

HOUSE No. 524

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:

James E. Vallee

DISTRICT/ADDRESS:

10th Norfolk

[SIMILAR MATTER FILED IN PREVIOUS SESSION

SEE HOUSE, NO. 587 OF .]

The Commonwealth of Massachusetts

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:

1 **Section I** - Legislative findings:

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

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

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

10 **Section II** - Definitions.

11 As used in this article, "harassment, intimidation or bullying" means any intentional gesture or
12 any intentional written, verbal or physical act or threat that:

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

14 (1) Harming a student;

- 15 (2) Damaging a student's property;
- 16 (3) Placing a student in reasonable fear of harm to his or her person; or
- 17 (4) Placing a student in reasonable fear of damage to his or her property; or
- 18 (b) Is sufficiently severe, persistent or pervasive that it creates an intimidating,
- 19 threatening or abusive educational environment for a student.

20 **Section III - Policy prohibiting harassment, intimidation or bullying**

21 (a) Each county/school board of education shall establish a policy prohibiting harassment,

22 intimidation or bullying. Each county/school board has control over the content of its policy as

23 long as the policy contains, at a minimum, the requirements of subdivision (b) of this section.

24 The policy shall be adopted through a process that includes representation of parents or

25 guardians, school employees, school volunteers, students and community members.

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

- 27 (1) A statement prohibiting harassment, intimidation or bullying of any student on school
- 28 property, on a school bus or other school-related vehicle, at an official school bus stop, or
- 29 at a school-sponsored activity or event whether or not it is held on school premises;
- 30 (2) A definition of harassment, intimidation or bullying no less inclusive than that in
- 31 section two of this article;
- 32 (3) A description of the type of behavior expected from each student;
- 33 (4) Consequences and appropriate remedial action for a person who commits an act of
- 34 harassment, intimidation, or bullying;
- 35 (5) A procedure for reporting an act of harassment, intimidation, or bullying, including a
- 36 provision that permits a person to report an act of harassment, intimidation, or bullying

37 anonymously. However, this subdivision shall not be construed to permit formal
38 disciplinary action solely based on an anonymous report;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

71 twelfth and post this policy on 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 any student handbooks, and in any
74 county board publication, that sets forth the comprehensive rules, procedures and standards of
75 conduct for its schools, and in its pupil handbooks.

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

77 (a) A school administrator, employee, pupil, or volunteer shall not engage in reprisal, retaliation,
78 or false accusation against a victim, witness, or one with reliable information about an act of
79 harassment,

80 intimidation, or bullying.

81 (b) A school administrator, employee, pupil, or volunteer who has witnessed, or has reliable
82 information that a student has been subjected to, harassment, intimidation, or bullying, whether

83 verbal or physical, is encouraged to report the incident to the appropriate school official
84 designated by the school district's or public school academy's policy.

85 **Section V – Immunity**

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

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

90 (2) Makes the report to the appropriate school official designated by the school district's
91 or public school academy's policy and

92 (3) Makes the report in compliance with the procedures as specified in policy prohibiting
93 harassment, intimidation, or bullying.

94 **Section VI - Policy training and education**

95 (a) Schools and county/district boards are encouraged to form bullying prevention task forces,
96 programs and other initiatives involving school staff, students, teachers, administrators,
97 volunteers, parents, law enforcement and community members.

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

99 (1) Provide training on the harassment, intimidation or bullying policy to school
100 employees and volunteers who have direct contact with students; and

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

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

105 **Section VII – Liability**

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

109 **Section VIII – Definitions**

110 (a) “At school” means in a classroom, elsewhere on or immediately adjacent to school premises,
111 on a school bus or other school-related vehicle, at an official school bus stop, or at a school-
112 sponsored activity or event whether or not it is held on school premises.

113 (b) “Harassment, intimidation, or bullying” means any gesture or written, verbal, or physical act
114 that a reasonable person under the circumstances should know will have the effect of harming a
115 pupil or damaging his or her property or placing a pupil in reasonable fear of harm to his or her
116 person or damage to his or her property, or that has
117 the effect of insulting or demeaning any pupil or group of pupils in such a way as to disrupt or
118 interfere with the school’s educational mission or the education of any pupil. Harassment,
119 intimidation, or bullying includes, but is not limited to, a gesture or written, verbal, or physical
120 act described in this section that is perceived as being motivated by the harasser, intimidator, or
121 bully, for any reason, towards any target or victim.

122 **Section IX - Accountability to the State Superintendent – Report to Lawmakers**

123 Each school district shall report to the superintendent of public instruction by January 31st of
124 each year all incidents, resulting in disciplinary action, involving harassment, intimidation, or
125 bullying, that result in a short or long-term suspension or expulsion on school premises or on
126 transportation systems used by schools, in the year preceding the report. The superintendent shall
127 compile the data and report it to the appropriate committees of the State House and the State
128 Senate.