

PROGRAM BILL # 43

S.

Senate

IN SENATE--Introduced by Sen

--read twice and ordered printed,
and when printed to be committed
to the Committee on

----- A.
Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the
Committee on

EDUCLA
(Prohibits bullying and cyberbully-
ing in public schools)

Ed L. Cyberbullying

AN ACT

to amend the education law, in
relation to prohibiting bullying and
cyberbullying in public schools

The People of the State of New
York, represented in Senate and
Assembly, do enact as follows:

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship
of this proposal

s20 Adams	s44 Farley	s58 Kennedy	s54 Nozzolio	s28 Serrano
s15 Addabbo	s02 Flanagan	s34 Klein	s53 O'Mara	s51 Seward
s55 Alesi	s08 Fuschillo	s26 Krueger	s37 Oppenheimer	s09 Skelos
s11 Avella	s59 Gallivan	s24 Lanza	s21 Parker	s14 Smith
s40 Bell	s12 Gianaris	s39 Larkin	s13 Peralta	s25 Squadron
s42 Bonacic	s22 Golden	s01 LaValle	s30 Perkins	s16 Stavisky
s46 Breslin	s47 Griffo	s52 Libous	s61 Ranzenhofer	s35 Stewart-
s38 Carlucci	s60 Grisanti	s45 Little	s48 Ritchie	Cousins
s50 DeFrancisco	s06 Hannon	s05 Marcellino	s33 Rivera	s27 Storobin
s32 Diaz	s36 Hassell-	s07 Martins	s56 Robach	s49 Valesky
s17 Dilan	Thompson	s62 Maziarz	s41 Saland	s57 Young
s29 Duane	s10 Huntley	s43 McDonald	s19 Sampson	s03 Zeldin
s31 Espallat	s04 Johnson	s18 Montgomery	s23 Savino	

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the
multi-sponsorship of this proposal:

a049 Abbate	a085 Crespo	a042 Jacobs	a121 Miller, D.	a067 Rosenthal
a092 Abinanti	a107 Crouch	a095 Jaffee	a102 Miller, J.	a118 Russell
a105 Amedore	a014 Curran	a057 Jeffries	a038 Miller, M.	a144 Ryan
a084 Arroyo	a063 Cusick	a135 Johns	a052 Millman	a012 Saladino
a035 Aubry	a045 Cymbrowitz	a112 Jordan	a015 Montesano	a113 Sayward
a124 Barclay	a034 DenDekker	a099 Katz	a132 Morelle	a029 Scarborough
a103 Barrett	a081 Dinowitz	a074 Kavanagh	a039 Moya	a016 Schimel
a040 Barron	a114 Duprey	a145 Kearns	a003 Murray	a140 Schimminger
a082 Benedetto	a004 Englebright	a065 Kellner	a037 Nolan	a064 Silver
a122 Blankenbush	a054 Espinal	a129 Kolb	a128 Oaks	a027 Simanowitz
a055 Boyland	a071 Farrell	a025 Lancman	a069 O'Donnell	a036 Simotas
a008 Boyle	a123 Finch	a091 Latimer	a051 Ortiz	a100 Skartados
a026 Braunstein	a007 Fitzpatrick	a013 Lavine	a136 Palmesano	a146 Smardz
a044 Brennan	a137 Friend	a050 Lentol	a088 Paulin	a079 Stevenson
a116 Brindisi	a143 Gabryszak	a125 Lifton	a141 Peoples-	a011 Sweeney
a131 Bronson	a090 Galef	a072 Linares	Stokes	a110 Tedisco
a046 Brook-Krasny	a133 Gantt	a127 Lopez, P.	a058 Perry	a115 Tenney
a147 Burling	a077 Gibson	a053 Lopez, V.	a087 Pretlow	a002 Thiele
a117 Butler	a149 Giglio	a001 Losquadro	a073 Quart	a061 Titone
a101 Cahill	a066 Glick	a126 Lupardo	a021 Ra	a031 Titus
a096 Calhoun	a023 Goldfeder	a111 Magee	a097 Rabbitt	a062 Tobacco
a043 Camara	a150 Goodell	a120 Magnarelli	a009 Raia	a148 Walter
a106 Canestrari	a075 Gottfried	a059 Maisel	a006 Ramos	a041 Weinstein
a089 Castelli	a005 Graf	a060 Malliotakis	a134 Reilich	a020 Weisenberg
a086 Castro	a098 Gunther	a030 Markey	a109 Reilly	a024 Weprin
a138 Ceretto	a130 Hanna	a093 Mayer	a178 Rivera, J.	a070 Wright
a033 Clark	a139 Hawley	a019 McDonough	a080 Rivera, N.	a094 Zebrowski
a047 Colton	a083 Heastie	a104 McEneny	a076 Rivera, P.	
a010 Conte	a028 Hevesi	a017 McKevitt	a119 Roberts	
a032 Cook	a048 Hikinid	a108 McLaughlin	a056 Robinson	
a142 Corwin	a018 Hooper	a022 Meng	a068 Rodriguez	

