

Assembly Bill No. 827

Passed the Assembly September 3, 2015

Chief Clerk of the Assembly

Passed the Senate September 1, 2015

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2015, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 234.1 of the Education Code, relating to safe schools.

LEGISLATIVE COUNSEL'S DIGEST

AB 827, O'Donnell. Safe schools: Safe Place to Learn Act: lesbian, gay, bisexual, transgender, and questioning pupil resources.

Existing law establishes the system of public elementary and secondary schools in this state, and provides for the establishment of local educational agencies to operate these schools and provide instruction to pupils. Existing law states the policy of the State of California to afford all persons in public schools, regardless of their disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other specified characteristic, equal rights and opportunities in the educational institutions of the state. Existing law, the Safe Place to Learn Act, requires the State Department of Education, as part of its regular monitoring and review of a local educational agency, to assess whether the local educational agency has, among other things, adopted a policy that prohibits discrimination, harassment, intimidation, and bullying, as specified, and has publicized that policy to pupils, parents, employees, agents of the governing board, and the general public.

This bill would require the department to also assess whether the local educational agency has provided to certificated schoolsite employees who serve pupils in any of grades 7 to 12, inclusive, information on existing schoolsite and community resources related to the support of lesbian, gay, bisexual, transgender, and questioning pupils, as specified.

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) All pupils deserve and need safe and supportive school environments in which to learn.

(2) Despite much progress, California lesbian, gay, bisexual, transgender, and questioning (LGBTQ) pupils often face verbal, physical, and online harassment, which has significant effects on their academic achievement.

(3) In the Gay Lesbian & Straight Education Network's (GLSEN) 2013 National School Climate Survey, 91 percent of California LGBTQ pupils reported hearing anti-LGBTQ remarks, 7 in 10 reported being called names or threatened based on their sexual orientation, nearly one-third reported physical harassment or assault, and 46 percent reported cyberbullying.

(4) These problems have direct effects on pupils' school performance. GLSEN survey data shows that the average grade point average for LGBTQ pupils who have experienced harassment is significantly lower than for LGBTQ pupils who have not, and that 30 percent of LGBTQ pupils report frequently skipping class or missing whole days of school because they felt unsafe at school.

(5) In spite of these problems, research has shown that LGBTQ pupils who are harassed or assaulted in school do not report these incidents to school staff, primarily because they believe school staff will not do anything about the problem.

(6) Creating supportive learning environments for LGBTQ pupils improves pupil performance. Pupils in schools with peer support clubs report less harassment and assault, are more likely to report incidents when they occur, and are less likely to miss school because of safety concerns.

(7) The federal Centers for Disease Control and Prevention (CDC) monitors and funds local efforts to provide professional development for educators on safe and supportive environments for LGBTQ pupils, foster schoolsite resources such as Gay Straight Alliance clubs and "safe spaces" for LGBTQ pupils, and promote referrals to school and community health professionals with experience providing support to LGBTQ pupils.

(8) CDC data shows that only 50 percent of California schools facilitate access to schoolsite and community health resources for LGBTQ pupils, and only 39 percent have peer support clubs.

(b) The Legislature therefore encourages school districts, county offices of education, and charter schools to provide information on existing schoolsite and community resources as required by subdivision (d) of Section 234.1 of the Education Code as part of

a more comprehensive effort to educate school staff on the support of LGBTQ pupils.

SEC. 2. Section 234.1 of the Education Code is amended to read:

234.1. The department, pursuant to subdivision (b) of Section 64001, shall monitor adherence to the requirements of Chapter 5.3 (commencing with Section 4900) of Division 1 of Title 5 of the California Code of Regulations and this chapter as part of its regular monitoring and review of local educational agencies, commonly known as the Categorical Program Monitoring process. The department shall assess whether local educational agencies have done all of the following:

(a) Adopted a policy that prohibits discrimination, harassment, intimidation, and bullying based on the actual or perceived characteristics set forth in Section 422.55 of the Penal Code and Section 220 of this code, and disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or association with a person or group with one or more of these actual or perceived characteristics. The policy shall include a statement that the policy applies to all acts related to school activity or school attendance occurring within a school under the jurisdiction of the superintendent of the school district.

(b) Adopted a process for receiving and investigating complaints of discrimination, harassment, intimidation, and bullying based on any of the actual or perceived characteristics set forth in Section 422.55 of the Penal Code and Section 220 of this code, and disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or association with a person or group with one or more of these actual or perceived characteristics. The complaint process shall include, but not be limited to, all of the following:

(1) A requirement that, if school personnel witness an act of discrimination, harassment, intimidation, or bullying, they shall take immediate steps to intervene when safe to do so.

(2) A timeline to investigate and resolve complaints of discrimination, harassment, intimidation, or bullying that shall be followed by all schools under the jurisdiction of the school district.

(3) An appeal process afforded to the complainant should he or she disagree with the resolution of a complaint filed pursuant to this section.

(4) All forms developed pursuant to this process shall be translated pursuant to Section 48985.

(c) Publicized antidiscrimination, antiharassment, anti-intimidation, and antibullying policies adopted pursuant to subdivision (a), including information about the manner in which to file a complaint, to pupils, parents, employees, agents of the governing board, and the general public. The information shall be translated pursuant to Section 48985.

(d) Provided, incident to the publicizing described in subdivision (c), to certificated schoolsite employees who serve pupils in any of grades 7 to 12, inclusive, who are employed by the local educational agency, information on existing schoolsite and community resources related to the support of lesbian, gay, bisexual, transgender, and questioning (LGBTQ) pupils. Schoolsite resources may include, but are not limited to, peer support or affinity clubs and organizations, safe spaces for LGBTQ pupils, counseling services, staff who have received antibias or other training aimed at supporting these pupils or who serve as designated support to these pupils, health and other curriculum materials that are inclusive of, and relevant to, these pupils, online training developed pursuant to Section 32283.5, and other policies adopted pursuant to this article, including related complaint procedures. Community resources may include, but are not limited to, community-based organizations that provide support to LGBTQ pupils and their families, and physical and mental health providers with experience or training in treating or supporting these pupils.

(e) Posted the policy established pursuant to subdivision (a) in all schools and offices, including staff lounges and pupil government meeting rooms.

(f) Maintained documentation of complaints and their resolution for a minimum of one review cycle.

(g) Ensured that complainants are protected from retaliation and that the identity of a complainant alleging discrimination, harassment, intimidation, or bullying remains confidential, as appropriate.

(h) Identified a responsible local educational agency officer for ensuring school district or county office of education compliance with the requirements of Chapter 5.3 (commencing with Section 4900) of Division 1 of Title 5 of the California Code of Regulations and this chapter.

Approved _____, 2015

Governor