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Legislative Document

No. 880

S.P. 294

In Senate, March 8, 2021

An Act To Protect School Employees from Workplace Bullying

Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator DAUGHTRY of Cumberland.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 20-A MRSA §6554, sub-§1**, as enacted by PL 2011, c. 659, §3, is amended
3 to read:

4 **1. Findings.** All students have the right to attend and all school employees have the
5 right to work in public schools that are safe, secure and peaceful environments. The
6 Legislature finds that bullying and cyberbullying have a negative effect on the school
7 environment ~~and~~ student learning and student and school employee well-being. These
8 behaviors must be addressed to ensure student and school employee safety and an inclusive
9 learning environment. Bullying may be motivated by a student's or school employee's
10 actual or perceived race; color; religion; national origin; ancestry or ethnicity; sexual
11 orientation; socioeconomic status; age; physical, mental, emotional or learning disability;
12 gender; gender identity and expression; physical appearance; weight; family status; or other
13 distinguishing personal characteristics or may be based on association with another person
14 identified with such a characteristic. Nothing in this section may be interpreted as
15 inconsistent with the existing protection, in accordance with the First Amendment of the
16 United States Constitution, for the expression of religious, political and philosophical views
17 in a school setting.

18 **Sec. 2. 20-A MRSA §6554, sub-§2, ¶A**, as enacted by PL 2011, c. 659, §3, is
19 amended to read:

20 A. "Alternative discipline" means disciplinary action other than a student's suspension
21 or expulsion from school that is designed to correct and address the root causes of a the
22 student's specific misbehavior while retaining the student in class or school, or
23 restorative school practices to repair the harm done to relationships and persons from
24 the student's misbehavior. "Alternative discipline" includes, but is not limited to:

- 25 (1) Meeting with the student and the student's parents;
- 26 (2) Reflective activities, such as requiring the student to write an essay about the
27 student's misbehavior;
- 28 (3) Mediation when there is mutual conflict between peers, rather than one-way
29 negative behavior, and when both parties freely choose to meet;
- 30 (4) Counseling;
- 31 (5) Anger management;
- 32 (6) Health counseling or intervention;
- 33 (7) Mental health counseling;
- 34 (8) Participation in skills building and resolution activities, such as social-
35 emotional cognitive skills building, resolution circles and restorative conferencing;
- 36 (9) Community service; and
- 37 (10) In-school detention or suspension, which may take place during lunchtime,
38 after school or on weekends.

39 **Sec. 3. 20-A MRSA §6554, sub-§2, ¶B**, as enacted by PL 2011, c. 659, §3, is
40 amended to read:

1 B. "Bullying" includes, but is not limited to, a written, oral or electronic expression or
2 a physical act or gesture or any combination thereof directed at a student or school
3 employee or students or school employees that:

4 (1) Has, or a reasonable person would expect it to have, the effect of:

5 (a) Physically harming a student or school employee or damaging a student's
6 or school employee's property; or

7 (b) Placing a student or school employee in reasonable fear of physical harm
8 or damage to the student's or school employee's property;

9 (2) Interferes with the rights of a student or school employee by:

10 (a) Creating an intimidating or hostile educational environment for the student
11 or school employee; or

12 (b) Interfering with the student's academic performance or ability to
13 participate in or benefit from the services, activities or privileges provided by
14 a school; or

15 (c) Interfering with the school employee's work performance or ability to
16 participate in work-related school activities; or

17 (3) Is based on a student's or school employee's actual or perceived characteristics
18 identified in Title 5, section 4602 or 4684-A; or is based on a student's or school
19 employee's association with a person with one or more of these actual or perceived
20 characteristics or any other distinguishing characteristics and that has the effect
21 described in subparagraph (1) or (2).

22 "Bullying" includes cyberbullying.

