

**HOUSE . . . . . No. 524**

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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.

4 The Legislature finds that harassment, intimidation or bullying, like other disruptive or  
5 violent behavior, is conduct that disrupts both a student’s ability to learn and a school’s ability to  
6 educate its students in a safe, non-threatening 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:

14 (a) A reasonable person, under the circumstances, should know would have the effect of:

15 (1) Harming a student;

16 (2) Damaging a student's property;

17 (3) Placing a student in reasonable fear of harm to his or her person; or

18 (4) Placing a student in reasonable fear of damage to his or her property; or

19 (b) Is sufficiently severe, persistent or pervasive that it creates an intimidating,

20 threatening or abusive educational environment for a student.

21 Section III - Policy prohibiting harassment, intimidation or bullying

22 (a) Each county/school board of education shall establish a policy prohibiting harassment,

23 intimidation or bullying. Each county/school board has control over the content of its policy as

24 long as the policy contains, at a minimum, the requirements of subdivision (b) of this section.

25 The policy shall be adopted through a process that includes representation of parents or

26 guardians, school employees, school volunteers, students and community members.

27 (b) Each county/school board policy shall, at a minimum, include the following

28 components:

29 (1) A statement prohibiting harassment, intimidation or bullying of any student on school

30 property, on a school bus or other school-related vehicle, at an official school bus stop, or at a

31 school-sponsored activity or event whether or not it is held on school premises;

32 (2) A definition of harassment, intimidation or bullying no less inclusive than that in

33 section two of this article;

- 34 (3) A description of the type of behavior expected from each student;
- 35 (4) Consequences and appropriate remedial action for a person who commits an act of  
36 harassment, intimidation, or bullying;
- 37 (5) A procedure for reporting an act of harassment, intimidation, or bullying, including a  
38 provision that permits a person to report an act of harassment, intimidation, or bullying  
39 anonymously. However, this subdivision shall not be construed to permit formal disciplinary  
40 action solely based on an anonymous report;
- 41 (6) A requirement that school personnel report prohibited incidents of which they are  
42 aware;
- 43 (7) A procedure for responding to any reported act of harassment, intimidation, or  
44 bullying;
- 45 (8) A procedure for prompt investigation of reports of violations and complaints,  
46 identifying either the principal or the principal's designee as the person responsible for the  
47 investigation;
- 48 (9) A requirement that parents or guardians of any student involved in an incident  
49 prohibited pursuant to this article be notified;
- 50 (10) The range of ways in which a school will respond once an incident of harassment,  
51 intimidation, or bullying is identified and
- 52 11) A procedure for documenting any prohibited incident that is reported.

53 (12) A statement that prohibits reprisal or retaliation against any person who reports an  
54 act of harassment, intimidation, or bullying, and the consequences and appropriate remedial  
55 action for a person who engages in that type of reprisal or retaliation;

56 (13) A strategy for protecting a victim from additional harassment, intimidation or  
57 bullying, and from retaliation following a report;

58 (14) A procedure for counseling students who have been victims or targets of bullying;

59 (15) Consequences and appropriate remedial action for a person found to have falsely  
60 accused another as a means of retaliation or as a means of harassment, intimidation, or bullying;

61 (16) A disciplinary or counseling procedure for any student guilty of harassment,  
62 intimidation or bullying;

63 (17) A requirement that any information relating to a reported incident is confidential,  
64 and exempt from disclosure under the provisions of chapter...of this code and

65 (18) A statement of how the policy is to be publicized including notice that the policy  
66 applies to participation in school-sponsored activities.

67 (c) Each county/school board shall adopt the policy and submit a copy to the state  
68 superintendent of schools by the first day of September, two thousand six.

69 (d) To assist county/school boards in developing their policies, for the prevention of  
70 harassment, intimidation, or bullying, the Department of Education shall develop a model policy  
71 applicable to grades kindergarten through

72 twelfth and post this policy on their website. The model policy shall be issued by the first  
73 day of December 2005.

74 (e) Notice of the county/school board's policy shall appear in any student handbooks, and  
75 in any county board publication, that sets forth the comprehensive rules, procedures and  
76 standards of conduct for its schools, and in its pupil handbooks.

77 Section IV - Prohibiting reprisal, retaliation, or false accusation

78 (a) A school administrator, employee, pupil, or volunteer shall not engage in reprisal,  
79 retaliation, or false accusation against a victim, witness, or one with reliable information about  
80 an act of harassment,

81 intimidation, or bullying.

82 (b) A school administrator, employee, pupil, or volunteer who has witnessed, or has  
83 reliable information that a student has been subjected to, harassment, intimidation, or bullying,  
84 whether verbal or physical, is encouraged to report the incident to the appropriate school official  
85 designated by the school district's or public school academy's policy.

86 Section V – Immunity

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

90 (1) In good faith promptly reports an incident of harassment, intimidation or bullying;

91 (2) Makes the report to the appropriate school official designated by the school district's  
92 or public school academy's policy and

93 (3) Makes the report in compliance with the procedures as specified in policy prohibiting  
94 harassment, intimidation, or bullying.

95 Section VI - Policy training and education

96 (a) Schools and county/district boards are encouraged to form bullying prevention task  
97 forces, programs and other initiatives involving school staff, students, teachers, administrators,  
98 volunteers, parents, law enforcement and community members.

99 (b) Each county/district board or public school academy shall do all of the following:

100 (1) Provide training on the harassment, intimidation or bullying policy to school  
101 employees and volunteers who have direct contact with students; and

102 (2) Develop a process for educating students on the harassment, intimidation or bullying  
103 policy.

104 (3) Information regarding the county board policy against harassment, intimidation or  
105 bullying shall be incorporated into each school's current employee training program. Section VII  
106 – Liability

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

110 Section VIII – Definitions

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

114 (b) “Harassment, intimidation, or bullying” means any gesture or written, verbal, or  
115 physical act that a reasonable person under the circumstances should know will have the effect of  
116 harming a pupil or damaging his or her property or placing a pupil in reasonable fear of harm to  
117 his or her person or damage to his or her property, or that has

118 the effect of insulting or demeaning any pupil or group of pupils in such a way as to  
119 disrupt or interfere with the school’s educational mission or the education of any pupil.

120 Harassment, intimidation, or bullying includes, but is not limited to, a gesture or written, verbal,  
121 or physical act described in this section that is perceived as being motivated by the harasser,  
122 intimidator, or bully, for any reason, towards any target or victim.

#### 123 Section IX - Accountability to the State Superintendent – Report to Lawmakers

124 Each school district shall report to the superintendent of public instruction by January  
125 31st of each year all incidents, resulting in disciplinary action, involving harassment,  
126 intimidation, or bullying, that result in a short or long-term suspension or expulsion on school  
127 premises or on transportation systems used by schools, in the year preceding the report. The  
128 superintendent shall compile the data and report it to the appropriate committees of the State  
129 House and the State Senate.