

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Natalie M. Blais, (BY REQUEST)

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to create a code of ethics for all educators in the state of Massachusetts.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Benjamin Tobin</i>	<i>51 South St Williamsburg MA 01096</i>	<i>2/15/2022</i>

HOUSE No.

By Ms. Blais of Sunderland (by request), a petition (subject to Joint Rule 12) of Benjamin Tobin for legislation to create a code of ethics for educators. Education.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act to create a code of ethics for all educators in the state of Massachusetts.

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

1 Preamble:

2 Massachusetts is one of a very small number of states that does not have a code of ethics
3 and conduct established for the education profession. We have an extremely high rate of
4 misconduct reports, and an extremely low response rate to these issues. The goal of this
5 legislation is to provide common terminology, and a common set of ethical guidelines that all
6 educators and administrators will be expected to follow to ensure that students and staff are safe
7 and have their rights ensured while on and off school grounds. Currently, the language around
8 ethical expectations is not consistent, and is not equally applicable. It is important that educators
9 and administrators are held to the same standards to ensure that the best interest of students is
10 properly protected, and that appropriate consequences are established for when there is
11 misconduct.

12 Definitions:

13 Educational malpractice is defined as an educational professional breaching their duty to
14 provide students with a thorough education in basic academic/foundational skills, that
15 educational professionals misled students into believing that their skills were at the appropriate
16 grade level, that educational professionals violate the ethical guidelines, or that professionals did
17 not properly test children or place them in the right classes or programs. In accordance with Jami
18 McDuffy & Others vs Secretary of The Executive Office of Education, students in Massachusetts
19 are afforded the right to an appropriate education.

20 <https://www.doe.mass.edu/lawsregs/litigation/mcduffy-hancock.html>

21 Multiple Relationship-When a teacher knowingly engages in a boundary violating
22 relationship with a student, a member of a student's family, a fellow staff member, an
23 administrator, or anyone else where the relationship will have an adverse effect on a student's
24 education. The teacher/student relationship already represents a power imbalance, and so it is
25 vital that student wellbeing is protected in the event a teacher establishes a relationship outside of
26 their professional capacity and advising/mentorship duties. This term has been well established
27 in other fields, and exists for the same reason.

28 IEP-Individual Education Plan

29 Staff member-any member of the faculty or administration in a school who will interact
30 with a child, and who plays a role in a child's school experience and education.

31 603 CMR 7.00 & 603 CMR 44.00:

32 Principle I: Responsibility to the Education Profession and Educational Professionals

33 1. Staff, and administrators, understand student learning and development and
34 respect the diversity in all its forms including neurodiversity of the students they teach, families
35 they support, and professional they interact with.

36 2. Staff, and administrators, demonstrate mastery of skills and knowledge of the
37 content area for which they have responsibility.

38 3. Special educators, related service providers, paraprofessionals, and their
39 supervisors have received training in evidence-based practices appropriate for students in their
40 care and consistent with the IDEA, ESSA, other federal codes, and the state’s code. These
41 individuals only utilize the evidence-based practices after having achieved licensure or
42 certification in that evidence-based practice if such exists.

43 4. Staff, including administrators, understand and use multiple sources of evidence-
44 based evaluations and Massachusetts department of elementary and secondary education
45 approved progress monitoring systems to inform instruction, evaluate, monitor progress of a
46 student on an individual education plan (IEP), and ensure student learning is commensurate with
47 individual potential. Empirical data being the primary source of data rather than anecdotal
48 evidence or other subjective measures. [https://www.doe.mass.edu/instruction/screening-](https://www.doe.mass.edu/instruction/screening-assessments.html)
49 [assessments.html](https://www.doe.mass.edu/instruction/screening-assessments.html)

50 5. Staff, including administrators, collaborate and communicate honestly with
51 families, students, educational surrogate parents, advocates, social workers, other educators,
52 administrators, and the community to support learning. Staff share readily, without requiring
53 request, the data collection in its raw and summarized forms to the parent/guardian as it is

54 collected. Neither staff nor administrators will destroy any raw data collected. These records may
55 only be destroyed following the process and timeline identified in 603 CMR 23.06(3).