1) Single House Bill (introduced and printed separately in either or both
houses). Uni-Bill (introduced simultaneously in both houses and printed as one
bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2 signed
copies of bill and 4 copies of memorandum in support (single house); or 4 signed
copies of bill and 8 copies of memorandum in support (uni-bill).

1 Section 1. Legislative findings and intent. In recent years, New York
2 state has taken steps to ensure that school pupils, teachers and other
3 personnel are provided with a safe and secure learning environment.
4 However, the legislature recognizes that egregious incidents of harass-
5 ment, bullying and discrimination, both in person and through the use of
6 technology, continue to disrupt the lives and education of students
7 across the state, and that bullying manifests in many forms, including
8 through the use of technology in what is often called cyberbullying. In
9 today's age of advanced technology, twenty-four hour connectivity and
10 social networking, students who are subjected to bullying, such as the
11 texting or posting of sexually derogatory comments via such social
12 networking sites or by other means, have no reprieve. Bullying that
13 begins in school follows students home every day, and has lasting
14 impacts on such students. Conversely, bullying through the use of tech-
15 nology can begin away from school property.

16 The legislature also recognizes that most cyberbullying originates
17 off-campus, but nonetheless affects the school environment and disrupts
18 the educational process, impeding the ability of students to learn and
19 too often causing devastating effects on students' health and well-be-
20 ing.

21 The legislature finds it is vital to protect all students from harass-
22 ment, bullying, cyberbullying and discrimination. In expanding the
23 provisions of the Dignity for All Students Act, the legislature intends
24 to give school districts tools to address these harmful acts consistent
25 with the emerging research in the field. Bullying, harassment and
26 discrimination pose a serious threat to all students, including but not
27 limited to students targeted because of actual or perceived race, color,
28 weight, national origin, ethnic group, religion, religious practice,

1 disability, sexual orientation, gender or sex. It is imperative to
2 protect every student from such harm regardless of whether the student
3 is a member of a specific category.

4 § 2. Subdivision 7 of section 11 of the education law, as added by
5 chapter 482 of the laws of 2010, is amended and a new subdivision 8 is
6 added to read as follows:

7 7. "Harassment" and "bullying" shall mean the creation of a hostile
8 environment by conduct or by [verbal] threats, intimidation or abuse,
9 including cyberbullying, that (a) has or would have the effect of unrea-
10 sonably and substantially interfering with a student's educational
11 performance, opportunities or benefits, or mental, emotional or physical
12 well-being; or [conduct, verbal threats, intimidation or abuse that] (b)
13 reasonably causes or would reasonably be expected to cause a student to
14 fear for his or her physical safety; [such conduct, verbal threats,
15 intimidation or abuse includes but is not limited to conduct, verbal
16 threats, intimidation] or [abuse] (c) reasonably causes or would reason-
17 ably be expected to cause physical injury or emotional harm to a
18 student; or (d) occurs off school property and creates or would foresee-
19 ably create a risk of substantial disruption within the school environ-
20 ment, where it is foreseeable that the conduct, threats, intimidation or
21 abuse might reach school property. Acts of harassment and bullying shall
22 include, but not be limited to, those acts based on a person's actual or
23 perceived race, color, weight, national origin, ethnic group, religion,
24 religious practice, disability, sexual orientation, gender or sex. For
25 the purposes of this definition the term "threats, intimidation or
26 abuse" shall include verbal and non-verbal actions.

