

TITLE XV EDUCATION

CHAPTER 193-F PUPIL SAFETY AND VIOLENCE PREVENTION

Section 193-F:1

193-F:1 Title.

This chapter shall be known, and may be cited as the "Pupil Safety and Violence Prevention Act of 2000."

Source. 2000, 190:1, eff. Jan. 1, 2001.

Section 193-F:2

193-F:2 Purpose and Intent.

I. All pupils have the right to attend public schools, including chartered public schools, that are safe, secure, and peaceful environments. One of the legislature's highest priorities is to protect our children from physical, emotional, and psychological violence by addressing the harm caused by bullying and cyberbullying in our public schools.

II. Bullying in schools has historically included actions shown to be motivated by a pupil's actual or perceived race, color, religion, national origin, ancestry or ethnicity, sexual orientation, socioeconomic status, age, physical, mental, emotional, or learning disability, gender, gender identity and expression, obesity, or other distinguishing personal characteristics, or based on association with any person identified in any of the above categories.

III. It is the intent of the legislature to protect our children from physical, emotional, and psychological violence by addressing bullying and cyberbullying of any kind in our public schools, for all of the historical reasons set forth in this section, and to prevent the creation of a hostile educational environment.

IV. The sole purpose of this chapter is to protect all children from bullying and cyberbullying, and no other legislative purpose is intended, nor should any other intent be construed from the enactment of this chapter.

Source. 2000, 190:1. 2010, 155:1, eff. July 1, 2010.

Section 193-F:3

193-F:3 Definitions.

I. (a) "Bullying" means a single significant incident or a pattern of incidents involving a written, verbal, or electronic communication, or a physical act or gesture, or any combination thereof, directed at another pupil which:

- (1) Physically harms a pupil or damages the pupil's property;
- (2) Causes emotional distress to a pupil;
- (3) Interferes with a pupil's educational opportunities;
- (4) Creates a hostile educational environment; or
- (5) Substantially disrupts the orderly operation of the school.

(b) "Bullying" shall include actions motivated by an imbalance of power based on a pupil's actual or perceived personal characteristics, behaviors, or beliefs, or motivated by the pupil's association with another person and based on the other person's characteristics, behaviors, or beliefs.

II. "Cyberbullying" means conduct defined in paragraph I of this section undertaken through the use of electronic devices.

III. "Electronic devices" include, but are not limited to, telephones, cellular phones, computers, pagers, electronic mail, instant messaging, text messaging, and websites.

IV. "Perpetrator" means a pupil who engages in bullying or cyberbullying.

V. "School property" means all real property and all physical plant and equipment used for school purposes, including public or private school buses or vans.

VI. "Victim" means a pupil against whom bullying or cyberbullying has been perpetrated.

Source. 2000, 190:1. 2004, 205:1. 2010, 155:2, eff. July 1, 2010.

Section 193-F:4

193-F:4 Pupil Safety and Violence Prevention.

I. Bullying or cyberbullying shall occur when an action or communication as defined in RSA 193-F:3:

- (a) Occurs on, or is delivered to, school property or a school-sponsored activity or event on or off school property; or
- (b) Occurs off of school property or outside of a school-sponsored activity or event, if the conduct interferes with a pupil's educational opportunities or substantially disrupts the orderly operations of the school or school-sponsored activity or event.

II. The school board of each school district and the board of trustees of a chartered public school shall, no later than 6 months after the effective date of this section, adopt a written policy prohibiting bullying and cyberbullying. Such policy shall include the definitions set forth in RSA 193-F:3. The policy shall contain, at a minimum, the following components:

- (a) A statement prohibiting bullying or cyberbullying of a pupil.
- (b) A statement prohibiting retaliation or false accusations against a victim, witness, or anyone else who in good faith provides information about an act of bullying or cyberbullying and, at the time a report is made, a process for developing, as needed, a plan to protect pupils from retaliation.
- (c) A requirement that all pupils are protected regardless of their status under the law.
- (d) A statement that there shall be disciplinary consequences or interventions, or both, for a pupil who commits an act of bullying or cyberbullying, or falsely accuses another of the same as a means of retaliation or reprisal.
- (e) A statement indicating how the policy shall be made known to school employees, regular school volunteers, pupils, parents, legal guardians, or employees of a company under contract to a school, school district, or chartered public school. Recommended methods of communication include, but are not limited to, handbooks, websites, newsletters, and workshops.
- (f) A procedure for reporting bullying or cyberbullying that identifies all persons to whom a pupil or another person may report bullying or cyberbullying.
- (g) A procedure outlining the internal reporting requirements within the school or school district or chartered public school.
- (h) A procedure for notification, within 48 hours of the incident report, to the parent or parents or guardian of a victim of bullying or cyberbullying and the parent or parents or guardian of the perpetrator of the bullying or cyberbullying. The content of the notification shall comply with the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g.
- (i) A provision that the superintendent or designee may, within the 48-hour period, grant the school principal or designee a waiver from the notification requirement if the superintendent or designee deems such waiver to be in the best interest of the victim or perpetrator. Any such waiver granted shall be in writing. Granting of a waiver shall not

negate the school's responsibility to adhere to the remainder of its approved written policy.

