

# Academy at Swift River

## Bullying Policy

### Table of Contents

Bullying Policy and Procedure.....	1
Bullying Behavior – Guidelines & Consequences.....	11
ASR Bullying Report Form.....	13
Massachusetts Dept. of Education Laws and Regulations Bullying or Retaliation Regulations.....	14

ACADEMY AT  
SWIFT  
RIVER

## Academy at Swift River

Subject: <b>Bullying Policy &amp; Procedure</b>	Policy: Bullying
Approved: John Marquis, Executive Director	Date: 12/2010 Page: 1 of 10

The Academy at Swift River is committed to protecting its students, employees, and applicants for admission from bullying, harassment, or discrimination for any reason and of any type. The Academy at Swift River (ASR) believes that all students and employees are entitled to a safe, equitable, and harassment-free school experience. Bullying, harassment, or discrimination will not be tolerated and shall be just cause for disciplinary action. Other prohibitions included in this policy are cyber-bullying and retaliation. It is also the policy of ASR to afford all students, employees, and applicants for admission the same protection regardless of their status under the law.

### Definitions

**“Bullying”** means systematically and chronically inflicting physical hurt or psychological distress on one or more students or employees. It is also defined as: unwanted purposeful written, verbal, nonverbal, or physical behavior, including but not limited to any threatening, insulting, or dehumanizing gesture, by an adult or student, that has the potential to create an intimidating, hostile, or offensive educational environment or cause long-term damage; cause discomfort or humiliation; or unreasonably interfere with the individual’s school performance or participation, is carried out repeatedly and is often characterized by an imbalance of power.

**Bullying** may involve, but is not limited to: Unwanted teasing, threatening, intimidating, stalking, cyberstalking, cyberbullying, physical violence, theft, sexual, religious, or racial harassment, public humiliation, destruction of school or personal property, social exclusion, including incitement and/or coercion, rumor or spreading of falsehoods.

**Harassment means** any threatening, insulting, or dehumanizing gesture, use of technology, computer software, or written, verbal or physical conduct directed against a student or school employee that:

- places a student or school employee in reasonable fear of harm to his or her person or damage to his or her property;
- has the effect of substantially interfering with a student’s educational performance, or employees work performance, or either’s opportunities or benefits;

Subject: <b>Bullying Policy &amp; Procedure</b>	Policy: Bullying
Approved: John Marquis, Executive Director	Date: 12/2010 Page: 2 of 10

- has the effect of substantially negatively impacting a student’s or employee’s emotional or mental well-being; or,
- has the effect of substantially disrupting the orderly operation of the school.

**Cyber stalking means** to engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at or about a specific person, causing substantial emotional distress to the person and serving no legitimate purpose.

**Cyber bullying** is defined as the willful and repeated harassment and intimidation of a person through the use of digital technologies, including, but not limited to email, blogs, social websites, chat rooms, and instant messaging.

Bullying, cyberbullying, and harassment also encompass:

- Retaliation against a student or school employee by another student or school employee for asserting or alleging an act of bullying, harassment or discrimination.
- Retaliation also includes reporting a baseless act of bullying, harassment, or discrimination that is not made in good faith.
- perpetuation of conduct of conduct listed in the definition of bullying, harassment, and/or discrimination by an individual or group with intent to demean, dehumanize, embarrass, or cause emotional or physical harm to a student or school employee by: Incitement or coercion, accessing or providing access to data or computer software through a computer, computer system or network within the scope of the school system, or acting in a manner that has an effect substantially similar to the effect of bullying, harassment, or discrimination.

“Bullying,” “Cyber bullying,” “Harassment,” and “Discrimination” (herein referred to as bullying, for the purpose of this policy) also encompass, but are not limited to, unwanted harm towards a student or employee in regard to their real or perceived: sex, race, color, religion, national origin, age, disability (physical, mental, or educational), marital status, socio-economic

Subject: <b>Bullying Policy &amp; Procedure</b>	Policy: Bullying
Approved: John Marquis, Executive Director	Date: 12/2010 Page: 3 of 10

background, ancestry, ethnicity, gender, gender identity or expression, linguistic preference, political beliefs, sexual orientation, or social/family background or being viewed as different in its education programs or admissions to education programs and therefore prohibits bullying of any student or employee by any person in the school or outside the school at school-sponsored events or in school vehicles.

