

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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District of  
Columbia  
Official Code*

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To require the Mayor to establish a bullying prevention task force, to require an agency, educational institution, and grantee that works with youth to establish a bullying prevention policy, to establish an appeal process for a party dissatisfied with the outcome of an initial investigation of an incident of bullying, to prohibit retaliation against a target, witness, or reporter of bullying, to provide immunity for an employee, volunteer, or youth who in good faith reports an incident of bullying, to authorize agencies, educational institutions, and grantees as defined in this act to establish bullying prevention programs to inform youth and train employees and volunteers about bullying, to require the Mayor to review the effectiveness of this act every 2 years and to submit the findings to the Council by a date certain, and to authorize the Mayor to issue rules to implement this act.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Youth Bullying Prevention Act of 2012”.

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) “Agency” means a District government entity that provides services, activities, or privileges to youth, including the:

- (A) Office of the State Superintendent of Education;
- (B) Department of Parks and Recreation;
- (C) District of Columbia Public Library; and
- (D) University of the District of Columbia.

(2)(A) “Bullying” means any severe, pervasive, or persistent act or conduct, whether physical, electronic, or verbal that:

(i) May be based on a youth’s actual or perceived race, color, ethnicity, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, intellectual ability, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, place of residence or business, or any other distinguishing characteristic, or on a youth’s association with a person, or group with any person, with one or more of the actual or perceived foregoing characteristics; and

(ii) Can be reasonably predicted to:

(I) Place the youth in reasonable fear of physical harm to his or her person or property;

(II) Cause a substantial detrimental effect on the youth's physical or mental health;

(III) Substantially interfere with the youth's academic performance or attendance; or

(IV) Substantially interfere with the youth's ability to participate in or benefit from the services, activities, or privileges provided by an agency, educational institution, or grantee.

(B) For the purposes of this paragraph, the terms "familial status," "family responsibilities," "gender identity or expression," "genetic information," "intrafamily offense," "marital status," "matriculation," "personal appearance," "political affiliation," "sexual orientation," and "source of income" shall have the same meaning as provided in section 102 of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 13-38; D.C. Official Code § 2-1401.02).

(3) "Educational institution" means any local education agency that receives funds from the District of Columbia.

(4) "Electronic communication" means a communication transmitted by means of an electronic device, including a telephone, cellular phone, computer, tablet, pager, or video or audio recording.

(5) "Employee" means an individual who performs a function for the District government for an agency, educational institution, or grantee who receives compensation for the performance of that function.

(6) "Grantee" means an entity or a contractor of an entity that, on behalf of the District government or through District funding, provides services, activities, or privileges to youth.

(7) "Human Rights Act" means the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 13-38; D.C. Official Code § 2-1401.01 *et seq.*).

(8) "Party" means a person accused of bullying, a target of bullying, or a parent or guardian of either a person accused of bullying or a target of bullying.

(9) "Youth," depending on the context, means:

(A) An individual of 21 years of age or less who is enrolled in an educational institution or who accesses the services or programs provided by an agency or grantee, or an individual of 22 years of age or less who is receiving special education services from an educational institution; or

(B) Individuals as described in subparagraph (A) of this paragraph considered as a group.

Sec. 3. Bullying prevention task force.

(a) Within 90 days of the effective date of this act, the Mayor shall establish a bullying prevention task force.

(b)(1) The task force shall consist of representatives from a diversity of the educational institutions and agencies that will be affected by this act, as well as community representatives, including:

- (A) Teachers;
- (B) Administrators from educational institutions and agencies;
- (C) School mental health professionals;
- (D) Parents, and legal guardians;
- (E) Youth;
- (F) Direct service providers; and
- (G) Advocates.

(2) In constituting this task force, the Mayor shall consider geographic and socioeconomic diversity as well as other forms of diversity.

(c) The task force shall:

- (1) Provide guidance to the Mayor on the implementation of this act;
- (2) Within 180 days of the effective date of this act, publicize a model policy, which shall contain each of the components required in section 4(b);
- (3) Assist educational institutions and agencies with developing policies in accordance with section 4;
- (4) Compile, and make available to each agency, educational institution, and grantee, a list of free or low-cost methods for establishing the bullying prevention programs authorized in section 7;
- (5) Within 180 days of receipt of the bullying prevention policies submitted pursuant to section 4(c), review each adopted policy for compliance with the requirements of section 4(b); and
- (6) Promulgate guidelines to assist the Mayor in evaluating the effectiveness of the bullying prevention policies that have been established.

(d) The task force shall disband 2 years after its initial meeting; provided, that at the discretion of the Mayor, a one-year extension may be granted by the Mayor.

Sec. 4. Bullying prevention policy.

(a) Within 365 days of the effective date of this act, in coordination with the task force established pursuant to section 3, each agency, educational institution, and grantee shall adopt a bullying prevention policy to be enforced:

- (1) On its property, including electronic communication on, or with, its property;

(2) At sponsored functions;  
(3) On its transportation, or transportation sponsored by it; and  
(4) Through electronic communication to the extent that it is directed at a youth and it substantially interferes with the youth's ability to participate in or benefit from the services, activities, or privileges provided by the agency, education institution, or grantee.

