

# House Research Act Summary

**CHAPTER:** 160

**SESSION:** 2014 Regular Session

**TOPIC:** Providing for safe and supportive schools by prohibiting student bullying

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## Overview

In 2012, Governor Dayton established a task force on preventing student bullying. The task force made eight separate recommendations for reducing and eliminating incidents of bullying, harassment, and intimidation in Minnesota schools. This chapter implements the task force recommendations.

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#### **1 School student bullying policy.**

**Subd. 1. Student bullying policy; scope and application.** (a) Makes this section applicable to bullying by a student against another student enrolled in a public school which occurs: (1) on school premises, at school functions or activities or on school transportation; (2) by use of electronic technology and communications on school premises, during school functions or activities, on school transportation, or on school computers, networks, forums, and mailing lists; or (3) by use of electronic technology and communications off school premises to the extent the use substantially and materially disrupts student learning or the school environment.

(b) Encourages nonpublic schools to electronically transmit to the education commissioner their antibullying policy and summary data on their bullying incidents, consistent with the school accreditation cycle.

(c) Excludes home schools and nonpublic schools including religious schools.

(d) Subjects a school-age child who voluntarily participates in a public school activity to the same student bullying provisions applicable to the public school students participating in the activity.

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**Subd. 2. Definitions.** (a) Declares the terms have the meanings given them.

(b) to (d) Define school district, public school including a charter school, and a public school student.

(e) Defines “bullying” to mean intimidating, threatening, abusive, or harassing conduct that is objectively offensive and: (1) there is an actual or perceived power imbalance between the student engaging in prohibited conduct and the target of the behavior and the conduct is repeated or forms a pattern; or (2) materially and substantially interferes with a student’s educational opportunities or performance or ability to participate in a school function or activity or receive a school benefit, service, or privilege.

(f) Defines “cyberbullying” to mean bullying using technology or other electronic communication.

(g) Indicates that intimidating, threatening, abusive, or harming conduct may involve conduct that causes physical harm to a student or a student’s property or causes a student to be in reasonable fear of harm to person or property; under Minnesota common law, violates a student’s reasonable expectation of privacy, defames a student, or constitutes intentional infliction of emotional distress against a student; is directed at a student or students based on a person’s actual or perceived race, ethnicity, color, creed, religion, national origin, immigration status, sex, marital status, familial status, socioeconomic status, physical appearance, sexual orientation, gender identity and expression, academic status, disability, or status with regard to public assistance, age, or any additional characteristic defined in chapter 363A, the Minnesota Human Rights Act. Indicates prohibited conduct need not be based on any particular characteristic.

(h) Defines “prohibited conduct” to mean bullying or cyberbullying or retaliation for asserting, alleging, reporting, or providing information about such conduct or knowingly making a false report about bullying.

(i) Defines “remedial response” to mean a measure to stop and correct prohibited conduct, prevent prohibited conduct from recurring, and protect, support, and intervene on behalf of a student who is the target of prohibited conduct. Allows districts and schools to seek assistance from the school safety technical assistance center to develop and implement remedial responses on behalf of a student subject to prohibited conduct, to stop and correct a student engaged in prohibited conduct, and for use with students and adults in the school community.

**Subd. 3. Local district and school policy.** (a) Directs districts and schools, in consultation with students, parents, and community organizations, to the extent practicable, to adopt, implement, and periodically review, and revise where appropriate, a written policy to prevent and prohibit student bullying. Requires the policy to conform with Minnesota’s Pupil Fair Dismissal Law. Requires a district or school to adopt and implement a local policy, consistent with subdivisions 3 to 5 in this section, or comply with the state model policy under subdivision 6 in this section.

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(b) Requires each local policy to establish research-based, developmentally appropriate best practices that include preventive and remedial measures and effective discipline for deterring violations; apply throughout the school or district; and foster active student, parent, and community participation. Allows a district or school to request assistance from the school safety technical assistance center in complying with these local requirements. Requires the policy to: (1) define the roles and responsibilities of students, school personnel, and volunteers; (2) specifically list the characteristics contained in subdivision 2, paragraph (g), describing intimidating, threatening, abusive, or harming conduct; (3) emphasize remedial responses; (4) be conspicuously posted in the administrative offices of the school and district in summary form; (5) be given at the time of employment to each school employee and independent contractor who regularly interacts with student; (6) be included in the student handbook; and (7) be available to all parents and other school community members in accessible languages and an electronic format on the district or school Web site.

(c) Requires each district and school to discuss the policy with students, school personnel, and volunteers and provide training for all school personnel to prevent, identify, and respond to prohibited conduct. Requires districts and schools to establish a training cycle not to exceed a three-year period. Requires new school employees to receive training within the first year of their employment. Allows a district or school to accelerate the training cycle or provide additional training.

(d) Requires each district and school to submit an electronic copy of its policy to the education commissioner.

