

# HOUSE . . . . . No. 428

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Nine  
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An Act relative to bullying in schools..

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION I – Legislative Findings

2           The Legislature finds that a safe and civil environment in school is necessary for students  
3 to learn and achieve high academic standards. The Legislature finds that harassment,  
4 intimidation or bullying, like other disruptive or violent behavior, is conduct that disrupts both a  
5 student’s ability to learn and a school’s ability to educate its students in a safe, nonthreatening  
6 environment.

7           The legislature further finds that students learn by example. The legislature charges  
8 school administrators, faculty, staff and volunteers with demonstrating appropriate behavior,  
9 treating others with civility and respect, and refusing to tolerate harassment, intimidation or  
10 bullying.

11           SECTION II – Definitions

12           As used in this article, “harassment, intimidation or bullying” means any intentional  
13 gesture or any intentional written, verbal or physical act or threat that:

a reasonable person, under the circumstances, should know would have the effect of:

- Harming a student;
- Damaging a student's property;
- Placing a student in reasonable fear of harm to his or her person; or
- Placing a student in reasonable fear of damage to his or her property; or

is sufficiently severe, persistent or pervasive that it creates an intimidating, threatening or abusive educational environment for a student.

### SECTION III – Policy prohibiting harassment, intimidation or bullying

Each county/school board of education shall establish a policy prohibiting harassment, intimidation or bullying. Each county/school board has control over the content of its policy as long as the policy contains, at a minimum, the requirements of subdivision (b) of this section. The policy shall be adopted through a process that includes representation of parents or guardians, school employees, school volunteers, students and community members.

Each county/school board policy shall, at a minimum, include the following components:

A statement prohibiting harassment, intimidation or bullying of any student on school property, on a school bus or other school-related vehicle, at an official school bus stop, or at a school-sponsored activity or event whether or not it is held on school premises;

A definition of harassment, intimidation or bullying no less inclusive than that in section two of this article;

33 A description of the type of behavior expected from each student;

34 Consequences and appropriate remedial action for a person who commits an act of  
35 harassment, intimidation, or bullying;

36 A procedure for reporting an act of harassment, intimidation, or bullying, including a  
37 provision that permits a person to report an act of harassment, intimidation, or bullying  
38 anonymously. However, this subdivision shall not be construed to permit formal disciplinary  
39 action solely based on an anonymous report;

40 A requirement that school personnel report prohibited incidents of which they are aware;

41 A procedure for responding to any reported act of harassment, intimidation, or bullying;

42 A procedure for prompt investigation of reports of violations and complaints, identifying  
43 either the principal or the principal's designee as the person responsible for the investigation;

44 A requirement that parents or guardians of any student involved in an incident prohibited  
45 pursuant to this article be notified;

46 The range of ways in which a school will respond once an incident of harassment,  
47 intimidation, or bullying is identified and

48 A procedure for documenting any prohibited incident that is reported.

49 A statement that prohibits reprisal or retaliation against any person who reports an act of  
50 harassment, intimidation, or bullying, and the consequences and appropriate remedial action for  
51 a person who engages in that type of reprisal or retaliation;

52 A strategy for protecting a victim from additional harassment, intimidation or bullying,  
53 and from retaliation following a report;

54 A procedure for counseling students who have been victims or targets of bullying;

55 Consequences and appropriate remedial action for a person found to have falsely accused  
56 another as a means of retaliation or as a means of harassment, intimidation, or bullying;

57 A disciplinary or counseling procedure for any student guilty of harassment, intimidation,  
58 or bullying;

59 A requirement that any information relating to a reported incident is confidential, and  
60 exempt from disclosure under the provisions of chapter... of this code and

61 A statement of how the policy is to be publicized including notice that the policy applies  
62 to participation in school-sponsored activities.

63 (c) Each county/school board shall adopt the policy and submit a copy to the state  
64 superintendent of schools by the first day of September, in the year which this legislation takes  
65 effect.

66 (d) To assist county/school boards in developing their policies, for the prevention of  
67 harassment, intimidation, or bullying the Department of Education shall develop a model policy  
68 applicable to grades kindergarten through twelfth and post this policy on their website. The  
69 model policy shall be issued by the first day of December 2005.

70 Notice of the county/school board's policy shall appear in any

71 student handbooks, and in any county board publication, that sets

72               forth the comprehensive rules, procedures and standards of  
73               conduct for its schools, and in its pupil handbooks.

74               SECTION IV – Prohibiting reprisal, retaliation, or false accusation

75               A school administrator, employee, pupil, or volunteer shall not  
76               engage in reprisal, retaliation, or false accusation against a victim, witness, or one with  
77               reliable information about an act of harassment, intimidation, or bullying.

78               A school administrator, employee, pupil, or volunteer who has  
79               witnessed, or has reliable information that a student has been subjected to, harassment,  
80               intimidation, or bullying, whether verbal or physical, is encouraged to report the incident to the  
81               appropriate school official designated by the school district's or public school academy's policy.

82               SECTION V – Immunity

83               A school employee, student or volunteer is individually immune from a  
84               cause of action for damages arising from reporting harassment,  
85               intimidation or bullying, or any failure to remedy the reported harassment,  
86               intimidation or bullying, if that person:

87               In good faith promptly reports an incident of harassment, intimidation or bullying;  
88               Makes the report to the appropriate school official designated by the school district's or  
89               public school academy's policy and

90           Makes the report in compliance with the procedures as specified in policy prohibiting  
91 harassment, intimidation, or bullying.

92           SECTION VI – Policy training and education

93           Schools and county/district school boards are encouraged to from bullying prevention  
94 task forces, programs and other initiatives involving school staff, students, teachers,  
95 administrators, volunteers, parents, law enforcement and community members.

96           Each county/district board or public school academy shall do all of the following:

97           Provide training on the harassment, intimidation, or bullying policy to school employees  
98 and volunteers who have direct contact with students; and

99           Develop a process for educating students on the harassment, intimidation or bullying  
100 policy.

101           Information regarding the county board policy against harassment, intimidation or  
102 bullying shall be incorporated into each school’s current employee training program.

103           SECTION VII – Liability

104           Except as provided in section five of this article, nothing in this article prohibits a victim  
105 from seeking redress under any other provision of civil or criminal law. This section does not  
106 create or alter any tort liability.

107           SECTION VIII – Definitions

“At school” means in a classroom, elsewhere on or immediately adjacent to school premises, on a school bus or other school-related vehicle, at an official school bus stop, or at a school-sponsored activity or event whether or not it is held on school premises.

“Harassment, intimidation, or bullying” means any gesture or written, verbal, or physical act that a reasonable person under the circumstances should know will have the effect of harming a pupil or damaging his or her property or placing a pupil in reasonable fear of harm to his or her person or damage to his or her property, or that has the effect of insulting or demeaning any pupil or group of pupils in such a way as to disrupt or interfere with the school’s educational mission or the education of any pupil. Harassment, intimidation, or bullying includes, but is not limited to, a gesture or written, verbal, or physical act described in this section that is perceived as being motivated by the harasser, intimidator, or bully, for any reason, towards any target or victim.

#### SECTION IX – Accountability to the State Superintendent – Report to Lawmakers

Each school district shall report to the superintendent of public instruction by January 31st of each year all incidents, resulting in disciplinary action, involving harassment, intimidation, or bullying, that result in a short or long-term suspension or expulsion on school premises or on transportation systems used by schools, in the year preceding the report. The superintendent shall compile the data and report it to the appropriate committee of the State House and the State Senate.