56 6. At least two weeks must be provided for parents to review evaluations and data
57 before holding an IEP meeting or parent/teacher conference.

58 7. Teachers and administrators vigorously advocate for what the student requires in
59 alignment with peer reviewed and scientific research to make progress commensurate with the
60 student's potential irrespective of district resources constraints or preferences, or presumed
61 placement.

62 8. Teachers, both special and general education, use evidence-based instruction that
63 enables each student to make progress commensurate with their potential.

64 9. Teachers model respect for all forms of diversity including, but not limited to,
65 religious, ethnic, race language, cultural, national origin, gender identity, sexual identity,
66 neurodiversity, disability, and communication skills by teaching representative curricula.

67 10. In fulfilling responsibilities to the education profession and educational
68 professionals, staff shall exemplify honesty and integrity during professional practice and
69 commit to providing accurate and truthful information when working with a student, their family
70 and guardians, a family's designees, advocates, educational surrogate parents, social workers,
71 and all other providers of support or professional services.

72 11. Unprofessional conduct shall include, but not be limited to:

73 a) Discrimination against any individual, group of individuals, or entity that
74 represents a form of diversity as identified above.

- 75 b) Discrimination against a fellow professional as specified in MGL 151B.
- 76 c) Failure to self-report within 5 business days if they have been arrested for any
77 violation of offenses enumerated in 603 CMR 7.02.
- 78 d) Failure to self-report immediately that they have been placed on a sexual
79 offender, violent offender, or abuse directory or listing of any kind.
- 80 e) Falsifying, fraudulently altering, or deliberately misrepresenting professional
81 qualifications, including, but not limited to, certification(s), licensure(s), degree(s), academic
82 award(s), and related employment history.
- 83 f) Unlawful possession of a controlled substance.
- 84 g) Multiple Relationships. In matters pertaining to boundaries or to dual, personal or
85 sexual relationships, a licensee's relationship with a student shall be within the definitions of the
86 licensees practice pursuant to 603 CMR 7.08. Licensees shall engage in relationships that
87 maintain appropriate boundaries, avoid dual relationships, and uphold the following standards:
88 (a) licensees shall not knowingly accept as students, individuals or family members of
89 individuals with whom the licensee has a familial, romantic, social, supervisory or professional
90 relationship; (b) licensees shall not engage in romantic, boundary inappropriate, or sexual
91 relationships or behaviors with students, family members of their students; (c) licensees shall
92 refrain from entering into or promising a personal, professional, romantic, boundary-violating,
93 financial, or other relationship with any student, or family members of their student. (d) licensee
94 shall not facilitate romantic, boundary-violating, or unprofessional relationships on behalf of
95 their students.

96 h) Possessing, using, or being under the influence of alcohol or controlled substances
97 not prescribed for the use of the licensee when on school premises or at a school sponsored
98 activity where students are present or may reasonably be expected to be present.

99 i) Failure at the time of licensing application to notify the state of past criminal
100 convictions, identification on an abuse and/or neglect registry (e.g Nicky’s Law), or of
101 revocations or suspensions of a credential or license by Massachusetts or any other jurisdiction.

102 j) Falsifying or deliberately misrepresenting information submitted to the
103 Massachusetts department of secondary and elementary education, the Bureau of Special
104 Education Appeals, the Office of Civil Rights, the Department of Justice, or any other state or
105 federal administrative or judicial proceedings during an official inquiry, investigation, and/or due
106 process.

107 k) Misrepresenting a student with disabilities in a 504, IEP, or manifest
108 determination meeting, not speaking truthfully in a 504, IEP, or manifest determination meeting,
109 and misrepresenting services being provided for that student.

110 l) Subjecting students and others to embarrassment or harassment.

111 m) Retaliating against any person who has made a claim or submitted a complaint or
112 other similar filing against the staff and or the administrator.

