



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING




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SUPERINTENDENT OF
PUBLIC INSTRUCTION

September 27, 2010

MEMORANDUM

TO: State Board of Education

FROM: Michael P. Flanagan, Chairman 

SUBJECT: Presentation on State Board of Education Policies on Bullying and Model Anti-Bullying Policy

In July 2001, the State Board of Education (SBE) adopted Policies on Bullying and in September 2006, adopted the Model Anti-Bullying Policy. The policies assist local and intermediate school districts and public school academies to address conditions for learning and facilitate implementation of local policies to effectively intervene in incidents of bullying and harassment. There have been recent developments which suggest changes to the policies may be appropriate or required at some point in the future.

Department staff will provide the Board with updates on:

- Federal Safe Schools Improvement Act
- Pending State Bullying Policy legislation
- Federal Interagency Partnership (Departments of Justice, Education, Health and Human Services, Agriculture, Defense, and Interior) to tackle the issue of youth bullying
- Safe and Supportive Schools Grant
- Building State Capacity for Preventing Youth Substance Use and Violence Program Grant

The April 2001 Policies on Bullying (Attachment A), the September 2006 SBE Model Anti-Bullying Policy (Attachment B), and the Safe Schools Improvement Act (as introduced) (Attachment C) are included for your review.

Attachments

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STATE OF MICHIGAN
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POLICIES ON BULLYING

As previously expressed in our *Policies on Safe Schools* (May 18, 2000), providing a safe school environment for our students is of the utmost importance for Michigan's public schools. Bullying is one particularly troubling aspect of student misbehavior that endangers school safety. Bullying, which is the repeated abuse of a student over time by other students, can take many forms including any combination of physical, emotional, and verbal abuse, all of which are unacceptable in our schools.

Recent tragedies involving violence in schools across the nation have involved the issues of bullying and revenge. The consequences of bullying are far-reaching and cause problem behaviors, poor psycho-social functioning, avoidance of school attendance, severe emotional problems (including suicide), and physical problems. Some students who observe unchallenged bullying behavior are likely to copy this anti-social behavior. We recognize that bullies are often children who have been bullied or abused themselves. Bullying and being bullied are indicators that something is wrong, and children who experience either or both need help.

Studies have reported that individuals with a history of bullying are likely to exhibit criminal behavior by the time they reach their mid-20s. Individuals who have been bullied are found to have a higher rate of depression and poor self-esteem. By striving to prevent bullying, schools reduce risks of violence and teach students resiliency skills.

POLICIES

The *Policies on Safe Schools* adopted by the State Board of Education on May 18, 2000, states that public schools and state education programs over which the State Board has policymaking authority should undertake proactive, preventive approaches to ensure a safe school environment. In fact, many school districts have found that implementing a successful anti-bullying program can reduce bullying and other anti-social behaviors among students, and produce positive changes in the school climate. **Therefore, it is the policy of the State Board of Education that public schools and state education programs over which the State Board has policymaking authority should develop a plan designed to prevent bullying, and develop methods to react to bullying when it occurs, as an integral part of a district-wide safety and discipline plan.**

We recognize that the causes of bullying are varied. Home and/or environment, individual temperament, and social context are factors that contribute to the bullying problem. Much bullying occurs without the knowledge of teachers, and parents, and many victims are reluctant to tell adults of their problems with bullying. Thus, an anti-bullying program must address supervision of students; encouraging students to be involved in the program by asking and listening to them; educating teachers and other staff members on the nature and seriousness of bullying on a student's physical, emotional, social, and academic well-being; training teachers and other staff members to effectively intervene when bullying occurs; providing individualized interventions with bullies and victims; and strongly advocating meaningful communications between teachers and parents. We also recognize that each school has its local circumstances and challenges. Accordingly, each school district should select the course of action that best addresses its needs. Developing a clear formal policy regarding bullying provides everyone with a clear understanding of acceptable behavior. To determine which course best suits a school's needs, we recommend that the program contain elements that involve the entire school community in assessing the nature and prevalence of bullying at each school, and in crafting and implementing the anti-bullying programs. School administrators, faculty, non-instructional staff (e.g. secretaries, bus drivers, food service, maintenance), parents, the student body as a whole, as well as the students identified as bullies and victims, therefore, should all be included in this process. Anti-bullying programs consisting of these components have resulted in substantial reductions in reported and observed incidents of bullying. Moreover, these programs have resulted in significant reductions in anti-social behavior and significant improvements in the school learning and social atmosphere. Therefore, it is the policy of the State Board of Education that public schools and state education programs over which the State Board has policymaking authority should institute an anti-bullying program incorporating the basic elements described herein, to promote a positive school atmosphere that fosters learning, and to create a safe and fear-free school environment in the classroom, playground, and at school-sponsored activities.