(b) Each agency, educational institution, and grantee shall control the content of its policy; provided, that each policy includes:

(1) The definition of bullying set forth in section 2(2);  
(2) A statement prohibiting bullying;  
(3) A statement that the policy applies to participation in functions sponsored by the agency, educational institution, or grantee;  
(4) The expected code of conduct;  
(5) A list of the consequences that can result from an identified incident of bullying, which are designed to;

(A) Appropriately correct the bullying behavior;  
(B) Prevent another occurrence of bullying or retaliation;  
(C) Protect the target of the bullying;  
(D) Be flexible so that in application they can be unique to the individual incident and varied in method and severity based on the:

(i) Nature of the incident;  
(ii) Developmental age of the person bullying; and  
(iii) Any history of problem behavior from the person bullying;  
(6) A procedure for reporting bullying or retaliation for reporting an act of bullying, including for reporting bullying anonymously; provided, that no formal response shall be taken solely on the basis of an anonymous report;

(7) A procedure for prompt investigation of reports of violations of its policy and of complaints of bullying or retaliation, including the name and contact information of the person responsible for investigating reports;

(8) An appeal process, in accordance with section 5, for a person accused of bullying or a person who is the target of bullying who is not satisfied with the outcome of the initial investigation; and

(9) A statement that prohibits retaliation against any person who reports bullying, including the possible consequences for a person who engages in retaliatory behavior.

(c) Within 365 days of the effective date of this act, each agency, educational institution, and grantee shall submit a copy of its adopted policy to the task force, pursuant to section 3(c)(5).

(d) The requirements of this act and any policy adopted pursuant to this act shall be deemed to constitute health and safety requirements for educational institutions.

(e) Information on the bullying prevention policy shall be incorporated into new employee training.

- (f) Each agency, educational institution, and grantee shall develop a plan for how the policy is to be publicized, including the plan for:
- (1) Discussing its bullying policy with youth; and
  - (2) Publicizing that the policy applies to participation in functions sponsored by an agency, educational institution, or grantee.

Sec. 5. Secondary investigation appeal.

(a)(1) A party who is not satisfied with the outcome of the initial investigation conducted pursuant to section 4(b)(7) may request a secondary investigation by submitting a written appeal to the higher-level authority in the agency, educational institution, or grantee designated to hear appeals within 30 days of the conclusion of the investigation conducted pursuant to section 4(b)(7).

(2) The secondary investigation shall be completed within 30 days of receipt of the appeal, unless:

(A) Circumstances require additional time to complete a thorough investigation;

(B) The higher-level authority sets forth those circumstances in writing; and

(C) The additional time does not exceed 15 days.

(b)(1) When an appeal for a secondary investigation is submitted, the agency, educational institution, or grantee shall inform the party about his or her ability to seek further redress under the Human Rights Act.

(2) This section shall not be construed to limit the right of a person to assert or seek redress for a claim arising under the Human Rights Act.

Sec. 6. Retaliation.

(a) An employee, volunteer, or youth shall not retaliate against a victim or witness of bullying or a person who reports bullying.

(b) An employee or volunteer who has witnessed bullying in violation of a bullying prevention policy that is consistent with section 4(a), or has reliable information that a person has been subject to bullying in violation of a bullying prevention policy that is consistent with section 4(a), shall report the incident or information to the person designated by the agency, educational institution, or grantee, in accordance with section 4(b)(7), as responsible for investigating the reports.

(c) An employee, volunteer, or youth who promptly and in good faith reports an incident of, or information on, bullying in compliance with the policy of the agency, educational institution, or grantee shall be immune from a cause of action for damages arising from the making of such report.

Sec. 7. Bullying prevention programs.

Following the adoption of a bullying prevention policy, as required by section 4, each agency, educational institution, and grantee may:

(1) Establish an annual bullying prevention program for youth, which for each educational institution should align with established health-education standards;

(2) Inform youth about their right to be free from discrimination in public accommodations and education, and of the redress available for a violation of their rights under the Human Rights Act; and

(3) Provide training on bullying prevention to all employees and volunteers who have significant contact with youth.

Sec. 8. Reporting requirement.

(a) Each educational institution shall provide to the Mayor, by a date determined by the Mayor, an annual report regarding the aggregate incidents of bullying, and any other information that the Mayor determines is necessary or appropriate.

(b) By September 1, 2014, and biennially thereafter, the Mayor shall:

(1) Review the programs, activities, services, and policies established pursuant to this act of each agency, educational institution, or grantee to determine their effectiveness and whether the agency, educational institution, or grantee is in compliance with this act; and

(2) Report the findings to the Council by December 31 of each year that a report is due, along with an assessment of the current level and nature of bullying in agencies, educational institutions, and grantees and recommendations for appropriate actions to address identified problems.

Sec. 9. Availability of other remedies.

This act does not create a new private right of action or provide a statutory basis for a claim for damages against the District of Columbia or its employees.

Sec. 10. Rules.

The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to implement the provisions of this act.

Sec. 11. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 12. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the

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Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

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Chairman Pro Tempore  
Council of the District of Columbia

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Mayor  
District of Columbia