

HOUSE No. 587

By Mr. Vallee of Franklin, petition of James E. Vallee relative to 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. The Legislature finds that a
2 safe and civil environment in school is necessary for students to
3 learn and achieve high academic standards. The Legislature finds
4 that harassment, intimidation or bullying, like other disruptive or
5 violent behavior, is conduct that disrupts both a student’s ability to
6 learn and a school’s ability to educate its students in a safe, non-
7 threatening environment.

8 The legislature further finds that students learn by example. The
9 legislature charges school administrators, faculty, staff and volun-
10 teers with demonstrating appropriate behavior, treating others with
11 civility and respect, and refusing to tolerate harassment, intimidation
12 or bullying.

1 SECTION 2. Definitions. As used in this article, “harassment,
2 intimidation or bullying” means any intentional gesture or any inten-
3 tional written, verbal or physical act or threat that:— (a) A reason-
4 able person, under the circumstances, should know would have the
5 effect of:—

- 6 (1) Harming a student;
- 7 (2) Damaging a student’s property;
- 8 (3) Placing a student in reasonable fear of harm to his or her
9 person;
- 10 or
- 11 (4) Placing a student in reasonable fear of damage to his or her
12 property; or

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

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

9 (b) Each county/school board policy shall, at a minimum, include
10 the following components:—

11 (1) A statement prohibiting harassment, intimidation or bullying
12 of any student on school property, on a school bus or other school-
13 related vehicle, at an official school bus stop, or at a school-spon-
14 sored activity or event whether or not it is held on school premises;

15 (2) A definition of harassment, intimidation or bullying no less
16 inclusive than that in Section two of this article;

17 (3) A description of the type of behavior expected from each stu-
18 dent;

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

21 (5) A procedure for reporting an act of harassment, intimidation,
22 or bullying, including a provision that permits a person to report an
23 act of harassment, intimidation, or bullying anonymously. However,
24 this subdivision shall not be construed to permit formal disciplinary
25 action solely based on an anonymous report;

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

28 (7) A procedure for responding to any reported act of harassment,
29 intimidation, or bullying;

30 (8) A procedure for prompt investigation of reports of violations
31 and complaints, identifying either the principal or the principal's
32 designee as the person responsible for the investigation;

33 (9) A requirement that parents or guardians of any student
34 involved in an incident prohibited pursuant to this article be notified;

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

37 11) A procedure for documenting any prohibited incident that is
38 reported.

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

43 (13) A strategy for protecting a victim from additional harass-
44 ment, intimidation or bullying, and from retaliation following a
45 report;

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

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

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

53 (17) A requirement that any information relating to a reported
54 incident is confidential, and exempt from disclosure under the provi-
55 sions of Chapter...of this code and

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

59 (c) Each county/school board shall adopt the policy and submit a
60 copy to the state superintendent of schools by the first day of Sep-
61 tember, two thousand six.

62 (d) To assist county/school boards in developing their policies, for
63 the prevention of harassment, intimidation, or bullying, the Depart-
64 ment of Education shall develop a model policy applicable to grades
65 kindergarten through twelfth and post this policy on their website.
66 The model policy shall be issued by the first day of December 2005.

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

1 SECTION 4. Prohibiting reprisal, retaliation, or false accusation.

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

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

1 SECTION 5. Immunity. A school employee, student or volunteer
2 is individually immune from a cause of action for damages arising
3 from reporting harassment, intimidation or bullying, or any failure to
4 remedy the reported harassment, intimidation or bullying, if that
5 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 designated
9 by the school district's or public school academy's policy and

10 (3) Makes the report in compliance with the procedures as speci-
11 fied in policy prohibiting harassment, intimidation, or bullying.

1 SECTION 6. Policy training and education. (a) Schools and
2 county/district boards are encouraged to form bullying prevention
3 task forces, programs and other initiatives involving school staff,
4 students, teachers, administrators, volunteers, parents, law enforce-
5 ment and community members.

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

8 (1) Provide training on the harassment, intimidation or bullying
9 policy to school employees and volunteers who have direct contact
10 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 harass-
14 ment, intimidation or bullying shall be incorporated into each
15 school's current employee training program.

1 SECTION 7. Liability. Except as provided in Section five of this
2 article, nothing in this article prohibits a victim from seeking redress
3 under any other provision of civil or criminal law. This section does
4 not create or alter any tort liability.

1 SECTION 8. Definitions. (a) “At school” means in a classroom,
2 elsewhere on or immediately adjacent to school premises, on a
3 school bus or other school-related vehicle, at an official school bus
4 stop, or at a school-sponsored activity or event whether or not it is
5 held on school premises.

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

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