii) contribute to maintaining
13 school safety, (iii) protect the integrity of a positive and
14 productive learning climate, (iv) teach students the personal
15 and interpersonal skills they will need to be successful in
16 school and society, (v) serve to build and restore
17 relationships among students, families, schools, and
18 communities, and (vi) reduce the likelihood of future
19 disruption by balancing accountability with an understanding
20 of students' behavioral health needs in order to keep students
21 in school.

22 "School personnel" means persons employed by, on contract
23 with, or who volunteer in a school district, charter schools,
24 or non-public, non-sectarian elementary or secondary school,
25 including without limitation school and school district
26 administrators, teachers, school guidance counselors, school

1 social workers, school counselors, school psychologists,
2 school nurses, cafeteria workers, custodians, bus drivers,
3 school resource officers, and security guards.

4 (c) (Blank).

5 (d) Each school district, charter schools, and non-public,
6 non-sectarian elementary or secondary school shall create, ~~and~~
7 maintain, and implement a policy on bullying, which policy must
8 be filed with the State Board of Education. Every 2 years, each
9 school district, charter school, and non-public, non-sectarian
10 elementary or secondary school shall conduct a re-evaluation,
11 re-assessment, and review of its policy, making any necessary
12 revisions and additions. ~~Each school district and non-public,~~
13 ~~non-sectarian elementary or secondary school must communicate~~
14 ~~its policy on bullying to its students and their parent or~~
15 ~~guardian on an annual basis.~~ The policy must be ~~updated every 2~~
16 ~~years and~~ filed with the State Board of Education after being
17 updated. The State Board of Education shall monitor and provide
18 technical support for the implementation of policies created
19 under this subsection (d).

20 (d-5) A school district shall have local control over the
21 content of the policy, except that the policy shall contain, at
22 a minimum, the components listed in the definition of "policy
23 on bullying" under subsection (b) of this Section.

24 (d-10) On an annual basis, school districts, charter
25 schools, and non-public, non-sectarian schools are required to
26 collect, maintain, analyze, and submit to the State Board of

1 Education data relating to the prevalence of bullying within
2 the school district, charter school, or non-public,
3 non-sectarian elementary or secondary school, as well as the
4 climate of the school district, charter school, or non-public,
5 non-sectarian elementary or secondary school.

6 (d-15) The State Board of Education shall adopt rules
7 consistent with the provisions of this Section.

8 (e) This Section shall not be interpreted to prevent a
9 victim from seeking redress under any other available civil or
10 criminal law. ~~Nothing in this Section is intended to infringe~~
11 ~~upon any right to exercise free expression or the free exercise~~
12 ~~of religion or religiously based views protected under the~~
13 ~~First Amendment to the United States Constitution or under~~
14 ~~Section 3 or 4 of Article 1 of the Illinois Constitution.~~

15 (Source: P.A. 95-198, eff. 1-1-08; 95-349, eff. 8-23-07;
16 95-876, eff. 8-21-08; 96-952, eff. 6-28-10.)

17 (105 ILCS 5/27A-5)

18 Sec. 27A-5. Charter school; legal entity; requirements.

19 (a) A charter school shall be a public, nonsectarian,
20 nonreligious, non-home based, and non-profit school. A charter
21 school shall be organized and operated as a nonprofit
22 corporation or other discrete, legal, nonprofit entity
23 authorized under the laws of the State of Illinois.

24 (b) A charter school may be established under this Article
25 by creating a new school or by converting an existing public

1 school or attendance center to charter school status. Beginning
2 on the effective date of this amendatory Act of the 93rd
3 General Assembly, in all new applications submitted to the
4 State Board or a local school board to establish a charter
5 school in a city having a population exceeding 500,000,
6 operation of the charter school shall be limited to one campus.
7 The changes made to this Section by this amendatory Act of the
8 93rd General Assembly do not apply to charter schools existing
9 or approved on or before the effective date of this amendatory
10 Act.

11 (b-5) In this subsection (b-5), "virtual-schooling" means
12 the teaching of courses through online methods with online
13 instructors, rather than the instructor and student being at
14 the same physical location. "Virtual-schooling" includes
15 without limitation instruction provided by full-time, online
16 virtual schools.

17 From April 1, 2013 through April 1, 2014, there is a
18 moratorium on the establishment of charter schools with
19 virtual-schooling components in school districts other than a
20 school district organized under Article 34 of this Code. This
21 moratorium does not apply to a charter school with
22 virtual-schooling components existing or approved prior to
23 April 1, 2013 or to the renewal of the charter of a charter
24 school with virtual-schooling components already approved
25 prior to April 1, 2013.