“Accused” is defined as any person who is reported to have committed an act of bullying, whether formally or informally, verbally or in writing, of bullying.

“Complainant” is defined as any person who formally or informally makes a report of bullying, orally or in writing.

## **POLICIES AND PROCEDURES FOR REPORTING AND RESPONDING TO BULLYING AND RETALIATION**

### **A. Reporting bullying or retaliation**

Students, parents or others may make oral or written reports of bullying or retaliation. Reports made by students, parents or others who are not ASR staff members may be made anonymously. ASR will make an anonymous reporting form available. ASR will: 1) include a copy of the anonymous report in the, Parent, staff and student hand books and 2) make it available in the academic office, the counseling offices, the health office, Parent Check-In and other locations.

Reports made by staff members will be recorded in writing. A staff member is required to report immediately to their supervisor any instance of bullying or retaliation the staff member becomes aware of or witnesses. An internal reporting form will be utilized to record documented cases of bullying and these reports will be given to the Executive Director or designee.

Each year ASR will provide the school community, including administrators, staff, students and parents with written notice of its policies for reporting acts of bullying and retaliation. A description of the reporting procedures and resources, including the name and contact information will be incorporated in student and staff handbooks, on ASR’s Parent Check-In site

Subject: <b>Bullying Policy &amp; Procedure</b>	Policy: Bullying
Approved: John Marquis,  Executive Director	Date: 12/2010  Page: 4 of 10

and in information about the Plan. The Plan will be discussed at the beginning of each term in staff meetings and community meetings.

### Exceptions

- A staff member will report immediately to their supervisor when he/she witnesses or becomes aware of conduct that may be bullying or retaliation. The requirement to report to the supervisor does not limit the authority of the staff member to respond to behavioral or disciplinary incidents consistent with ASR policies and procedures for behavior management and discipline.
- ASR expects students, parents and others who witness or become aware of an instance of bullying or retaliation involving a student to report it to the Executive Director or designee. Reports may be made anonymously, but no disciplinary action will be taken against an alleged aggressor solely based on an anonymous report. Students, parents and others may request assistance from a staff member to complete a written report. Students will be provided practical, safe, private and age-appropriate ways to report and discuss an incident of bullying with a staff member or with the Executive Director or designee.

### B. Responding to a report of bullying or retaliation

#### 1) Student Safety

Before fully investigating the allegations of bullying or retaliation, the Executive Director or designee will take steps to assess the need to restore a sense of safety to the alleged target and/or to protect the alleged target from possible further incidents. Responses to promote safety may include, but not to be limited to:

- Determining seating arrangements for the target and /or the aggressor in the classroom or at meals.
- Identifying a staff member who will act as a “safe person” for the target.
- Altering the aggressor’s schedule and access to the target
- Radio equipped staff and frequent head-counts do allow for increased supervision in areas where targets report bullying.

Subject: <b>Bullying Policy &amp; Procedure</b>	Policy: Bullying
Approved: John Marquis,  Executive Director	Date: 12/2010  Page: 5 of 10

- Through increased therapeutic intervention with his/her therapist, increased supervision, restrictions, change of classroom, seating, dormitory placement, therapeutic team interventions, community based interventions, or other sanctions addressed in the section on bullying consequences, the school will visibly act in a such a way as to impact the aggressor's movement rather than the target's movement.
- With the combined intervention of the target's therapist, residential supervisor, academic advisor, and the Executive Director/designee, strategies can be put in place that will address the target's possible contact with the aggressor's friends, the need for increased adult supervision, and the restructuring of vulnerable areas, if any exist, or if the target presents to the school such areas to be improved.

