

Sixty-second  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1465**

Introduced by

Representatives R. Kelsch, Vigesaa, Gruchalla

Senators Flakoll, Wardner, Warner

1 A BILL ~~for an Act to create and enact a new section to chapter 15.1-19 of the North Dakota~~  
2 ~~Century Code, relating to prevention of bullying in schools.~~for an Act to create and enact six  
3 new sections to chapter 15.1-19 of the North Dakota Century Code, relating to the prevention of  
4 bullying in public schools.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 ~~SECTION 1. A new section to chapter 15.1-19 of the North Dakota Century Code is created~~  
7 ~~and enacted as follows:~~

8 ~~School bullying prevention - Prohibition - Implementation - Immunity.~~

9 ~~1. As used in this section:~~

10 ~~a. "Bullying" means conduct occurring or received at school, including through~~  
11 ~~technology or electronic means:~~

12 ~~(1) That is so severe, pervasive, or objectively offensive that it substantially~~  
13 ~~interferes with or impairs a student's educational opportunities or~~  
14 ~~benefits;~~

15 ~~(2) That has the effect of substantially disrupting the orderly operation of the~~  
16 ~~school; or~~

17 ~~(3) That places a student in actual and reasonable fear of harm to the~~  
18 ~~student's person or damage to the student's property.~~

19 ~~b. "School" includes a classroom or other location on school premises, a~~  
20 ~~schoolbus or other school-related vehicle, a schoolbus stop, an activity or~~  
21 ~~event sponsored by a school, whether or not it is held on school premises,~~  
22 ~~and any other program or function where the school is responsible for the~~  
23 ~~child.~~

~~2. A person may not engage in bullying or reprisal or retaliation against a victim, witness, or person who reports information about an act of bullying.~~

~~3. a. Not later than June 30, 2012, each school district shall adopt a policy prohibiting bullying at school. The school district shall involve parents and guardians, school employees, volunteers, students, administrators, law enforcement, domestic violence sexual assault organizations as defined by subsection 3 of section 14-07.1-01, and community representatives in the process of creating any policy that is adopted subsequent to the effective date of this Act. The school district shall submit the policies created under this section to the department of public instruction. Policies created under this section shall be periodically reviewed and may be revised as necessary.~~

~~b. The policy prohibiting bullying shall include, without limitation:~~

~~(1) A statement prohibiting bullying of a student;~~

~~(2) A definition of bullying which includes, at a minimum, the definition as provided in this section;~~

~~(3) A provision that there will be consequences and appropriate remedial actions for persons committing acts of bullying, or engaging in reprisal or retaliation;~~

~~(4) Procedures for reporting and documenting acts of bullying, including a provision for reporting anonymously. However, formal disciplinary action shall not be taken solely on the basis of an anonymous report. The procedures shall identify the appropriate school personnel responsible for receiving a report and investigating a complaint, as well as a schedule for document retention;~~

~~(5) Procedures for prompt investigation of reports or complaints of serious violations. These procedures shall include a requirement that school personnel notify local law enforcement immediately if the initial school investigation creates a reasonable suspicion that a crime may have occurred;~~

~~(6) A provision that prohibits reprisal or retaliation against a person who reports or makes a complaint of bullying;~~

- 1 ~~———— (7) A provision that the school will develop a strategy for protecting a victim~~  
2 ~~from additional bullying, and from retaliation following a report;~~
- 3 ~~———— (8) A provision that there will be consequences and appropriate remedial~~  
4 ~~action for a person who is found to have made a false accusation, report,~~  
5 ~~or complaint;~~
- 6 ~~———— (9) A method for discussing the district's bullying policy with students; and~~  
7 ~~———— (10) A statement of how the policy is to be publicized, including notice that~~  
8 ~~the policy applies to participation in functions sponsored by the school.~~
- 9 ~~———— c. To assist local school districts in developing a policy under this subsection,~~  
10 ~~the department of public instruction, North Dakota school boards association,~~  
11 ~~and education standards and practices board shall not later than~~  
12 ~~December 31, 2011, develop model policies applicable to kindergarten-~~  
13 ~~through grade twelve and teacher preparation program standards on the~~  
14 ~~identification and prevention of bullying. Upon request, the department may~~  
15 ~~provide training and technical assistance to districts in carrying out this~~  
16 ~~section.~~
- 17 ~~———— d. Each local school board shall include the policy adopted by a school district~~  
18 ~~pursuant to this section in a publication of the comprehensive rules,~~  
19 ~~procedures, and standards of conduct for schools of a school district and in~~  
20 ~~each school's student's handbook.~~
- 21 ~~———— e. Information regarding the school district's policy against bullying shall be~~  
22 ~~incorporated into each district's professional development programs and shall~~  
23 ~~be provided to volunteers and other noncertified employees of the district who~~  
24 ~~have significant contact with students.~~
- 25 ~~———— f. School districts shall implement kindergarten through grade twelve bullying~~  
26 ~~prevention programs. Upon request, the department of public instruction shall~~  
27 ~~provide guidance in developing these programs. Upon adoption of the~~  
28 ~~program, but no later than June 13, 2013, each school district shall provide a~~  
29 ~~report of the prevention program and its implementation to the department of~~  
30 ~~public instruction.~~

~~4. This section may not be interpreted to prevent a victim from seeking redress pursuant to any other applicable civil or criminal law. This section does not create or alter any civil cause of action for monetary damages against any person or school district nor does it constitute grounds for any claim or motion raised by either the state or defendant in any proceedings. A school employee, volunteer, or student, or a student's parent or guardian who promptly, reasonably, and in good faith reports an incident of bullying to the appropriate school official designated by the school district or accredited nonpublic school is immune from civil or criminal liability relating to such report and to participation in any administrative or judicial proceeding resulting from or relating to the report.~~

