
SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2019 - 2020 Regular

Bill No: AB 34 **Hearing Date:** June 5, 2019
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Urgency: No **Fiscal:** Yes
Consultant: Brandon Darnell

Subject: Pupils: bullying and harassment prevention information.

SUMMARY

This bill, commencing with the 2020-21 school year, requires local educational agencies to provide specified bullying and harassment prevention information in a prominent location on their existing internet website.

BACKGROUND

Existing law:

- 1) Defines "bullying" to mean any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, and including one or more acts committed by a pupil or group of pupils, directed toward one or more pupils that has, or can be reasonably predicted to have, the effect of one or more of the following:
 - a) Placing a reasonable pupil in fear of harm to that pupil's person or property.
 - b) Causing a reasonable pupil to experience a substantially detrimental effect on his or her physical or mental health.
 - c) Causing a reasonable pupil to experience substantial interference with his or her academic performance.
 - d) Causing a reasonable pupil to experience substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by a school. (Education Code § 48900)
- 2) Prohibits discrimination on the basis of disability, gender, gender expression, gender identity, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes, including immigration status, in any program or activity conducted by an educational institution that receives state financial assistance or enrolls pupils who receive state financial aid. (EC § 220, Penal Code § 422.55)
- 3) Requires the Superintendent of Public Instruction to post, and annually update, on the California Department of Education's website and provide to each school district a list of statewide resources, including community-based organizations,

- that provide support to youth, and their families, who have been subjected to school-based discrimination, harassment, intimidation, or bullying on the basis of religious affiliation, nationality, race, or ethnicity, or perceived religious affiliation, nationality, race, or ethnicity. (EC § 234.5)
- 4) Requires a local educational agency that serves pupils in grades 7 to 12 inclusive, to adopt at a regularly scheduled board meeting, a policy on pupil suicide prevention, developed in consultation with school and community stakeholders, school-employed mental health professionals, and suicide prevention experts. Requires that the policy, at a minimum, address procedures relating to suicide prevention, intervention, and postvention. (EC § 215).
 - 5) Requires the California Department of Education to post on its website, in both English and Spanish, and at a reading level that may be comprehended by pupils in high school, the information set forth in the federal regulations implementing Title IX. (EC § 221.6)
 - 6) Requires public schools, specified private schools, school districts, county offices of education (COEs), and charter schools, to post in a prominent and conspicuous location on their website, or the website of its school district, or COE, if it does not have a website, all of the following:
 - a) The name and contact information of the Title IX coordinator.
 - b) The rights of a pupil and the responsibilities of the school under Title IX.
 - c) A description of how to file a complaint under Title IX, including specified information regarding timelines, the process of how complaints will be investigated, a link to the U.S. Department of Education Office for Civil Rights complaints form.
 - 7) Requires the Superintendent of Public Instruction (SPI) to annually send a letter through electronic means to all public schools, specified private schools, school districts, COEs, and charter schools, informing them of their responsibilities under Title IX. (EC § 221.61)
 - 8) Defines the particular practices related to harassment and discrimination on the basis of sex, that are prohibited. (EC § 230)
 - 9) Requires each educational institution to have a written policy on sexual harassment, which must include information on where to obtain the specific rules and procedures for reporting charges of sexual harassment, and requires that the written policy be displayed in a prominent location in the main administrative building or other areas of the schoolsite where notices regarding the institution's rules, regulations, procedures, and standards of conduct are posted. Also requires that the written policy on sexual harassment, as it pertains to students, be provided as a part of any orientation program conducted for new students at the beginning of each quarter, semester, or school year. (EC § 231.5)

- 10) Requires the California Department of Education (CDE) to display current information, and periodically update information, on curricula and other resources that specifically address bias-related discrimination, harassment, intimidation, cyber sexual bullying, and bullying on its website. (EC § 234.2)
- 11) Requires the CDE to develop, and post on its website, a model handout describing the policies addressing bias-related discrimination, harassment, intimidation, and bullying in schools. (EC 234.3)
- 12) Requires local educational agency (LEA) to adopt procedures for preventing acts of bullying, including cyberbullying, by December 31, 2019. (EC 234.4)

ANALYSIS

This bill, commencing with the 2020-21 school year, requires local educational agencies to provide specified bullying and harassment prevention information in a prominent location on their existing internet website. Specifically, this bill:

- 1) Requires each LEA, commencing with the 2020–21 academic year, to ensure that all of the following information is readily accessible in a prominent location on the local agency’s existing internet website in a manner that is easily accessible to parents or guardians and pupils:
 - a) The LEA’s policy on pupil suicide prevention in grades 7 to 12, inclusive.
 - b) The definition of discrimination and harassment based on sex, as specified in law.
 - c) Title IX information required included on a LEA’s internet website pursuant to Section 221.61.
 - d) A link to the Title IX information required to be included on the CDE’s internet website pursuant to Section 221.6.
 - e) The LEA’s written policy on sexual harassment, as it pertains to pupils.
 - f) The LEA’s policy, if it exists, on preventing and responding to hate violence.
 - g) The LEA’s anti-discrimination, anti-harassment, anti-intimidation, and anti-bullying policies.
 - h) The LEA’s anti-cyberbullying procedures.
 - i) A section on social media bullying that includes all of the following references to possible forums for social media bullying:
 - i) Internet websites with free registration and ease of registration.
 - ii) Internet websites offering peer-to-peer instant messaging.

- iii) Internet websites offering comment forums or sections.
 - iv) Internet websites offering image or video posting platforms.
 - j) A section on cyberbullying prevention that includes both of the following:
 - i) Techniques for pupils to prevent and intervene in cyberbullying in real time.
 - ii) Techniques for parents to identify and intervene in cases of cyberbullying.
 - k) A link to statewide resources, including community-based organizations, compiled by the California Department of Education.
 - l) Any additional information a local educational agency deems important for preventing bullying and harassment.
- 2) Defines local educational agency to mean a county office of education, school district, state special school, or charter school.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “Under current law, local educational agencies, schools, and the [California] Department of Education produce a range of resources on bullying and harassment prevention. However, these resources are currently scattered between different agencies, websites, and requirements to inform parents and students.

AB 34 seeks to unify state and local resources into a single Bullying and Harassment Prevention webpage on local educational agencies’ websites. This resource will compile the bullying and harassment prevention policies created by local educational agencies, schools, and the [California] Department of Education to inform parents of policies and resources relevant to bullying and harassment prevention.

Posting this resource in a conspicuous and easily accessible place on the local educational agencies’ websites will ensure that not only are the resources effectively compiled, but also are accessible.”

- 2) ***Bullying continues to be a serious issue in schools.*** As noted by the Assembly Education Committee analysis, according to the Lucille Packard Foundation for Children’s Health, “bullying is considered a significant public health problem. National estimates indicate that between 20 and 30 percent of children and youth are bullied at school each year, with certain vulnerable groups at even higher risk, including students with disabilities and LGBTQ youth. This aggressive behavior, which may be physical, verbal, or social—and may occur in person or online—can have long-term harmful effects. In addition to the risk of physical injury, victims of bullying are at risk for depression, anxiety, suicidal

behavior, physical health problems, substance abuse into adulthood, low academic achievement, and poor social and school adjustment.”

The Packard Foundation’s KidsData.org notes that:

“According to 2013-2015 estimates, more than one in four California youth in grades 7, 9, 11, and non-traditional programs had been bullied or harassed at school in the previous year, and around one in five had been cyberbullied by other students. In each grade level, estimates of bullying and cyberbullying tended to be higher among girls than among boys in 2013-2015. Across all types of bullying and harassment, LGBTQ students and those with low levels of school connectedness were more likely to be victimized than their straight and more connected peers.

When students are bullied or harassed at school, it is most often for reasons of bias (related to disabilities, gender, race/ethnicity or national origin, religion, or sexual orientation). In 2013-2015, an estimated 29 percent of 7th graders, 28 percent of 9th graders, 24 percent of 11th graders, and 22 percent of non-traditional students statewide were bullied or harassed in the previous year for one or more bias-related reasons. The prevalence of bias-related bullying/harassment varied widely depending on the reason for bias and the group affected. For example, bullying and harassment for reasons related to race/ethnicity or national origin were twice as common among African American/black (27 percent), Asian (25 percent), and Native Hawaiian/Pacific Islander (29 percent) students when compared with their white counterparts (12 percent). Among students identifying as LGBTQ, about half were bullied or harassed because they were, or were thought to be, gay or lesbian.”