27 8. "Cyberbullying" shall mean harassment or bullying as defined in
28 subdivision seven of this section, including paragraphs (a), (b), (c)

1 and (d) of such subdivision, where such harassment or bullying occurs
2 through any form of electronic communication.

3 § 3. Subdivision 1 of section 12 of the education law, as added by
4 chapter 482 of the laws of 2010, is amended to read as follows:

5 1. No student shall be subjected to harassment or bullying by employ-
6 ees or students on school property or at a school function; nor shall
7 any student be subjected to discrimination based on a person's actual or
8 perceived race, color, weight, national origin, ethnic group, religion,
9 religious practice, disability, sexual orientation, gender, or sex by
10 school employees or students on school property or at a school function.
11 Nothing in this subdivision shall be construed to prohibit a denial of
12 admission into, or exclusion from, a course of instruction based on a
13 person's gender that would be permissible under section thirty-two
14 hundred one-a or paragraph (a) of subdivision two of section twenty-
15 eight hundred fifty-four of this chapter and title IX of the Education
16 Amendments of 1972 (20 U.S.C. section 1681, et. seq.), or to prohibit,
17 as discrimination based on disability, actions that would be permissible
18 under section 504 of the Rehabilitation Act of 1973.

19 § 4. Section 13 of the education law, as added by chapter 482 of the
20 laws of 2010, is amended to read as follows:

21 § 13. Policies and guidelines. The board of education and the trustees
22 or sole trustee of every school district shall create policies, proce-
23 dures and guidelines that shall include, but not be limited to:

24 1. Policies and procedures intended to create a school environment
25 that is free from [discrimination or] harassment[;], bullying and
26 discrimination, that include but are not limited to provisions which:

1 a. identify the principal, superintendent or the principal's or super-
2 intendent's designee as the school employee charged with receiving
3 reports of harassment, bullying and discrimination;

4 b. enable students and parents to make an oral or written report of
5 harassment, bullying or discrimination to teachers, administrators and
6 other school personnel that the school district deems appropriate;

7 c. require school employees who witness harassment, bullying or
8 discrimination, or receive an oral or written report of harassment,
9 bullying or discrimination, to promptly orally notify the principal,
10 superintendent or the principal's or superintendent's designee not later
11 than one school day after such school employee witnesses or receives a
12 report of harassment, bullying or discrimination, and to file a written
13 report with the principal, superintendent or the principal or super-
14 intendent's designee not later than two school days after making such
15 oral report;

16 d. require the principal, superintendent or the principal's or super-
17 intendent's designee to lead or supervise the thorough investigation of
18 all reports of harassment, bullying and discrimination, and to ensure
19 that such investigation is completed promptly after receipt of any writ-
20 ten reports made under this section;

21 e. require the school, when an investigation reveals any such verified
22 harassment, bullying or discrimination, to take prompt actions reason-
23 ably calculated to end the harassment, bullying or discrimination, elim-
24 inate any hostile environment, create a more positive school culture and
25 climate, prevent recurrence of the behavior, and ensure the safety of
26 the student or students against whom such harassment, bullying or
27 discrimination was directed. Such actions shall be consistent with the
28 guidelines created pursuant to subdivision four of this section;

1 f. prohibit retaliation against any individual who, in good faith,
2 reports, or assists in the investigation of, harassment, bullying or
3 discrimination;

4 g. include a school strategy to prevent harassment, bullying and
5 discrimination;

6 h. require the principal to make a regular report on data and trends
7 related to harassment, bullying and discrimination to the superinten-
8 dent;

