

# HOUSE . . . . . No. 454

By Mr. Hill of Ipswich, petition of Bradford Hill relative to prohibiting bullying in schools. Education.

## The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

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. Legislative Findings.  
2 The Legislature finds that a safe and civil environment in  
3 school is necessary for students to learn and achieve high acad-  
4 emic standards. The Legislature finds that harassment, intima-  
5 tion or bullying, like other disruptive or violent behavior, is  
6 conduct that disrupts both a student’s ability to learn and a  
7 school’s ability to educate its students in a safe, non-threatening  
8 environment.  
9 The legislature further finds that students learn by example.  
10 The legislature charges school administrators, faculty, staff and  
11 volunteers with demonstrating appropriate behavior, treating  
12 others with civility and respect, and refusing to tolerate harass-  
13 ment, intimidation or bullying.

1 SECTION 2. Definitions.  
2 As used in this article, “harassment, intimidation or bullying”  
3 means any intentional gesture or any intentional written, verbal or  
4 physical act or threat that:—  
5 a reasonable person, under the circumstances, should know  
6 would have the effect of:—  
7 (1) Harming a student;  
8 (2) Damaging a student’s property;

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

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

12 (b) is sufficiently severe, persistent or pervasive that it creates  
14 an intimidating, threatening or abusive educational environment  
15 for a student.

1 SECTION 3. Policy prohibiting harassment, intimidation or  
2 bullying.

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

11 (b) Each county/school board policy shall, at a minimum,  
12 include the following components:-

13 (1) A statement prohibiting harassment, intimidation or bul-  
14 lying of any student on school property, on a school bus or other  
15 school-related vehicle, at an official school bus stop, or at a  
16 school-sponsored activity or event whether or not it is held on  
17 school premises;

18 (2) A definition of harassment, intimidation or bullying no less  
19 inclusive than that in section two of this article;

20 (3) A description of the type of behavior expected from each  
21 student;

22 (4) Consequences and appropriate remedial action for a person  
23 who commits an act of harassment, intimidation, or bullying;

24 (5) A procedure for reporting an act of harassment, intimidat-  
25 tion, or bullying, including a provision that permits a person to  
26 report an act of harassment, intimidation, or bullying any-  
27 mously. However, this subdivision shall not be construed to  
28 permit formal disciplinary action solely based on an anonymous  
29 report;

30 (6) A requirement that school personnel report prohibited inci-  
31 dents of which they are aware;

32 (7) A procedure for responding to any reported act of harass-  
33 ment, intimidation, or bullying;

34 (8) A procedure for prompt investigation of reports of viola-  
35 tions and complaints, identifying either the principal or the princi-  
36 pal's designee as the person responsible for the investigation;

37 (9) A requirement that parents or guardians of any student  
38 involved in an incident prohibited pursuant to this article be noti-  
39 fied;

40 (10) The range of ways in which a school will respond once an  
41 incident of harassment, intimidation, or bullying is identified and

42 (11) A procedure for documenting any prohibited incident that  
43 is reported.

44 (12) A statement that prohibits reprisal or retaliation against  
45 any person who reports an act of harassment, intimidation, or bul-  
46 lying, and the consequences and appropriate remedial action for a  
47 person who engages in that type of reprisal or retaliation;

48 (13) A strategy for protecting a victim from additional harass-  
49 ment, intimidation or bullying, and from retaliation following a  
50 report;

51 (14) A procedure for counseling students who have been vic-  
52 tims or targets of bullying;

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

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

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

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

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

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

71 their website. The model policy shall be issued by the first day of  
72 December 2005.

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

1 SECTION 4. Prohibiting reprisal, retaliation, or false accusa-  
2 tion.

3 (a) A school administrator, employee, pupil, or volunteer shall  
4 not engage in reprisal, retaliation, or false accusation against a  
5 victim, witness, or one with reliable information about an act of  
6 harassment, intimidation, or bullying.

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

1 SECTION 5. Immunity.

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

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

8 (2) Makes the report to the appropriate school official desig-  
9 nated by the school district's or public school academy's policy  
10 and

11 (3) Makes the report in compliance with the procedures as  
12 specified in policy prohibiting harassment, intimidation, or bul-  
13 lying.

1 SECTION 6. Policy training and education.

2 (a) Schools and county/district school boards are encouraged to  
3 form bullying prevention task forces, programs and other initia-  
4 tives involving school staff, students, teachers, administrators,  
5 volunteers, parents, law enforcement and community members.

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

8 (1) Provide training on the harassment, intimidation, or bul-  
9 lying policy to school employees and volunteers who have direct  
10 contact with students; and

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

13 (3) Information regarding the county board policy against  
14 harassment, intimidation or bullying shall be incorporated into  
15 each school's current employee training program.

1 SECTION 7. Liability.

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

1 SECTION 8. Definitions.

2 (a) "At school" means in a classroom, elsewhere on or immedi-  
3 ately adjacent to school premises, on a school bus or other school-  
4 related vehicle, at an official school bus stop, or at a  
5 school-sponsored activity or event whether or not it is held on  
6 school premises.

7 (b) "Harassment, intimidation, or bullying" means any gesture  
8 or written, verbal, or physical act that a reasonable person under  
9 the circumstances should know will have the effect of harming a  
10 pupil or damaging his or her property or placing a pupil in reason-  
11 able fear of harm to his or her person or damage to his or her  
12 property, or that has the effect of insulting or demeaning any pupil  
13 or group of pupils in such a way as to disrupt or interfere with the  
14 school's educational mission or the education of any pupil.  
15 Harassment, intimidation, or bullying includes, but is not limited  
16 to, a gesture or written, verbal, or physical act described in this  
17 section that is perceived as being motivated by the harasser, intimid-  
18 idator, or bully, for any reason, towards any target or victim.

1 SECTION 9. Accountability to the State Superintendent.  
2 Report to Lawmakers.  
3 Each school district shall report to the superintendent of public  
4 instruction by January 31st of each year all incidents, resulting in  
5 disciplinary action, involving harassment, intimidation, or bul-  
6 lying, that result in a short or long-term suspension or expulsion  
7 on school premises or on transportation systems used by schools,  
8 in the year preceding the report. The superintendent shall compile  
9 the data and report it to the appropriate committee of the State  
10 House and the State Senate.