

# House Bill 2832

Sponsored by Representative WITT (Presession filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Expands prohibited acts related to harassment, intimidation or bullying or to cyberbullying to include actions by or against school employees. Recognizes that student or school employee may take reasonable actions to defend against physical act of harassment, intimidation or bullying. Requires school employee to report act of harassment, intimidation or bullying or of cyberbullying.

Declares emergency, effective July 1, 2011.

## A BILL FOR AN ACT

1  
2 Relating to hostile education environments; amending ORS 339.351, 339.353, 339.356 and 339.362; and  
3 declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 339.351 is amended to read:

6 339.351. As used in ORS 339.351 to 339.364:

7 (1) "Cyberbullying" means the use of any electronic communication device to harass, intimidate  
8 or bully.

9 (2) "Harassment, intimidation or bullying" means any act **or communication** that:

10 (a) **When directed toward a student:**

11 [(a)] (A) Substantially interferes with a student's educational benefits, opportunities or per-  
12 formance;

13 [(b)] (B) Takes place on or immediately adjacent to school grounds, at any school-sponsored  
14 activity, on school-provided transportation or at any official school bus stop;

15 [(c)] (C) Has the effect of:

16 [(A)] (i) Physically harming a student or damaging a student's property;

17 [(B)] (ii) [*Knowingly*] Placing a student in reasonable fear of physical harm to the student or  
18 damage to the student's property; or

19 [(C)] (iii) Creating a hostile educational environment, including interfering with the psycholog-  
20 ical well-being of a student; and

21 [(d)] (D) May be based on, but not be limited to, the protected class status of a person.

22 (b) **When directed toward a school employee:**

23 (A) **Takes place on or immediately adjacent to school grounds, at any school-sponsored**  
24 **activity, on school-provided transportation or at any official school bus stop;**

25 (B) **Has the effect of:**

26 (i) **Physically harming a school employee or damaging the property of a school employee;**  
27 **or**

28 (ii) **Placing a school employee in reasonable fear of physical harm to the school employee**  
29 **or damage to the property of the school employee; and**

30 (C) **May be based on, but not be limited to, the protected class status of a person.**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (3) “Protected class” means a group of persons distinguished, or perceived to be distinguished,  
 2 by race, color, religion, sex, sexual orientation, national origin, marital status, familial status, source  
 3 of income or disability.

4 **SECTION 2.** ORS 339.353 is amended to read:

5 339.353. (1) The Legislative Assembly finds that:

6 (a) A safe and civil environment is necessary for students to learn and achieve high academic  
 7 standards.

8 (b) Harassment, intimidation or bullying and cyberbullying, like other disruptive or violent be-  
 9 havior, are conduct that disrupts a student’s ability to learn, **a teacher’s ability to teach** and a  
 10 school’s ability to educate its students in a safe environment.

11 (c) Students learn by example.

12 (2) The Legislative Assembly commends school administrators, faculty, staff and volunteers for  
 13 demonstrating appropriate behavior, treating others with civility and respect, refusing to tolerate  
 14 harassment, intimidation or bullying and refusing to tolerate cyberbullying.

15 **SECTION 3.** ORS 339.356 is amended to read:

16 339.356. (1) Each school district shall adopt a policy prohibiting harassment, intimidation or  
 17 bullying and prohibiting cyberbullying. School districts are encouraged to develop the policy after  
 18 consultation with parents, guardians, school employees, volunteers, students, administrators and  
 19 community representatives.

20 (2) School districts must include in the policy:

21 (a) A statement prohibiting harassment, intimidation or bullying and prohibiting cyberbullying  
 22 **by students and school employees.**

23 (b) Definitions of “harassment,” “intimidation” or “bullying” and of “cyberbullying” that are  
 24 consistent with ORS 339.351.

25 (c) Definitions of “protected class” that are consistent with ORS 174.100 and 339.351.

26 (d) A statement of the scope of the policy, including a notice that the policy applies to behavior  
 27 at school-sponsored activities, on school-provided transportation and at any official school bus stop.

