

GREENFIELD PUBLIC SCHOOLS

APPENDIX B

ANTI-BULLYING LAW

No Name Calling Day

The governor shall annually issue a proclamation setting apart the fourth Wednesday in January as No Name Calling Day to increase public awareness of the devastating effects of verbal bullying, encourage students to use positive dialogue and pledge not to use hurtful names on this designated day, to promote tolerance and respect for differences and to reaffirm the commitment of the citizens of the commonwealth to basic human rights and dignity.

M.G.L. Chapter 71, Section 370

As used in this section the following words shall, unless the context clearly requires otherwise, have the following meaning:

Bullying: the repeated use by one or more students of a written, verbal or electronic expression or a physical act or gesture or any combination thereof, directed at a victim that: (i) causes physical or emotional harm to the victim or damage to the victim's property; (ii) places the victim in reasonable fear or harm to himself or of damage to his property; (III) creates a hostile environment at school for the victim; (iv) infringes on the rights of the victim at school; or (v) materially and substantially disrupts the education process or the orderly operation of a school. For the purpose of this section, bullying shall include cyber-bullying.

Cyber-bullying: bullying through the use of technology or any electronic communication, which shall include, but shall not be limited to, any transfer of signs, signals, writings, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo electronic or photo optical system, including, but not limited to, electronic mail, internet communications, instant messages or facsimile communications. Cyber-bullying shall also include (i) the creation of a web page or blog in which the creator assumes the identity of another person or (ii) the knowing impersonation of another person as the author of posted content or messages, if the creation or impersonation creates any of the conditions enumerated in the definition of bullying. Cyber-bullying shall also include the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more persons, if the distribution or posting creates any of the conditions enumerated in the definition of bullying.

Hostile environment: a situation in which bullying causes the school environment to be permeated with intimidation, ridicule or insult that is sufficiently severe or pervasive to alter the conditions of the student's education.

Perpetrator: a student who engages in bullying or retaliation.

School grounds: property on which a school building or facility is located or property that is owned, leased or used by a school district, charter school, non-public school, approved private day or residential school, or collaborative school for a school-sponsored activity, function, program, instruction or training.

Victim: a student against whom bullying or retaliation has been perpetrated.

Bullying shall be prohibited: (i) on school grounds, property immediately adjacent to school grounds, at a school-sponsored or school-related activity, function or program whether on or off school grounds, at a school bus stop, on a school bus or other vehicle owned, leased or used by a school district or school, or through the use of technology or an electronic device owned, leased or used by a school district or school and (ii) a location, activity, function or program that is not school-related, or through the use of technology or an electronic device that is not owned, leased or used by a school district or school, if the bullying creates a hostile environment at school for the victim, infringes on the rights of the victim at school or materially and substantially disrupts the education process or the orderly operation of a school.

Retaliation against a person who reports bullying, provide information during an investigation of bullying, or witnesses or has reliable information about bullying shall be prohibited.

Each school shall provide age-appropriate instruction on bullying prevention in each grade that is incorporated into the curriculum of the school district or school. The curriculum shall be evidence-based.

Each school shall develop, adhere to and update a plan to address bullying prevention and intervention in consultation with teachers, school staff, professional support personnel, school volunteers, administrators, community representatives, local law enforcement agencies, students, parents and guardians. The consultation shall include notice and a public comment period. The plan shall be updated at least biennially.

Each plan shall include, but not be limited to: (i) description of and statements prohibiting bullying, cyber-bullying and retaliation; (ii) clear procedures for students, staff, parents, guardians and others to report bullying or retaliation; (iii) a provision that reports of bullying or retaliation may be made anonymously; provided, however, that no disciplinary action shall be taken against a student solely on the basis of an anonymous report; (iv) clear procedures for promptly responding to and investigation reports of bullying or retaliation; (v) the range of disciplinary actions that may be taken against a perpetrator for bullying or retaliation; provide, however, that the disciplinary actions shall

balance the need for accountability with the need to teach appropriate behavior; (vi) clear procedures for restoring a sense of safety for a victim and assessing that victim's needs for protection; (vii) strategies for protecting from bullying or retaliation a person who reports bullying, provides information during an investigation of bullying or witnesses or has reliable information about an act of bullying; (viii) procedures consistent with state and federal law for promptly notifying the parents or guardians of a victim and a perpetrator; provided, further, that the parents or guardians of a victim shall also be notified of the action taken to prevent any further acts of bullying or retaliation; and provided, further, that the procedures shall provide for immediate notification pursuant to regulations promulgated under this subsection by the principal or person who holds a comparable role to the local law enforcement agency when criminal charges may be pursued against the perpetrator; (ix) a provision that a student who knowingly makes a false accusation of bullying or retaliation shall be subject to disciplinary action; and (x) a strategy for providing counseling or referral to appropriate services for perpetrators and victims and for appropriate family members of said students. The plan shall afford all students the same protection regardless of their status under the law. Nothing in this section shall prevent a school district from remediating any discrimination or harassment on a person's membership in a legally protected category under local, state or federal law.

