HOUSE DOCKET, NO. FILED ON: 12/30/2008

**HOUSE . . . . . . . . . . . . . . . No.**

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The Commonwealth of Massachusetts

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PRESENTED BY:

**James E. Vallee**

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*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 passage of the accompanying bill:

An Act relative to bullying in schools.

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PETITION OF:

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| --- | --- |
| Name: | District/Address: |
| James E. Vallee | 10th Norfolk |

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 587 OF .]

The Commonwealth of Massachusetts

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**In the Year Two Thousand and 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:*

 Section I - Legislative findings

The Legislature finds that a safe and civil environment in school is

necessary for students to learn and achieve high academic standards.

The Legislature finds that harassment, intimidation or bullying, like other disruptive or

violent behavior, is conduct that disrupts both a student’s ability to

learn and a school’s ability to educate its students in a safe, non-threatening

environment.

The legislature further finds that students learn by example. The

legislature charges school administrators, faculty, staff and

volunteers with demonstrating appropriate behavior, treating others

with civility and respect, and refusing to tolerate harassment,

intimidation or bullying.

Section II - Definitions.

As used in this article, “harassment, intimidation or bullying” means

any intentional gesture or any intentional written, verbal or physical

act or threat that:

**(a)** A reasonable person, under the circumstances, should know would

have the effect of:

**(1)** Harming a student;

**(2)** Damaging a student’s property;

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

or

**(4)** Placing a student in reasonable fear of damage to his or her

property; or

**(b)** Is sufficiently severe, persistent or pervasive that it creates an

intimidating, threatening or abusive educational environment for a

student.

Section III - Policy prohibiting harassment, intimidation or bullying

**(a)** Each county/school board of education shall establish a policy

prohibiting harassment,

intimidation or bullying. Each county/school board has control over

the content of its policy as long as the policy contains, at a minimum,

the requirements of subdivision (b) of this section. The policy shall

be adopted through a process that includes representation of parents or

guardians, school employees, school volunteers, students and community

members.

**(b)** Each county/school board policy shall, at a minimum, include the

following components:

**(1)** A statement prohibiting harassment, intimidation or bullying of any

student on school property, on a school bus or other school-related

vehicle, at an official school bus stop, or at a school-sponsored

activity or event whether or not it is held on school premises;

**(2)** A definition of harassment, intimidation or bullying no less

inclusive than that in section two of this article;

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

**(4)** Consequences and appropriate remedial action for a person who

commits an act of harassment, intimidation, or bullying;

**(5)** A procedure for reporting an act of harassment, intimidation, or

bullying, including a provision that permits a person to report an act

of harassment, intimidation, or bullying anonymously. However, this

subdivision shall not be construed to permit formal disciplinary action

solely based on an anonymous report;

**(6)** A requirement that school personnel report prohibited incidents of

which they are aware;

**(7)** A procedure for responding to any reported act of harassment,

intimidation, or bullying;

**(8)** A procedure for prompt investigation of reports of violations and

complaints, identifying either the principal or the principal’s

designee as the person responsible for the investigation;

**(9)** A requirement that parents or guardians of any student involved in

an incident prohibited pursuant to this article be notified;

**(10)** The range of ways in which a school will respond once an incident

of harassment, intimidation, or bullying is identified and

**11)** A procedure for documenting any prohibited incident that is

reported.

**(12)** A statement that prohibits reprisal or retaliation against any

person who reports an act of harassment, intimidation, or bullying, and

the consequences and appropriate remedial action for a person who

engages in that type of reprisal or retaliation;

**(13)** A strategy for protecting a victim from additional harassment,

intimidation or bullying, and from retaliation following a report;

**(14)** A procedure for counseling students who have been victims or

targets of bullying;

**(15)** Consequences and appropriate remedial action for a person found to

have falsely accused another as a means of retaliation or as a means of

harassment, intimidation, or bullying;

**(16)** A disciplinary or counseling procedure for any student guilty of

harassment, intimidation or bullying;

**(17)** A requirement that any information relating to a reported incident

is confidential, and exempt from disclosure under the provisions of

chapter...of this code and

**(18)** A statement of how the policy is to be publicized including notice

that the policy applies to participation in school-sponsored

activities.