Adopted July 19, 2001

**Michigan State Board of Education
Model Anti-Bullying Policy**

The (fill in district name) board of education prohibits acts of harassment or bullying. The board of education has determined that a safe and civil environment in school is necessary for students to learn and achieve high academic standards. Harassment or bullying, like other disruptive or violent behaviors, is conduct that disrupts both a student's ability to learn and a school's ability to educate its students in a safe environment. Demonstration of appropriate behavior, treating others with civility and respect, and refusing to tolerate harassment or bullying is expected of administrators, faculty, staff, and volunteers to provide positive examples for student behavior.

"Harassment or bullying" is any gesture or written, verbal, graphic, or physical act (including electronically transmitted acts – i.e. internet, cell phone, personal digital assistant (pda), or wireless handled device) that is reasonably perceived as being motivated either by any actual or perceived characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression; or a mental, physical, or sensory disability or impairment; or by any other distinguishing characteristic. Such behavior is considered harassment or bullying whether it takes place on or off school property, at any school-sponsored function, or in a school vehicle.

"Harassment" is conduct that meets all of the following criteria:

- is directed at one or more pupils;
- substantially interferes with educational opportunities, benefits, or programs of one or more pupils;
- adversely affects the ability of a pupil to participate in or benefit from the school district's educational programs or activities because the conduct, as reasonably perceived by the pupil, is so severe, pervasive, and objectively offensive as to have this effect; and,
- is based on a pupil's actual or perceived distinguishing characteristic (see above), or is based on an association with another person who has or is perceived to have any of these characteristics.

"Bullying" is conduct that meets all of the following criteria:

- is directed at one or more pupils;
- substantially interferes with educational opportunities, benefits, or programs of one or more pupils;
- adversely affects the ability of a pupil to participate in or benefit from the school district's educational programs or activities by placing the pupil in reasonable fear of physical harm or by causing emotional distress; and,
- is based on a pupil's actual or perceived distinguishing characteristic (see above), or is based on an association with another person who has or is perceived to have any of these characteristics.

The (fill in district name) board of education expects students to conduct themselves in a manner in keeping with their levels of development, maturity, and demonstrated capabilities with a proper regard for the rights and welfare of other students, school staff, volunteers, and contractors.

The (fill in district name) board of education believes that standards for student behavior must be set cooperatively through interaction among the students, parents and guardians, staff, and community members of the school district, producing an atmosphere that encourages students to grow in self-discipline. The development of this atmosphere requires respect for self and others, as well as for district and community property on the part of students, staff, and community members.

The (fill in district name) board of education believes that the best discipline is self-imposed, and that it is the responsibility of staff to use disciplinary situations as opportunities for helping students learn to assume responsibility and the consequences of their behavior. Staff members who interact with students shall apply best practices designed to *prevent* discipline problems and encourage students' abilities to develop self-discipline.

Since bystander support of harassment or bullying can support these behaviors, the district prohibits both active and passive support for acts of harassment or bullying. The staff should encourage students to support students who walk away from these acts when they see them, constructively attempt to stop them, or report them to the designated authority.

The (fill in district name) board of education requires its school administrators to develop and implement procedures that ensure *both* the appropriate consequences *and* remedial responses to a student or staff member who commits one or more acts of harassment or bullying. The following factors, at a minimum, shall be given full consideration by school administrators in the development of the procedures for determining appropriate consequences and remedial measures for each act of harassment or bullying.

