

The 2016 Florida Statutes

Title XLVIII

K-20 EDUCATION CODE

Chapter 1006

SUPPORT FOR LEARNING

1006.147 Bullying and harassment prohibited.—

(1) This section may be cited as the “Jeffrey Johnston Stand Up for All Students Act.”

(2) Bullying or harassment of any student or employee of a public K-12 educational institution is prohibited:

(a) During any education program or activity conducted by a public K-12 educational institution;

(b) During any school-related or school-sponsored program or activity or on a school bus of a public K-12 educational institution;

(c) Through the use of data or computer software that is accessed through a computer, computer system, or computer network within the scope of a public K-12 educational institution; or

(d) Through the use of data or computer software that is accessed at a nonschool-related location, activity, function, or program or through the use of technology or an electronic device that is not owned, leased, or used by a school district or school, if the bullying substantially interferes with or limits the victim’s ability to participate in or benefit from the services, activities, or opportunities offered by a school or substantially disrupts the education process or orderly operation of a school. This paragraph does not require a school to staff or monitor any nonschool-related activity, function, or program.

(3) For purposes of this section:

(a) “Bullying” includes cyberbullying and means systematically and chronically inflicting physical hurt or psychological distress on one or more students and may involve:

1. Teasing;
2. Social exclusion;
3. Threat;
4. Intimidation;
5. Stalking;
6. Physical violence;
7. Theft;
8. Sexual, religious, or racial harassment;
9. Public or private humiliation; or

10. Destruction of property.

(b) “Cyberbullying” means bullying through the use of technology or any electronic communication, which includes, but is not limited to, any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic system, photoelectronic system, or photooptical system, including, but not limited to, electronic mail, Internet communications, instant messages, or facsimile communications. Cyberbullying includes the creation of a webpage or weblog in which the creator assumes the identity of another person, or the knowing impersonation of another person as the author of posted content or messages, if the creation or impersonation creates any of the conditions enumerated in the definition of bullying. Cyberbullying also includes the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more persons, if the distribution or posting creates any of the conditions enumerated in the definition of bullying.

(c) “Harassment” means any threatening, insulting, or dehumanizing gesture, use of data or computer software, or written, verbal, or physical conduct directed against a student or school employee that:

1. Places a student or school employee in reasonable fear of harm to his or her person or damage to his or her property;
2. Has the effect of substantially interfering with a student’s educational performance, opportunities, or benefits; or
3. Has the effect of substantially disrupting the orderly operation of a school.

(d) “Within the scope of a public K-12 educational institution” means, regardless of ownership, any computer, computer system, or computer network that is physically located on school property or at a school-related or school-sponsored program or activity.

(e) Definitions in s. 815.03 and the definition in s. 784.048(1)(d) relating to stalking are applicable to this section.

(f) The definitions of “bullying” and “harassment” include:

1. Retaliation against a student or school employee by another student or school employee for asserting or alleging an act of bullying or harassment. Reporting an act of bullying or harassment that is not made in good faith is considered retaliation.
2. Perpetuation of conduct listed in paragraph (a), paragraph (b), or paragraph (c) by an individual or group with intent to demean, dehumanize, embarrass, or cause physical harm to a student or school employee by:
 - a. Incitement or coercion;
 - b. Accessing or knowingly causing or providing access to data or computer software through a computer, computer system, or computer network within the scope of the district school system; or
 - c. Acting in a manner that has an effect substantially similar to the effect of bullying or harassment.

