

**RS 17:416.13**

§416.13. Student code of conduct; requirement; bullying; prohibition; notice; reporting; accountability

A. Code of Conduct. The governing authority of each public elementary and secondary school shall adopt a student code of conduct for the students in the schools under its jurisdiction. The code of conduct shall be in compliance with all existing rules, regulations, and policies of the school board and of the State Board of Elementary and Secondary Education and all state laws relative to student discipline and shall include any necessary disciplinary action to be taken against any student who violates the code of conduct.

B. Bullying Policy. (1) The governing authority of each public elementary and secondary school shall adopt, and incorporate into the student code of conduct, a policy prohibiting the bullying of a student by another student, which includes the definition of bullying as provided in Subsection C of this Section. This policy must be implemented in a manner that is ongoing throughout the school year and integrated with a school's curriculum, a school's discipline policies, and other violence prevention efforts.

(2) The governing authority of each public elementary and secondary school shall:

(a) Conduct a review of the student code of conduct required by this Section and amend the code as may be necessary to assure that the policy prohibiting the bullying of a student by another student specifically addresses the behavior constituting bullying, the effect the behavior has on others, including bystanders, and the disciplinary and criminal consequences, and includes the definition of bullying as provided in Subsection C of this Section.

(b) Create a program to provide a minimum of four hours of training for new employees who have contact with students and two hours of training each year for all school employees who have contact with students, including bus operators, with respect to bullying. The training shall specifically include the following:

(i) How to recognize the behaviors defined as bullying in Subsection C of this Section.

(ii) How to identify students at each grade level in the employee's school who are most likely to become victims of bullying, while not excluding any student from protection from bullying.

(iii) How to use appropriate intervention and remediation techniques and procedures.

(iv) The procedures by which incidents of bullying are to be reported to school officials.

(v) Information on suicide prevention, including the relationship between suicide risk factors and bullying. This content shall be based on information supported by peer-reviewed research conducted in compliance with accepted scientific methods and recognized as accurate by leading professional organizations and agencies with relevant experience.

C. Definition of Bullying. "Bullying" means:

(1) A pattern of any one or more of the following:

(a) Gestures, including but not limited to obscene gestures and making faces.

(b) Written, electronic, or verbal communications, including but not limited to calling names, threatening harm, taunting, malicious teasing, or spreading untrue rumors. Electronic communication includes but is not limited to a communication or image transmitted by email, instant message, text message, blog, or social networking website through the use of a telephone, mobile phone, pager, computer, or other electronic device.

(c) Physical acts, including but not limited to hitting, kicking, pushing, tripping, choking, damaging personal property, or unauthorized use of personal property.

(d) Repeatedly and purposefully shunning or excluding from activities.

(2)(a) Where the pattern of behavior as provided in Paragraph (1) of this Subsection is exhibited toward a student, more than once, by another student or group of students and occurs, or is received by, a student while on school property, at a school-sponsored or school-related function or activity, in any school bus or van, at any designated school bus stop, in any other school or private vehicle used to transport students to and from schools, or any school-sponsored activity or event.

(b) The pattern of behavior as provided in Paragraph (1) of this Subsection must have the effect of physically harming a student, placing the student in reasonable fear of physical harm, damaging a student's property, placing the student in reasonable fear of damage to the student's property, or must be sufficiently severe, persistent, and pervasive enough to either create an intimidating or threatening educational

environment, have the effect of substantially interfering with a student's performance in school, or have the effect of substantially disrupting the orderly operation of the school.

D. The State Board of Elementary and Secondary Education, in collaboration with the state Department of Education, shall develop and adopt rules and regulations to implement the provisions of this Section relative to the procedures and processes to be used to report and investigate bullying and which shall include but not be limited to:

(1) Notice to Students and Parents. The governing authority of each public elementary and secondary school shall inform each student, orally and in writing at the orientation required under R.S. 17:416.20, of the prohibition against bullying of a student by another student, the nature and consequences of such actions, including the potential criminal consequences and loss of driver's license as provided in R.S. 17:416.1, and the proper process and procedure for reporting any incidents involving such prohibited actions. A copy of the written notice shall also be delivered to each student's parent or legal guardian.

(2) Reporting. (a) The governing authority of each public elementary and secondary school shall develop a procedure for the reporting of incidents of bullying. This shall include a form for the purposes of bullying reports. The form shall include an affirmation of truth of statement. Any bullying report submitted regardless of recipient shall use this form, but additional information may be provided. The form shall be available on the Department of Education's website.

(b) Students and parents. Any student who believes that he has been, or is currently, the victim of bullying, or any student, or any parent or guardian, who witnesses bullying or has good reason to believe bullying is taking place, may report the situation to a school official. A student, or parent or guardian, may also report concerns regarding bullying to a teacher, counselor, other school employee, or to any parent chaperoning or supervising a school function or activity. Any report of bullying shall remain confidential.

