

Assembly Bill No. 9

CHAPTER 723

An act to amend Sections 234, 234.1, 234.2, and 234.3 of, and to add Section 234.5 to, the Education Code, relating to pupil rights.

[Approved by Governor October 9, 2011. Filed with Secretary of State October 9, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 9, Ammiano. Pupil rights: bullying.

Existing law provides that it is the policy of the state to afford all persons in public schools, regardless of their disability, gender, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes, equal rights and opportunities in the educational institutions of the state, and that it is the purpose of existing law to prohibit acts that are contrary to that policy and to provide remedies therefor. Existing law requires the State Department of Education to develop a model handout, posted on appropriate department Internet Web sites, describing the rights and obligations set forth in these provisions and the policies addressing bias-related discrimination and harassment in schools. Existing law also requires the department to monitor adherence to these provisions and, as part of its regular monitoring and review of local educational agencies, to assess whether local educational agencies have adopted a policy that prohibits discrimination and harassment and a process for receiving and investigating complaints of discrimination and harassment, as specified.

This bill would require the policy adopted by the local educational agencies to prohibit discrimination, harassment, intimidation, and bullying based on actual or perceived characteristics, as specified. The bill also would require the process for receiving and investigating complaints to include complaints of discrimination, harassment, intimidation, and bullying based on actual or perceived characteristics, as specified, and to include a requirement that school personnel who witness such acts take immediate steps to intervene when safe to do so, a timeline to investigate and resolve complaints, and an appeal process, as specified. The bill would make other conforming changes.

Because this bill would require local educational agencies to perform additional duties, this bill would impose a state-mandated local program.

The bill would require the Superintendent of Public Instruction to post, and annually update, on his or her Internet Web site, and to provide to each school district, a list of statewide resources, including community-based organizations, that provide support to youth who have been subjected to

school-based discrimination, harassment, intimidation, or bullying, and their families.

The bill would make its provisions operative on July 1, 2012.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 234 of the Education Code is amended to read:

234. (a) This article shall be known, and may be cited, as the Safe Place to Learn Act.

(b) It is the policy of the State of California to ensure that all local educational agencies continue to work to reduce discrimination, harassment, violence, intimidation, and bullying. It is further the policy of the state to improve pupil safety at schools and the connections between pupils and supportive adults, schools, and communities.

SEC. 2. Section 234.1 of the Education Code is amended to read:

234.1. The department, pursuant to subdivision (b) of Section 64001, shall monitor adherence to the requirements of Chapter 5.3 (commencing with Section 4900) of Division 1 of Title 5 of the California Code of Regulations and Chapter 2 (commencing with Section 200) as part of its regular monitoring and review of local educational agencies, commonly known as the Categorical Program Monitoring process. The department shall assess whether local educational agencies have done all of the following:

(a) Adopted a policy that prohibits discrimination, harassment, intimidation, and bullying based on the actual or perceived characteristics set forth in Section 422.55 of the Penal Code and Section 220, and disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or association with a person or group with one or more of these actual or perceived characteristics. The policy shall include a statement that the policy applies to all acts related to school activity or school attendance occurring within a school under the jurisdiction of the superintendent of the school district.

(b) Adopted a process for receiving and investigating complaints of discrimination, harassment, intimidation, and bullying based on any of the actual or perceived characteristics set forth in Section 422.55 of the Penal Code and Section 220, and disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or association with a person or group with one or more of these actual or perceived characteristics. The complaint process shall include, but not be limited to, all of the following:

(1) A requirement that, if school personnel witness an act of discrimination, harassment, intimidation, or bullying, he or she shall take immediate steps to intervene when safe to do so.

(2) A timeline to investigate and resolve complaints of discrimination, harassment, intimidation, or bullying that shall be followed by all schools under the jurisdiction of the school district.

(3) An appeal process afforded to the complainant should he or she disagree with the resolution of a complaint filed pursuant to this section.

(4) All forms developed pursuant to this process shall be translated pursuant to Section 48985.

(c) Publicized antidiscrimination, antiharassment, anti-intimidation, and antibullying policies adopted pursuant to subdivision (a), including information about the manner in which to file a complaint, to pupils, parents, employees, agents of the governing board, and the general public. The information shall be translated pursuant to Section 48985.

(d) Posted the policy established pursuant to subdivision (a) in all schools and offices, including staff lounges and pupil government meeting rooms.

(e) Maintained documentation of complaints and their resolution for a minimum of one review cycle.

(f) Ensured that complainants are protected from retaliation and that the identity of a complainant alleging discrimination, harassment, intimidation, or bullying remains confidential, as appropriate.

(g) Identified a responsible local educational agency officer for ensuring school district or county office of education compliance with the requirements of Chapter 5.3 (commencing with Section 4900) of Division 1 of Title 5 of the California Code of Regulations and Chapter 2 (commencing with Section 200).

SEC. 3. Section 234.2 of the Education Code is amended to read:

234.2. The department shall display current information, and periodically update information, on curricula and other resources that specifically address bias-related discrimination, harassment, intimidation, and bullying based on any of the actual or perceived characteristics set forth in Section 422.55 of the Penal Code and Section 220 on the California Healthy Kids Resource Center Internet Web site and other appropriate department Internet Web sites where information about discrimination, harassment, intimidation, and bullying is posted.

SEC. 4. Section 234.3 of the Education Code is amended to read:

234.3. The department shall develop a model handout describing the rights and obligations set forth in Sections 200, 201, and 220 and the policies addressing bias-related discrimination, harassment, intimidation, and bullying in schools. This model handout shall be posted on appropriate department Internet Web sites.

SEC. 5. Section 234.5 is added to the Education Code, to read:

234.5. The Superintendent shall post, and annually update, on his or her Internet Web site and provide to each school district a list of statewide resources, including community-based organizations, that provide support

to youth who have been subjected to school-based discrimination, harassment, intimidation, or bullying, and their families.

SEC. 6. This act shall not be construed to limit pupil rights to free speech as protected by the United States Constitution, the California Constitution, Sections 48907 and 48950 of the Education Code, and other applicable law.

SEC. 7. This act shall not be construed to require an exhaustion of any administrative complaint process before civil law remedies may be pursued.

SEC. 8. This act shall become operative on July 1, 2012.

SEC. 9. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.