



Legislating Bullying: A Brave New World

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On June 3, 2016, Governor Nixon signed into law HB 1583. This new law is Missouri Legislature's sweeping response to combat bullying in local schools. HB 1583 dramatically alters Missouri school districts' obligations regarding the definition and response to acts of student bullying.

As previously defined in Missouri state statute, bullying meant "intimidation or harassment that causes a reasonable student to fear for his or her physical safety or property." HB 1583, however, significantly modifies the prior statutory definition of bullying to include "intimidation, **unwanted aggressive behavior**, or harassment that **is repetitive or is substantially likely to be repeated and** causes a reasonable student to fear for his or her physical safety or property; **substantially interferes with the educational performance, opportunities, or benefits of any student without exception; or substantially disrupts the orderly operation of the school.**"¹ Further, HB 1583 specifically states that bullying may be composed of more than physical, written or oral actions, including "any threat of retaliation for reporting" acts of bullying.

HB 1583 also modifies Missouri's anti-bullying statute by adding a separate definition for "cyberbullying". Under the law, "cyberbullying" means bullying "through the transmission of a communication including, but not limited to, a message, text, sound, or image by means of an electronic device including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager." In addition to providing a statutory definition of cyberbullying, the new law states that any school district shall have jurisdiction to prohibit cyberbullying that "originates on a school's campus or at a district activity if the electronic communication was made using the school's technological resources, if there is a sufficient nexus to the educational environment, or if the electronic communication was made on the school's campus or at a district activity using the student's own personal technological resources."

While expanding the definition of bullying and cyberbullying is a significant change in and of itself, HB 1583 also mandates additional changes to how school districts report, investigate, and provide training on bullying. HB 1583 mandates that each school district's anti-bullying policy must be included in the school's student handbook and the policy must include each of the following:

- A statement prohibiting bullying;

¹ The **bold** text is the proposed new statutory language defining "bullying" in Section 160.775 RSMo.



- A definition of bullying at least as inclusive as the statutory definition in HB 1583;
- A statement requiring district employees to report any instance of bullying of which the employee has firsthand knowledge;
- A statement requiring a district employee who witnesses an incident of bullying to report the incident to the district's designated individual at the school within two school days of the employee witnessing the incident;
- A procedure for reporting an act of bullying;
- A statement requiring that the district designate an individual (teacher level staff or above) at each school in the district to receive reports of incidents of bullying;
- A procedure for prompt investigation of reports of violations and complaints, identifying one or more employees responsible for the investigation including, at a minimum, the following requirements:
 - (a) Within two school days of a report of an incident of bullying being received, the school principal, or his or her designee, shall initiate an investigation of the incident;
 - (b) The school principal may appoint other school staff to assist with the investigation; and
 - (c) The investigation shall be completed within ten school days from the date of the written report unless good cause exists to extend the investigation;
- A statement prohibiting reprisal or retaliation against any person who reports an act of bullying and identifying the consequence and appropriate remedial action for a person who engages in reprisal or retaliation;
- A statement of how the policy is to be publicized; and
- A process for discussing the district's anti-bullying policy with students and training school employees and volunteers in the requirements of the policy, including, at a minimum, the following statements:



- (a) The school district shall provide information and appropriate training to the school district staff who have significant contact with students regarding the policy;
- (b) The school district shall give annual notice of the policy to students, parents or guardians, and staff;
- (c) The school district shall provide education and information to students regarding bullying, including information regarding the school district policy prohibiting bullying, the harmful effects of bullying, and other applicable initiatives to address bullying, including student peer-to-peer initiatives to provide accountability and policy enforcement for those found to have engaged in bullying, reprisal, or retaliation against any person who reports an act of bullying;
- (d) The administration of the school district shall instruct its school counselors, school social workers, licensed social workers, mental health professionals, and school psychologists to educate students who are victims of bullying on techniques for students to overcome bullying's negative effects, including cultivating the student's self-worth and self-esteem; teaching the student to defend himself or herself assertively and effectively; helping the student develop social skills or encouraging the student to develop an internal locus of control; and
- (e) The administration of the school district shall implement programs and other initiatives to address bullying, to respond to such conduct in a manner that does not stigmatize the victim, and to make resources or referrals available to victims of bullying.

HB 1583 is now law. Every school district will need to overhaul its current anti-bullying policy for the 2016-2017 school year. If there is any concern for how a district should go about revising its anti-bullying policy, fear not. HB 1583 even mandates, as a matter of law, the process of how school districts should review and revise their anti-bullying policy, including gathering input from school personnel, students, and administrators.

While HB 1583 permits some discretion and latitude for local Missouri school districts in regard to combatting bullying, our Missouri Legislature, with the passing of this law, has now codified very detailed and specific actions for reporting, investigating, and training on bullying. This level of legislative detail regarding student misconduct is unprecedented. Accordingly, all public schools need to work on implementation for the coming school year.