28 (e) A description of the type of behavior expected from each student **and school employee.**

29 (f) A statement of the consequences and appropriate remedial action for a person who commits  
 30 an act of harassment, intimidation or bullying or an act of cyberbullying.

31 (g) A procedure that is uniform throughout the school district for reporting an act of  
 32 harassment, intimidation or bullying or an act of cyberbullying. A procedure established under this  
 33 paragraph shall identify by job title the school officials responsible for receiving such a report at  
 34 a school and shall allow a person to report an act of harassment, intimidation or bullying or an act  
 35 of cyberbullying anonymously. Nothing in this paragraph may be construed to permit formal disci-  
 36 plinary action solely on the basis of an anonymous report.

37 (h) A procedure that is uniform throughout the school district for prompt investigation of a re-  
 38 port of an act of harassment, intimidation or bullying or an act of cyberbullying. A procedure es-  
 39 tablished under this paragraph shall identify by job title the school officials responsible for  
 40 investigating such a report.

41 (i) A procedure by which a person may request a school district to review the actions of a  
 42 school in responding to a report of an act of harassment, intimidation or bullying or an act of  
 43 cyberbullying or investigating such a report.

44 (j) A statement of the manner in which a school and a school district will respond after an act  
 45 of harassment, intimidation or bullying or an act of cyberbullying is reported, investigated and

1 confirmed.

2 (k) A statement of the consequences and appropriate remedial action for a person found to have  
3 committed an act of harassment, intimidation or bullying or an act of cyberbullying.

4 (L) A statement prohibiting reprisal or retaliation against any person who reports an act of  
5 harassment, intimidation or bullying or an act of cyberbullying and stating the consequences and  
6 appropriate remedial action for a person who engages in such reprisal or retaliation.

7 (m) A statement of the consequences and appropriate remedial action for a person found to have  
8 falsely accused another of having committed an act of harassment, intimidation or bullying or an  
9 act of cyberbullying as a means of reprisal or retaliation, as a means of harassment, intimidation  
10 or bullying or as a means of cyberbullying.

11 (n) A statement of how the policy is to be publicized within the district. At a minimum, a school  
12 district shall make the policy:

13 (A) Annually available to parents, guardians, school employees and students in a student or  
14 employee handbook; and

15 (B) Readily available to parents, guardians, school employees, volunteers, students, administra-  
16 tors and community representatives at each school office or at the school district office and, if  
17 available, on the website for a school or the school district.

18 (o) The identification by job title of school officials and school district officials responsible for  
19 ensuring that policy is implemented.

20 **(p) Recognition that a student or school employee may take reasonable actions to defend**  
21 **the student or school employee from a physical act of harassment, intimidation or bullying.**

22 (3) A school district that does not comply with the requirements of this section is considered  
23 nonstandard under ORS 327.103.

24 **SECTION 4.** ORS 339.362 is amended to read:

25 339.362. (1) A school employee, student or volunteer may not engage in reprisal or retaliation  
26 against a victim of, witness to or person with reliable information about an act of harassment, in-  
27 timidation or bullying or an act of cyberbullying.

28 (2) A [*school employee,*] student or volunteer who witnesses or has reliable information that a  
29 student has been subjected to an act of harassment, intimidation or bullying or an act of  
30 cyberbullying is encouraged to report the act to the appropriate school official designated by the  
31 school district's policy.

32 **(3) A school employee who witnesses or has reliable information that a student or an-**  
33 **other school employee has been subjected to an act of harassment, intimidation or bullying**  
34 **or an act of cyberbullying must report the act to the appropriate school official designated**  
35 **by the school district's personnel policy.**

36 [(3)] (4) A school employee who promptly reports an act of harassment, intimidation or bullying  
37 or an act of cyberbullying to the appropriate school official in compliance with the procedures set  
38 forth in the school district's policy is immune from a cause of action for damages arising from any  
39 failure to remedy the reported act.

40 **SECTION 5. This 2011 Act being necessary for the immediate preservation of the public**  
41 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
42 **July 1, 2011.**