

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

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**James E. Vallee**

*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.**

PETITION OF:

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

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### 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 I - Legislative findings

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3   The Legislature finds that a safe and civil environment in school is  
4   necessary for students to learn and achieve high academic standards.

5   The Legislature finds that harassment, intimidation or bullying, like other disruptive or  
6   violent behavior, is conduct that disrupts both a student's ability to  
7   learn and a school's ability to educate its students in a safe, non-threatening  
8   environment.

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

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16 Section II - Definitions.

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18 As used in this article, “harassment, intimidation or bullying” means  
19 any intentional gesture or any intentional written, verbal or physical  
20 act or threat that:

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22 **(a)** A reasonable person, under the circumstances, should know would  
23 have the effect of:

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25 **(1)** Harming a student;

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

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

30 or

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

33 property; or

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35 **(b)** Is sufficiently severe, persistent or pervasive that it creates an  
36 intimidating, threatening or abusive educational environment for a  
37 student.

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39 Section III - Policy prohibiting harassment, intimidation or bullying

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

42 prohibiting harassment,

43 intimidation or bullying. Each county/school board has control over  
44 the content of its policy as long as the policy contains, at a minimum,  
45 the requirements of subdivision (b) of this section. The policy shall  
46 be adopted through a process that includes representation of parents or  
47 guardians, school employees, school volunteers, students and community  
48 members.

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50 **(b)** Each county/school board policy shall, at a minimum, include the  
51 following components:

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53 **(1)** A statement prohibiting harassment, intimidation or bullying of any  
54 student on school property, on a school bus or other school-related  
55 vehicle, at an official school bus stop, or at a school-sponsored  
56 activity or event whether or not it is held on school premises;

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

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

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

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66 **(5)** A procedure for reporting an act of harassment, intimidation, or  
67 bullying, including a provision that permits a person to report an act  
68 of harassment, intimidation, or bullying anonymously. However, this  
69 subdivision shall not be construed to permit formal disciplinary action  
70 solely based on an anonymous report;

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72 (6) A requirement that school personnel report prohibited incidents of  
73 which they are aware;

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

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

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

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

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88 (11) A procedure for documenting any prohibited incident that is  
89 reported.

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

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96 (13) A strategy for protecting a victim from additional harassment,  
97 intimidation or bullying, and from retaliation following a report;

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

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

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

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109 (17) A requirement that any information relating to a reported incident  
110 is confidential, and exempt from disclosure under the provisions of  
111 chapter...of this code and

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

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117 (c) Each county/school board shall adopt the policy and submit a copy  
118 to the state superintendent of schools by the first day of September,  
119 two thousand six.

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121 (d) To assist county/school boards in developing their policies, for  
122 the prevention of harassment, intimidation, or bullying, the Department  
123 of Education shall  
124 develop a model policy applicable to grades kindergarten through  
125 twelfth and post this policy on their website. The model policy shall  
126 be issued by the first day of December 2005.

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

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133 Section IV - Prohibiting reprisal, retaliation, or false accusation

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

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140 (b) A school administrator, employee, pupil, or volunteer who has  
141 witnessed, or has reliable information that a student has been  
142 subjected to, harassment, intimidation, or bullying, whether verbal or  
143 physical, is encouraged to report the incident to the appropriate  
144 school official designated by the school district's or public school  
145 academy's policy.

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147 Section V – Immunity

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

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

155 intimidation or bullying;

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

158 the school district's or public school academy's policy and

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

161 policy prohibiting harassment, intimidation, or bullying.

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163 Section VI - Policy training and education

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

166 prevention task forces, programs and other initiatives involving school

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

168 enforcement and community members.

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

171 the following:

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

174 to school employees and volunteers who have direct contact with

175 students; and

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

178 intimidation or bullying policy.

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

181 intimidation or bullying shall be incorporated into each school's

182 current employee training program.



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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.

211 Section IX - Accountability to the State Superintendent – Report to

212 Lawmakers

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214 Each school district shall report to the superintendent of public

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

216 disciplinary action, involving harassment, intimidation, or bullying,

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

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

219 preceding the report. The superintendent shall compile the data and

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

221 State Senate.

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