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MEMORANDUM

To: Chairman Huebert
Members of the House Committee on Education

From: Jason B. Long, Senior Assistant Revisor

Date: February 20, 2019

Subject: Comparison of HB 2330 and HB 2257

There are two house bills proposing to require school districts adopt policies and procedures to prevent and investigate incidents of bullying in accordance with the proposed minimum statutory provisions. The following is a chart comparing the substantive provisions of the two bills:

Substantive Issue	House Bill No. 2330	House Bill No. 2257
Definitions	Redefines "bullying" to mean the intentional or knowing harassment, intimidation, humiliation, ridicule, defamation, threat or incitement of violence by a written, verbal, electronic or physical act that may address an attribute of the victim, or a person with whom the victim is associated, and that causes or	Keeps current law definition of "bullying," which includes cyberbullying. Currently defined as any intentional gesture or any intentional written, verbal, electronic, or physical act or threat that is sufficiently severe, persistent, or pervasive that such conduct creates an intimidating, threatening, or abusive educational environment that a

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	<p>creates actual or reasonably foreseeable physical harm, damage to property, substantial interference with the victim's education or duties, hostile educational environments due to the severity, persistence, or pervasiveness of the act, or substantial disruption of the orderly operation of the school, school-sponsored activity, or educational environment.</p> <p>Redefines "cyberbullying" as electronically transmitted communications knowingly created or exhibited toward the victim with the intention to frighten, coerce, intimidate, abuse, harass, or alarm the victim, and is sufficiently severe, persistent, or pervasive that it creates an intimidating, threatening, or abusive educational environment. Cyberbullying includes communications occurring over computer networks not operated by the district.</p> <p>Defines "harassment" as engaging in a specified list of behaviors with the intention or reasonable likelihood to frighten, coerce, intimidate, abuse, or alarm the victim.</p>	<p>reasonable person knows or should know will have the effect of physically or mentally harming the victim, damaging property, placing the victim in fear of harm to self or property, cyberbullying, or any other form of intimidation or harassment prohibited by the school district policy.</p> <p>"Cyberbullying" is currently defined as bullying through the use of any electronic communication device.</p> <p>Current law does not separately define "harassment."</p>
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Scope	Prohibits bullying, harassment, and cyberbullying of a student or school district personnel. "School district personnel" is defined to include employees, board members, volunteers, and contracted service providers.	Prohibits bullying by a student, staff member, or parent toward a student or staff member. "Staff member" is defined as any school district employee.
Minimum policy requirements	<ul style="list-style-type: none"> (1) Prohibiting bullying, harassment, and cyberbullying of all students; (2) defining bullying, harassment, and cyberbullying in a manner that is no less inclusive than the statutory definitions; (3) describing expected behavior of students, parents, and school personnel; (4) specifying appropriate responses to bullying; (5) providing procedures for reporting of bullying, harassment, and cyberbullying; (6) investigating reports of bullying, harassment, and cyberbullying; (7) list of appropriate responses to an incident of bullying, harassment, or cyberbullying; (8) prohibiting retaliation for reporting bullying, harassment, and cyberbullying; (9) consequences for making a false report; 	<ul style="list-style-type: none"> (1) Prohibiting bullying of all students; (2) designating a primary contact person for the district; (3) providing training for staff members; (4) investigating reports of bullying; (5) specifying appropriate responses to bullying; (6) prohibiting retaliation for reporting bullying; (7) allowing for anonymous reporting; (8) publishing the policy and procedures, including a link to the policy prominently posted on the district website and annual distribution to parents; and (9) collecting, reporting, and analyzing bullying data.