9 i. require the principal, superintendent or the principal's or super-
10 intendent's designee, to notify promptly the appropriate local law
11 enforcement agency when such principal, superintendent or the princi-
12 pal's or superintendent's designee, believes that any harassment, bully-
13 ing or discrimination constitutes criminal conduct;

14 j. include appropriate references to the provisions of the school
15 district's code of conduct adopted pursuant to section twenty-eight
16 hundred one of this chapter that are relevant to harassment, bullying
17 and discrimination;

18 k. require each school, at least once during each school year, to
19 provide all school employees, students and parents with a written or
20 electronic copy of the school district's policies created pursuant to
21 this section, or a plain-language summary thereof, including notifica-
22 tion of the process by which students, parents and school employees may
23 report harassment, bullying and discrimination. This subdivision shall
24 not be construed to require additional distribution of such policies and
25 guidelines if they are otherwise distributed to school employees,
26 students and parents;

1 1. maintain current versions of the school district's policies created
2 pursuant to this section on the school district's internet website, if
3 one exists;

4 2. Guidelines to be used in school training programs to discourage the
5 development of [discrimination or] harassment, bullying and discrimi-
6 nation, and to make school employees aware of the effects of harassment,
7 bullying, cyberbullying and discrimination on students and that are
8 designed:

9 a. to raise the awareness and sensitivity of school employees to
10 potential [discrimination or] harassment, bullying and discrimination,
11 and

12 b. to enable employees to prevent and respond to [discrimination or]
13 harassment, bullying and discrimination; and

14 3. Guidelines relating to the development of nondiscriminatory
15 instructional and counseling methods, and requiring that at least one
16 staff member at every school be thoroughly trained to handle human
17 relations in the areas of race, color, weight, national origin, ethnic
18 group, religion, religious practice, disability, sexual orientation,
19 gender, and sex[.]; and

20 4. Guidelines relating to the development of measured, balanced and
21 age-appropriate responses to instances of harassment, bullying or
22 discrimination by students, with remedies and procedures following a
23 progressive model that make appropriate use of intervention, discipline
24 and education, vary in method according to the nature of the behavior,
25 the developmental age of the student and the student's history of prob-
26 lem behaviors, and are consistent with the district's code of conduct;
27 and

1 5. Training required by this section shall address the social patterns
2 of harassment, bullying and discrimination, as defined in section eleven
3 of this article, including but not limited to those acts based on a
4 person's actual or perceived race, color, weight, national origin,
5 ethnic group, religion, religious practice, disability, sexual orien-
6 tation, gender or sex, the identification and mitigation of harassment,
7 bullying and discrimination, and strategies for effectively addressing
8 problems of exclusion, bias and aggression in educational settings.

9 § 5. Section 14 of the education law, as added by chapter 482 of the
10 laws of 2010, is amended to read as follows:

11 § 14. Commissioner's responsibilities. The commissioner shall:

12 1. Provide direction, which may include development of model policies
13 and, to the extent possible, direct services, to school districts
14 related to preventing [discrimination and] harassment, bullying and
15 discrimination and to fostering an environment in every school where all
16 children can learn free of manifestations of bias;

17 2. Provide grants, from funds appropriated for such purpose, to local
18 school districts to assist them in implementing the guidelines set forth
19 in this section; [and]

20 3. Promulgate regulations to assist school districts in implementing
21 this article including, but not limited to, regulations to assist school
22 districts in developing measured, balanced, and age-appropriate
23 responses to violations of this policy, with remedies and procedures
24 [focusing on] following a progressive model that make appropriate use of
25 intervention, discipline and education[.] and provide guidance related
26 to the application of regulations; and

27 4. Provide guidance and educational materials to school districts
28 related to best practices in addressing cyberbullying and helping fami-

1 lies and communities work cooperatively with schools in addressing
2 cyberbullying, whether on or off school property or at or away from a
3 school function.