Factors for Determining Consequences

- Age, development, and maturity levels of the parties involved
- Degree of harm
- Surrounding circumstances
- Nature and severity of the behavior(s)
- Incidences of past or continuing pattern(s) of behavior
- Relationship between the parties involved
- Context in which the alleged incident(s) occurred

Factors for Determining Remedial Measures

Personal

- Life skill competencies
- Experiential deficiencies
- Social relationships
- Strengths
- Talents
- Traits
- Interests
- Hobbies
- Extra-curricular activities
- Classroom participation
- Academic performance

Environmental

- School culture
- School climate
- Student-staff relationships and staff behavior toward the student
- General staff management of classrooms or other educational environments
- Staff ability to prevent and de-escalate difficult or inflammatory situations
- Social-emotional and behavioral supports
- Social relationships
- Community activities
- Neighborhood culture
- Family situation

Consequences and appropriate remedial actions for a student or staff member who commits one or more acts of harassment or bullying may range from positive behavioral interventions up to and including suspension or expulsion, in the case of a student, or suspension or termination in the case of an employee, as set forth in the board of education's approved code of student conduct or employee handbook.

Consequences for a student who commits an act of harassment or bullying shall be unique to the individual incident and will vary in method and severity according to the nature of the behavior, the developmental age of the student, and the student's history of problem behaviors and performance, and must be consistent with the board of education's approved code of student conduct. Remedial measures shall be designed to: *correct the problem behavior; prevent another occurrence* of the behavior; and *protect the victim* of the act. Effective discipline should employ a school-wide approach to adopt a rubric of bullying offenses and the associated consequences. The consequences and remedial measures may include, but are not limited to, the examples listed below:

Examples of Consequences

- Admonishment
- Temporary removal from the classroom
- Loss of privileges
- Classroom or administrative detention
- Referral to disciplinarian
- In-school suspension during the school week or the weekend, for students
- Out-of-school suspension
- Legal action
- Expulsion or termination

Examples of Remedial Measures

Personal

- Framing the aggressive behavior as a failed attempt to solve a real problem or reach a goal. The adult assists the misbehaving student to find a better way to solve the problem or meet the goal.
- Restitution and restoration
- Transformative conferencing/restorative justice
- Peer support group
- Corrective instruction or other relevant learning or service experience
- Supportive discipline to increase accountability for the bullying offense
- Supportive interventions, including participation of an Intervention and Referral Services team, peer mediation, etc.
- Behavioral assessment or evaluation, including, but not limited to, a referral to a Child Study Team, as appropriate
- Behavioral management plan, with benchmarks that are closely monitored
- Involvement of school disciplinarian
- Student counseling
- Parent conferences
- Student treatment
- Student therapy

Environmental (Classroom, School Building, or School District)

- Set a time, place, and person to help the bully reflect on the offending behavior, maintaining an emotionally-neutral and strength-based approach

- School and community surveys or other strategies for determining the conditions contributing to harassment, intimidation, or bullying
- School culture change
- School climate improvement
- Adoption of research-based, systemic bullying prevention programs
- Modifications of schedules
- Adjustments in hallway traffic
- Modifications in student routes or patterns traveling to and from school
- Targeted use of monitors (e.g., hallway, cafeteria, bus)
- General professional development programs for certificated and non-certificated staff
- Professional development plans for involved staff
- Disciplinary action for school staff who contributed to the problem
- Parent conferences
- Referral to Family counseling
- Involvement of parent-teacher organizations
- Involvement of community-based organizations
- Development of a general bullying response plan
- Peer support groups
- Law enforcement involvement (e.g., school resource officer, juvenile officer)

The (fill in district name) board of education requires the principal and/or the principal's designee at each school to be responsible for receiving complaints alleging violations of this policy. All school employees are required to report alleged violations of this policy to the principal or the principal's designee. All other members of the school community, including students, parents, volunteers, and visitors, are encouraged to report any act that may be a violation of this policy. Reports may be made anonymously, but formal disciplinary action *may not* be based solely on the basis of an anonymous report.

The (fill in district name) board of education requires the principal and/or the principal's designee to be responsible for determining whether an alleged act constitutes a violation of this policy. In so doing, the principal and/or the principal's designee shall conduct a prompt, thorough, and complete investigation of each alleged incident. The investigation is to be completed within three school days after a report or complaint is made.

The (fill in district name) board of education prohibits reprisal or retaliation against any person who reports an act of harassment or bullying. The consequences and appropriate remedial action for a person who engages in reprisal or retaliation shall be determined by the administrator after consideration of the nature, severity, and circumstances of the act.

