

SB23-296

## SENATE FLOOR AMENDMENT

Second Reading

BY SENATOR Winter F.

1 Amend printed bill, page 3, strike lines 6 through 12 and substitute:

2 "(a) (I) "HARASSMENT OR DISCRIMINATION" MEANS TO ENGAGE IN,  
3 OR THE ACT OF ENGAGING IN, ANY UNWELCOME PHYSICAL OR VERBAL  
4 CONDUCT OR ANY WRITTEN, PICTORIAL, OR VISUAL COMMUNICATION, BY  
5 A STUDENT, SCHOOL STAFF, OR EMPLOYEE OF THE SCHOOL OR LOCAL  
6 EDUCATION PROVIDER, DIRECTED AT A STUDENT OR GROUP OF STUDENTS  
7 BECAUSE OF THAT STUDENT'S OR GROUP'S MEMBERSHIP IN, OR PERCEIVED  
8 MEMBERSHIP IN, A PROTECTED CLASS BASED ON DISABILITY, RACE, CREED,  
9 COLOR, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, GENDER  
10 EXPRESSION, FAMILY COMPOSITION, RELIGION, AGE, NATIONAL ORIGIN, OR  
11 ANCESTRY, WHICH CONDUCT OR COMMUNICATION IS SUBJECTIVELY  
12 OFFENSIVE TO THE INDIVIDUAL ALLEGING HARASSMENT AND IS  
13 OBJECTIVELY OFFENSIVE TO A REASONABLE INDIVIDUAL WHO IS A MEMBER  
14 OF THE SAME PROTECTED CLASS. HARASSMENT OR DISCRIMINATION MAY  
15 OCCUR ON SCHOOL GROUNDS, AT A SCHOOL ACTIVITY, OR THROUGH  
16 ELECTRONIC COMMUNICATION. THE CONDUCT OR COMMUNICATION NEED  
17 NOT BE SEVERE OR PERVASIVE TO CONSTITUTE HARASSMENT OR  
18 DISCRIMINATION IF:

19 (A) SUBMISSION TO THE CONDUCT OR COMMUNICATION IS  
20 EXPLICITLY OR IMPLICITLY MADE A TERM OR CONDITION OF THE  
21 INDIVIDUAL'S ACCESS TO AN EDUCATIONAL SERVICE, OPPORTUNITY, OR  
22 BENEFIT;

23 (B) SUBMISSION TO, OBJECTION TO, OR REJECTION OF THE  
24 CONDUCT OR COMMUNICATION IS USED OR EXPLICITLY OR IMPLICITLY  
25 THREATENED TO BE USED AS A BASIS FOR EDUCATIONAL DECISIONS  
26 AFFECTING THE INDIVIDUAL; OR

27 (C) THE CONDUCT OR COMMUNICATION HAS THE PURPOSE OR  
28 EFFECT OF INTERFERING WITH, UNDERMINING, DETRACTING, OR  
29 OTHERWISE LIMITING THE INDIVIDUAL'S ACCESS TO THEIR EDUCATIONAL  
30 SERVICE, OPPORTUNITY, OR BENEFIT OR CREATING AN INTIMIDATING,  
31 HOSTILE, OR OFFENSIVE EDUCATIONAL ENVIRONMENT.

32 (II) PETTY SLIGHTS, MINOR ANNOYANCES, AND LACK OF GOOD  
33 MANNERS DO NOT CONSTITUTE HARASSMENT OR DISCRIMINATION UNLESS  
34 THE SLIGHTS, ANNOYANCES, OR LACK OF MANNERS, WHEN TAKEN IN  
35 COMBINATION AND UNDER THE TOTALITY OF THE CIRCUMSTANCES, MEET  
36 THE STANDARD SET FORTH IN SUBSECTION (1)(a)(I) OF THIS SECTION.

37 (III) WHETHER CONDUCT CONSTITUTES HARASSMENT OR  
38 DISCRIMINATION IS JUDGED UNDER THE TOTALITY OF THE  
39 CIRCUMSTANCES, WHICH MAY INCLUDE, BUT IS NOT LIMITED TO:

40 (A) THE FREQUENCY OF THE CONDUCT OR COMMUNICATION,  
41 RECOGNIZING THAT A SINGLE INCIDENT MAY RISE TO THE LEVEL OF

1 HARASSMENT OR DISCRIMINATION;  
2 (B) THE NUMBER OF INDIVIDUALS ENGAGED IN THE CONDUCT OR  
3 COMMUNICATION;  
4 (C) THE TYPE OR NATURE OF THE CONDUCT OR COMMUNICATION;  
5 (D) THE DURATION OF THE CONDUCT OR COMMUNICATION;  
6 (E) THE LOCATION WHERE THE CONDUCT OR COMMUNICATION  
7 OCCURRED;  
8 (F) WHETHER THE CONDUCT OR COMMUNICATION IS  
9 THREATENING;  
10 (G) WHETHER ANY POWER DIFFERENTIAL EXISTS BETWEEN THE  
11 INDIVIDUAL ALLEGED TO HAVE ENGAGED IN HARASSMENT OR  
12 DISCRIMINATION AND THE INDIVIDUAL ALLEGING THE HARASSMENT OR  
13 DISCRIMINATION;  
14 (H) ANY USE OF EPITHETS, SLURS, OR OTHER CONDUCT OR  
15 COMMUNICATION THAT IS HUMILIATING OR DEGRADING;  
16 (I) WHETHER THE CONDUCT OR COMMUNICATION REFLECTS  
17 STEREOTYPES ABOUT AN INDIVIDUAL OR GROUP OF INDIVIDUALS IN A  
18 PROTECTED CLASS; OR  
19 (J) WHETHER THE CONDUCT INCLUDES AN ACT OF PHYSICAL  
20 VIOLENCE.".

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