



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

William Schwartz

H.B. 360

132nd General Assembly
(As Introduced)

Reps. Greenspan, Anielski, Keller, Miller, Sheehy, Thompson

BILL SUMMARY

Consequences for harassment, intimidation, or bullying

- Requires a public school student be suspended for up to ten days for the first offense of harassment, intimidation, or bullying, and be expelled for up to 182 days for the second such offense in the same calendar year.
- Requires mandatory community service for students suspended or expelled for such offense.
- Requires school districts and schools to provide tutoring and academic support for suspended or expelled students and to allow them to take all required state assessments.
- Requires districts and schools to provide counseling services, upon parental consent, for students suspended or expelled under the bill.
- Requires districts and schools to offer counseling services for the victim of harassment, intimidation, or bullying.
- Establishes advance notice procedures, an appeals process, and return-to-school procedures for students suspended or expelled for harassment, intimidation, or bullying.

Other changes to school harassment, intimidation, and bullying policy

- Requires all suspension and expulsion policies and locker search policies to be posted on the website of the school district, community school, and STEM school.

- Exempts from the bill's suspension and expulsion policies students in grades kindergarten through three and students who have developmental disabilities.

Harassment, intimidation, and bullying and hazing policies for state institutions of higher education

- Requires each state institution of higher education to adopt a policy regarding hazing and harassment, intimidation, or bullying.

Criminal penalty for hazing

- Increases the criminal penalty for hazing.
- Enhances the criminal penalty for hazing if the offense poses a substantial risk of causing the death of any person.
- Revises the definition of "hazing."

Title

- Entitles the bill the "Ohio Anti-Bullying and Hazing Act."

CONTENT AND OPERATION

K-12 school policies on harassment, intimidation, or bullying

The bill makes changes to requirements regarding harassment, intimidation, or bullying policies public schools must adopt under current law. It dictates how offenses of harassment, intimidation, or bullying must be addressed and makes other changes.

Consequences for harassment, intimidation, or bullying

In accordance with the policy on harassment, intimidation, or bullying, the superintendent or equivalent officer of the district's or school's governing body must suspend a student for up to ten days for the first offense, and expel the student for up to 182 days for the second offense within the same calendar year.¹

In the case of a suspension or expulsion term that would extend beyond the length of a school year, the remaining portion of the suspension or expulsion must be applied to the following school year.²

¹ R.C. 3313.669(A).

² R.C. 3313.669(A)(2), second paragraph.

Required community service

If a student is suspended or expelled, the governing body of each district or school must file a notice with the municipal court that has jurisdiction in the district or school to establish a community service plan a suspended or expelled student must complete. Within three days after a notice of suspension or expulsion is filed, the applicable municipal court must develop a community service plan in consultation with the student, the student's parent, and the student's school. The plan must include specific goals and timelines under which the student must perform community service during the term of the suspension or expulsion. The duration of the community service is equal to the number of days for which the student is suspended or expelled. To complete the required number of days, the plan may continue beyond the date upon which a student returns to school.³

District and school duties for suspended or expelled students

Each district or school must do the following with regard to students suspended or expelled for harassment, intimidation, or bullying:

(1) Permit the student to complete all missed schoolwork. For this purpose, the district or school may offer tutoring and academic support to the student.

(2) Permit the student to take any required state assessments. For this purpose, the student is permitted to take the assessment in the student's regular school setting.

(3) Provide counseling for the student, so long as the parent gives permission for the student to undergo such counseling.

(4) Prohibit the student from participating in extracurricular activities.

(5) Offer counseling services to the victim of the offense of harassment, intimidation, or bullying. The victim is not required to participate in the counseling.⁴

Return to school

To return to school, a student who is suspended or expelled for harassment, intimidation, or bullying must complete all missed schoolwork and any counseling deemed necessary by the superintendent or equivalent officer. If the student does not complete those requirements, the superintendent or equivalent officer may allow the student to return to school if sufficient progress has been made toward completing

³ R.C. 3313.661(B)(2) and 3313.669(B).

⁴ R.C. 3313.669(C).



those requirements.⁵ However, if the parent of a suspended or expelled student does not grant permission to undergo counseling, the student may not return to school.⁶

Exemptions

The bill explicitly states that its suspension and expulsion policies regarding harassment, intimidation, or bullying do not apply to any student in grades kindergarten through three or to any student who has a developmental disability.⁷

Due process

The bill provides for due process and appeal procedures for students suspended or expelled for harassment, intimidation, or bullying that are essentially the same as those afforded to other suspended or expelled students.

