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# OHIO LEGISLATIVE SERVICE COMMISSION

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Legislative Budget  
Office

H.B. 310\*  
133<sup>rd</sup> General Assembly

## Bill Analysis

[Click here for H.B. 310's Fiscal Note](#)

**Version:** As Reported by House Primary & Secondary Education

**Primary Sponsor:** Rep. Greenspan

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### SUMMARY

#### Consequences for harassment, intimidation, or bullying

- Requires each school district, community school, and STEM school to adopt an “evidence-based” or “evidence-informed” policy requiring a district or school to take a disciplinary action against a student who commits an offense of harassment, intimidation, or bullying.
- Requires that the policy authorize the imposition of a detention, suspension, or alternative form of discipline for an offense of harassment, intimidation, or bullying, as determined appropriate under the circumstances.
- Permits a policy to include guidelines regarding the issuance of an alternative form of discipline to a student who commits an offense of harassment, intimidation, or bullying if that student has a high chance of successfully reintegrating and does not pose a threat to the school or victim.
- Permits districts or schools to require age-appropriate community service of, or impose additional disciplinary measures on, students who receive a detention or suspension under the bill.
- Prohibits students from participating in an extracurricular activity during a detention or suspension under the bill.

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\* This analysis was prepared before the report of the House Primary and Secondary Education Committee appeared in the House Journal. Note that the legislative history may be incomplete.

- Permits districts and schools to provide tutoring and academic support to students issued detentions or suspensions under the bill and requires districts or schools to allow them to complete all missed schoolwork and take all required state assessments.
- Permits districts and schools to provide counseling services, upon parental consent, for students who receive a detention, suspension, or alternative form of discipline under the bill.
- Requires districts and schools to allow the victim of harassment, intimidation, or bullying to make up missed schoolwork and permits districts or schools to offer counseling services to the victim.

### **Private school policy regarding harassment, intimidation, or bullying**

- Requires that each chartered nonpublic school to adopt a policy addressing harassment, intimidation, or bullying.
- Requires that the policy must be submitted to the Department of Education and posted on the school's website if it has posted its code of conduct on its website.

### **State Board model policy**

- Requires the Department of Education to develop evidence-based best practices regarding harassment, intimidation, and bullying and review them every four years and update them as necessary.
- Requires the State Board to make its model policy regarding harassment, intimidation, and bullying "evidence-based" and to review that policy every four years, and update it as necessary.

### **Investigation of employees**

- Requires public schools to investigate any report of harassment, intimidation, or bullying by an employee, faculty member, teacher, consultant, or volunteer against a student and then to determine the proper course of action pursuant to current law.

### **Posting of suspension, expulsion, and locker search policies**

- Requires all suspension and expulsion policies and locker search policies to be posted on the website of the school district, community school, and STEM school.

### **Criminal offenses for hazing and failure to report hazing**

- Includes acts to continue or reinstate membership in specified organizations and expressly including coercing individuals to consume alcohol or a drug of abuse to the criminal definition of "hazing."
- Increases the penalty for the existing prohibitions against hazing to a fifth degree felony.

- Expands the list of specified officials who are prohibited from recklessly permitting hazing under current law and limits that prohibition to offenses committed against an individual associated with the specified official’s organization.
- Creates new prohibitions against:
  - An individual recklessly participating in hazing that causes serious physical harm to another.
  - A specified official recklessly permitting hazing that causes serious physical harm to an individual associated with the official’s organization.
  - Parents recklessly permitting hazing that causes serious physical harm to an individual associated with the school or educational institution that the parent’s child attends.
- Specifies that a violation of any of the three new prohibitions regarding hazing that causes serious physical harm is a third degree felony.
- Requires specified officials and parents to immediately report to law enforcement the knowledge or reasonable cause to suspect that an individual has suffered or faces a threat of hazing.
- Prohibits a specified official or parent from failing to fulfill that reporting requirement and specifies that violation of that prohibition is a fourth degree misdemeanor or, if the hazing causes serious physical harm, a first degree misdemeanor.