**Subd. 4. Local policy components.** (a) Requires each district and school policy to: (1) designate a staff member as a primary contact person in the school building to receive reports of prohibited conduct, ensure the policy and its procedures including restorative practices, consequences, and sanctions are fairly and fully implemented, and serve as primary contact on policy and procedural matters implicating the district or school and the education department; (2) require school employees who witness prohibited conduct or possess reliable information that a student is a target of prohibited conduct to make reasonable efforts to address and resolve the prohibited conduct; (3) provide a procedure to begin to investigate a report of prohibited conduct within three days and make the primary contact person responsible for the investigation and any resulting record and for keeping and regulating access to records; (4) indicate how a school will respond to incidents of prohibited conduct, including immediately intervening to protect the target of the prohibited conduct; at the school administrator's discretion and consistent with state and federal data practices law, notifying the parent of the reported target of the prohibited conduct and the parent of the actor engaged in the prohibited conduct; providing other remedial responses; and ensuring remedial responses are tailored to the particular incident and nature of the conduct and the student's developmental age and behavioral history; (5) prohibit reprisals or retaliation for asserting, alleging, reporting, or providing information about prohibited conduct and establish appropriate consequences for reprisals and retaliation; (6) allow anonymous reporting without relying on it

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exclusively to determine discipline; (7) provide information about available community resources to affected individuals as appropriate; (8) where appropriate to prevent or respond to prohibited conduct, require a child's individualized education program or section 504 plan to address the skills and proficiencies the child needs to respond to or not engage in prohibited conduct; (9) use new employee training materials, school publications, and the student handbook to publicize the policy; (10) require ongoing professional development for all school personnel who regularly interact with students to identify, prevent, and address prohibited conduct; (11) allow the alleged actor in an investigation of prohibited conduct to present a defense; and (12) inform affected students and parents of their state and federal data practices rights to obtain access to data on the incident and their right to contest the accuracy or completeness of the data.

(b) Requires professional development under a local policy to include: (1) developmentally appropriate strategies to prevent and intervene in prohibited conduct; (2) the complex dynamics affecting persons implicated in the prohibited conduct; (3) research on prohibited conduct, including specific categories of students at risk for prohibited conduct; (4) the incidence and nature of cyberbullying; and (5) Internet safety and cyberbullying.

**Subd. 5. Safe and supportive schools programming.** (a) Encourages districts and schools to provide developmentally appropriate programmatic instruction to help students identify, prevent, and reduce prohibited conduct; value diversity; foster students' knowledge and skills for solving problems, managing conflict, engaging in civil discourse, and recognizing, responding to, and reporting prohibited conduct; and make effective prevention and intervention programs available to students. Requires the school safety technical assistance center to assist a district or school, upon request, in helping students understand social media and cyberbullying. Requires districts and schools to establish strategies for creating a positive school climate and use evidence-based social-emotional learning to prevent and reduce discrimination and other improper conduct.

(b) Encourages districts and schools to (1) engage all students in creating a safe and supportive school environment; (2) partner with parents and the community to develop and implement prevention and intervention programs; (3) engage all students and adults in integrating education, intervention, and other remedial responses into the school environment; (4) train student bystanders to intervene in and report prohibited conduct incidents to the school's primary contact person; (5) teach students to advocate for themselves and others; (6) prevent inappropriate referrals to special education of students who may engage in prohibited conduct; and (7) foster student collaborations to provide a safe and supportive school climate.

**Subd. 6. State model policy.** (a) Directs the education commissioner, in consultation with the human rights commissioner, to develop and maintain a state model policy. Requires a district or school that does not adopt and implement a local policy under subdivisions 3 to 5 in this section to implement the state model policy and allows that district or school to supplement the state policy. Requires the education

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commissioner to assist districts and schools in implementing the state policy. Requires the state model policy to: (1) define prohibited conduct, consistent with this section; (2) apply the prohibited conduct policy components of this section; (3) for a child with a disability, where appropriate, permit the child's individualized education program or section 504 plan to address the skills and proficiencies the child needs to respond to or not engage in prohibited conduct; and (4) encourage violence prevention and character development education programs under current law.

(b) Directs the education commissioner to develop and post departmental procedures for: (1) periodically reviewing district and school compliance with this section; (2) investigating, reporting, and responding to noncompliance with this section, which may include an annual review of local improvement plans; and (3) allowing students, parents, and educators to file a noncompliance complaint with the commissioner.

(c) Directs the education commissioner to post on the department Web site information indicating that when a school or district allows noncurriculum-related student groups access to school facilities, it must give equal access to all student groups, regardless of the content of the group members' speech.

**Subd. 7. Relation to existing law.** Declares that this section does not establish any private right of action, limit rights currently available to an individual under other civil or criminal law, including chapter 363A, or interfere with a person's First Amendment rights of free speech and expression.

Makes this section effective for the 2014-2015 school year and later.

- 2** **Notice of the rights and responsibilities of students and parents under the Safe and Supportive Minnesota Schools Act.** Requires districts and schools to include in the school discipline policy annual notice about the rights and responsibilities of students and their parents under the Safe and Supportive Minnesota Schools Act.

Makes this section effective for the 2014-2015 school year and later.