As necessary, the Executive Director or designee will take additional steps to promote safety during the course of and after the investigation. The Executive Director or designee will implement appropriate strategies for protecting the target from bullying or retaliation to a student who has reported bullying or retaliation, a student who has witnessed bullying or retaliation, a student who provides information during an investigation or a student who has reliable information about a reported act of bullying or retaliation.

## 2) **Obligations to Notify Others**

### Notice to parents or guardians

Upon determination that bullying or retaliation has occurred, the Executive Director or designee will promptly notify the parents of the target and the aggressor and of the procedures for responding to it. There may be circumstances in which the executive Director or designee contacts parents prior to any investigation. Notice will be consistent with state regulations at 603 CMR 49.00.

### Notice to another School

If the reported incident involves students from more than one school district, charter school, non-public school, approved private special education day or residential school or collaborative school, the Executive Director or designee first informed of the incident will

Subject: <b>Bullying Policy &amp; Procedure</b>	Policy: Bullying
Approved: John Marquis,  Executive Director	Date: 12/2010  Page: 6 of 10

promptly notify by telephone the principal or designee of the other school(s) of the incident so that each school may take appropriate action. All communications will be in accordance with state and federal privacy laws and regulations, and 603 CMR 49.00.

Notice to Law Enforcement

At any point after receiving a report of bullying or retaliation, including after an investigation, if the Executive Director or designee has a reasonable basis to believe that criminal charges may be pursued against the aggressor, the Executive Director will notify the local law enforcement agency. Notice will be consistent with the requirements of 603 CMR 49.00 and locally established agreements with the local law enforcement agency. In addition, if an incident occurs on school grounds and involves a former student under the age of 21 who is no longer enrolled in school, the Executive Director or designee shall contact the local law enforcement agency if he or she has a reasonable basis to believe that criminal charges may be pursued against the aggressor.

C. Investigation

The Executive Director or designee will investigate promptly all reports of bullying or retaliation and in doing so, will consider all available information known, including the nature of the allegation(s) and the ages of the students involved. During the investigation, the Executive Director or designee will, among other things, interview students, staff, witnesses, parents and others as necessary. The Executive Director or designee (or whoever is conducting the investigation) will remind the alleged aggressor, target and witnesses that retaliation is strictly prohibited and will result in disciplinary action. The Executive Director or designee or other staff members as determined by the Executive Director or designee, and in consultation with the school counselor, as appropriate, may conduct interviews. To the extent practicable and given his/her obligation to investigate and address the matter, the Executive Director or designee will maintain confidentiality during the investigation process. The Executive Director will maintain a written record of the investigation.

Subject: <b>Bullying Policy &amp; Procedure</b>	Policy: Bullying
Approved: John Marquis, Executive Director	Date: 12/2010 Page: 7 of 10

#### **D. Determination**

The Executive Director or designee will make a determination based upon all the facts and circumstances. If, after investigating, bullying or retaliation is substantiated, the Executive Director or designee will take steps reasonably calculated to prevent recurrence and to ensure that the target is not restricted in participating in school or in benefiting from school activities.

The Executive Director or designee will:

- 1) determine what remedial action is required, if any, and
- 2) determine what responsive actions and/or disciplinary action is necessary.

Depending upon the circumstances, the Executive Director or designee may choose to consult with the student's teacher, counselor or mentor and the target's or aggressor's parent, to identify any underlying social or emotional issue that may have contributed to the bullying behavior and to assess the level of need for additional social skills development.

The Executive Director or designee will promptly notify the parents of the target and the aggressor about the results of the investigation and, if bullying or retaliation is found, what action is being taken to prevent further acts of bullying or retaliation. All notice to parents must comply with applicable state and federal privacy laws and regulations. Because of the legal requirements regarding the confidentiality of student records, school officials are generally prohibited from informing the complainant of specific disciplinary action taken against a student – unless it involves a “stay away” or other directive that the victim should be aware of so as to report violations.