### **Harassment, intimidation, and bullying and hazing in higher education**

- Requires each state institution of higher education to adopt a policy regarding hazing and harassment, intimidation, or bullying.

### **Title**

- Entitles the bill the “Ohio Anti-Bullying and Hazing Act.”

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## DETAILED ANALYSIS

### **Public school policies on harassment, intimidation, or bullying**

The bill revises the requirements regarding harassment, intimidation, or bullying policies that school districts, community schools, and STEM schools must adopt under current law. It requires that a district or school adopt an “evidence-based” or “evidence-informed” policy requiring disciplinary action against any student who commits an offense of harassment, intimidation, or bullying and makes other changes.

#### **Disciplinary actions**

In accordance with the district’s or school’s policy, the district or school must issue a disciplinary action against a student who commits an offense of harassment, intimidation, or bullying. The disciplinary action may include any of the following, as determined appropriate under the circumstances, for each offense committed by a student:

1. A detention requiring the student to be present in school outside of the instructional day for up to a total number of hours equivalent to ten school days to complete supervised learning activities or a community service plan;
2. An in-school suspension of up to ten school days;
3. An out-of-school suspension of up to ten school days; or

4. An alternative form of discipline aligned with guidelines adopted under the policy of the district or school.<sup>1</sup>

The bill specifies that any suspension for harassment, intimidation, or bullying must be issued in accordance with continuing law, and specifically with the due process procedures required under continuing law. In addition, it specifies that a detention must be issued using due process procedures similar to the due process procedures prescribed under continuing law for a suspension.<sup>2</sup>

### **Community service**

A district or school may develop an age-appropriate community service plan for a student subject to detention or suspension under the bill and require that the student complete it. The plan must include specific goals and timelines and the duration of the required community service. That service requirement may continue beyond the date the student returns to school.<sup>3</sup>

### **Other disciplinary measures**

The bill also prohibits a student from participating in any extracurricular activity during the student's detention or suspension and specifically states that a district or school may impose additional measures on the student as the district or school determines appropriate.<sup>4</sup>

### **Other required actions**

Each district or school must do both of the following with regard to a student suspended or expelled for harassment, intimidation, or bullying:

1. Permit the student to complete all missed schoolwork. The district or school may offer tutoring and academic support to the student.
2. Permit the student to take any required state assessments. The student is permitted to take the assessment in the student's regular school setting.<sup>5</sup>

### **Counseling**

Additionally, the bill permits a district or school to provide counseling or intervention services to a student who is issued a detention, suspension, or alternative form of discipline, subject to parental consent. If the district or school does not provide counseling or intervention

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<sup>1</sup> R.C. 3313.669(A). R.C. 3313.669 applies to community schools and STEM schools through references in R.C. 3314.03(A)(11)(d) and 3326.11.

<sup>2</sup> R.C. 3313.669(A)(4), second paragraph, and (G).

<sup>3</sup> R.C. 3313.661(B)(2) and 3313.669(B)(1).

<sup>4</sup> R.C. 3313.669(B)(2) and (3).

<sup>5</sup> R.C. 3313.669(C)(1).

services, it may coordinate with community organizations to provide such services and help identify available resources.<sup>6</sup>

### **Return to school**

A student who is suspended for harassment, intimidation, or bullying is required to complete all missed schoolwork to return to school. If the student does not do so, the district or school may allow the student to return to school if the student has made sufficient progress toward completing that requirement.<sup>7</sup>

### **Investigation**

The bill requires that, upon receiving a report or being notified of a potential incident of harassment, intimidation, or bullying at school or on school grounds, a principal or another administrator must conduct an investigation to determine if such behavior occurred. The principal or other administration must notify the parent, guardian, or custodian of any student involved in a potential incident of harassment, intimidation, or bullying of an investigation that is conducted.<sup>8</sup>