The (fill in district name) board of education prohibits any person from falsely accusing another as a means of harassment or bullying. The consequences and appropriate remedial action for a *person* found to have falsely accused another as a means of harassment or bullying may range from positive behavioral

interventions up to and including suspension or expulsion. Consequences and appropriate remedial action for a *school employee* found to have falsely accused another as a means of harassment or bullying shall be disciplined in accordance with district policies, procedures, and agreements.

The (fill in district name) board of education requires school officials to annually disseminate the policy to all school staff, students, and parents, along with a statement explaining that it applies to all applicable acts of harassment and bullying that occur on school property, at school-sponsored functions, or on a school bus. The chief school administrator shall develop an annual process for discussing the school district policy on harassment and bullying with students and staff.

The school district shall incorporate information regarding the policy against harassment or bullying into each school employee training program and handbook.

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S 3739 IS

111th CONGRESS
 2d Session
S. 3739

To amend the Safe and Drug-Free Schools and Communities Act to include bullying and harassment prevention programs.

IN THE SENATE OF THE UNITED STATES

August 5, 2010

Mr. CASEY (for himself, Mrs. MURRAY, Mr. BURRIS, Ms. CANTWELL, Ms. KLOBUCHAR, Mr. BROWN of Ohio, Mr. FEINGOLD, Mr. MERKLEY, Mrs. GILLIBRAND, Mr. SANDERS, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Safe and Drug-Free Schools and Communities Act to include bullying and harassment prevention programs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Safe Schools Improvement Act of 2010'.

SEC. 2. BULLYING AND HARASSMENT PREVENTION POLICIES, PROGRAMS, AND STATISTICS.

(a) State Reporting Requirements- Section 4112(c)(3)(B)(iv) of the Safe and Drug-Free Schools and Communities Act (20 U.S.C. 7112(c)(3)(B)(iv)) is amended by inserting ', including bullying and harassment,' after 'violence'.

(b) State Application- Section 4113(a) of such Act (20 U.S.C. 7113(a)) is amended--

(1) in paragraph (9)--

(A) in subparagraph (C), by striking 'and' at the end;

(B) by redesignating subparagraph (D) as subparagraph (F); and

(C) by inserting after subparagraph (C) (as amended by subparagraph (A)) the following:

'(D) the incidence and prevalence of reported incidents of bullying and harassment;

'(E) the perception of students regarding their school environment, including with respect to the prevalence and seriousness of incidents of bullying and harassment and the responsiveness of the school to those incidents; and';

(2) in paragraph (18), by striking 'and' at the end;

(3) by redesignating paragraph (19) as paragraph (20); and

(4) by inserting after paragraph (18) (as amended by paragraph (2)) the following:

- (19) provides an assurance that the State educational agency will provide assistance to school districts and schools in their efforts to prevent and appropriately respond to incidents of bullying and harassment and describes how the State educational agency will meet the requirements of this paragraph; and'
- (c) Local Educational Agency Program Application- Section 4114(d) of such Act (20 U.S.C. 7114(d)) is amended--
- (1) in paragraph (2)(B)(i)--
 - (A) in subclause (I), by striking `and' at the end; and
 - (B) by adding at the end the following:
 - (III) performance indicators for bullying and harassment prevention programs and activities; and'; and
 - (2) in paragraph (7)--
 - (A) in subparagraph (A), by inserting `, including bullying and harassment' after `disorderly conduct';
 - (B) in subparagraph (D), by striking `and' at the end; and
 - (C) by adding at the end the following:
 - (F) annual notice to parents and students describing the full range of prohibited conduct contained in the discipline policies described in subparagraph (A); and
 - (G) grievance procedures for students or parents that seek to register complaints regarding the prohibited conduct contained in the discipline policies described in subparagraph (A), including--
 - (i) the name of the school district officials who are designated as responsible for receiving such complaints; and
 - (ii) timelines that the school district will follow in the resolution of such complaints;'
- (d) Authorized Activities- Section 4115(b)(2) of such Act (20 U.S.C. 7115(b)(2)) is amended--
- (1) in subparagraph (A)--
 - (A) in clause (vi), by striking `and' at the end;
 - (B) in clause (vii), by striking the period at the end and inserting `; and'; and
 - (C) by adding at the end the following:
 - (viii) teach students about the consequences of bullying and harassment.'; and
 - (2) in subparagraph (E), by adding at the end the following:
 - (xxiii) Programs that address the causes of bullying and harassment and that train teachers, administrators, specialized instructional support personnel, and other school personnel regarding strategies to prevent bullying and harassment and to effectively intervene when incidents of bullying and harassment occur.'.
- (e) Reporting- Section 4116(a)(2)(B) of such Act (20 U.S.C. 7116(a)(2)(B)) is amended by inserting `, including bullying and harassment,' after `drug use and violence'.
- (f) Impact Evaluation- Section 4122 of such Act (20 U.S.C. 7132) is amended--
- (1) in subsection (a)(2), by striking `and school violence' and inserting `school violence, including bullying and harassment,'; and
 - (2) in the first sentence of subsection (b), by inserting `, including bullying and harassment,' after `drug use and violence'.
- (g) Definitions-
- (1) DRUG AND VIOLENCE PREVENTION- Paragraph (3)(B) of section 4151 of such Act (20 U.S.C. 7161) is amended by inserting `, bullying, and other harassment' after `sexual harassment and abuse'.