#### **E. Responses to Bullying**

Upon the Executive Director or designee determination that bullying or retaliation has occurred, the ASR administration will utilize a wide-range of responses that balance the need for accountability with the need to teach appropriate behavior.

Subject: <b>Bullying Policy &amp; Procedure</b>	Policy: Bullying
Approved: John Marquis,  Executive Director	Date: 12/2010  Page: 8 of 10

1) Teaching appropriate behavior through skill-building. Skill-building approaches that the Executive Director or designee may consider:

- Offering individualized skill-building sessions with a counselor; or
- Providing relevant educational activities for individual students or groups of students, in consultation with the students counselor(s) and other appropriate school personnel
- Implementing a range of academic and nonacademic positive behavioral supports to help students understand pro-social ways to achieve their goals
- Meeting with parents and guardians to engage parental support and to reinforce the anti-bullying curricula and social skills building activities at home
- Adopting behavioral plans to include a focus on developing specific social skills
- Making a referral for evaluation

2) Taking Disciplinary Action

If the Executive Director or designee decides that disciplinary action is appropriate, the disciplinary action will be determined on the basis of facts found by the Executive Director or designee, including the nature of the conduct, the age of the student(s) involved and the need to balance accountability with the teaching of appropriate behavior. Discipline will be consistent with the school's code of conduct. Discipline procedures for students with disabilities are governed by the federal Individuals with Disabilities Education Improvement Act (IDEA), which will be rendered in compliance with state laws regarding student discipline. If the Executive Director or designee determines that a d-student knowingly made a false allegation of bullying or retaliation, that student will be subject to disciplinary action.

3) Promoting Safety for the Target and Others

4) The Executive Director or designee will consider what adjustments, if any, are needed in the school, environment to enhance the target's sense of safety and that of others as well. If it has been determined that bullying has taken place on the school grounds, the Executive Director or designee will take measures to increase adult supervision at transition times and in locations where bullying is known to have occurred or is likely to occur.

Subject: <b>Bullying Policy &amp; Procedure</b>	Policy: Bullying
Approved: John Marquis, Executive Director	Date: 12/2010 Page: 9 of 10

Within a reasonable period of time following the determination and the ordering of remedial and/or disciplinary action, the Executive Director or designee will contact the target to determine whether there has been a recurrence of the prohibited conduct and whether additional supportive measures are needed. If so, the Executive Director or designee will work with appropriate school staff to implement them immediately.

The Academy at Swift River is concerned with the betterment of the individual. As we seek to balance the need for accountability with the expectation of appropriate behavior, a number of responses may be necessary as a response to bullying or retaliatory behavior. While we believe that consequences should be educational and restorative, rather than punitive, for the sake of the safety of the members of our community, punitive dismissal is not beyond the scope of these potential consequences. All instances of Bullying or Retaliatory behavior shall be reviewed at an Administrative Hearing (or other, duly constituted body of authorized for the hearing of such grievances). At that hearing the scope of consequence(s) shall be determined, and may include any of the following:

- Reflection
- Restriction
- Self-Study
- Administrative Self-Study
- Local Wilderness
- Dismissal

Any student who knowingly makes a false accusation of Bullying or Retaliatory behavior shall be immediately brought to an Administrative Hearing. Given the potentially weighty consequences of such accusations, the consequence for making such an accusation falsely shall bear a similar weight. As determined by the members of the Administrative Hearing, a student so found to have sworn falsely in such a matter may expect a consequence in accordance with their offense, ranging from Reflections and Restrictions to Self-Studies, Administrative Self-Studies and even dismissal, dependent upon the severity of the offense.

Subject: <b>Bullying Policy &amp; Procedure</b>	Policy: Bullying
Approved: John Marquis, Executive Director	Date: 12/2010 Page: 10 of 10

**F. Training**

The Academy at Swift River will provide annual written notice of the Bullying Plan and the faculty and staff at the Academy at Swift River shall be trained quarterly on the plan.