- (j) A written procedure for investigation of reports, to be initiated within 5 school days of the reported incident, identifying either the principal or the principal's designee as the person responsible for the investigation and the manner and time period in which the results of the investigation shall be documented. The superintendent or designee may grant in writing an extension of the time period for the investigation and documentation of reports for up to an additional 7 school days, if necessary. The superintendent or superintendent's designee shall notify in writing all parties involved of the granting of an extension.
- (k) A requirement that the principal or designee develop a response to remediate any substantiated incident of bullying or cyberbullying, including imposing discipline if appropriate, to reduce the risk of future incidents and, where deemed appropriate, to offer assistance to the victim or perpetrator. When indicated, the principal or designee shall recommend a strategy for protecting all pupils from retaliation of any kind.
- (l) A requirement that the principal or designee report all substantiated incidents of bullying or cyberbullying to the superintendent or designee.
- (m) A written procedure for communication with the parent or parents or guardian of victims and perpetrators regarding the school's remedies and assistance, within the boundaries of applicable state and federal law. This communication shall occur within 10 school days of completion of the investigation
- (n) Identification, by job title, of school officials responsible for ensuring that the policy is implemented.

III. The department of education may develop a model policy in accordance with the requirements set forth in this chapter which may be used by schools, school districts, and chartered public schools as a basis for adopting a local policy.

IV. A school board or board of trustees of a chartered public school shall, to the greatest extent practicable, involve pupils, parents, administrators, school staff, school volunteers, community representatives, and local law enforcement agencies in the process of developing the policy. The policy shall be adopted by all public schools within the school district and, to the extent possible, the policy should be integrated with the school's curriculum, discipline policies, behavior programs, and other violence prevention efforts.

Source. 2000, 190:1. 2010, 155:2, eff. July 1, 2010.

Section 193-F:5

193-F:5 Training and Assessment.

I. Each school district and chartered public school shall provide:

- (a) Training on policies adopted pursuant to this chapter, within 9 months of the effective date of this section and annually thereafter, for school employees, regular school volunteers, or employees of a company under contract to a school, school district, or chartered public school who have significant contact with pupils for the purpose of preventing, identifying, responding to, and reporting incidents of bullying or cyberbullying; and
- (b) Educational programs for pupils and parents in preventing, identifying, responding to, and reporting incidents of bullying or cyberbullying. Any such program for pupils shall be written and presented in age appropriate language.

II. The department of education shall provide evidence-based educational programs to support training as required under paragraph I.

III. Nothing in this chapter shall require the inclusion of any specific curriculum, textbook, or other material designed to prevent bullying or cyberbullying in any program or activity conducted by an educational institution. The omission of such subject matter from any curriculum, textbook, or other material in any program or activity conducted by an educational institution shall not constitute a violation of this chapter.

Source. 2002, 149:2. 2010, 155:2, eff. July 1, 2010.

Section 193-F:6

193-F:6 Reporting.

I. Each school district and chartered public school shall annually report substantiated incidents of bullying or cyberbullying to the department of education. Pursuant to the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, such reports shall not contain any personally identifiable information pertaining to any pupil. The department shall develop a form to facilitate the reporting by school districts and chartered public schools. The department shall maintain records of such reports.

II. The department of education shall prepare an annual report of substantiated incidents of bullying or cyberbullying in the schools. The report shall include the number and types of such incidents in the schools and shall be submitted to the president of the senate, the speaker of the house of representatives, and the chairpersons of the house and senate education committees. The department of education shall assist school districts with recommendations for appropriate actions to address identified problems with pupil safety and violence prevention.

Source. 2010, 155:3, eff. July 1, 2010.

Section 193-F:7

193-F:7 Immunity.

A school administrative unit employee, school employee, chartered public school employee, regular school volunteer, pupil, parent, legal guardian, or employee of a company under contract to a school, school district, school administrative unit, or chartered public school, shall be immune from civil liability for good faith conduct arising from or pertaining to the reporting, investigation, findings, recommended response, or implementation of a recommended response under this chapter. The department of education shall be immune from civil liability for its good faith conduct in making recommendations under this chapter.

Source. 2010, 155:3, eff. July 1, 2010.

Section 193-F:8

193-F:8 School District Discrimination or Harassment Policies.

A school district or chartered public school may establish separate discrimination or harassment policies that include categories of pupils, and nothing in this chapter shall prevent a school district or chartered public school from remediating any discrimination or harassment based on a person's membership in a legally protected category under local, state, or federal law.

Source. 2010, 155:3, eff. July 1, 2010.

Section 193-F:9

193-F:9 Private Right of Action Not Permitted.

Nothing in this chapter shall supersede or replace existing rights or remedies under any other general or special law, including criminal law, nor shall this chapter create a private right of action for enforcement of this chapter against any school district or chartered public school, or the state.

Source. 2010, 155:3, eff. July 1, 2010.

Section 193-F:10

193-F:10 Public Academies.

The provisions of this chapter shall apply to public academies as defined in RSA 194:23.

Source. 2010, 155:3, eff. July 1, 2010.