- 3** **Federal, state, and local requirements.** Makes the requirement to adopt and implement a safe and supportive school policy applicable to charter schools.

Makes this section effective for the 2014-2015 school year and later.

- 4** **Program goals.** Includes in the guidelines and model plans for parental involvement programs a partnership with parents in establishing a positive school climate by developing and implementing prevention and intervention programs on prohibited conduct.

Makes this section effective immediately.

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**5 Parent and family involvement policy.** (a) Adds to the list of components in a parent and family involvement policy the use of community resources to establish a positive school climate by developing and implementing prevention and intervention programs on prohibited conduct.

(b) Directs the parent advisory committee to recommend to the school board and district or school how programs serving children and adolescents can collaborate on: (1) understanding child and adolescent development; (2) encouraging healthy communication between parents and children; (3) managing student behavior through positive reinforcement; (4) establishing expectations for student behavior; (5) providing media and Internet limits and supervision; and (6) promoting resilience and reducing risks for children.

Makes this section effective immediately.

**6 School Safety Technical Assistance Council.**

**Subd. 1. Establishment and membership.** (a) Establishes a 23-member multi-agency leadership council to improve school climate and safety to provide K-12 and postsecondary students with a safe and supportive environment in order to maximize students' learning potential.

(b) Includes on the council the commissioners of education, health, human rights, human services, public safety, and corrections and the Office of Higher Education, or their designees; one representative each from the Minnesota Association of School Administrators, the Minnesota School Boards Association, the Elementary and Secondary School Principals Associations, and Education Minnesota, selected by each organization; two representatives each for student support personnel, parents, and students selected by the education commissioner; two local law enforcement representatives selected by the public safety commissioner; two judicial branch representatives selected by the chief justice of the Minnesota supreme court; and a charter school representative selected by the Minnesota Association of Charter Schools.

(c) Declares that a member serve at the pleasure of their appointing authority and continues to serve until their successor is appointed.

**Subd. 2. Duties.** Directs the council to provide leadership in: establishing norms and standards for prevention, intervention, and support related to prohibited conduct; advancing evidence-based policy and best practices to improve school climate and promote school safety; developing and disseminating resources and training to help schools and communities address prohibited conduct and other school-safety issues; and developing policies and procedures for council services.

**Subd. 3. Meetings; chair.** Directs the education commissioner to convene the first council meeting by October 1, 2014, and to serve as chair. Requires the council to meet at least annually. Allows the council to conduct meetings without a quorum.

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**Subd. 4. Compensation.** Declares council members ineligible for compensation or reimbursement of expenses.

**Subd. 5. Support.** Directs the departments of education and public safety to assist council members upon request. Directs the council to consult with the school safety centers at the departments.

**Subd. 6. Reporting.** Directs the council to annually report to the education commissioner by October 1. Directs the education department to post council notices on the department Web site.

**Subd. 7. Expiration.** Causes the council to expire June 30, 2019.

**7 School safety and technical assistance center.** (a) Directs the education commissioner to establish a school safety and technical assistance center at the department to help districts and schools provide a safe and supportive learning environment and foster students' academic achievement by focusing on prevention, intervention, support, and recovery. Requires the center to work collaboratively with state agencies, schools, communities, individuals, and organizations to determine how best to use available resources.

(b) Includes among the center's services: (1) evidence-based policy review, development, and dissemination; (2) single, point-of-contact services for schools, parents, and students seeking information or help; (3) qualitative and quantitative data gathering, interpretation, and dissemination of summary data for existing reporting systems and student surveys and the identification and pursuit of emerging trends and issues; (4) assistance to districts and schools using Minnesota student survey results to inform intervention and prevention programs; (5) education and skill building; (6) multi-sector and multi-agency planning and advisory activities incorporating best practices and research; and (7) administrative and financial support to districts and schools for planning and for preventing and recovering from school violence.

(c) Directs the center to: (1) compile and make available to districts and schools evidence-based elements and resources for safe and supportive schools; (2) establish and maintain a central repository for collecting and analyzing information about prohibited conduct, including training materials, model programming, remedial responses, and other resources to improve the school climate and prevent prohibited conduct; (3) assist districts and schools to develop strategies and techniques for involving parents in efforts to protect and deter students from prohibited conduct; and (4) solicit input from social media experts on implementation.

(d) Directs the commissioner to provide administrative services and staff support. Lists center staff. Requires staffing to be based on an annual budget and work program developed by the center and submitted to the commissioner. Directs center staff to provide training under a fee-for-service agreement.

(e) Allows school climate staff to consult with school safety center staff at the Department of Public Safety in providing services under this section.

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(f) Makes the center voluntary and advisory. Declares that the center does not have enforcement, rulemaking, oversight, or regulatory authority.

(g) Causes the center to expire on June 30, 2019.

Makes this section effective beginning July 1, 2014.

**8** **Repealer.** Repeals Minnesota Statutes, section 121A.0695 (requiring school boards to adopt a written policy prohibiting intimidation and bullying of students) effective July 1, 2014.