113 n) Staff and administrators’ failure to at any time provide a written report of all
114 suspicions or actual witnessed incidents of assault, bullying, harassment, or discrimination. Also,
115 failure to stop incidents of assault, bullying, harassment, or discrimination

116 Principle II: Responsibility to Students

- 117 1. In fulfilling responsibilities to students, a license holder shall maintain a
118 professional relationship with all students, both inside and outside the educational setting, and
119 their families and guardians, and make reasonable efforts to protect students from conditions
120 which are harmful to their health and safety.
- 121 2. Unprofessional conduct shall include, but not be limited to:
- 122 a. Discrimination against a student as specified in MGL. c. 151C.; St.2016, c.134;
123 MGL Ch. 76, Sec. 5 refer to the above definition of discriminatory behavior.
- 124 b. Failure to provide appropriate supervision of students, pursuant to local school
125 district policy at school or school-sponsored activities or the failure to ensure the safety and well-
126 being of students; and maintaining appropriate boundaries
- 127 c. Establishing multiple relationships with students or their families or facilitating
128 inappropriate relationships with students including romantic, boundary-violating, and
129 unprofessional relationships even with parental support.
- 130 d. Furnishing alcohol or illegal or unauthorized controlled substances to any
131 students, or allowing or encouraging a student to consume alcohol or illegal or unauthorized
132 controlled substances.
- 133 e. Committing any of the following acts to any minor, or any student or prior student
134 up to 10 months after the student’s graduation, departure, or departure including, but not limited
135 to:
- 136 • Abuse, including, but not limited to physical and emotional abuse.
- 137 • Cruelty or any act of endangerment.

- 138 • Establishing a multiple relationship
- 139 c. Any sexual act with or from any student; and
- 140 d. Harassment as defined by state or federal law or regulations.
- 141 • Soliciting or encouraging participation in a romantic or sexual relationship, or
- 142 other professional boundary-violating relationship whether written, verbal, or physical, with a
- 143 student the credential holder knows or should know is a student or prior student up to 10 months
- 144 after the student’s graduation, or departure; and
- 145 • Soliciting a student, or a former student up to 10 months after the student’s
- 146 graduation, departure, or departure to engage in any illegal activity.

147 Principle III: Responsibility to The School Community

- 148 1. In fulfilling the responsibilities to the school community, a licensee or credential
- 149 holder (e.g waiver) shall communicate honestly among members of the school community, while
- 150 maintaining appropriate professional boundaries with students and their families or guardians.
- 151 2. Unprofessional conduct shall include, but not be limited to:
- 152 a) Discrimination against a parent or guardian of a student or other member of the
- 153 community;
- 154 b) Accepting or soliciting gratuities, gifts, or favors for personal use or gain where
- 155 there might be an actual or appearance of a conflict of interest. Gifts of a small amount shall not
- 156 be deemed a conflict of interest;

- 157 c) Engaging in multiple relationships with students and or their families or
158 guardians;
- 159 d) Misuse of funds intended for use by the school, to include funds which are
160 collected from parents and students;
- 161 e) Intentionally altering or misrepresenting individual, group, or collective student
162 assessments, assessment results, or official school records. Abusing access to confidential
163 student records, and;
- 164 f) Violating student boundaries, removing professional boundaries, and
165 compromising professional objectivity.

166 Principle IV: Responsible and Ethical Use of Technology

- 167 1. In fulfilling the responsibilities and ethical use of technology a licensee or
168 credential holder shall consider the impact of consuming, creating, distributing, and
169 communicating information using any and all types of technology—including the distribution of
170 personal information to students [including texting and new technologies-no one should be
171 texting a child or engaging with them via an app like WhatsApp or social media pages].
- 172 2. Unprofessional conduct shall include, but not be limited to:
- 173 a) Engaging in any inappropriate and non-school or mentor related activities via
174 electronic media with a student or former student up to 24 months after the student's graduation,
175 departure, or departure; and

176 b) Engaging in inappropriate communication with a student, or former student up to
177 24 months after the student’s graduation, departure, or departure as specified in via electronic
178 media.

179 c) For the purposes of this section, inappropriate communication shall be determined
180 by considering:

181 (1) The intent, timing, subject matter, and amount of communication; and (2)
182 Whether:

183 (2) The communication made was covert in nature.

184 (3) The communication could reasonably be interpreted as solicitous, sexually
185 explicit, or romantic in nature or that would violate professional boundaries and compromise
186 objectivity. Staff should not also, for example, share the social media or contact information of
187 their own family members with their students directly/intentionally.

