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HOUSE BILL NO. 1126

Offered January 12, 2022

A *BILL to amend and reenact §§ 22.1-23.3 and 22.1-291.4 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 22.1-1.1 and 22.1-208.3, relating to public education; parental rights; access to certain facilities and accommodations; instructional content; bullying.*

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Committee Referral Pending

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-23.3 and 22.1-291.4 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 22.1-1.1 and 22.1-208.3 as follows:

§ 22.1-1.1. Parental rights in public education.

In accordance with § 1-240.1, the parent of any student enrolled in a public elementary or secondary school in the Commonwealth has the right to:

- 1. Obtain and review any educational material and curriculum utilized in any class or course in which the student is enrolled;*
- 2. Opt his child out of any class or course activity, lesson, or reading assignment or the use of any audiovisual material or library book to which the parent objects;*
- 3. Easily access a list of the title and author of each book in each classroom and each library in the school in which the student is enrolled;*
- 4. In accordance with § 2.2-3707, receive notice of and attend any public meeting of the school board governing the local school division in which the student is enrolled;*
- 5. In accordance with §§ 22.1-90 and 22.1-92, review the annual school division budget and expenditures;*
- 6. Send his child to attend school in a safe environment; and*
- 7. Be updated by the school principal on any violent activity in the school in which the student is enrolled.*

§ 22.1-23.3. Treatment of transgender students; access to certain facilities and accommodations; policies.

A. The Department of Education shall develop and make available to each school board model policies concerning the treatment of transgender students in public elementary and secondary schools that address common issues regarding transgender students in accordance with evidence-based best practices and include information, guidance, procedures, and standards relating to:

1. Compliance with applicable nondiscrimination laws;
 2. Maintenance of a safe and supportive learning environment free from discrimination and harassment for all students;
 3. Prevention of and response to bullying and harassment;
 4. Maintenance of student records;
 5. Identification of students;
 6. Protection of student privacy and the confidentiality of sensitive information;
 7. Enforcement of sex-based dress codes; and
 8. Student participation in sex-specific school activities and events ~~and use of school facilities.~~
- Activities and events do not include athletics.

B. Each school board shall adopt policies that are consistent with but may be more comprehensive than the model policies developed by the Department of Education pursuant to subsection A.

C. *Each school board shall adopt policies to require each student and school board employee to have access to (i) restrooms, locker rooms, and other changing facilities in public school buildings that are shared only by members of the same biological sex; (ii) lodging accommodations during school-sponsored trips that are shared only by members of the same biological sex; and (iii) a single-user restroom, locker room, or other changing facility in a public school building, upon request, if the school can reasonably accommodate such a request.*

§ 22.1-208.3. Certain instructional content prohibited.

No school board employee or individual who provides any school-sponsored program shall teach or promote to any student or school board employee the concept that (i) any race is inherently superior or inferior; (ii) any individual is racist, privileged, oppressive, biased, or responsible for actions committed by others of the same race or skin color by virtue of the individual's race or skin color; (iii) the United States is fundamentally racist; or (iv) market-based economics is inherently racist.

§ 22.1-291.4. Bullying and abusive work environments prohibited.

A. As used in this section:

"Abusive conduct" means conduct of a school board employee in the workplace that a reasonable person would find hostile and that is severe enough to cause physical harm or psychological harm to another school board employee based on a determination in which the following factors are considered: the severity, nature, and frequency of the conduct and, when applicable, the continuation of the conduct after a school board employee requests that it cease or demonstrates outward signs of physical harm or psychological harm in the face of the conduct. "Abusive conduct" includes verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating; the gratuitous sabotage or undermining of another school board employee's work performance; attempts to exploit another school board employee's known psychological or physical vulnerability; or repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, or epithets. "Abusive conduct" does not include (i) a single act, unless it is especially severe, or (ii) conduct that the school board proves with clear and convincing evidence is necessary for the furtherance of its legitimate and lawful interests.

"Abusive work environment" means a workplace in a school division in which abusive conduct occurs.

"Physical harm" means a material impairment of a school board employee's physical health or bodily integrity, as documented by a licensed physician or another licensed health care provider.

"Psychological harm" means a material impairment of a school board employee's mental health, as documented by a licensed psychologist, psychiatrist, or psychotherapist or another licensed mental health care provider.

B. Each school board shall implement policies and procedures to educate school board employees about bullying, as defined in § 22.1-276.01, and the need to create a ~~bully-free~~ *school environment in which all individuals are treated with dignity and respect and any incident of bullying is taken seriously and handled in a robust manner.*

C. Each school board shall adopt policies to:

1. Prohibit abusive work environments in the school division;
2. Provide for the appropriate discipline of any school board employee who contributes to an abusive work environment; and
3. Prohibit retaliation or reprisal against a school board employee who alleges an abusive work environment or assists in the investigation of an allegation of an abusive work environment.

D. Nothing in this section shall be construed to limit a school board's authority to adopt policies to prohibit any other type of workplace conduct as the school board deems necessary.