

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Education.

HB26-1141 be amended as follows:

- 1 Amend printed bill, page 3, strike lines 12 through 23 and substitute:
2 "(4) (a) "HARASS" OR "HARASSMENT" MEANS TO ENGAGE IN, OR
3 THE ACT OF ENGAGING IN, ANY UNWELCOME PHYSICAL OR VERBAL
4 CONDUCT OR ANY WRITTEN, PICTORIAL, OR VISUAL COMMUNICATION
5 DIRECTED AT AN INDIVIDUAL OR GROUP OF INDIVIDUALS BECAUSE OF THAT
6 INDIVIDUAL'S OR GROUP'S MEMBERSHIP IN, OR PERCEIVED MEMBERSHIP IN,
7 A PROTECTED CLASS LISTED IN SECTION 24-34-1102 (1)(a), WHICH
8 CONDUCT OR COMMUNICATION IS SUBJECTIVELY OFFENSIVE TO THE
9 INDIVIDUAL ALLEGING HARASSMENT AND IS OBJECTIVELY OFFENSIVE TO
10 A REASONABLE INDIVIDUAL WHO IS A MEMBER OF THE SAME PROTECTED
11 CLASS. THE CONDUCT OR COMMUNICATION NEED NOT BE SEVERE OR
12 PERVASIVE TO CONSTITUTE HARASSMENT AND CONSTITUTES HARASSMENT
13 IF:
14 (I) SUBMISSION TO THE CONDUCT OR COMMUNICATION IS
15 EXPLICITLY OR IMPLICITLY MADE A TERM OR CONDITION OF THE
16 INDIVIDUAL'S ACCESS TO AN EDUCATIONAL SERVICE, OPPORTUNITY, OR
17 BENEFIT;
18 (II) SUBMISSION TO, OBJECTION TO, OR REJECTION OF THE
19 CONDUCT OR COMMUNICATION IS USED OR EXPLICITLY OR IMPLICITLY
20 THREATENED TO BE USED AS A BASIS FOR EDUCATIONAL DECISIONS
21 AFFECTING THE INDIVIDUAL; OR
22 (III) THE CONDUCT OR COMMUNICATION HAS THE PURPOSE OR
23 EFFECT OF UNREASONABLY INTERFERING WITH THE INDIVIDUAL'S ACCESS
24 TO THEIR EDUCATIONAL SERVICE, OPPORTUNITY, OR BENEFIT OR CREATING
25 AN INTIMIDATING, HOSTILE, OR OFFENSIVE EDUCATIONAL ENVIRONMENT.
26 (b) PETTY SLIGHTS, MINOR ANNOYANCES, AND LACK OF GOOD
27 MANNERS DO NOT CONSTITUTE HARASSMENT UNLESS THE SLIGHTS,
28 ANNOYANCES, OR LACK OF MANNERS, WHEN TAKEN IN COMBINATION AND
29 UNDER THE TOTALITY OF THE CIRCUMSTANCES, MEET THE STANDARD SET
30 FORTH IN SUBSECTION (4)(a) OF THIS SECTION.
31 (c) WHETHER CONDUCT CONSTITUTES HARASSMENT IS JUDGED
32 UNDER THE TOTALITY OF THE CIRCUMSTANCES, WHICH MAY INCLUDE, BUT
33 IS NOT LIMITED TO:
34 (I) THE FREQUENCY OF THE CONDUCT OR COMMUNICATION,
35 RECOGNIZING THAT A SINGLE INCIDENT MAY RISE TO THE LEVEL OF
36 HARASSMENT;
37 (II) THE NUMBER OF INDIVIDUALS ENGAGED IN THE CONDUCT OR
38 COMMUNICATION;
39 (III) THE TYPE OR NATURE OF THE CONDUCT OR COMMUNICATION;
40 (IV) THE DURATION OF THE CONDUCT OR COMMUNICATION;
41 (V) THE LOCATION WHERE THE CONDUCT OR COMMUNICATION

1 OCCURRED;
2 (VI) WHETHER THE CONDUCT OR COMMUNICATION IS
3 THREATENING;
4 (VII) WHETHER ANY POWER DIFFERENTIAL EXISTS BETWEEN THE
5 INDIVIDUAL ALLEGED TO HAVE ENGAGED IN HARASSMENT AND THE
6 INDIVIDUAL ALLEGING THE HARASSMENT;
7 (VIII) ANY USE OF EPITHETS, SLURS, OR OTHER CONDUCT OR
8 COMMUNICATION THAT IS HUMILIATING OR DEGRADING;
9 (IX) WHETHER THE CONDUCT OR COMMUNICATION REFLECTS
10 STEREOTYPES ABOUT AN INDIVIDUAL OR GROUP OF INDIVIDUALS IN A
11 PROTECTED CLASS; OR
12 (X) WHETHER THE CONDUCT INCLUDES AN ACT OF PHYSICAL
13 VIOLENCE."

14 Page 5, strike lines 9 and 10 and substitute:

15 "(d) ENGAGE IN HARASSMENT BASED ON AN INDIVIDUAL'S
16 INDIVIDUAL'S OR GROUP'S MEMBERSHIP IN, OR PERCEIVED MEMBERSHIP IN,
17 A PROTECTED CLASS LISTED IN SECTION 24-34-1102 (1)(a)."

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