

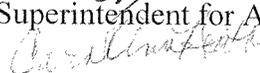
Nancy S. Grasmick
State Superintendent of Schools

200 West Baltimore Street • Baltimore, MD 21201 • 410-767-0100 • 410-333-6442 TTY/TDD •
MarylandPublicSchools.org

MEMORANDUM

TO: Heads of Legal Authorities, Administrative Heads, and Education Directors of Nonpublic Schools Approved under COMAR 13A.09.10 to Provide Special Education and Related Services

FROM: John E. Smeallie, Ed.D. 
Deputy State Superintendent for Administration

Carol Ann Heath, Ed.D. 
Assistant State Superintendent
Division of Special Education/Early Intervention Services

DATE: April 24, 2009

SUBJECT: *Policy to Address Bullying, Harassment, or Intimidation*

Attached please find *Maryland's Model Policy to Address Bullying, Harassment, or Intimidation* document approved by the State Board of Education on February 24, 2009. Regulation 13A.01.04.03, Safe Schools, in the Code of Maryland Regulations was adopted by the Maryland State Board of Education and is specifically included as part of the overarching public school standards that address and regulate issues of academic performance, school improvement, and safety in every public school in the State.

On July 1, 2008, the Maryland General Assembly directed the Maryland State Board of Education, in consultation with local school systems (LSSs), to develop and adopt a Model Policy prohibiting bullying, harassment, or intimidation in schools. Students attending Nonpublic Special Education Schools are placed through the Individualized Education Program process by LSSs. Nonpublic Special Education Schools generally have students enrolled from multiple jurisdictions. The Nonpublic Special Education Schools will need to work with the LSSs to ensure implementation of this policy in accordance with LSS procedures. Collaboration between LSSs and the Nonpublic Schools is critical for the success of these students.

Heads of Legal Authorities

Administrative Heads

Education Directors

Re: Policy to Address Bullying, Harassment, or Intimidation

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Thank you for your support in this matter. If you have any questions, please feel free to contact Jodi King at 410-767-0264.

CAH/JES/jlk

c: Local Superintendents of Schools
Local Directors of Special Education
Local School System Nonpublic Contacts
Nancy S. Grasmick
Dorie Flynn
Kristine Angelis
Alice Harris
Jodi King
Eleanor Kopchick
Chezia Quarterman
Sarah Spross

*Maryland's Model Policy
To Address Bullying, Harassment, or
Intimidation*

Maryland State Department of Education

February 24, 2009

**MARTIN O'MALLEY
GOVERNOR**

**NANCY S. GRASMICK
STATE SUPERINTENDENT OF
SCHOOLS**



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February 24, 2009

INTRODUCTION

Sometimes regarded as a “rite of passage,” bullying and harassment can no longer be considered as such. During the past two decades, the often devastating effects of bullying and harassment have evidenced themselves on the well-being of students and the climate of schools. Electronic and technological advances of the last ten years have unwittingly provided another outlet for bullying and harassment, ‘cyber-bullying.’ Its message enters homes and communities and the resulting effects sometimes extend into schools when victims walk through the schoolhouse doors. Incidents of bullying, harassment, and intimidation have caused increasing concern among school system personnel, students, parents, and public officials.

The 2007 iteration of the *Maryland Youth Risk Behavioral Survey (YRBS)*, which was administered to students in selected high schools, indicated that over one-fourth of high school students had been harassed or bullied on school property during the previous 12 months of the survey’s administration. A similar portion of students reported verbal slurs due to weight, size, or physical appearance during the same time period. The *YRBS* is a part of a Youth Risk Behavior Surveillance System (YRBSS) developed by the U.S. Centers for Disease Control Prevention in 1990. The YRBSS includes national, state, and local school-based surveys of high school students in grades 9 through 12. The 2007 Maryland *YRBS* included responses to questions on such topics as weapons, personal safety and harassment, and support from parents, teachers, and other adults.

During the 2007-2008 school year, there were 118,834 suspensions/expulsions from school in Maryland’s 24 public school systems. Of these, 1,257 were for bullying, 1,103 were for harassment, and 1,009 were for sexual harassment, representing a total of 3,369 suspensions/expulsions for these categories.

