

SENATE No. 243

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

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 1.

2 (a) Each school district and charter school shall ensure that its public school
3 employees receive combined training each year totaling one (1) hour in the identification and
4 reporting of criminal youth gang activity. The training materials shall be prepared by the
5 Massachusetts Office of the Attorney General and the Department of Elementary and Secondary
6 Education in collaboration with law enforcement agencies, the Massachusetts Board of
7 Education, and the Board of Elementary and Secondary Education Advisory Councils.

8 (b) Any in-service training required by this section shall be provided within the
9 contracted school year and shall be considered creditable towards professional development.

10 Section 2.

11 (a) Definition of bullying.

12 As used in this section, bullying means any intentional written, electronic, verbal
13 or physical act or actions against another person that a reasonable person under the
14 circumstances should know will have the effect of:

15 (1) Placing a person in reasonable fear of substantial harm to his or her
16 emotional or physical well-being or substantial damage to his or her property.

17 (2) Creating a hostile, threatening, humiliating or abusive educational
18 environment due to the pervasiveness or persistence of actions or due to a power differential
19 between the bully and the target; or

20 (3) Interfering with a student having a safe school environment that is
21 necessary to facilitate educational performance, opportunities or benefits; or

22 (4) Perpetuating bullying by inciting, soliciting or coercing an individual or
23 group to demean, dehumanize, embarrass or cause emotional, psychological or physical harm to
24 another person

25 (b) Prohibition of bullying.

26 (1) Each school district and charter school shall prohibit bullying and reprisal,
27 retaliation or false accusation against a target, witness or one with reliable information about an
28 act of bullying.

29 (2) Each school district and charter school shall establish a policy which, at a
30 minimum, includes the following components:

31 (A) A statement prohibiting bullying of any person on school property or at
32 school functions or by use of data or computer software that is accessed through a computer,

33 computer system, computer network or other electronic technology of a school district and
34 charter school from grades kindergarten through grade twelve.

35 (B) A definition of bullying no less inclusive than that in (a) of this section.

36 (C) Direction to develop a school-wide bullying prevention program.

37 (D) A requirement that each school establish a site-based committee that is
38 responsible for coordinating the school's bully prevention program including the design,
39 approval and monitoring of the program. A majority of the members of the site-based committee
40 shall be members of the school professional staff, of which a majority shall be instructional staff.
41 The committee also shall contain representatives of the administrative staff, support staff, student
42 body (for school enrolling students in grades 7 through 12), parents and staff from the before- or
43 after-school program(s). These representatives shall be chosen by members of each respective
44 group except that representatives of the non-employee groups shall be appointed by the school
45 principal. The committee shall operate on a 1-person, 1-vote principle. In the event a site-based
46 school discipline committee has been established that committee shall vote whether or not to
47 accept the aforementioned responsibilities.

48 (E) A requirement that any school employee that has reliable information that
49 would lead a reasonable person to suspect that a person is a target of bullying shall immediately
50 report it to the administration.

51 (F) A requirement that each school have a procedure for the administration to
52 promptly investigate in a timely manner and determine whether bullying has occurred.

53 (G) A requirement that, to the extent that funding is available, each school
54 develop a plan for a system of supervision in non-classroom areas. The plan shall provide for the
55 review and exchange of information regarding non-classroom areas.

56 (H) An identification of an appropriate range of consequences for bullying.

57 (I) A procedure for a student and parent, guardian or relative caregiver or
58 legal guardian to be permitted to provide information on bullying activity. However, this
59 paragraph does not permit formal disciplinary action solely based on an anonymous report.

60 (J) A requirement that a parent, guardian or relative caregiver or legal
61 guardian of any target of bullying or person who bullies another as defined herein, be notified.

62 (K) A requirement that all bullying incidents be reported to the Department of
63 Elementary and Secondary Education within five (5) working days pursuant to Department of
64 Elementary and Secondary Education regulations.

65 (L) A statement prohibiting retaliation following a report of bullying.

66 (M) A procedure for communication between school staff members and
67 medical professionals who are involved in treating students for bullying issues.

68 (N) A requirement that the school bullying prevention program be
69 implemented throughout the year, and integrated with the school's discipline policies.

70 (c) Dissemination of Policy and Accountability.

71 (1) Each school district and charter school shall adopt the policy consistent
72 with section (b) of this section and submit a copy to the Massachusetts Department of
73 Elementary and Secondary Education by January 1, 2011.

74 (2) The policy shall appear in the student and staff handbook and if no
75 handbook is available, or it is not practical to reprint new handbooks, a copy of the policy will be
76 distributed annually to all students, parents, faculty and staff.

77 (3) The policy shall be submitted to the Massachusetts Department of
78 Elementary and Secondary Education by the first day of January each subsequent year. The
79 Department shall review such policy annually for compliance with State and federal law and
80 regulations promulgated by the Department of Elementary and Secondary Education.

81 (4) The Massachusetts Department of Elementary and Secondary Education
82 shall prepare an annual report, which shall include a summary of reported and substantiated
83 incidences of bullying.

84 (d) Duties of the Department of Elementary and Secondary Education.

85 (1) The Massachusetts Department of Elementary and Secondary Education
86 shall collaborate with the Massachusetts Office of the Attorney General to develop a model
87 policy, that may change from time to time, that is applicable to kindergarten through grade 12,
88 and post this policy on their websites in order to assist the school districts and charter schools.

89 (2) To the extent that funding is available the State Department of Elementary
90 and Secondary Education will provide for an award system for schools with exemplary programs

91 based on criteria promulgated by the Massachusetts Department of Elementary and Secondary
92 Education.

93 (e) Immunity.

94 A school employee, school volunteer, student, parent, legal guardian or relative
95 caregiver is individually immune from a cause of action for damages arising from reporting
96 bullying in good faith and to the appropriate person or persons using the procedures specified in
97 the school district and charter school's bullying prevention policy.

98 (f) Other Defenses.

99 (1) The physical location or time of access of a technology-related incident is
100 not a valid defense in any disciplinary action by the school district and charter school initiated
101 under this section provided there is sufficient school nexus.

102 (2) This section does not apply to any person who uses data or computer
103 software that is accessed through a computer, computer system, computer network or other
104 electronic technology when acting within the scope of his or her lawful employment or
105 investigation a violation of this section in accordance with school district or charter school
106 policy.

107 (g) Relationship to School Crime Reporting Law.

108 An incident may meet the definition of bullying and also the definition of a
109 particular crime under State or federal law. Nothing in this section or in the policies
110 promulgated as a result thereof shall prevent school officials from fulfilling all of the mandatory
111 reporting requirements or from reporting probable crimes that occur on school property or at a

112 school function which are not required to be reported under that section. Nothing in this section
113 shall abrogate the reporting requirements for child abuse or sexual abuse set forth in mandatory
114 reporting laws, or any other reporting requirement under State or federal law.

115 (g) Rules and Regulations.

116 Notwithstanding any provision to the contrary, the Massachusetts Department of
117 Elementary and Secondary Education may promulgate rules and regulations necessary to
118 implement this section.