### **Alternative form of discipline**

The bill permits a district board or school governing body to adopt guidelines regarding the issuance of an alternative form of discipline to a student who commits an offense of harassment, intimidation, or bullying in lieu of a detention or suspension. The guidelines must include:

1. One or more alternative forms of discipline approved by the district board or school governing body. A district board or governing body only may approve an alternative form of discipline that has a high chance of successfully reintegrating a student into the school; and
2. Criteria for determining whether a student qualifies for an alternative form of discipline, which must at least include:
  - a. Extenuating circumstances that qualify a student for an alternative form of discipline, rather than a detention or suspension;
  - b. A requirement that a pupil has a high chance of successful reintegration into the school using the alternative form of discipline; and
  - c. A requirement that a student does not pose a risk to the safety of the school and the victim.<sup>9</sup>

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<sup>6</sup> R.C. 3313.669(C)(2).

<sup>7</sup> R.C. 3313.669(D).

<sup>8</sup> R.C. 3313.669(E)(1).

<sup>9</sup> R.C. 3313.669(E)(2) and 3313.669(F).

## **Victims' rights**

The bill permits a district or school to offer, but not require, counseling services to the victim of harassment, intimidation, or bullying. It also requires each district or school to permit a victim to complete all missed schoolwork due to the harassment, intimidation, or bullying. A district may offer tutoring and academic support to the victim.<sup>10</sup>

## **No effect on permanent exclusion**

The bill states that nothing in the newly enacted section regarding disciplinary actions for a student for harassment, intimidation, or bullying creates a requirement for a district or school to provide a student who has been "permanently" excluded with the same services the district or school would provide to a student attending school in that district.<sup>11</sup>

The bill does not make any changes to the law regarding permanent exclusion from the public schools, which is done only through a prescribed adjudicatory procedure for very serious, specified offenses. Those offenses include aggravated murder and certain other homicide offenses, drug possession, felonious assault, aggravated assault, conveyance or possession of a deadly weapon at school, and certain sex offenses.<sup>12</sup>

## **Continuing obligation to provide a free and appropriate education**

The bill specifies that nothing in the bill affects the obligation of a district or school to provide a free and appropriate education to children with disabilities under continuing state and federal special public education law.<sup>13</sup>

## **Exemption for students in grades Pre-K-3**

The bill specifies that a policy regarding harassment, intimidation, and bullying does not apply to any student in pre-kindergarten through third grade.<sup>14</sup>

## **Private school policies on harassment, intimidation, or bullying**

Under the bill, each chartered nonpublic school must adopt a policy that addresses harassment, intimidation, or bullying. The school also must review the policy at least once every three years and update it as necessary based on the review. Additionally, the school must submit to the Department of Education the policy in a form and manner determined by the

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<sup>10</sup> R.C. 3313.669(H).

<sup>11</sup> R.C. 3313.669(I).

<sup>12</sup> R.C. 3301.121 and 3313.662, neither in the bill.

<sup>13</sup> R.C. 3313.669(J). The bill uses the phrase "free appropriate education," but the term under federal law is free appropriate public education.

<sup>14</sup> R.C. 3313.669(K).

Department and post the policy on the school's website if it has a website upon which its code of conduct is publicly posted.<sup>15</sup>

## **State Board model policy and best practices**

The State Board of Education is required under current law to develop a model policy to prohibit harassment, intimidation, or bullying to assist school districts in developing their own policies.