(c) School personnel. Any teacher, counselor, bus operator, or other school employee, whether full- or part-time, and any parent chaperoning or supervising a school function or activity, who witnesses bullying or who learns of bullying from a student pursuant to Subparagraph (b) of this Paragraph, shall report the incident to a school official. A verbal report shall be submitted by the school employee or the parent on the same day as the employee or parent witnessed or otherwise learned of the bullying incident, and a written report shall be filed no later than two days thereafter.

(d) Retaliation. Retaliation against any person who reports bullying in good faith, who is thought to have reported bullying, who files a complaint, or who otherwise participates in an investigation or inquiry concerning allegations of bullying is prohibited conduct and subject to discipline. School and district resources shall not be used to prohibit or dissuade any person who meets the specifications of this Subparagraph.

(e) False Reports. Intentionally making false reports about bullying to school officials is prohibited conduct and will result in the appropriate disciplinary measures as determined by the governing authority of the school in accordance with the rules and regulations of the State Board of Elementary and Secondary Education.

(3) Investigation Procedure. The State Board of Elementary and Secondary Education shall develop and adopt a procedure for the investigation of reports of bullying of a student by another student. The procedure shall include the following:

(a) Scope of investigation. An investigation shall include an interview of the reporter, the victim, the alleged bully, and any witnesses, and shall include obtaining copies or photographs of any audio-visual evidence.

(b) Timing. The school shall begin an investigation of any complaint that is properly reported and that alleges conduct prohibited in this Section the next business day during which school is in session after the report is received by the school official. The investigation shall be completed not later than ten school days after the date the written report of the incident is submitted to the appropriate school official. If additional information is received after the end of the ten-day period, the school principal or his designee shall amend all documents and reports required by this Section to reflect such information.

(c) Appeal. (i) If the school official does not take timely and effective action pursuant to this Section, the student, parent, or school employee may report the bullying incident to the city, parish, or other local school board or local school governing authority. The school board or school governing authority shall begin an investigation of any complaint that is properly reported and that alleges conduct prohibited in this Section

the next business day during which school is in session after the report is received by a school board or governing authority official.

(ii) If the school board does not take timely and effective action, the student, parent, or other school employee may report the bullying incident to the state Department of Education. The department shall track the number of reports, shall notify in writing the superintendent and the president of the school's governing authority, and shall publish the number of reports by school district or governing authority on its website. The department shall provide both the number of actual reports received and the number of reports received by affected student.

(iii) For the purposes of this Section, a report means a written document that meets the requirements of Subparagraph (2)(a) of this Subsection.

(d) Parental Notification.

(i) Upon receiving a report of bullying, the school official shall notify the student's parent or legal guardian according to the definition of notice created by the state Department of Education.

(ii) Under no circumstances shall the delivery of the notice to the parent or legal guardian, which is required by this Subsection, be the responsibility of an involved student. Delivery of the notice by an involved student shall not constitute notice as is required pursuant to this Subsection.

(iii) Before any student under the age of eighteen is interviewed, his parent or legal guardian shall be notified by the school official of the allegations made and shall have the opportunity to attend any interviews with his child conducted as part of the investigation. If, after three attempts in a forty-eight-hour period, the parents or legal guardians of a student cannot be reached or do not respond, the student may be interviewed.

(iv) The State Board of Elementary and Secondary Education, in collaboration with the state Department of Education, shall develop a procedure for meetings with the parent or legal guardian of the victim and the parent or legal guardian of the alleged perpetrator. This procedure shall include:

(aa) Separate meetings with the parents or legal guardians of the victim and the parents or legal guardians of the alleged perpetrator.

(bb) Notification of parents or legal guardians of the victim and of the alleged perpetrator of the available potential consequences, penalties, and counseling options.

(cc) In any case where a teacher, principal, or other school employee is authorized in this Section to require the parent or legal guardian of a student who is under the age of eighteen and not judicially emancipated or emancipated by marriage to attend a conference or meeting regarding the student's behavior and, after notice, the parent, tutor, or legal guardian willfully refuses to attend, that the principal or his designee shall file a complaint with a court exercising juvenile jurisdiction, pursuant to Children's Code Article 730(8) and 731. The principal may file a complaint pursuant to Children's Code Article 730(1) or any other applicable ground when, in his judgment, doing so is in the best interests of the student.

(e) Disciplinary Action. If the school has received a report of bullying, has determined that an act of bullying has occurred, and after meeting with the parent or legal guardian of the students involved, the school official shall:

(i) Take prompt and appropriate disciplinary action, pursuant to R.S. 17:416 and 416.1, against the student that the school official determines has engaged in conduct which constitutes bullying, if appropriate.

(ii) Report criminal conduct to law enforcement, if appropriate.