Under the bill, a district superintendent or equivalent officer must do both of the following prior to suspending or expelling a student for harassment, intimidation, or bullying:

(1) Provide the student and student's parent with written notice of the intention to suspend or expel the student; and

(2) Provide the student and student's parent, or representative, an opportunity to appear in person before the superintendent or equivalent officer, or their designee, to challenge the reasons for the intended suspension or expulsion or to explain the student's actions.⁸

The notice must include the following:

(1) Reasons for the intended suspension or expulsion;

(2) Notification of the opportunity to challenge the reasons or to explain; and

(3) The time and place to appear.

The meeting must occur within three to five school days after the notice is given, unless an extension of time is granted at the request of the student, student's parent, or

⁵ R.C. 3313.669(D).

⁶ R.C. 3313.669(D), second paragraph.

⁷ R.C. 3313.669(H).

⁸ R.C. 3313.669(E)(1) and (2).

representative. If an extension is granted, the student, student's parent, or representative must be notified of the new time and place to appear.⁹

Official notice of suspension and expulsion

Within one school day of a student's suspension or expulsion, the superintendent (or superintendent's equivalent officer) or principal must notify in writing the student's parent and the district's or school's treasurer of the suspension or expulsion. The notice must include the following:

- (1) Reasons for the suspension or expulsion;
- (2) The right to appeal the suspension or expulsion;
- (3) The right to be represented in all appeal proceedings;
- (4) The right to be granted a hearing before the district's or school's governing body, or its designee, in order to be heard against the suspension or expulsion; and
- (5) The right to request that the hearing be held in executive session.¹⁰

The notice also must specify the manner and date by which the student or student's parent must notify the governing body of the intention to appeal the suspension or expulsion.

Appeals process

A student or student's parent may appeal a suspension or expulsion due to harassment, intimidation, or bullying in the manner and date specified by the governing body of the district or school. The student or student's parent may be represented in all appeal proceedings and must be granted a hearing. At the request of the student, student's parent, or attorney, the board may hold the hearing in executive session but must act upon the suspension or expulsion at a public meeting.¹¹ The district board may do the following by majority vote:

- (1) Affirm the suspension or expulsion;
- (2) Reinstate the student;

⁹ R.C. 3313.669(E)(2), second paragraph.

¹⁰ R.C. 3313.669(F).

¹¹ R.C. 3313.669(G).

(3) Reverse, vacate, or modify the suspension or expulsion.¹²

The bill requires the district's or school's governing body, or its designee, to make a verbatim record of an appeal hearing, and any decision can be appealed to the applicable court of common pleas.¹³

Background on expulsion and suspension policies

Current law provides some mechanisms for removing students from a public school for disciplinary reasons, including suspension, expulsion, reassignment, emergency removal, and permanent exclusion. Each school district, community school, and STEM school must adopt a code of conduct for the district or school and policies for the enforcement of that code.¹⁴ A student that is subject to suspension, expulsion, or permanent exclusion is entitled to specific due process procedures *prior* to imposition of the discipline, as well as an appeals process. However, in the case of emergency removal, which is temporary in nature, the student is entitled to due process following the imposition of the disciplinary action.

Suspension and expulsion

The district superintendent or school principal may "suspend" a student for up to ten school days for minor violations of the district's or school's code of conduct.¹⁵ The superintendent (and not a principal) may also "expel" a student for up to the greater of 80 school days or the remainder of the school term for more serious violations of that code.¹⁶ In addition, the superintendent must expel a student for one full year for *carrying* a firearm to school and, depending upon board policy, may expel a student for one full year for possessing a firearm or knife at school or a school-sponsored activity, for causing serious physical harm to persons or property at school or a school-sponsored activity, or making a bomb threat to a school or school-sponsored activity.¹⁷

The law also provides for due process procedures that must be followed in the case of these disciplinary actions. In general, suspensions and expulsions require prior notice to the student and the student's parent and an opportunity for the student to

¹² R.C. 3313.669(G).

¹³ R.C. 3313.669(G), second paragraph.

¹⁴ R.C. 3313.66 and 3313.661.