26 On or before March 1, 2014, the Commission shall submit to

1 the General Assembly a report on the effect of
2 virtual-schooling, including without limitation the effect on
3 student performance, the costs associated with
4 virtual-schooling, and issues with oversight. The report shall
5 include policy recommendations for virtual-schooling.

6 (c) A charter school shall be administered and governed by
7 its board of directors or other governing body in the manner
8 provided in its charter. The governing body of a charter school
9 shall be subject to the Freedom of Information Act and the Open
10 Meetings Act.

11 (d) A charter school shall comply with all applicable
12 health and safety requirements applicable to public schools
13 under the laws of the State of Illinois.

14 (e) Except as otherwise provided in the School Code, a
15 charter school shall not charge tuition; provided that a
16 charter school may charge reasonable fees for textbooks,
17 instructional materials, and student activities.

18 (f) A charter school shall be responsible for the
19 management and operation of its fiscal affairs including, but
20 not limited to, the preparation of its budget. An audit of each
21 charter school's finances shall be conducted annually by an
22 outside, independent contractor retained by the charter
23 school. Annually, by December 1, every charter school must
24 submit to the State Board a copy of its audit and a copy of the
25 Form 990 the charter school filed that year with the federal
26 Internal Revenue Service.

1 (g) A charter school shall comply with all provisions of
2 this Article, the Illinois Educational Labor Relations Act, and
3 its charter. A charter school is exempt from all other State
4 laws and regulations in the School Code governing public
5 schools and local school board policies, except the following:

6 (1) Sections 10-21.9 and 34-18.5 of the School Code
7 regarding criminal history records checks and checks of the
8 Statewide Sex Offender Database and Statewide Murderer and
9 Violent Offender Against Youth Database of applicants for
10 employment;

11 (2) Sections 24-24 and 34-84A of the School Code
12 regarding discipline of students;

13 (3) The Local Governmental and Governmental Employees
14 Tort Immunity Act;

15 (4) Section 108.75 of the General Not For Profit
16 Corporation Act of 1986 regarding indemnification of
17 officers, directors, employees, and agents;

18 (5) The Abused and Neglected Child Reporting Act;

19 (6) The Illinois School Student Records Act;

20 (7) Section 10-17a of the School Code regarding school
21 report cards; ~~and~~

22 (8) The P-20 Longitudinal Education Data System Act;
23 and-

24 (9) Section 27-23.7 of the School Code regarding
25 bullying prevention.

26 The change made by Public Act 96-104 to this subsection (g)

1 is declaratory of existing law.

2 (h) A charter school may negotiate and contract with a
3 school district, the governing body of a State college or
4 university or public community college, or any other public or
5 for-profit or nonprofit private entity for: (i) the use of a
6 school building and grounds or any other real property or
7 facilities that the charter school desires to use or convert
8 for use as a charter school site, (ii) the operation and
9 maintenance thereof, and (iii) the provision of any service,
10 activity, or undertaking that the charter school is required to
11 perform in order to carry out the terms of its charter.
12 However, a charter school that is established on or after the
13 effective date of this amendatory Act of the 93rd General
14 Assembly and that operates in a city having a population
15 exceeding 500,000 may not contract with a for-profit entity to
16 manage or operate the school during the period that commences
17 on the effective date of this amendatory Act of the 93rd
18 General Assembly and concludes at the end of the 2004-2005
19 school year. Except as provided in subsection (i) of this
20 Section, a school district may charge a charter school
21 reasonable rent for the use of the district's buildings,
22 grounds, and facilities. Any services for which a charter
23 school contracts with a school district shall be provided by
24 the district at cost. Any services for which a charter school
25 contracts with a local school board or with the governing body
26 of a State college or university or public community college

1 shall be provided by the public entity at cost.

2 (i) In no event shall a charter school that is established
3 by converting an existing school or attendance center to
4 charter school status be required to pay rent for space that is
5 deemed available, as negotiated and provided in the charter
6 agreement, in school district facilities. However, all other
7 costs for the operation and maintenance of school district
8 facilities that are used by the charter school shall be subject
9 to negotiation between the charter school and the local school
10 board and shall be set forth in the charter.

11 (j) A charter school may limit student enrollment by age or
12 grade level.

13 (k) If the charter school is approved by the Commission,
14 then the Commission charter school is its own local education
15 agency.

16 (Source: P.A. 97-152, eff. 7-20-11; 97-154, eff. 1-1-12;
17 97-813, eff. 7-13-12; 98-16, eff. 5-24-13.)

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.