(4) Each school district shall adopt and review at least every 3 years a policy prohibiting bullying and harassment of a student or employee of a public K-12 educational institution. Each school district’s

policy shall be in substantial conformity with the Department of Education's model policy. The school district bullying and harassment policy shall afford all students the same protection regardless of their status under the law. The school district may establish separate discrimination policies that include categories of students. The school district shall involve students, parents, teachers, administrators, school staff, school volunteers, community representatives, and local law enforcement agencies in the process of adopting and reviewing the policy. The school district policy must be implemented by each school principal in a manner that is ongoing throughout the school year and integrated with the school's curriculum, bullying prevention and intervention program, discipline policies, and other violence prevention efforts. The school district policy must contain, at a minimum, the following components:

- (a) A statement prohibiting bullying and harassment.
- (b) A definition of bullying and a definition of harassment that include the definitions listed in this section.
- (c) A description of the type of behavior expected from each student and employee of a public K-12 educational institution.
- (d) The consequences for a student or employee of a public K-12 educational institution who commits an act of bullying or harassment.
- (e) The consequences for a student or employee of a public K-12 educational institution who is found to have wrongfully and intentionally accused another of an act of bullying or harassment.
- (f) A procedure for receiving reports of an alleged act of bullying or harassment, including provisions that permit a person to anonymously report such an act. However, this paragraph does not permit formal disciplinary action to be based solely on an anonymous report.
- (g) A procedure for the prompt investigation of a report of bullying or harassment and the persons responsible for the investigation. The investigation of a reported act of bullying or harassment is deemed to be a school-related activity and begins with a report of such an act. Incidents that require a reasonable investigation when reported to appropriate school authorities shall include alleged incidents of bullying or harassment allegedly committed against a child while the child is en route to school aboard a school bus or at a school bus stop.
- (h) A process to investigate whether a reported act of bullying or harassment is within the scope of the district school system and, if not, a process for referral of such an act to the appropriate jurisdiction. Computers without web-filtering software or computers with web-filtering software that is disabled shall be used when complaints of cyberbullying are investigated.
- (i) A procedure for providing immediate notification to the parents of a victim of bullying or harassment and the parents of the perpetrator of an act of bullying or harassment, as well as notification to all local agencies where criminal charges may be pursued against the perpetrator.
- (j) A procedure to refer victims and perpetrators of bullying or harassment for counseling.
- (k) A procedure for including incidents of bullying or harassment in the school's report of data concerning school safety and discipline required under s. 1006.09(6). The report must include each incident of bullying or harassment and the resulting consequences, including discipline and referrals.

The report must include in a separate section each alleged incident of bullying or harassment that does not meet the criteria of a prohibited act under this section with recommendations regarding such incidents. The Department of Education shall aggregate information contained in the reports.

(l) A list of programs authorized by the school district that provide instruction to students, parents, teachers, school administrators, counseling staff, and school volunteers on identifying, preventing, and responding to bullying or harassment, including instruction on recognizing behaviors that lead to bullying and harassment and taking appropriate preventive action based on those observations.

(m) A procedure for regularly reporting to a victim's parents the actions taken to protect the victim.

(n) A procedure for publicizing the policy, which must include its publication in the code of student conduct required under s. 1006.07(2) and in all employee handbooks.

(5) A school employee, school volunteer, student, or parent who promptly reports in good faith an act of bullying or harassment to the appropriate school official designated in the school district's policy and who makes this report in compliance with the procedures set forth in the policy is immune from a cause of action for damages arising out of the reporting itself or any failure to remedy the reported incident.

(6)(a) The physical location or time of access of a computer-related incident cannot be raised as a defense in any disciplinary action initiated under this section.

(b) This section does not apply to any person who uses data or computer software that is accessed through a computer, computer system, or computer network when acting within the scope of his or her lawful employment or investigating a violation of this section in accordance with school district policy.

(7) Distribution of safe schools funds provided to a school district shall be contingent upon and payable to the school district upon the school district's compliance with all reporting procedures contained in this section.

(8) On or before January 1 of each year, the Commissioner of Education shall report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the implementation of this section. The report shall include data collected pursuant to paragraph (4)(k).

(9) Nothing in this section shall be construed to abridge the rights of students or school employees that are protected by the First Amendment to the Constitution of the United States.

History.—s. 1, ch. 2008-123; s. 1, ch. 2013-87; s. 57, ch. 2014-39; s. 1, ch. 2016-119.