188 (4) The communication involved discussion(s) of the physical or sexual attractiveness
189 or the sexual activities or fantasies of either the credential holder or the student; and

190 (5) The communication involved the establishment of a multiple relationship
191 including but not limited to family members, guardians, other students, other staff members, or
192 outside individuals.

193 Principle V: Special Education

194 1. In fulfilling responsibilities to students with disabilities, a licensee or credential
195 holder shall maintain a professional relationship with all students, both inside and outside the
196 educational setting, and with their families and guardians.

- 197 2. Unprofessional conduct shall include, but not be limited to:
- 198 a) Engaging in multiple relationships and writing or providing data for an Individual
199 Education Plan while engaging with a student and/or their family or guardian.
- 200 b) Failure to provide raw and summarized progress and or evaluation data to families
201 and guardians
- 202 c) Providing false or defamatory information at an IEP meeting, misrepresenting or
203 manipulating student progress data, and omitting information relevant to a student’s academic
204 performance or behavior or functioning.
- 205 d) Providing programming or services that do not align or correspond to a student’s
206 diagnosed disability. Programming must be based on data-driven decision-making and upon
207 evaluations not based on availability of the intervention, program, or services (e.g a dyslexic
208 student provided with a reading program that has no evidence to support efficacy with
209 remediating dyslexia)
- 210 e) Failing to notify the family or guardian or educational surrogate parent within 10
211 days of the failure to deliver services as represented on the 504, IEP, or individualized healthcare
212 plan.
- 213 f) Failing to ensure that a student with a suspected disability is evaluated in
214 accordance with chapter 71B section 3 in that every area of suspected disability is evaluated (e.g
215 not assessing a student or providing insufficient testing to avoid a suspected diagnosis).
- 216 g) Failure to adhere to the state and federal timelines for completing student
217 evaluations and convening team meetings.

218 h) Engaging in behavior that will delay or otherwise prevent a student with
219 disabilities from receiving appropriate services.

220 i) Failing to consider the student's individual needs for an alternative graduation
221 timeline.

222 j) Staff cannot accept caseloads which prohibit them from being able to attend
223 annual IEP, 504, and individual healthcare plan meetings and at the same time be able to deliver
224 all of the minutes of intervention and consultation identified on those plans as well as engage in
225 professional development and planning.

226 k) The administrator cannot assign a caseload which would exceed a staff member's
227 ability to be able to attend annual IEP, 504, and individual healthcare plan meetings as well as be
228 able to deliver all of the minutes of intervention and consultation identified on those plans as
229 well as engage in professional development and planning.

230 l) The administrator must ensure that staff assigned to a caseload will have the
231 amount of time required to attend all of the meetings, and deliver all services, and engage in
232 professional training, and appropriate planning.

233 Duty to Report:

234 (a) Any licensee or credential holder shall report any suspected violation of the code of
235 conduct following the school, school district, or Massachusetts department of elementary and
236 secondary education reporting procedures.

237 (b) Each principal shall report to the superintendent of the school district where the
238 principal is employed, the chief executive officer of a chartered public school or public academy,

239 or the headmaster of a nonpublic school including approved private special education programs
240 established under chapter 71B, if the principal has been notified of, or is personally aware that a
241 licensee or credential holder has violated any of the rules of professional conduct which occurred
242 on or off duty.

243 (c) The superintendent, the chief executive officer of a chartered public school or public
244 academy, or the headmaster of a nonpublic school or approved private special education school,
245 shall each report any of the following to the office of licensing and credentialing and
246 Massachusetts department of elementary and secondary education:

247 (1) When a superintendent or headmaster has knowledge that a licensee or credential
248 holder, as defined in 603 CMR 7.00, has been arrested and charged with an offense; and

249 (2) When a superintendent or headmaster has knowledge that a licensee or credential
250 holder has violated the code of conduct.

251 (d) If a licensee or credential holder suspects that a superintendent has violated the code
252 of conduct, or if a licensee or credential holder has made a report and believes the local reporting
253 procedures have not been followed, the reporting licensee or credential holder shall notify the
254 department directly.