In the national publication, *Indicators of School Crime and Safety:2007 Report*, during the 2005-2006 school year, 24 percent of the responding public schools reported that bullying was a daily or weekly problem. A higher percentage of middle schools reported daily or weekly occurrences of student bullying and student sexual harassment of other students. Eleven percent of students ages 12-18 reported that hate-related words had been used against them at school and more than one-third (38%) reported seeing hate-related graffiti at school in 2005. In 2005, 28 percent of students ages 12-18 reported having been bullied at school during the previous 6 months. Of these students, 53 percent said that the bullying had happened once or twice during that period, 25 percent had experienced bullying once or twice a month, 11 percent reported having been bullied once or twice a week, and 8 percent said they had been bullied almost daily. This report is annually produced by the National Center for Education Statistics (NCES), the Institute of Education Sciences (IES), in the U.S. Department of Education, and the Bureau of Justice Statistics (BJS), in the U.S. Department of Justice. It presents the most recent data available on school crime and safety which are based on information drawn from a variety of sources, including national surveys of students, teachers, and principals.

These circumstances and data have motivated parents, boards of education, education agencies, advocacy groups, and elected officials to take serious action to address bullying, harassment, and intimidation. Regulation 13A.01.04.03, Safe Schools, in the Code of Maryland Regulations (COMAR) was adopted by the Maryland State Board of Education and is specifically included as part of the overarching public school standards which address and regulate issues of academic performance, school improvement, and safety in every public school in the State. This regulation assures that “All students in Maryland’s public schools, without exception and regardless of race, ethnicity, region, religion, gender, sexual orientation, language, socio-economic status, age, or disability, have the right to educational environments that are: A. Safe; B. Appropriate for academic achievement; and, C. Free from any form of harassment.”

In July, 2005, the Safe Schools Reporting Act became effective after being passed by the Maryland General Assembly and signed into law by the Governor. The law required the development of a form to be used by students, parents, and close family relatives to report incidents of bullying, harassment, or intimidation to school administrators. The law also required all local school systems to record specific information from these forms and to submit that information to the Maryland State Department of Education (MSDE) for inclusion in its annual report to the General Assembly.

On July 1, 2008, the Maryland General Assembly directed the Maryland State Board of Education, in consultation with local school systems, to develop and adopt a Model Policy prohibiting bullying, harassment, or intimidation in schools. The Maryland State Board of Education recognizes that safe learning environments are necessary for students to learn while achieving high academic standards. Safe, civil schools powerfully promote such achievement and positive youth development as well. A positive, supportive climate allows the school community to function in an atmosphere of social, emotional, and physical safety.

MARYLAND'S MODEL POLICY
TO ADDRESS BULLYING, HARASSMENT, OR INTIMIDATION

In the creation and support of school climates that are safe places to learn, there is an evolving recognition that bullying is a very toxic form of abuse among peers. Students who are bullied and those who bully others are at significant risk of experiencing a range of health, safety, and educational risks. Bullying can be physical (hitting, pushing, shoving), verbal (being teased, threatened, coerced, made fun of, called derogatory names) or relational (spreading rumors, being left out or ostracized).

The prevention of bullying requires a concerted effort to support a whole-school bullying program involving awareness, prevention, and early intervention training with students, parents, administration, and school staff. A whole-school based prevention/intervention program addresses the prohibition of bullying in schools as well as retaliation against individuals who report acts of bullying.

In accordance with the provisions of Section 7-424.1 of the Education Article of the Annotated Code of Maryland, the Maryland State Board of Education has developed and adopted the following Model Policy to address bullying, harassment, or intimidation:

I. Prohibition of Bullying

It is the policy of the Maryland State Board of Education to prohibit bullying, harassment, or intimidation of any person on school property or at school-sponsored functions or by the use of electronic technology at a public school. It is the policy of the Maryland State Board of Education to prohibit reprisal or retaliation against individuals who report acts of bullying, harassment, or intimidation or who are victims, witnesses, bystanders, or others with reliable information about an act of bullying, harassment, or intimidation.

II. Definition of Bullying, Harassment, or Intimidation

As used in this policy, "bullying, harassment, or intimidation" means intentional conduct, including verbal, physical, or written conduct or an intentional electronic communication that creates a hostile educational environment by substantially interfering with a student's educational benefits, opportunities, or performance, or with a student's physical or psychological well-being and is:

- motivated by an actual or a perceived personal characteristic including race, national origin, marital status, sex, sexual orientation, gender identity, religion, ancestry, physical attributes, socioeconomic status, familial status, or physical or mental ability or disability; or,
- threatening or seriously intimidating; and,
- occurs on school property, at a school activity or event, or on a school bus; or,
- substantially disrupts the orderly operation of a school.