The plan shall include a provision for ongoing professional development to build the skills of all staff members, including, but not limited to, educators, administrators, school nurses, cafeteria workers, custodians, bus drivers, athletic coaches, advisors to extracurricular activities and paraprofessionals, to prevent, identify and respond to bullying.

The plan shall include provisions for informing parents and guardians about the bullying prevention curriculum of the school district and shall include how parents and guardians can reinforce the curriculum at home and support the school district or school plan; (ii) the dynamics of bullying; and (iii) online safety and cyber-bullying.

The faculty and staff at each school shall be trained annually on the plan applicable to the school.

The plan shall be posted on the website of each school.

Each school principal or the person who holds a comparable position shall be responsible for the implementation and oversight of the plan at his or her school.

A member of a school staff shall immediately report any instance of bullying or retaliation the staff member has witnessed or become aware of to the principal or to the school official identified in the plan as responsible for receiving such reports or both. Upon receipt, the school principal or a designee shall promptly conduct an investigation. If the school principal or a designee determines that bullying or retaliation has occurred, the school principal or designee shall (i) notify the local law enforcement agency if the school principal or designee believes that criminal charges may be pursued against a

perpetrator; (ii) takes appropriate disciplinary action; (iii) notify the parents or guardians of a perpetrator; (iv) notify the parents or guardians of the victim.

Nothing in this section shall create a private right of action.

Every public school providing computer access to students shall have a policy regarding internet safety measures to protect students from inappropriate subject matter and materials that can be accessed via the internet and shall notify the parents or guardians of all students attending the school of the policy.

Whenever the evaluation of the Individualized Education Program Team indicates that the child has a disability that affects social skills development or that the child is vulnerable to bullying, harassment or teasing because of the child's disability, the Individualized Education Program shall address the skills and proficiencies needed to avoid and respond to bullying, harassment, or teasing.

Proposed Regulations on Anti-Bullying Law (603 CMR 49.00, *et seq*)

Notice to Parents

The principal shall promptly notify the parent of the alleged victim and the alleged perpetrator of a report of bullying or retaliation and of the school's procedures for investigation the report. If the alleged victim and alleged perpetrator attend different schools, the principal receiving the report shall inform the principal of the other student's school, who shall notify the student's parent of the report and procedures.

The principal shall inform the parent of a victim of bullying or retaliation of actions that school officials will take to prevent further acts of bullying or retaliation.

A principal's notification to a parent about a report of bullying or retaliation must comply with confidentiality requirements of Massachusetts Student Records Regulations, and the Federal Family Educational Rights and Privacy Act Regulations.

Confidentiality of Records

A principal may not disclose to a parent any student record information regarding an alleged victim or perpetrator who is a student and who is not the parent's child.

A principal may disclose a report of bullying or retaliation to a local law enforcement agency without the consent of a student or his/her parent. The principal shall communicate with law enforcement officials in a manner that protects the privacy of victims, student witnesses, and perpetrators to the extent practicable under the circumstances.

A principal may disclose student record information about a victim or perpetrator to appropriate parties in addition to law enforcement in connection with a health or safety emergency if knowledge of the information is necessary to protect the health or safety of

the student or other individuals. This provision is limited to instances in which the principal has determined there is an immediate and significant threat to the health or safety of the student or other individuals. It is limited to the period of emergency and does not allow for blanket disclosure of students record information. The principal must document the disclosures and the reasons that the principal determined that a health or safety emergency exists.

Criminal/Delinquent Statutes

Section 43 of chapter 265 of the General Laws:

(a) Whoever (1) willfully and maliciously engages in a knowing pattern of conduct or series of acts over a period of time directed at a specific person which seriously alarms or annoys that person and would cause a reasonable person to suffer substantial emotional distress, and (2) makes a threat with the intent to place the person in imminent fear of death or bodily injury, shall be guilty of the crime of stalking and shall be punished by imprisonment in the state prison for not more than five (5) years or by a fine of not more than \$1,000, or imprisonment in the house of corrections for not more than two and one half (2 ½) years or by both such fine and imprisonment. The conduct, acts or threats described in this subsection shall include, but not be limited to, conduct, acts or threats conducted by mail or by use of a telephonic or telecommunication device or electronic communication.

Section 43A of said chapter 265:

(a) Whoever willfully and maliciously engages in a knowing pattern of conduct or series of acts over a period of time directed at a specific person, which seriously alarms that person and would cause a reasonable person to suffer substantial emotional distress, shall be guilty of the crime of criminal harassment and shall be punished by imprisonment in a house of correction for not more than two and one half (2 ½) years or by a fine of not more than \$1,000.00 or by both such fine and imprisonment. The conduct or acts described in this paragraph shall include, but not be limited to, conduct or acts conducted by mail or by use of a telephonic or telecommunication device or electronic communication device.

Chapter 269 of the General Laws, Section 14A

Section 14A. Whoever telephones another person or contacts another person by electronic communication, or causes a person to be telephoned or contacted by electronic communication, repeatedly, for the sole purpose of harassing, annoying or molesting the person or the person's family, whether or not conversation ensues, or whoever telephones or contacts a person repeatedly by electronic communication and uses indecent or obscene language to the person, shall be punished by a fine of not more than \$500 or by imprisonment for not more than three (3) months, or by both such a fine and imprisonment.