**(c)** Each county/school board shall adopt the policy and submit a copy

to the state superintendent of schools by the first day of September,

two thousand six.

**(d)** To assist county/school boards in developing their policies, for

the prevention of harassment, intimidation, or bullying, the Department

of Education shall

develop a model policy applicable to grades kindergarten through

twelfth and post this policy on their website. The model policy shall

be issued by the first day of December 2005.

**(e)** Notice of the county/school board’s policy shall appear in any

student handbooks, and in any county board publication, that sets forth

the comprehensive rules, procedures and standards of conduct for its

schools, and in its pupil handbooks.

Section IV - Prohibiting reprisal, retaliation, or false accusation

**(a)** A school administrator, employee, pupil, or volunteer shall not

engage in reprisal, retaliation, or false accusation against a victim,

witness, or one with reliable information about an act of harassment,

intimidation, or bullying.

**(b)** A school administrator, employee, pupil, or volunteer who has

witnessed, or has reliable information that a student has been

subjected to, harassment, intimidation, or bullying, whether verbal or

physical, is encouraged to report the incident to the appropriate

school official designated by the school district’s or public school

academy’s policy.

Section V – Immunity

A school employee, student or volunteer is individually immune from a

cause of action for damages arising from reporting harassment,

intimidation or bullying, or any failure to remedy the reported

harassment, intimidation or bullying, if that person:

**(1)** In good faith promptly reports an incident of harassment,

intimidation or bullying;

**(2)** Makes the report to the appropriate school official designated by

the school district’s or public school academy’s policy and

**(3)** Makes the report in compliance with the procedures as specified in

policy prohibiting harassment, intimidation, or bullying.

Section VI - Policy training and education

**(a)** Schools and county/district boards are encouraged to form bullying

prevention task forces, programs and other initiatives involving school

staff, students, teachers, administrators, volunteers, parents, law

enforcement and community members.

**(b)** Each county/district board or public school academy shall do all of

the following:

**(1)** Provide training on the harassment, intimidation or bullying policy

to school employees and volunteers who have direct contact with

students; and

**(2)** Develop a process for educating students on the harassment,

intimidation or bullying policy.

**(3)** Information regarding the county board policy against harassment,

intimidation or bullying shall be incorporated into each school’s

current employee training program.

Section VII – Liability

Except as provided in section five of this article, nothing in this

article prohibits a victim from seeking redress under any other

provision of civil or criminal law. This section does not create or

alter any tort liability.

Section VIII – Definitions

(a) “At school” means in a classroom, elsewhere on or immediately

adjacent to school premises, on a school bus or other school-related

vehicle, at an official school bus stop, or at a school-sponsored

activity or event whether or not it is held on school premises.

(b) “Harassment, intimidation, or bullying” means any gesture or

written, verbal, or physical act that a reasonable person under the

circumstances should know will have the effect of harming a pupil or

damaging his or her property or placing a pupil in reasonable fear of

harm to his or her person or damage to his or her property, or that has

the effect of insulting or demeaning any pupil or group of pupils in

such a way as to disrupt or interfere with the school’s educational

mission or the education of any pupil. Harassment, intimidation, or

bullying includes, but is not limited to, a gesture or written, verbal,

or physical act described in this section that is perceived as being

motivated by the harasser, intimidator, or bully, for any reason,

towards any target or victim.

Section IX - Accountability to the State Superintendent – Report to

Lawmakers

Each school district shall report to the superintendent of public

instruction by January 31st of each year all incidents, resulting in

disciplinary action, involving harassment, intimidation, or bullying,

that result in a short or long-term suspension or expulsion on school

premises or on transportation systems used by schools, in the year

preceding the report. The superintendent shall compile the data and

report it to the appropriate committees of the State House and the

State Senate.