The bill specifies that the State Board's model policy must be "evidence-based" and further requires the Department of Education to provide each school district with evidence-based best practices regarding policies to prohibit harassment, intimidation, or bullying. It also requires the State Board to review the model policy and the Department to review the best practices at least once every four years, and update them as necessary based on the review.<sup>16</sup>

## **Investigation of employees required**

The bill requires a school district, community school, and STEM school to investigate any report of harassment, intimidation, or bullying by an administrator, employee, faculty member, teacher, consultant, or volunteer against a student. After the investigation, the district superintendent, superintendent designee, or equivalent official, must determine the proper course of action pursuant to current law.<sup>17</sup>

For the purposes of such an investigation, the bill states that harassment, intimidation, or bullying is "any intentional written, verbal, electronic, or physical act that an administrator, employee, faculty member, teacher, consultant, or volunteer of a school district exhibited toward a student more than once." The behavior must cause mental or physical harm to the student and be "sufficiently severe, persistent, or pervasive that it creates an intimidating, threatening, or abusive educational environment for the student."<sup>18</sup>

## **Other changes to the harassment, intimidation, or bullying policy**

Current law requires school districts, community schools, and STEM schools to establish a policy prohibiting harassment, intimidation, or bullying. The policy includes procedures for reporting incidents, parental notification, documentation, protecting victims, and disciplinary procedures (including those for retaliation). The bill revises portions of this policy as follows:

1. Expands the policy to prohibit offenses of harassment, intimidation, or bullying from being committed against administrators, employees, faculty members, teachers,

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<sup>15</sup> R.C. 3301.165.

<sup>16</sup> R.C. 3301.22.

<sup>17</sup> R.C. 3319.318(A). R.C. 3319.318 applies to community schools and STEM schools through references in R.C. 3314.03(A)(11)(d) and 3326.11.

<sup>18</sup> R.C. 3319.318(B).

consultants, and volunteers of the district or school (in addition to students, as under current law);<sup>19</sup>

2. Specifies that the policy only applies to students in grades 4-12;<sup>20</sup>
3. When notifying the parent of a student involved in an incident of harassment, intimidation, or bullying, requires each district or school to maintain a record for each incident verifying that the parent was notified of the incident;<sup>21</sup>
4. Requires the policy to include a disciplinary procedure for any student guilty of retaliation against a student, administrator, employee, faculty member, teacher, consultant, or volunteer of the district or school who reports an incident of harassment, intimidation, or bullying;<sup>22</sup>
5. Requires the governing body of the district or school to review the policy at least once every three years and update it as necessary based on the review;<sup>23</sup>
6. Requires the policy to be updated to include hazing;<sup>24</sup>
7. Requires the policy to apply to grades K-12.<sup>25</sup>

The bill also expands the definition of “harassment, intimidation, or bullying” that applies to public primary and secondary schools to prohibit harassment, intimidation, or bullying against administrators, employees, faculty members, teachers, consultants, and volunteers of the district or school (in addition to students) and to include hazing.<sup>26</sup>

## **Web posting of suspension and expulsion and locker search policies**

The bill requires all suspension and expulsion policies and locker search policies to be posted on the website of the school district, community school, and STEM school.<sup>27</sup>

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<sup>19</sup> R.C. 3313.666(B).

<sup>20</sup> R.C. 3313.666(B).

<sup>21</sup> R.C. 3313.666(B)(5).

<sup>22</sup> R.C. 3313.666(B)(10).

<sup>23</sup> R.C. 3313.666(H).

<sup>24</sup> R.C. 3313.666(H).

<sup>25</sup> R.C. 3313.666(B).

<sup>26</sup> R.C. 3313.666(A).

<sup>27</sup> R.C. 3313.661(A), third paragraph, and (C).

## **Criminal offense of “hazing”**

### **Definition of “hazing”**

The bill revises the criminal definition of “hazing” in two ways. First, it expands that definition to include “any act to continue or reinstate membership in or affiliation with any student or other organization.” Under current law, the definition of “hazing” is limited to “doing any act or coercing another, including the victim, to do any act of initiation into any student or other organization.” Second, the bill expressly specifies that hazing may include coercing another to consume alcohol or a drug of abuse. However, the bill maintains the current standard that, for an act or coercion to rise to the level of criminal hazing, it must cause or create a substantial risk of causing mental or physical harm to any person.<sup>28</sup>