4 5. The commissioner shall prescribe regulations that school profes-
5 sionals applying on or after July first, two thousand thirteen for a
6 certificate or license, including but not limited to a certificate or
7 license valid for service as a classroom teacher, school counselor,
8 school psychologist, school social worker, school administrator or
9 supervisor or superintendent of schools shall, in addition to all other
10 certification or licensing requirements, have completed training on the
11 social patterns of harassment, bullying and discrimination, as defined
12 in section eleven of this article, including but not limited to those
13 acts based on a person's actual or perceived race, color, weight,
14 national origin, ethnic group, religion, religious practice, disability,
15 sexual orientation, gender or sex, the identification and mitigation of
16 harassment, bullying and discrimination, and strategies for effectively
17 addressing problems of exclusion, bias and aggression in educational
18 settings.

19 § 6. Section 15 of the education law, as added by chapter 482 of the
20 laws of 2010, is amended to read as follows:

21 § 15. Reporting by commissioner. The commissioner shall create a
22 procedure under which material incidents of [discrimination and] harass-
23 ment, bullying and discrimination on school grounds or at a school func-
24 tion are reported to the department at least on an annual basis. Such
25 procedure shall provide that such reports shall, wherever possible, also
26 delineate the specific nature of such incidents of [discrimination or]
27 harassment, bullying and discrimination, provided that the commissioner
28 may comply with the requirements of this section through use of the

1 existing uniform violent incident reporting system. In addition the
2 department may conduct research or undertake studies to determine
3 compliance throughout the state with the provisions of this article.

4 § 7. Section 16 of the education law, as added by chapter 482 of the
5 laws of 2010, is amended to read as follows:

6 § 16. Protection of people who report [discrimination or] harassment,
7 bullying or discrimination. Any person having reasonable cause to
8 suspect that a student has been subjected to [discrimination or] harass-
9 ment, bullying or discrimination, by an employee or student, on school
10 grounds or at a school function, who, acting reasonably and in good
11 faith, [either] reports such information to school officials, to the
12 commissioner[,] or to law enforcement authorities, acts in compliance
13 with paragraph e or i of subdivision one of section thirteen of this
14 article, or otherwise initiates, testifies, participates or assists in
15 any formal or informal proceedings under this article, shall have immu-
16 nity from any civil liability that may arise from the making of such
17 report or from initiating, testifying, participating or assisting in
18 such formal or informal proceedings, and no school district or employee
19 shall take, request or cause a retaliatory action against any such
20 person who, acting reasonably and in good faith, either makes such a
21 report or initiates, testifies, participates or assists in such formal
22 or informal proceedings.

23 § 8. Section 801-a of the education law, as amended by chapter 482 of
24 the laws of 2010, is amended to read as follows:

25 § 801-a. Instruction in civility, citizenship and character education.
26 The regents shall ensure that the course of instruction in grades
27 kindergarten through twelve includes a component on civility, citizen-
28 ship and character education. Such component shall instruct students on

1 the principles of honesty, tolerance, personal responsibility, respect
2 for others, with an emphasis on discouraging acts of harassment, bully-
3 ing, discrimination, observance of laws and rules, courtesy, dignity and
4 other traits which will enhance the quality of their experiences in, and
5 contributions to, the community. Such component shall include instruc-
6 tion of safe, responsible use of the internet and electronic communi-
7 cations. The regents shall determine how to incorporate such component
8 in existing curricula and the commissioner shall promulgate any regu-
9 lations needed to carry out such determination of the regents. For the
10 purposes of this section, "tolerance," "respect for others" and "digni-
11 ty" shall include awareness and sensitivity to [discrimination or]
12 harassment, bullying, discrimination and civility in the relations of
13 people of different races, weights, national origins, ethnic groups,
14 religions, religious practices, mental or physical abilities, sexual
15 orientations, genders, and sexes.

16 § 9. This act shall take effect July 1, 2013; provided, however, that
17 if chapter 482 of the laws of 2010 shall not have taken effect on or
18 before such date then this act shall take effect on the same date and in
19 the same manner as such chapter of the laws of 2010 takes effect.