"Electronic communication" means a communication transmitted by means of an electronic device, including a telephone, cellular phone, computer, or pager.

III. Prevention, Intervention, Remediation, and Consequences

This policy recognizes that the prohibition of bullying in schools and reprisal and retaliation against individuals who report acts of bullying, as well as subsequent and standard consequences and remedial actions, cannot be effective as prevention and intervention methods unless they are included as a part of a whole-school prevention/intervention program. The whole-school program would include the following elements: prevention, intervention/remediation, and consequences.

Prevention will include:

- At least annual professional development for administrators and all staff to increase awareness of the prevalence, causes, and consequences of bullying and to increase the use of evidence-based strategies for preventing bullying. Additional professional development may be provided for new employees who are hired after the start of school during the school year.
- School-wide evidence-based anti-bullying programs implemented as a part of a system of positive behavioral supports and school improvement efforts at all grade levels.
- School climate improvement efforts in order to promote student involvement in the anti-bullying efforts, peer support, mutual respect, and a culture which encourages students to report incidents of bullying to adults.
- Collaboration with families and the community to inform parents about the prevalence, causes, and consequences of bullying, including its central role as a public health hazard, and the means of preventing it.
- Biennial school/building-specific data collection on the prevalence and characteristics of bullying which is used to guide local decision-making related to surveillance, prevention, intervention, and professional development.

Intervention/Remediation will include:

- Professional development for school staff on how to respond appropriately to students who bully, are bullied, and are bystanders who report bullying.
- Education/intervention for the students exhibiting bullying behaviors will include teaching replacement behaviors, empathy, tolerance and sensitivity to diversity.
- Remedial measures designed to correct the bullying behavior, prevent another occurrence, and protect the victim.
- Support/counseling for the victim with protection from retaliation and further episodes of bullying.
- A continuum of interventions developed to prevent bullying by addressing the social-emotional, behavioral, and academic needs of students who bully in order to prevent further incidents, while taking great care to ensure the safety of the victim.
- Utilizing community health and mental health resources for those students who are unable to stop bullying behaviors in spite of school intervention and for those students involved in bullying behaviors as perpetrators, victims, or witnesses whose mental or physical health, safety, or academic performance has been impacted.

Consequences:

- Consequences such as suspensions, expulsions, or protective orders should not be viewed as punishments designed to prevent bullying. Instead these are means of protecting the victims by providing community containment, while positive behavioral discipline is implemented.
- Consequences should also include recognition for positive behavior exhibited by the student who has previously exhibited bullying behavior, the bullied student who is implementing strategies to offset past problems, and the bystander who has taken an active role in addressing bullying behaviors.

IV. Standard Consequences and Remedial Actions for persons committing acts of bullying, harassment, or intimidation and for persons engaged in reprisal or retaliation and for persons found to have made false accusations

Consequences and remedial actions for persons committing acts of bullying, harassment, or intimidation and for persons engaged in reprisal or retaliation and for persons found to have made false accusations should be consistently and fairly applied after appropriate investigation has determined that such an offense has occurred. The following list of consequences and remedial actions is presented in no particular order and is provided as a guide that by no means limits school systems from implementing other additional consequences and remedial actions. School systems are encouraged to develop or refine their own consequences and remedial actions consistent with the policies and procedures of their local boards of education:

Standard Consequences

- Time out
- Loss of a privilege
- Verbal reprimand
- Parental notification
- Detention
- Reassignment of seats in class, cafeteria, or bus
- Reassignment of classes
- Reassignment to another mode of transportation
- Reassignment to another school
- Completion of letter of acknowledgement of action, with apology, to victim (after review by staff and not in a case of sexual harassment or intimidation)
- Reparation to victim in the form of payment for or repair of damage to possession
- In-school suspension
- Out-of-school suspension
- Extended suspension
- Transfer to an appropriate alternative program
- Referral to law enforcement
- Expulsion

