

**Testimony of Anti-Defamation League
Massachusetts Special Commission on Bullying
February 9, 2011**

Attorney General Coakley, and members of the Commission, my name is Harvey Wolkoff and I am Chair of the Anti-Defamation League New England Region's Civil Rights Committee. On behalf of the League, I want to thank you for the opportunity to testify today. We applaud the time and thoughtfulness that this Commission has dedicated to this issue.

As the leader of a broad coalition that supported passage of an Act Relative to Bullying last year, we have been closely monitoring the progress school districts have been making. Although the law is among the strongest and most comprehensive in the country, we are here today to provide some recommendations to enhance the law's impact in the hallways and classrooms of our schools.

We remain concerned about ongoing reports of school districts whose plans do not contain provisions required by the law, did not consult with the community during the drafting stage, or did not provide a notice and public comment period. Prior to the enactment of an Act Relative to Bullying in Schools, students and parents faced a landscape where some schools had policies and training in place while others chose to simply ignore the problem. The law was designed to address this problem and the community needs to know whether their school district is complying with the law. Unless every Massachusetts school district complies, many children will remain unprotected from bullying and cyberbullying, and we will find ourselves in the same situation that prompted the need for the legislation in the first place.

Since the law contains no sanctions for schools districts which are in non-compliance, the burden falls solely on parents to demand accountability. When school districts do not follow the law, the public and legislature need to know.

We recommend the Commission add a provision requiring the Department to certify that a school district's policy has been submitted and conforms to the Model Bullying Prevention and Intervention Plan and the requirements of the statute. A list citing the level of compliance or non-compliance of all school districts should be updated regularly and posted on the Department's website.

We recommend the Commission support adding a provision to the law requiring that Department of Elementary and Secondary Education report to the General Court annually on the level of compliance of all school districts and the current levels and nature of harassment, intimidation and bullying in Massachusetts schools.

We recommend the Commission support a new provision requiring the Department to develop and design a survey instrument that schools can use to collect data from students, parents and staff in order to track the progress of their bullying prevention efforts over time. The results should be reported to the Department annually and made public.

The U.S. Department of Education Office of Civil Rights recently published provisions of state laws around the country which represent best practices. Among them was New York's Dignity For All Students Act which contains strong provisions for monitoring and transparency. Florida, Iowa and Ohio have adopted a similar approach. Data collection and the reporting of information to the Department is critical to ensure

compliance with the law and its effectiveness. The degree of apparent non-compliance since Governor Patrick signed the law necessitates greater involvement from the Department and legislature to ensure the intent of the law is carried out.

Massachusetts' decision to provide professional development training to everyone working in our schools represents a national best practice. However, many Massachusetts school districts lack adequate funding for personnel to design, implement and staff prevention and response programs. If our landmark law is to be effective, we must address this significant barrier.

We recommend the Commission support a recommendation that the legislature provide resources to fund the development of programming and training initiatives for school staff, students and parents across the state.

We believe that while laws and appropriate, inclusive school-based policies can be a focal point for addressing bullying, education strategies, training programs, and community involvement are necessary complements to any effective response. Schools must be given the resources to do what they do best: provide education and training on bullying and cyberbullying.

Concerns over parental liability and responsibility accompany every discussion of bullying. In fact during debate in the House and Senate, many amendments were introduced to create additional criminal offenses related to bullying. We do not believe that creating additional laws which punish parents or make bullying a crime are effective ways to deal with the problem. No person in Massachusetts is immune from existing criminal laws, and we have no reason to believe that law enforcement will not respond when the facts warrant an arrest and prosecution. Research of some disciplinary

procedures provides some insight on the merits of zero tolerance enforcement. Recent studies have concluded that zero tolerance and “three strikes” policies have proven to be ineffective in addressing bullying. They lead to further time out of school and an increased likelihood of involvement in delinquent activity. Discipline is necessary but children who target classmates also need positive reinforcement and strong role models. Parents play a critical role in prevention and response, and the Commonwealth should include them in the education process by giving them a voice and by providing training and resources.

We do not recommend any further changes to the criminal laws or laws surrounding parental liability.

Amongst the components of every school’s Plan to address bullying is a parental notification provision. However, in cases where a student’s sexual orientation or gender identity is related to the bullying, and the student is not “out” at home, the notification may essentially “out” the child.

Although the law cites federal and state privacy laws, we recommend that schools be advised that in certain cases, a student may have the right to “be out” at school, and also have the right to privacy about their sexual identity as it relates to their family.

Massachusetts remains a national leader with respect to protecting our school children. A combination of accountability as well as effective policies and training will ensure our leadership and ultimately benefit the Commonwealth’s children. These recommendations are intended to help schools effectuate changing the overall climate in our schools.

We urge you to give strong consideration to our recommendations as we believe they will further enhance a law whose goal is to protect our children.

Thank you for your time and attention to this important issue.