

---

HOUSE BILL 1643

---

State of Washington                      61st Legislature                      2009 Regular Session

By Representatives Sells, Moeller, Quall, Wallace, Simpson, Haigh, Dickerson, and Ormsby

Read first time 01/26/09. Referred to Committee on Higher Education.

1            AN ACT Relating to prevention of harassment, intimidation, and  
2 bullying; adding a new section to chapter 28B.35 RCW; and prescribing  
3 penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            NEW SECTION.    **Sec. 1.** A new section is added to chapter 28B.35 RCW  
6 to read as follows:

7            (1) By September 1, 2009, each regional university shall adopt, or  
8 amend, a policy that prohibits the harassment, intimidation, or  
9 bullying of any student or staff member. It is the responsibility of  
10 each regional university to share this policy with parents or  
11 guardians, students, volunteers, and staff members.

12            (2) As used in this section, "harassment, intimidation, or  
13 bullying" means any intentional electronic, written, verbal, or  
14 physical act, including but not limited to one shown to be motivated by  
15 any characteristic in RCW 9A.36.080(3), or other distinguishing  
16 characteristics, when the intentional electronic, written, verbal, or  
17 physical act:

18            (a) Physically harms an individual or damages the individual's  
19 property; or

1 (b) Has the effect of substantially interfering with a student's  
2 education or the working conditions of a staff member; or

3 (c) Is so severe, persistent, or pervasive that it creates an  
4 intimidating or threatening educational or work environment; or

5 (d) Has the effect of substantially disrupting the orderly  
6 operation of the institution, or a subunit thereof.

7 (3) Nothing in this section requires the affected individual to  
8 actually possess a characteristic that is a basis for the harassment,  
9 intimidation, or bullying.

10 (4) The policy should be adopted or amended through a process that  
11 includes representation of parents or guardians, university employees,  
12 volunteers, students, administrators, and community representatives.  
13 It is recommended that each such policy emphasize positive character  
14 traits and values, including the importance of civil and respectful  
15 speech and conduct, and the responsibility of the entire university  
16 community to comply with the institution's policy prohibiting  
17 harassment, intimidation, or bullying.

18 (5) Persistent or pervasive harassment, intimidation, bullying, or  
19 verbal abuse of a student or staff member is prohibited. Individuals  
20 who manifest objective symptoms of harassment, intimidation, bullying,  
21 or verbal abuse may pursue a private civil action against the alleged  
22 perpetrator for violation of this section, and may recover general,  
23 special, and punitive damages, as determined by the trier of fact.

24 (6) If an individual claiming to be a victim of conduct prohibited  
25 by subsection (5) of this section has lodged two formal complaints with  
26 the institution and the institution has failed to take corrective  
27 action to protect the individual by stopping the prohibited conduct  
28 through any means necessary, including discharge or expulsion of the  
29 alleged perpetrator, the institution shall be jointly and severally  
30 liable for any civil damage award issued pursuant to subsection (5) of  
31 this section.

32 (7) A person who prevails in a civil liability action pursuant to  
33 subsection (5) of this section is entitled to recover his or her actual  
34 attorneys' fees in addition to any damage award. Damages, costs, and  
35 attorneys' fees awarded pursuant to this section are awards resulting  
36 from an intentional tort.

--- END ---