(f) Parental Relief. (i) If a parent, legal guardian, teacher, or other school official has made four or more reports of separate instances of bullying, as provided in Paragraph (2) of this Subsection, and no investigation pursuant to Paragraph (3) of this Subsection has occurred, the parent or legal guardian with responsibility for decisions regarding the education of the victim about whom the report or reports have been made may exercise an option to have the student enroll in or attend another school operated by the governing authority of the public elementary or secondary school in which the student was enrolled on the dates when at least three of the reports were submitted.

(ii) The parent shall file a request with the superintendent for the transfer of the student to another school under the governing authority's jurisdiction.

(iii) The governing authority of the public elementary or secondary school in which the student is enrolled shall make a seat available at another public elementary or secondary school under its jurisdiction within ten school days of the parent or legal guardian's request for a transfer. If the governing authority has no

other school under its jurisdiction serving the grade level of the victim, within fifteen school days of receiving the request, the superintendent or director of the governing authority shall:

(aa) Inform the student and his parent or legal guardian and facilitate the student's enrollment in a statewide virtual school.

(bb) Offer the student a placement in a full-time virtual program or virtual school under the jurisdiction of the school's governing authority.

(cc) Enter into a memorandum of understanding with the superintendent or director of another governing authority to secure a placement and provide for the transfer of the student to a school serving the grade level of the victim under the jurisdiction of the governing authority, pursuant to R.S. 17:105 and 105.1.

(iv) If no seat or other placement pursuant to Item (iii) of this Subparagraph is made available within thirty calendar days of the receipt by the superintendent of the request, the parent or legal guardian may request a hearing with the school's governing authority, which shall be public or private at the option of the parent or legal guardian. The school's governing authority shall grant the hearing at the next scheduled meeting or within sixty calendar days, whichever is sooner.

(v) At the end of any school year, the parent or legal guardian may make a request to the governing authority of the school at which the student was enrolled when at least three of the reports were filed to transfer the student back to the school. The governing authority shall make a seat available at the school at which the student was originally enrolled. No other schools shall qualify for transfer under this Subparagraph.

(g) Documentation. (i) The state Department of Education shall develop a behavior incidence checklist that the governing authority of each public elementary and secondary school shall use to document the details of each reported incident of bullying.

(ii) The governing authority of each public elementary and secondary school shall report all such documented incidences of bullying to the state Department of Education as prescribed in rules adopted by the State Board of Elementary and Secondary Education in accordance with the Administrative Procedure Act and documented incidents in reports received by the local superintendent of schools pursuant to R.S. 17:415.

(iii) After the investigation and meeting with the parents, pursuant to this Section, a school, local school board or other local school governing authority shall:

(aa) Compose a written document containing the findings of the investigation, including input from the students' parents or legal guardian, and the decision by the school or school system official. The document shall be placed in the school records of both students.

(bb) Promptly notify the complainant of the findings of the investigation and that remedial action has been taken, if such release of information does not violate the law.

(cc) Keep complaints and investigative reports confidential, except as provided in this Section and where disclosure is required to be made pursuant to 20 U.S.C. 1232g or by other applicable federal laws, rules, or regulations or by state law.

(dd) Maintain complaints and investigative reports for three years in the event that disclosure is warranted by law enforcement officials.

(ee) As applicable, provide a copy of any reports and investigative documents to the governing authority of the school in order that the governing authority can comply with the provisions of R.S. 17:416.1.

(ff) As applicable, provide a copy of any reports and investigative documents to the state Department of Education. Upon receipt, the department shall remove any reports related to the investigative documents from notation on the department's website, but shall maintain a record of those reports for three years.

E. Parental Responsibilities. Nothing herein shall be deemed to interfere with the authority and the responsibility that a parent or legal guardian has for the student at all times, but particularly when the student is not on the school premises, is not engaged in a school-sponsored function or school-sponsored activity, and is not being transported by school-sponsored means of transportation.

F. This Section shall not be interpreted to conflict with or supercede the provisions requiring mandatory reporting pursuant to Louisiana Children's Code Article 609 and as enforced through R.S. 14:403.

G. Preclusion. (1) This Section shall not be interpreted to prevent a victim of bullying, or his parent or legal guardian, from seeking redress under any other available law, either civil or criminal.

(2) Nothing in this Section is intended to infringe upon the right of a school employee or student to exercise their right of free speech.

H. Construction; equal protection. All students subject to the provisions of this Section shall be protected equally and without regard to the subject matter or the motivating animus of the bullying.

Acts 1999, No. 969, §1, eff. July 9, 1999; Acts 2001, No. 230, §1, eff. June 1, 2001; Acts 2010, No. 755, §1, eff. June 29, 2010; Acts 2012, No. 861, §1, eff. June 14, 2012; Acts 2013, No. 329, §1; Acts 2017, No. 335, §1.