23 **Sec. 4. 20-A MRSA §6554, sub-§2, ¶D**, as enacted by PL 2011, c. 659, §3, is
24 amended to read:

25 D. "Retaliation" means an act or gesture against a student or school employee for
26 asserting or alleging an act of bullying. "Retaliation" also includes reporting that is not
27 made in good faith on an act of bullying.

28 **Sec. 5. 20-A MRSA §6554, sub-§4, ¶A**, as enacted by PL 2011, c. 659, §3, is
29 amended to read:

30 A. Takes place at school or on school grounds, at any school-sponsored or school-
31 related activity or event or while students or school employees are being transported to
32 or from school or school-sponsored activities or events; or

33 **Sec. 6. 20-A MRSA §6554, sub-§4, ¶B**, as enacted by PL 2011, c. 659, §3, is
34 amended to read:

35 B. Takes place elsewhere or through the use of technology, but only if the bullying
36 also infringes on the rights of the student or school employee at school as set forth in
37 subsection 2, paragraph B.

38 **Sec. 7. 20-A MRSA §6554, sub-§5**, as enacted by PL 2011, c. 659, §3, is amended
39 to read:

1 **5. Adoption of policy.** When revising the policies and procedures it has established
2 to address bullying of students pursuant to section 1001, subsection 15, paragraph H, a
3 school board shall ensure that its policies and procedures are consistent with the model
4 policy developed or revised by the commissioner pursuant to section 254, subsection 11-A.
5 The policies and procedures must include, but are not limited to:

6 A. A provision identifying the responsibility of students and others on school grounds
7 to comply with the policies;

8 B. A clear statement that bullying, harassment and sexual harassment and retaliation
9 for reporting incidents of such behavior are prohibited;

10 C. A provision outlining the responsibility of a superintendent to implement and
11 enforce the bullying policies required by this section, including:

12 (1) A requirement that the superintendent designate a school principal or other
13 school personnel to administer the policies at the school level; and

14 (2) A procedure for publicly identifying the superintendent's designee or designees
15 for administering the policies at the school level;

16 D. A requirement that school staff members, coaches and advisors for extracurricular
17 and cocurricular activities report incidents of bullying to the school principal or other
18 school personnel designated by the superintendent pursuant to paragraph C;

19 E. Procedures for students, school staff members, parents and others to report incidents
20 of bullying. The procedures must permit reports of bullying to be made anonymously;

21 F. A procedure for promptly investigating and responding to incidents of bullying,
22 including written documentation of reported incidents and the outcome of the
23 investigations;

24 G. A clear statement that any person who engages in bullying, who is determined to
25 have knowingly and falsely accused another of bullying or who engages in acts of
26 retaliation against a person who reports a suspected incident of bullying is subject to
27 disciplinary actions, which actions may include but are not limited to imposing a series
28 of graduated consequences that include alternative discipline;

29 H. A procedure for a person to appeal a decision of a school principal or a
30 superintendent's designee related to taking or not taking disciplinary action in
31 accordance with the policies adopted pursuant to this subsection. The appeals
32 procedure must be consistent with other appeals procedures established by the school
33 board and may include an appeal to the superintendent;

34 I. A procedure to remediate any substantiated incident of bullying to counter the
35 negative impact of the bullying and reduce the risk of future bullying incidents, which
36 may include referring the victim, perpetrator or other involved persons to counseling
37 or other appropriate services;

38 J. A process for the school to communicate to the parent of a student who has been
39 bullied the measures being taken to ensure the safety of the student who has been
40 bullied and to prevent further acts of bullying; and

1 K. A procedure for communicating with a local or state law enforcement agency if the
2 school principal or the superintendent's designee believes that the pursuit of criminal
3 charges or a civil action under the Maine Civil Rights Act is appropriate.

4 School boards may combine the policies and procedures required by this subsection with
5 nondiscrimination, harassment and sexual harassment policies and grievance procedures.

6 **SUMMARY**

7 This bill amends the law governing bullying in public schools to include a prohibition
8 on the bullying of school employees.