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	<p>(10) publishing the policy and procedures;</p> <p>(11) requiring a link to the policy be prominently posted on the district website, and distributed annually to parents; and</p> <p>(12) designating a primary contact person for the district.</p>	
<p>Investigation procedures</p>	<p>(1) All acts of bullying, harassment, or cyberbullying must be reported orally or in writing within 24 hours after the incident is witnessed or the person receives reliable information concerning the incident.</p> <p>(2) Inform parents of all students involved within 24 hours of initial report.</p> <p>(3) All acts must be reported in writing within 2 school days after being witnessed or person receives reliable information concerning the incident.</p> <p>(4) Investigation must be initiated within 1 school day after initial report.</p> <p>(5) Investigation must be completed within 10 school days after initial report.</p> <p>(6) Results of investigation must be reported to superintendent within 2 school days after completion</p>	<p>(1) All allegations of bullying must be reported to the designated school administrator.</p> <p>(2) A prompt and thorough investigation must be initiated upon receipt of a report.</p> <p>(3) The investigation procedures include taking steps to protect students and staff members involved if necessary, providing notification to parents of students involved, and maintaining a written record.</p> <p>(4) School administrator must take appropriate disciplinary action upon completing the investigation.</p> <p>(5) A report must be issued to all students, parents, and staff members involved.</p> <p>(6) The person making the report may request an independent review of the matter if they: Are dissatisfied with the school administrator's investigation; are dissatisfied with the school administrator's final</p>

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	<p>of investigation, and superintendent will determine appropriate response.</p> <p>(7) Results of investigation must be reported to the board of education at the board's next meeting.</p> <p>(8) A report of the investigation must be sent to parents of students involved and school district personnel involved within 5 school days after the investigation is completed.</p> <p>(9) A parent or school district personnel may request a hearing by the board of education to review the superintendent's determination.</p> <p>All time frames may be extended for good cause.</p>	<p>determination after investigating; or are dissatisfied with the response to the incident.</p>
False reports	<p>Policy must include consequences and appropriate remedial actions for anyone making a false report.</p>	<p>Any student who knowingly and willfully makes a false report is subject to disciplinary action.</p>
Retaliation	<p>Policy must prohibit retaliation and include consequences and appropriate remedial actions for anyone engaging in such behavior.</p>	<p>Policy must prohibit retaliation and include appropriate remedial actions for anyone engaging in such behavior.</p>
Disciplinary action	<p>Offending students, parents, or school district personnel must receive appropriate counseling or other appropriate remedial action. Legislature encourages appropriate and proactive measures for</p>	<p>Disciplinary action must promote progressive discipline and intervention as opposed to "zero tolerance" policies. The bill provides a 9-item list of alternative disciplinary measures.</p>

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	discipline. The bill provides a 15-item list of alternatives to suspension or expulsion.	
Model policy	State board of education must develop a model policy by Sept. 1, 2019, that includes age-appropriate consequences, disciplinary action or counseling.	State board of education must develop a model policy and appropriate procedures for investigations, failures to adopt and implement the required policy, reporting of incidents, and publication of statewide statistics.
Submissions to the State Board	Each district must revise their policy by Nov. 1, 2019, and submit the policy to the State Board. Each district must annually review the policy and submit any adopted changes to the State Board.	Each district must adopt and implement a plan to address bullying and submit the plan to the State Board.
Student privacy	The investigation report sent to the parents of students involved and school district personnel involved must be prepared to the extent permitted by federal and state law. The bill also prohibits the public distribution of confidential information.	Prohibits the disclosure of any educational or other personal data of the offender. School administrator is to consider the health, well-being, and safety of students involved when providing notification of an incident.
Professional development	No provision	Requires annual professional development to prevent, identify, and respond to bullying.
Student orientation	No provision	Requires annual student age-appropriate orientation on prevention, reporting, investigations, and consequences.
Liability for reporting	Provides civil liability immunity for any damages arising from making a report.	No provision

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<p>Discipline for failure to carry out duties</p>	<p>Provides that any school official responsible for initiating an investigation who fails to do so, or who fails to take sufficient action to minimize or eliminate bullying, harassment, or cyberbullying may be subject to disciplinary action including by the state educator licensure team.</p>	<p>No provision</p>
<p>Publication of policy</p>	<p>Must be published in any district publication that includes comprehensive rules, procedures, and standards of conduct.</p> <p>A link to the policy must be prominently posted on the district's website.</p> <p>Annual distribution of the policy to parents.</p>	<p>Must be published in new employee training materials, any publication that includes comprehensive rules, procedures, and standards of conduct, and in any student handbook.</p> <p>A link to the policy must be prominently posted on the district's website.</p> <p>Annual distribution of the policy to parents.</p>