- (2) PROTECTIVE FACTOR, BUFFER, OR ASSET- Paragraph (6) of such section is amended by inserting `, including bullying and harassment' after `violent behavior'.
- (3) RISK FACTOR- Paragraph (7) of such section is amended by inserting `, including bullying and harassment' after `violent behavior'.
- (4) BULLYING AND HARASSMENT- Such section is further amended--
- (A) by redesignating paragraphs (4) through (11) (as amended by paragraphs (2) and (3)), as paragraphs (6) through (13), respectively;
 - (B) by redesignating paragraphs (1) through (3) (as amended by paragraph (1)), as paragraphs (2) through (4), respectively;
 - (C) by inserting before paragraph (2) (as redesignated by subparagraph (B)) the following:
 - (1) BULLYING- The term `bullying'--
 - (A) means conduct that adversely affects the ability of one or more students to participate in or benefit from the school's educational programs or activities by placing the student (or students) in reasonable fear of physical harm; and
 - (B) includes conduct that is based on--
 - (i) a student's actual or perceived--
 - (I) race;
 - (II) color;
 - (III) national origin;
 - (IV) sex;
 - (V) disability;
 - (VI) sexual orientation;
 - (VII) gender identity; or
 - (VIII) religion;
 - (ii) any other distinguishing characteristics that may be defined by a State or local educational agency; or
 - (iii) association with a person or group with one or more of the actual or perceived characteristics listed in clause (i) or (ii).'; and
 - (D) by inserting after paragraph (4) (as redesignated by subparagraph (B)) the following:
- (5) HARASSMENT- The term `harassment'--
- (A) means conduct that adversely affects the ability of one or more students to participate in or benefit from the school's educational programs or activities because the conduct, as reasonably perceived by the student (or students), is so severe, persistent, or pervasive; and
 - (B) includes conduct that is based on--
 - (i) a student's actual or perceived--
 - (I) race;
 - (II) color;
 - (III) national origin;
 - (IV) sex;
 - (V) disability;
 - (VI) sexual orientation;
 - (VII) gender identity; or
 - (VIII) religion;
 - (ii) any other distinguishing characteristics that may be defined by a State or local educational agency; or

`(iii) association with a person or group with one or more of the actual or perceived characteristics listed in clause (i) or (ii).'

(h) Effect on Other Laws-

(1) AMENDMENT- The Safe and Drug-Free Schools and Communities Act (20 U.S.C. 7101 et seq.) is amended by adding at the end the following:

`SEC. 4156. EFFECT ON OTHER LAWS.

`(a) Federal and State Nondiscrimination Laws- Nothing in this part shall be construed to invalidate or limit rights, remedies, procedures, or legal standards available to victims of discrimination under any other Federal law or law of a State or political subdivision of a State, including title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), section 504 or 505 of the Rehabilitation Act of 1973 (29 U.S.C. 794, 794a), or the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.). The obligations imposed by this part are in addition to those imposed by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

`(b) Free Speech and Expression Laws- Nothing in this part shall be construed to alter legal standards regarding, or affect the rights (including remedies and procedures) available to individuals under, other Federal laws that establish protections for freedom of speech or expression.'

(2) CLERICAL AMENDMENT- The table of contents of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended by adding after the item relating to section 4155 the following:

`Sec. 4156. Effect on other laws.'

END