The plan will be promulgated on our Parent Check In website (our internal parent communication system)

## Academy at Swift River

### BULLYING BEHAVIOR – GUIDELINES & CONSEQUENCES

Verbal	Physical	Social/Relational	Sexual	Procedures & Consequences
Harm to someone's self-esteem or feeling of safety	Harm to someone's body or property	Harm to someone's group acceptance	Harm of a sexual nature to someone's self-esteem, feeling of safety, body or property	It is important to recognize that each incident will be dealt with individually as all circumstance will be different. These guidelines will be at the discretion of the Executive Director.
<b>Level 1</b>				
<ul style="list-style-type: none"> <li>• Teasing</li> <li>• Name Calling</li> <li>• Insulting remarks</li> <li>• Verbal harassment, includes cyber-bullying</li> <li>• 3 times or fewer</li> </ul>	<ul style="list-style-type: none"> <li>• Physical Intimidation (E.g. Posturing, physical boundary violations)</li> </ul>	<ul style="list-style-type: none"> <li>• Purposeful exclusion, telling others not to be someone's friend</li> <li>• Gossiping, spreading or starting rumors</li> <li>• Confidentiality violations</li> <li>• Disruption of student presentations</li> <li>• 3 times or fewer</li> </ul>	<ul style="list-style-type: none"> <li>• Bullying Policies &amp; Procedures do not replace sexual harassment laws and Academy at Swift River Discipline Procedures.</li> <li>• Automatic Level 2</li> </ul>	<ul style="list-style-type: none"> <li>• Reflection (1-2 Days)</li> <li>• Bans</li> <li>• Restorative Justice Team</li> <li>• Bullying Behavior Tracking Form</li> <li>• Therapist contact parents and clinical director, executive director</li> <li>• Staff identifies incident on Bullying Behaviors report form</li> </ul>
<b>Level 2 (some of these behaviors are against the law)</b>				
<ul style="list-style-type: none"> <li>• Any level 1 infraction that has occurred more than 3 times</li> <li>• Purposely embarrassing or humiliating another student</li> <li>• Profanity</li> <li>• Slander</li> <li>• Insulting comments about intelligence, size, ability, race, color, religion, ethnicity, gender or sexual orientation</li> </ul>	<ul style="list-style-type: none"> <li>• Any level 1 infraction that has occurred more than 3 times</li> <li>• Biting, scratching</li> <li>• Tripping, causing a fall</li> <li>• Threatening gestures</li> <li>• Threatening physical harm</li> <li>• Damaging property</li> <li>• Stealing/hiding or purposefully taking</li> <li>• Pushing</li> <li>• Shoving</li> <li>• Hitting</li> </ul>	<ul style="list-style-type: none"> <li>• Any level 1 infraction that has occurred more than 3 times</li> <li>• Purposefully embarrassing or humiliating another student</li> <li>• Teasing publicly about clothing, looks, relationships, socio-economic status</li> <li>• "Pant-pulling"</li> </ul>	<ul style="list-style-type: none"> <li>• Automatic Level 2</li> <li>• Sexual comments</li> <li>• Leering</li> <li>• Gestures</li> <li>• Actions or comments based on a person's sexual orientation</li> <li>• Sexual harassment verbal and teasing in nature</li> </ul>	<ul style="list-style-type: none"> <li>• Bans</li> <li>• Challenge</li> <li>• Restorative Justice</li> <li>• Self-Study</li> <li>• Therapist contacts parents, Clinical Director &amp; Executive Director</li> </ul>

**These behaviors are considered an offence in any language and may occur but are not limited to: one-on-one, in a group, or via the misuse of technology – cellphone, computer, photographs – including email, internet, instant/voice messaging, websites, chat rooms.**