Remedial Actions

- Parent/Student Conference
- Counseling with school counselor or school psychologist
- Education about the effects of bullying, harassment, or intimidation
- Behavioral contract
- Positive behavioral supports – e.g. functional behavioral assessment; behavioral intervention plan; remediation of problem behaviors that takes into account the nature of the offense, the developmental level of the student, and the student’s behavioral history
- Referral to an external agency
- Participation in counseling (delivered by a school or community mental health provider)
- Cooperation with a behavioral management program developed in consultation with a mental health professional
- Satisfactory completion of community service

V. Model Procedures for Reporting Acts of Bullying, Harassment, or Intimidation

The following model procedures for reporting acts of bullying, harassment, or intimidation are presented as a guide that by no means limits school systems from implementing other additional procedures for reporting acts of bullying, harassment or intimidation. School systems are encouraged to develop or refine their own reporting procedures consistent with the policies and procedures of their local boards of education:

1. If a student complains that he/she is currently the victim of bullying, harassment, or intimidation, the staff member will respond quickly and appropriately to investigate and intervene, as safety permits.
2. If a student expresses a desire to discuss an incident of bullying, harassment, or intimidation with a staff member, the staff member will make an effort to provide the student with a practical, safe, private, and age-appropriate way of doing so.
3. *Bullying, Harassment, or Intimidation Reporting Forms* may be obtained in the school’s main (front) office, counselor’s office, and other locations determined by the local school system. The forms may be submitted by a student, parent, close adult relative, or staff member to school administration. A student may request assistance from a staff member to complete the form if the student wishes.
4. Local school systems will devise ways in which the reporting forms may be submitted to school administration.
5. *Bullying, Harassment, or Intimidation Reporting Forms* may also be obtained electronically from the school system’s website or a school’s website and may be submitted by a student, parent or guardian, close relative, or staff member to school administration.
6. *Bullying, Harassment, or Intimidation Reporting Forms* will be included in the beginning of the year packets for students and their parents.

7. Information obtained from the *Bullying, Harassment, or Intimidation Reporting Forms* shall be recorded for data collection, storage, and submission according to the requirements of Education Article § 7-424, Annotated Code of Maryland.

8. Local school systems shall provide summary information for individual schools and the school system obtained from the *Bullying, Harassment, or Intimidation Reporting Forms* to their schools.

VI. Model Procedures for the Prompt Investigation of Acts of Bullying, Harassment, or Intimidation.

The following model procedures for investigating acts of bullying, harassment, or intimidation are presented as a guide that by no means limits school systems from implementing other additional investigating procedures. School systems are encouraged to develop or refine their own investigating procedures consistent with the policies and procedures of their local boards of education:

1. All reports must be written using the *Bullying, Harassment, or Intimidation Reporting Form*. They must then be promptly and appropriately investigated by school administrators or the administrative designee, consistent with due process rights, using the *Bullying, Harassment, or Intimidation Incident Investigation Form* within 2 school days after receipt of a reporting form or as timely as possible for school administration.

2. School administrators or the administrative designee will determine whether bullying, harassment, or intimidation actually occurred by taking steps to verify who committed the act of bullying, harassment, or intimidation and whether others played a role in perpetuating this act. Other related complaints, if any, will be reviewed in making this determination.

3. Neither victim nor witnesses should be promised confidentiality at the onset of an investigation. It cannot be predicted what will be discovered or if a hearing may result from the ultimate outcome of the investigation. Efforts should be made to increase the confidence and trust of the victim and any witnesses. They will be informed that any information discussed and recorded will be confined to "need to know" status.

4. School administrators or the administrative designee will immediately notify parents of the victim and offender of the incident.

5. School administrators or the administrative designee will apply consequences and/or remedial actions consistent with due process rights using the range of listed consequences as a guide. The offender will be informed that retaliation against a victim or bystander is strictly prohibited and that progressive consequences will occur if the activity continues.

6. The administrator/designee will create a written record of the bullying, harassment, or intimidation incident and any disciplinary actions taken, as well as the statements of the victim, witnesses, and offender. Discussions with all parties should be documented as soon as possible after the event. Any material records or evidence will not be discarded while a criminal investigation or prosecution resulting from the incident is ongoing.