¹⁵ R.C. 3313.66(A).

¹⁶ R.C. 3313.66(B)(1).

¹⁷ R.C. 3313.66(B)(2) to (5).

explain the student's actions. Suspensions and expulsions may be appealed to the district board of education, and, if applicable, the court of common pleas.¹⁸

Other changes to the harassment, intimidation, or bullying policy

Current law requires school districts, community schools, and STEM schools to establish a policy prohibiting harassment, intimidation, or bullying. The policy includes procedures for reporting incidents, parental notification, documentation, protecting victims, and disciplinary procedures (including those for retaliation). The bill revises portions of this policy as follows:

(1) Expands the policy to prohibit offenses of harassment, intimidation, or bullying from being committed against administrators, employees, faculty members, consultants, and volunteers of the district or school (in addition to students, as under current law);¹⁹

(2) When notifying the parent of a student involved in an incident of harassment, intimidation, or bullying, requires each district or school to maintain a record for each incident verifying that the parent was notified of the incident;²⁰

(3) Requires the policy to include a disciplinary procedure for any student guilty of retaliation against a student who reports an incident of harassment, intimidation, or bullying;²¹

(4) Requires the governing body of the district or school to review and update the policy at least once every three years;²²

(5) Requires the policy to be updated to include hazing;²³

(6) Requires the policy to apply to grades kindergarten through twelve.²⁴

The bill also expands the definition of "harassment, intimidation, or bullying" that applies to public primary and secondary schools to prohibit harassment,

¹⁸ R.C. 3313.66(D) and (E).

¹⁹ R.C. 3313.666(B).

²⁰ R.C. 3313.666(B)(5).

²¹ R.C. 3313.666(B)(10).

²² R.C. 3313.666(H).

²³ R.C. 3313.666(H).

²⁴ R.C. 3313.666(B).



intimidation, or bullying against administrators, employees, faculty members, consultants, and volunteers of the district or school (in addition to students) and to include hazing.²⁵

Web posting of suspension and expulsion and locker room search policies

The bill requires all suspension and expulsion policies and locker search policies to be posted on the website of the school district, community school, and STEM school.²⁶

Criminal penalties for hazing

The bill increases the criminal penalty for "hazing" to a second degree misdemeanor, instead of a fourth degree misdemeanor as under current law. Additionally, the bill provides that if the act creates a substantial risk of causing the death of any person, hazing is a third degree felony.²⁷

The bill also adds the following individuals to the list of those currently prohibited under the criminal penalty from recklessly permitting hazing: consultants, alumni, and volunteers of any organization, including primary, secondary, and post-secondary schools and any other public or private education institution.²⁸ Currently, only administrators, employees, and faculty members are so prohibited.

Definition of "hazing"

The bill revises the criminal definition of "hazing." The bill adds "any act to affirm, continue, or reinstate membership in or affiliation with any student or other organization" to the meaning of hazing.²⁹ Current law defines the term as "doing any act or coercing another, including the victim, to do any act of initiation into any student or other organization that causes or creates a substantial risk of causing mental or physical harm to any person."³⁰

²⁵ R.C. 3313.666(A).

²⁶ R.C. 3313.661(A), third paragraph, and (C).

²⁷ R.C. 2903.31(C).

²⁸ R.C. 2903.31(B)(2).

²⁹ R.C. 2903.31(A).

³⁰ R.C. 2903.31(A).



Harassment, intimidation, and bullying and hazing policies for state institutions of higher education

The bill requires each state institution of higher education to adopt a policy and rules regarding (1) hazing and (2) harassment, intimidation, or bullying. The policy must include penalties for such offenses, including sanctions, fines, withholding of a diploma or transcript, probation, suspension, and expulsion.³¹

For state institutions of higher education, the bill defines "harassment, intimidation, or bullying" as any intentional written, verbal, electronic, or physical act that a student has exhibited toward another particular student or an administrator, employee, faculty member, consultant, or volunteer of the institution more than once, and the behavior both (1) causes mental or physical harm to the other individual and (2) is sufficiently severe, persistent, or pervasive that it creates an intimidating, threatening, or abusive educational environment for the other individual.³²

HISTORY

ACTION	DATE
Introduced	09-26-17

H0360-I-132.docx/ks

³¹ R.C. 3345.19(A).

³² R.C. 3345.19(B)(1).