255 (e) Licensee or Credential holders who have reason to suspect that a student has been, or
256 is being, abused or neglected, or engaged in a multiple relationship with a credential holder shall
257 report the same to:

258 (1) Their immediate supervisor, superintendent, or both; and

259 (2) The department of children and families.

260 (f) If the department has reason to suspect that any violation of the code of ethics was
261 known by a licensee or credential holder and not reported, the Massachusetts department of
262 elementary and secondary education shall undertake an investigation against that licensee or
263 credential holder.

264 (g) The Massachusetts department of elementary and secondary education shall open a
265 case, in response to a report made pursuant to the above.

266 (h) The Massachusetts department of elementary and secondary education shall maintain
267 a publicly accessible database of allegations of misconduct, ethical violations, and educational
268 malpractice which is searchable by the public and includes both instances where allegations were
269 proven and unproven.

270 Training:

271 The Massachusetts Department of Elementary and Secondary Education shall establish a
272 publicly available training program based on the ethical guidelines that must be provided to all
273 new faculty members and staff as well as current faculty and staff at the beginning of the
274 academic year. This training shall also be freely available to the public on demand. The
275 curriculum for this training course must include but not be limited to ethical practices in special
276 education, multiple relationships, examples of educational malpractice, appropriate use of
277 technology, and the consequences for unprofessional conduct. On an annual basis, existing must
278 take a recertification course. The Massachusetts department of education shall develop this
279 curriculum with all invested parties—including but not limited to teachers, administrators,
280 families, guardians, students, advocates for students with disabilities, and other related agencies.
281 All protected classes shall be consulted in the design of this curriculum.

282 Consequences:

283 Engaging in any unethical behavior or violation of the guidelines shall result in
284 consequences that are appropriate given the extent of the breach in professional conduct as
285 determined by The Massachusetts Department of Elementary and Secondary Education's Office
286 of Professional Practices Investigations or its successor.

287 (a) Licensure removal (including for multiple relationships)

288 (b) Licensure suspension

289 (c) Mandatory training in the ethical guidelines

290 (d) In the case of a private or residential program that receives state funds that
291 knowingly employs staff with ethical or unprofessional conduct will lose their accreditation if it
292 is found that administration did not provide an appropriate response or report the misconduct in a
293 timely manner.

294 (e) More serious charges—including but not limited to violence sexual misconduct,
295 and distribution of illicit substances—shall be referred to the appropriate agencies.

296 It is the expectation that there will be an appropriate investigation and that the mandated
297 reporter shall provide accurate and factual information or be subject to the consequences above.
298 Mandated reporters shall not face any retaliatory consequences unless it is proven by the
299 investigation that they have provided false testimony. The subject of this inquiry shall remain
300 strictly confidential. School administrators that do not comply with these conditions or who
301 engage in retaliatory behavior shall also be subject to consequences above.

302 The department of education shall review protections and regulatory practices involving
303 mandated reporters to ensure that there are no inhibitory policies or regulations that might
304 prevent a credible witness to misconduct from stepping forward given fear of retaliation and job
305 security.

306 The Massachusetts department of education shall devise a publicly available rubric based
307 on the ethical guidelines to establish a clear and unambiguous correlation between a violation
308 and a consequence, and appropriate penalties for misconduct given the degree of the misconduct
309 with the understanding that even lesser infractions can have an adverse effect on students and
310 their education. Consequences must be applied with more severity in special education given the
311 vulnerable nature of the population served, and knowing that access to confidential student
312 information creates the possibility of more severe ethical violations and the possibility of
313 emotional manipulation.

314 The department of education shall make recommendations for the conduct of teachers in
315 504, IEP, and manifest determination meetings to ensure that all parent and student rights are
316 honored and that students receive appropriate services given their diagnosis and that no action is
317 taken to impede the acquisition of a diagnosis. Furthermore, that services and programming
318 provided to a student with a disability is appropriate for that disability and meets the standard set
319 in 20 U.S.C. § 6368(3)(4)(5)(6)(7)

320 The department of education shall review all open investigations, as well as recent
321 investigations to determine if the conduct reported is in violation of the ethical guidelines and
322 provide appropriate consequences.