Academy at Swift River

**BULLYING BEHAVIOR – GUIDELINES & CONSEQUENCES**

Verbal	Physical	Social/Relational	Sexual	Procedures & Consequences
<ul style="list-style-type: none"> <li>Any level 2 infraction that has occurred more than once</li> <li>Threats, physical, verbal or forced silence</li> <li>Verbal cruelty</li> <li>Displaying sexually explicit pictures or objects</li> </ul>	<p><b>Level 3 (most of these behaviors are against the law)</b></p> <ul style="list-style-type: none"> <li>Any level 2 infraction that has occurred more than once</li> <li>Battery, physical fighting</li> <li>Assault, battery</li> <li>Intentional destruction of property</li> <li>Purposefully destroying property of others</li> </ul>	<ul style="list-style-type: none"> <li>Any level 2 infraction that has occurred more than once</li> <li>Extortion</li> <li>Harassing racial or religious slurs or insults</li> </ul>	<ul style="list-style-type: none"> <li>Any level 2 infraction that has occurred more than once</li> <li>Displaying sexually explicit pictures or objects</li> <li>Sexual harassment verbal with intent to emotionally harm</li> <li>Any type of physical harassment</li> </ul>	<ul style="list-style-type: none"> <li>Administrative Hearing</li> <li>Notice to Parents, Clinical Director &amp; Executive Director</li> <li>Staff identifies incident on Bullying Behavior Report form/file/log</li> <li>Executive Director or designee updates all staff</li> <li>Payment or restitution for damages, if applicable</li> <li>Law enforcement contacted, if applicable.</li> </ul>
<p><b>These behaviors are considered an offense in any language and may occur but are not limited to: one-on-one, in a group, or via the misuse of technology – cellphone, computer, photographs – including email, internet, instant/voice messaging, websites, chat rooms.</b></p>				

**Purpose of Bullying Policy and Consequence**

Bullying behaviors are known to be harmful for everyone, victims, targets, and bystanders. In the spirit of the Academy at Swift River’s commitment to excellence, this policy and consequences guide for bullying behavior is intended to support ASR’s staff and students’ efforts to reduce bullying behaviors that will result in optimal mental and physical health for all. Research has shown that academic achievement is enhanced in an environment where students feel safe and welcome.



## ASR Bullying Report Form

<b>ASR Bullying Report Form</b>				
<b>Name of Victim:</b>		<b>Date of Event:</b>		
<b>Name of Reporter:</b> <small>(May be anonymous)</small>		<b>Time of Event:</b>		
<b>Witnesses:</b>		<b>Location of Incident:</b>		
<b>Description of the Events:</b>				
<b>Other Information:</b>				
<b>Scale: Circle a number 1 – 5 Depending upon severity of incident</b>				
Maybe joking	Uncomfortable	Bothersome	Pretty Concerning	Severe
1	2	3	4	5



- › **Laws & Regulations Home**
- › State Regulations
- › State Laws
- › Federal Laws
- › Legal Advisories
- › Arbitration Awards
- › Litigation Reports

District/School Administration › Administration ›

## Education Laws and Regulations

### 603 CMR 49.00

#### Notification of Bullying or Retaliation Regulations

##### Section:

49.01: Authority  
49.02: Scope and Purpose  
49.03: Definitions and Terms  
49.04: Bullying and Retaliation Prohibited  
49.05: Notice to Parents  
49.06: Notice to Law Enforcement Agency  
49.07: Confidentiality of Records  
[View All Sections](#)

##### Background:

Chapter 92 of the Acts of 2010, *An Act Relative to Bullying in Schools*, was signed into law on May 3, 2010 and took effect immediately. The law requires each school district, charter school, non-public school, approved private special education day or residential school, and collaborative school to develop and implement a plan to address bullying prevention and intervention. The statute directs the Board of Elementary and Secondary Education to promulgate regulations addressing a principal's duties under one of the ten required elements of the bullying prevention and intervention plan, namely, notification to parents or guardians of the target and the aggressor of bullying or retaliation and the action taken to prevent further bullying, and notification to law enforcement of bullying or retaliation, when the aggressor's conduct may result in criminal charges. The law further provides that the regulations must be promulgated by September 30, 2010.