7. Separate conferences with the victim and offender will occur within two weeks after the investigation to determine whether the bullying, harassment, or intimidation has continued and whether additional consequences need to be implemented. These conferences may occur as part of the counseling intervention. Another follow-up conference or conversation will be held with the victim four weeks after the initial follow-up conference to determine if the bullying, harassment, or intimidation has ceased. Local school systems will determine which school system staff will conduct the conferences.

8. The administrator/designee should be aware that some acts of bullying, harassment, or intimidation could also be delinquent acts. If they are delinquent acts, they promptly shall be reported to the responsible law enforcement agency according to the Code of Maryland Regulations (COMAR) 13A.08.01.15.

VII. Types of support services available to the student bully, victim, witnesses, and any bystanders.

The following list of the types of support services available to the student bully, victim, witnesses, and any bystanders is presented as a guide that by no means limits school systems from including other additional support services. Interventions and programs should be implemented as appropriate based on context, situation, age, and severity. School systems are encouraged to provide a list of the types of available support services based upon their available resources and those available in the communities in which their schools are located, and consistent with the policies and procedures of their local boards of education:

School/System

Counseling
Conflict resolution
Problem solving skills training (proactive, constructive, relationship-building)
Social skills/competency training
Anger management training
Educational programming
Parental involvement
Peer support groups
Schedule modifications
Targeted use of monitors (e.g. hallways, cafeteria, buses)

Community/Family

Public or private community-based mental health services
Faith-based services
Multi-service centers
Health Department Programs
Youth Development Organizations
Community Mediations
Department of Juvenile Services
Department of Social Services
Law enforcement agencies

VIII. Information regarding the availability and use of the bullying, harassment, or intimidation reporting form.

The following information regarding the availability and use of the bullying, harassment, or intimidation reporting form is presented as a guide that by no means limits school systems from providing other additional information regarding the availability and use of this form. School systems are encouraged to develop or refine their own methods for providing information regarding the availability and use of this form consistent with the policies and procedures of their local boards of education:

1. Schools will inform staff about the availability of the form for their use during opening-of-school meetings and then periodically throughout the school year.
2. Schools will inform students about the availability of the form and its use during orientation sessions in classes during the first week of school.
3. Forms will be included in the beginning of the year packet for students and their parents.
4. A description about the availability of the form and its use should be published in a school's student/parent handbook and in its Code of Conduct.
5. A description about the availability of the form and its use should be published on the local school system's main website which should include the capability for downloading the form.
6. Forms should be available in all schools in the main (front) office, counselor's office, and other locations determined by the local school system.
7. A student may request assistance from a staff member to complete the form at school if the student wishes.

References

Annotated Code of Maryland, Education, 2008.

Code of Maryland Regulations (COMAR), Title 13A State Board of Education.

Delaware's Model Bully Prevention Policy, Title 14, Section 4112D, Delaware Code Annotated.

DRAFT – *Towards A Maryland's Model Bully Prevention Policy*, Jorge Srabstein, MD and Members of the Coalition for the Prevention of Bullying and Related Health Risks, September, 2008.

Indicators of School Crime and Safety: 2007, U.S. Department of Education NCES 2008-021, U. S. Department of Justice, Office of Justice Programs NCJ 219553.

Maryland State Department of Education (2005), Safe Schools Reporting Act, Directions for Students and Parents Completing Bullying/Harassment Referral Form.

Maryland State Department of Education (2008), Suspensions, Expulsions, and Health Related Exclusions Maryland Public Schools, 2007-2008, MSDE-DPA 11/08.

Maryland Youth Risk Behavioral Survey, Maryland State Department of Education, September, 2008.

New Jersey's Model Policy and Guidelines for Prohibiting Harassment, Intimidation and Bullying on School Property, At School-Sponsored Functions and On School Buses, New Jersey Administrative Code §6A:16-7.9.

Glossary

Bullying: exposing a student to intentional negative actions on the part of one or more other students which adversely affect the victim's ability to participate in or benefit from the school's educational programs or activities.

Harassment: perceived or actual experiences of discomfort with identity issues in regard to race, color, national origin, gender, disability, sexual orientation, religion, or other identifying characteristics by a student which adversely affects that student's ability to participate in or benefit from the school's educational programs or activities.

Intimidation: subjection of a student to intentional action that seriously threatens and induces a sense of fear and/or inferiority which adversely affects that student's ability to participate in or benefit from the school's educational program or activities.

Retaliation: an act of reprisal or getting back at a person for an act he /she has committed.