

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

488Q0215

HOUSE BILL NO. 1279

Introduced by: Representatives Lederman, Bolin, Boomgarden, Carson, Curd, Elliott, Fargen, Feickert, Feinstein, Frerichs, Gosch, Greenfield, Hamiel, Hoffman, Hunhoff (Bernie), Iron Cloud III, Killer, Kirkeby, Kirschman, Lange, Lucas, McLaughlin, Moser, Noem, Novstrup (David), Nygaard, Olson (Ryan), Peters, Schlekeway, Sly, Sorenson, Street, Thompson, Vanderlinde, and Wink and Senators Gray, Adelstein, Bradford, Dempster, Garnos, Gillespie, Hansen (Tom), Jerstad, Kloucek, Knudson, Merchant, Nesselhuf, Olson (Russell), Peterson, Rhoden, and Schmidt

1 FOR AN ACT ENTITLED, An Act to require each school district to develop a policy to
2 prohibit bullying and harassment that meets certain requirements.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Bullying is the causing of physical hurt or psychological distress on one or more
5 students or school employees that may involve threat; intimidation; stalking as defined in
6 chapter 22-19A; physical violence; theft; harassment as defined in § 22-19A-4; or destruction
7 of property.

8 Harassment, for the purposes of this Act, is any threatening use of data or computer
9 software, written or verbal communication, or conduct directed against a student or school
10 employee that:

11 (1) Places a student or school employee in reasonable fear of harm to his or her person
12 or damage to his or her property;



1 (2) Substantially interferes with a student's educational performance; or

2 (3) Substantially disrupts the orderly operation of a school.

3 For the purposes of this Act, the definitions of bullying and harassment also include
4 retaliation against a student or school district employee by another student or school district
5 employee for asserting or alleging an act of bullying or harassment, and include the reporting
6 of an act of bullying or harassment that is not made in good faith.

7 Section 2. The school board of each school district shall, by December 1, 2009, adopt a
8 school district policy prohibiting bullying and harassment. If the school district already has such
9 a policy in place, the school board shall review and, if necessary, revise the policy so that it
10 meets the requirements of this Act by the deadline. The school board may involve students,
11 parents, teachers, administrators, other school staff, school volunteers, community
12 representatives, and local law enforcement agencies in the process of developing or revising a
13 policy pursuant to this Act, and the policy shall be implemented in coordination with school
14 district curriculum, disciplinary procedures, and other violence prevention efforts.

15 Section 3. Each school district policy developed pursuant to this Act shall contain the
16 following provisions:

17 (1) A statement prohibiting bullying and harassment, and a definition of bullying and
18 harassment that includes the definitions listed in section 1 of this Act;

19 (2) A description of the type of behavior expected from each student and employee of
20 the school district, and the consequences for a student or employee of the school
21 district who commits an act of bullying or harassment;

22 (3) A procedure for reporting an act of bullying or harassment, including provisions that
23 permit a person to anonymously report such an act, although formal disciplinary
24 action may not be based solely on an anonymous report; and

1 (4) A procedure for the prompt investigation and response to any report of bullying or
2 harassment, including a requirement that an investigation be conducted on any
3 alleged incident of bullying or harassment committed against a child while the child
4 is aboard a school bus, at a school bus stop, or at a school-sponsored event.

5 Section 4. Each school district policy developed pursuant to this Act may also contain the
6 following provisions or other provisions as adopted by the school board of the school district:

7 (1) A process to investigate whether a reported act of bullying or harassment is within
8 the authority of the school district, and if not, a process for referring the report to an
9 appropriate jurisdiction;

10 (2) A procedure for providing immediate notification to the parent or guardian of any
11 student who is a victim of bullying or harassment, to the parent or guardian of any
12 student who is a perpetrator of an act of bullying or harassment, and to any local law
13 enforcement agencies where criminal charges may be filed against the perpetrator;

14 (3) A procedure to refer victims and perpetrators of bullying or harassment for
15 counseling;

16 (4) A procedure for annually reporting all incidents of bullying or harassment within the
17 school district, including the outcome of each and recommendations regarding any
18 incident reported that did not meet the criteria of this Act, to the local school board;

19 (5) A procedure for providing instruction to students, parents, teachers, school
20 administrators, school counselors, and school volunteers on identifying, preventing,
21 and responding to bullying or harassment;

22 (6) A procedure for regularly reporting the actions taken to protect a student who is a
23 victim of bullying or harassment to that student's parent or guardian; and

24 (7) A procedure for publicizing the policy, including publication in any student code of

1 conduct or employee handbook.

2 Section 5. Any school district employee, school volunteer, student, or parent who promptly
3 reports in good faith an act of bullying or harassment to the appropriate school district official
4 as designated in the school district's policy, and who makes the report in compliance with the
5 provisions of the school district's policy is immune from any cause of action for damages arising
6 from failure to remedy the reported incident.

7 Section 6. Neither the physical location nor the time of day of any incident involving the use
8 of computers or other electronic devices may be used as a defense to any disciplinary action
9 initiated pursuant to this Act.