- 3) ***Teen dating violence is also an issue.*** The federal Centers for Disease Control and Prevention (CDC) reported in its publication “Dating Matters: Strategies to Promote Healthy Teen Relationships” that one in four adolescents – every year – claim to have been verbally, emotionally, physically, or sexually abused by a dating partner. As noted by the CDC, “among high school students who dated, 21 percent of females and 10 percent of males experienced physical and/or sexual dating violence. Among adult victims of rape, physical violence, and/or stalking by an intimate partner, 22 percent of women and 15 percent of men first experienced some form of partner violence between 11 and 17 years of age.” According to the CDC, “youth who are victims are more likely to experience symptoms of depression and anxiety, engage in unhealthy behaviors, like using tobacco, drugs, and alcohol, or exhibit antisocial behaviors and think about suicide. Youth who are victims of dating violence in high school are at higher risk for victimization during college.”
- 4) ***Should Pupils intervene in cyberbullying?*** The widespread use of smart phones and Internet access among youth has resulted in a new form of bullying: cyberbullying, which is characterized by the use of electronic forms of contact, such as text messaging and social media websites, some of which allow the perpetrator or bully to remain anonymous. As identified in “Interventions on Bullying and Cyberbullying in Schools: A Systematic Review” published in

Clinical Practice & Epidemiology in Mental Health, cyberbullying can take on the following forms:

- a) Flaming (online fights using electronic messages with angry and vulgar language).
- b) Harassment (repeatedly sending mean, insulting messages); cyberstalking (repeated, intense harassment and denigration that includes threats or creates significant fear).
- c) Denigration (spreading rumors online; sending or posting gossip about a person to damage his/her reputation or friendships).
- d) Impersonation (pretending to be someone else and sending or posting material to get that person in trouble or danger, or damage that person's reputation or friendships).
- e) Outing (sharing someone's secrets or embarrassing information or images online); trickery (tricking someone into revealing secrets or embarrassing information, then sharing it online).
- f) Exclusion (intentionally and cruelly excluding someone from an online group).

The National Association of School Psychologists published "Cyberbullying: Intervention and Prevention Strategies," which identifies interventions that victims, parents, and educators can take. Importantly, they encourage victims of cyberbullying to alert a responsible adult as soon as it occurs and expressly state that "victims of cyberbullying should not retaliate, as this may promote more intensive harassment from the cyberbully and *may make it unclear as to who originally instigated this aggressive, hurtful behavior*" (emphasis added). Accordingly, **staff recommends that the bill be amended** on page 5 to delete references to posting techniques for pupils to intervene in cyberbullying and instead include techniques for pupils and parents to report cyberbullying, as follows:

"(A) Techniques for pupils to prevent and ~~intervene in~~ *report* cyberbullying ~~in real time~~."

"(B) Techniques for parents to identify ~~and~~, intervene in, *and report* cases of cyberbullying."

- 5) **Related and previous legislation.** AB 543 (Smith, 2019) requires each educational institution to create a poster that notifies pupils of the institution's written policy on sexual harassment and to prominently and conspicuously display the poster in specified public and private areas at the schoolsite. AB 543 is pending before the Senate Education Committee.

ACR 256 (Reyes, Chapter 166, Statutes of 2018) declares July 27, 2018, as California Bullying Prevention Day, also to be known as Rosie's Day.

AB 1318 (Chiu, 2017-18 Session) would have required schools to provide staff members information about local resources available to support pupils subject to bias and discrimination based on certain actual or perceived characteristics; required annual trainings of school staff on addressing intergroup conflict; required reporting of bullying incidents to the Superintendent of Public Instruction; and requires the California Department of Education (CDE) to provide specific information on its website related to bias and discrimination and intergroup conflict. AB 1318 was held in the Assembly Appropriations Committee.

AB 2845 (Williams, Chapter 621, Statutes of 2016) requires the CDE, as part of its existing compliance monitoring activities, to assess whether local educational agencies have provided information to staff serving students in grades 7 through 12 on resources related to bullying due to religious affiliation, and requires the CDE to post on its website a list of the resources that support students who have been subject to school-based discrimination on the basis of actual or perceived religious affiliation, nationality, race or ethnicity.

SUPPORT

American Academy of Pediatrics
American Federation of State, County, and Municipal Employees
California State PTA
Disability Rights California

OPPOSITION

None received

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