### **Prohibitions against “hazing” under continuing law**

The bill adds the following individuals to the list of those currently prohibited from recklessly permitting hazing: teachers, consultants, alumni, and volunteers of any organization, including primary, secondary, and post-secondary schools and any other public or private educational institution. Currently, only administrators, employees, and faculty members are so prohibited. In addition, the bill specifies that this prohibition only applies to hazing of any person *associated with the organization*, rather than any person in general as under current law.<sup>29</sup>

The bill increases the criminal penalty for recklessly participating in, or permitting, “hazing” to a fifth degree felony, instead of a fourth degree misdemeanor as under current law.<sup>30</sup>

### **New prohibitions against “hazing”**

The bill further establishes three new prohibitions against hazing. Specifically, the bill prohibits:

1. Any person from recklessly participating in the hazing of another when the hazing causes serious physical harm to the other person;
2. An administrator, employee, faculty member, teacher, consultant, alumnus, or volunteer of any organization, including primary, secondary, or post-secondary schools or any other public or private educational institutions, from recklessly permitting the hazing of any person associated with the organization when the hazing causes serious physical harm to that person;
3. A parent or guardian whose child is a student at any primary, secondary, or post-secondary school or other public or private educational institution from recklessly

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<sup>28</sup> R.C. 2903.31(A).

<sup>29</sup> R.C. 2903.31(B)(2).

<sup>30</sup> R.C. 2903.31(D).

permitting the hazing of any person associated with that school or institution when that hazing causes serious physical harm to that person.<sup>31</sup>

A violation of any of these new prohibitions is a third degree felony.<sup>32</sup>

### **Mandatory reporting of hazing**

The bill creates a mandatory reporting requirement for two classes of individuals who know, or have reasonable cause to suspect, based on facts that would cause a reasonable person in a similar position to suspect, that a person associated with an organization or with a school or institution has suffered or faces a threat of suffering any physical or mental wound, injury, or disability, or condition of a nature that reasonably indicate hazing.

Specifically, the bill applies to:

1. An administrator, employee, faculty member, teacher, consultant, alumnus, or volunteer of any organization, including any primary, secondary, or post-secondary school or any other public or private educational institution, who is acting in an official and professional capacity; and
2. A parent or guardian whose child is a student at any primary, secondary, or post-secondary school or other public or private educational institution.

The bill prohibits these individuals from recklessly failing to immediately report that knowledge or reasonable cause to a law enforcement agency in the county in which the victim of hazing resides or in which the hazing has occurred. A violation of that prohibition is a fourth degree misdemeanor, unless the hazing causes serious physical harm. If the hazing causes serious physical harm, the violation is a first degree misdemeanor.<sup>33</sup>

### **Harassment, intimidation, and bullying and hazing policies for state institutions of higher education**

The bill requires each state institution of higher education to adopt a policy and rules regarding (1) hazing and (2) harassment, intimidation, or bullying. The policy must include penalties for such offenses, including sanctions, fines, withholding of a diploma or transcript, probation, suspension, and expulsion.<sup>34</sup>

For state institutions of higher education, the bill defines “harassment, intimidation, or bullying” as any intentional written, verbal, electronic, or physical act that a student has exhibited toward another particular student or an administrator, employee, faculty member, consultant, or volunteer of the institution more than once, and the behavior both (1) causes mental or physical harm to the other individual and (2) is sufficiently severe, persistent, or

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<sup>31</sup> R.C. 2903.31(C).

<sup>32</sup> R.C. 2903.31(D).

<sup>33</sup> R.C. 2903.311.

<sup>34</sup> R.C. 3345.19(A).

pervasive that it creates an intimidating, threatening, or abusive educational environment for the other individual.<sup>35</sup>

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## HISTORY

Action	Date
Introduced	07-09-19
Reported, H. Primary & Secondary Education	---

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<sup>35</sup> R.C. 3345.19(B)(1).