**SECTION 1.** A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

**Bullying - Definition.**

**As used in this Act:**

**1. "Bullying" means:**

**a. Conduct that occurs in a public school, on school district premises, in a district owned or leased schoolbus or school vehicle, or at any public school or school district sanctioned or sponsored activity or event and which:**

**(1) Is so severe, pervasive, or objectively offensive that it substantially interferes with the student's educational opportunities;**

**(2) Places the student in actual and reasonable fear of harm;**

**(3) Places the student in actual and reasonable fear of damage to property of the student; or**

**(4) Substantially disrupts the orderly operation of the public school; or**

**b. Conduct that is received by a student while the student is in a public school, on school district premises, in a district owned or leased schoolbus or school vehicle, or at any public school or school district sanctioned or sponsored activity or event and which:**

**(1) Is so severe, pervasive, or objectively offensive that it substantially interferes with the student's educational opportunities;**

**(2) Places the student in actual and reasonable fear of harm;**

(3) Places the student in actual and reasonable fear of damage to property of the student; or

(4) Substantially disrupts the orderly operation of the public school.

2. "Conduct" includes the use of technology or other electronic media.

**SECTION 2.** A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

**Bullying - Prohibition by policy.**

1. Before July 1, 2012, each school district shall adopt a policy providing that while at a public school, on school district premises, in a district owned or leased schoolbus or school vehicle, or at any public school or school district sanctioned or sponsored activity or event, a student may not:

a. Engage in bullying; or

b. Engage in reprisal or retaliation against:

(1) A victim of bullying;

(2) An individual who witnesses an alleged act of bullying;

(3) An individual who reports an alleged act of bullying; or

(4) An individual who provides information about an alleged act of bullying.

2. The policy required by this section must:

a. Include a definition of bullying that at least encompasses the conduct described in section 1 of this Act;

b. Establish procedures for reporting and documenting alleged acts of bullying, reprisal, or retaliation, and include procedures for anonymous reporting of such acts;

c. Establish procedures, including timelines, for school district personnel to follow in investigating reports of alleged bullying, reprisal, or retaliation;

d. Establish a schedule for the retention of any documents generated while investigating reports of alleged bullying, reprisal, or retaliation;

e. Set forth the disciplinary measures applicable to an individual who engaged in bullying or who engaged in reprisal or retaliation, as set forth in subsection 1;

f. Require the notification of law enforcement personnel if an investigation by school district personnel results in a reasonable suspicion that a crime might have occurred;

g. Establish strategies to protect a victim of bullying, reprisal, or retaliation; and

h. Establish disciplinary measures to be imposed upon an individual who makes a false accusation, report, or complaint pertaining to bullying, reprisal, or retaliation.

3. In developing the bullying policy required by this section, a school district shall involve parents, school district employees, volunteers, students, school district administrators, law enforcement personnel, domestic violence sexual assault organizations as defined by subsection 3 of section 14-07.1-01, and community representatives.

4. Upon completion of the policy required by this section, a school district shall:

a. Ensure that the policy is explained to and discussed with its students;

b. File a copy of the policy with the superintendent of public instruction; and

c. Make the policy available in student and personnel handbooks.

5. Each school district shall review and revise its policy as it determines necessary and shall file a copy of the revised policy with the superintendent of public instruction.

**SECTION 3.** A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

**Professional development activities.**

Each school district shall include, in professional development activities, information regarding the prevention of bullying and shall provide information regarding the prevention of bullying to all volunteers and nonlicensed personnel who have contact with students.

**SECTION 4.** A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

**Bullying prevention programs.**

Each school district shall provide bullying prevention programs to all students from kindergarten through grade twelve.

**SECTION 5.** A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

**Causes of action - Immunity - School districts.**

1. This Act does not prevent a victim from seeking redress pursuant to any other applicable civil or criminal law. This Act does not create or alter any civil cause of action for monetary damages against any person or school district, nor does this Act constitute grounds for any claim or motion raised by either the state or a defendant in any proceedings.

2. Any individual who promptly, reasonably, and in good faith reports an incident of bullying, reprisal, or retaliation to the school district employee or official designated in the school district bullying policy is immune from civil or criminal liability resulting from or relating to the report or to the individual's participation in any administrative or judicial proceeding stemming from the report.

3. A school district and its employees are immune from any liability that might otherwise be incurred as a result of a student having been the recipient of bullying, if the school district implemented a bullying policy, as required by section 2 of this Act and substantially complied with that policy.

**SECTION 6.** A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

**Causes of action - Immunity - Nonpublic schools.**

1. This Act does not prevent a victim from seeking redress pursuant to any other applicable civil or criminal law. This Act does not create or alter any civil cause of action for monetary damages against any person or nonpublic school, nor does this Act constitute grounds for any claim or motion raised by either the state or a defendant in any proceedings.

2. Any individual who promptly, reasonably, and in good faith reports an incident of bullying, reprisal, or retaliation to the nonpublic school employee or official designated in the school's bullying policy is immune from civil or criminal liability resulting from or relating to the report or to the individual's participation in any administrative or judicial proceeding stemming from the report.

3. A nonpublic school and its employees are immune from any liability that might otherwise be incurred as a result of a student having been the recipient of bullying, if

- 1 | the school implemented a bullying policy, similar to that required by section 2 of this
- 2 | Act and substantially complied with that policy.