**This is a new regulation.**

### 603 CMR 49.00

#### Notification of Bullying or Retaliation Regulations

##### 49.01: Authority

603 CMR 49.00 is promulgated by the Board of Elementary and Secondary Education pursuant to M.G.L. c. 71, §37O, as added by St. 2010, c. 92.

##### 49.02: Scope and Purpose

603 CMR 49.00 governs the requirements related to the duty of the principal or leader of a public school, approved private day or residential school, collaborative school, or charter school to notify the parents or guardians of a target and an aggressor when there is an incident of bullying or retaliation, and to notify the local law enforcement agency when criminal charges may be pursued against the aggressor. 603 CMR 49.00 also address confidentiality of student record information related to notification of bullying and retaliation.

##### 49.03: Definitions and Terms

**Aggressor** means perpetrator of bullying or retaliation as defined in M.G.L. c. 71, §37O.

**Approved private day or residential school** means a school that accepts, through agreement with a school committee, a student requiring special education pursuant to M.G.L. c. 71B, §10 and 603 CMR 28.09.

**Bullying**, pursuant to M.G.L. c. 71, §37O, means 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 target that:

- (a) causes physical or emotional harm to the target or damage to the target's property;
  - (b) places the target in reasonable fear of harm to himself or herself or damage to his or her property;
  - (c) creates a hostile environment at school for the target;
  - (d) infringes on the rights of the target at school; or
  - (e) materially and substantially disrupts the education process or the orderly operation of a school.
- Bullying shall include cyberbullying.

**Charter school**, pursuant to M.G.L. c. 71, §37O, means a Commonwealth charter school or Horace Mann charter school established pursuant to M.G.L. c. 71, § 89.

**Collaborative school**, pursuant to M.G.L. c. 71, §37O, means a school operated by an educational collaborative established pursuant to M.G.L. c. 40, §4E.

**Cyberbullying**, pursuant to M.G.L. c. 71, §37O, means bullying through the use of technology or any electronic communication, which shall include, but not be limited to, any transfer of signs, signals, writing, 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. Cyberbullying shall also include:

- (a) the creation of a web page or blog in which the creator assumes the identity of another person, or
  - (b) the knowing impersonation of another person as the author of posted content or messages, if the creation or impersonation creates any of the conditions in 603 CMR 49.03: Bullying(a) through (e).
- Cyberbullying 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 in 603 CMR 49.03: Bullying(a) through (e).

**Hostile environment**, pursuant to M.G.L. c. 71, §37O, means 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.

**Local law enforcement agency** means a local police department.

**Local plan** means the bullying prevention and intervention plan required to be developed under M.G.L. c. 71, §37O.

**Parent** means a student's father or mother, or guardian.

**Principal** means the administrative leader of a public school, charter school, collaborative school, or approved private day or residential school, or his or her designee for the purposes of implementing the school's bullying prevention and intervention plan.

**Retaliation** means any form of intimidation, reprisal or harassment directed against a person who reports bullying, provides information during an investigation about bullying, or witnesses or has reliable information about bullying.

**School** means an approved private day or residential school, collaborative school, or charter school.

**School district**, pursuant to M.G.L. c. 71, §37O, means the school department of a city or town, a regional school district or a county agricultural school.

**Student record** has the meaning set forth in the Massachusetts Student Records Regulations, 603 CMR 23.02.

**Target** means a student victim of bullying or retaliation as defined in M.G.L. c. 71, §37O.

#### **49.04: Bullying and Retaliation Prohibited**

(1) Bullying of a student is prohibited as provided in M.G.L. c. 71, §37O. Retaliation is also prohibited.

(2) Bullying shall be prohibited 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. Bullying at 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, shall be prohibited if the bullying:

- (a) creates a hostile environment at school for the target;
- (b) infringes on the rights of the target at school; or
- (c) materially and substantially disrupts the education process or the orderly operation of a school.

(3) Each school district and school shall have procedures for receiving reports of bullying or retaliation; promptly responding to and investigating such reports, and determining whether bullying or retaliation has occurred; responding to incidents of bullying or retaliation; and reporting to parents and law enforcement as set forth in 603 CMR 49.05 and 49.06.

#### **49.05: Notice to Parents**

(1) Upon investigation and determination that bullying or retaliation has occurred, the principal shall promptly notify the parents of the target and the aggressor of the determination and the school district or school's procedures for responding to the bullying or retaliation. The principal shall inform the target's parent of actions that school officials will take to prevent further acts of bullying or retaliation. Nothing in 603 CMR 49.05

prohibits the principal from contacting a parent of a target or aggressor about a report of bullying or retaliation prior to a determination that bullying or retaliation has occurred.

(2) Notice required by 603 CMR 49.05 shall be provided in the primary language of the home.

(3) Each school district and school shall include the requirements and procedures for communicating with the parents of the aggressor and target of bullying or retaliation in the local plan.

(4) A principal's notification to a parent about an incident or a report of bullying or retaliation must comply with confidentiality requirements of the Massachusetts Student Records Regulations, 603 CMR 23.00, and the Federal Family Educational Rights and Privacy Act Regulations, 34 CFR Part 99, as set forth in 603 CMR 49.07.

#### **49.06: Notice to Law Enforcement Agency**

(1) Before the first day of each school year, the superintendent or designee of a school district and the school leader or designee of an approved private day or residential school, collaborative school, or charter school shall communicate with the chief of police or designee of the local police department about the implementation of 603 CMR 49.06. Such communication may include agreeing on a method for notification, a process for informal communication, updates of prior written agreements, or any other subject appropriate to the implementation of 603 CMR 49.06.

(2) At any point after receipt of a report of bullying or retaliation, including after an investigation, the principal shall notify the local law enforcement agency if the principal has a reasonable basis to believe that criminal charges may be pursued against the aggressor. Notice shall be consistent with the requirements of 603 CMR 49.00 and established agreements with the local law enforcement agency. The principal shall document the reasons for his or her decision to notify law enforcement. Nothing in 603 CMR 49.06 shall be interpreted to require reporting to a law enforcement agency in situations in which bullying and retaliation can be handled appropriately within the school district or school.

(a) In making the determination whether notification to law enforcement is appropriate, the principal may consult with the school resource officer and any other individuals the principal deems appropriate.

(b) Nothing in 603 CMR 49.06 shall prevent the principal from taking appropriate disciplinary or other action pursuant to school district or school policy and state law, provided that disciplinary actions balance the need for accountability with the need to teach appropriate behavior.

(c) The principal shall respond to the incident as set forth in relevant provisions of the local plan consistent with 603 CMR 49.06.

(3) If an incident of bullying or retaliation occurs on school grounds and involves a former student under the age of 21 who is no longer enrolled in the school district or school, the principal of the school informed of the bullying or retaliation shall notify the local law enforcement agency if the principal has a reasonable basis to believe that criminal charges may be pursued against the aggressor.

(4) Each school district and school shall include the requirements and procedures for communicating with the local law enforcement agency in the local plan.

#### **49.07: Confidentiality of Records**

(1) A principal may not disclose information from a student record of a target or aggressor to a parent unless the information is about the parent's own child.

(2) A principal may disclose a determination of bullying or retaliation to a local law enforcement agency under 603 CMR 49.06 without the consent of a student or his or her parent. The principal shall communicate with law enforcement officials in a manner that protects the privacy of targets, student witnesses, and aggressors to the extent practicable under the circumstances.

(3) A principal may disclose student record information about a target or aggressor 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 as provided in 603 CMR 23.07(4)(e) and 34 CFR 99.31(a)(10) and 99.36. 603 CMR 49.07(3) 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 student record information. The principal must document the disclosures and the reasons that the principal determined that a health or safety emergency exists.

#### **Regulatory Authority:**

603 CMR 49.00: M.G.L. 71, §37O, as added by Chapter 92 of the Acts of 2010

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