



Karen B. Salmon, Ph.D.
State Superintendent of Schools

200 West Baltimore Street • Baltimore, MD 21201 • 410-767-0100 • 410-333-6442 TTY/TDD • msde.maryland.gov

TO: Members of the State Board of Education
FROM: Karen B. Salmon, Ph.D. *KBS*
DATE: September 27, 2016
SUBJECT: Bullying, Harassment, or Intimidation Policy Update

Purpose

The purpose of this agenda item is to update *Maryland's Model Policy to Address Bullying, Harassment, or Intimidation* (Attachment I) required under §7-424.1 of the Education Article, Annotated Code of Maryland. The update includes the expansion of the term *electronic communication* to include social media communication.

Background/Historical Perspective

In July, 2008 the Maryland General Assembly directed the Maryland State Board of Education (State Board), in consultation with local school systems, to develop and adopt a model policy prohibiting bullying, harassment, or intimidation in schools. *Maryland's Model Policy to Address Bullying, Harassment, or Intimidation* was initially approved by the State Board in February 2009.

Pursuant to House Bill 365 passed during the 2016 legislative session, the Maryland State Department of Education (MSDE) is required to update the Model Policy to expand the term *electronic communication* to include social media communication. MSDE worked in collaboration with local school systems to modify the policy. House Bill 365 requires the State Board to update the Model Policy every five years. By January 1, 2017 and every five years thereafter, each local school system is required to submit an updated policy to the State Superintendent.

Executive Summary

In consultation with local school systems, the MSDE updated Maryland's Model Policy to Address Bullying, Harassment, or Intimidation by expanding the definition of electronic communication to include social media communications such as photographs, audio recordings, video recordings, or text messages sent by way of the Internet. The updated policy also provides a definition for the term cyberbullying. Cyberbullying involves communication transmitted using any electronic device including social media sites, telephones, cellular phones, computers, or tablets.

Action

Approve *Maryland's Model Policy to Address Bullying, Harassment, or Intimidation*, which expands the term *electronic communication* to include social media communication.

KBS: WJS

Attachment:

- Attachment I: *Maryland's Model Policy to Address Bullying, Harassment, or Intimidation*

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

Maryland State Department of Education

Updated July, 2016



MARYLAND STATE BOARD OF EDUCATION

Andrew R. Smarick
President

Dr. S. James Gates, Jr.
Vice President

Chester E. Finn, Jr., Ed.D.
Michelle Jenkins Guyton, Ph.D.
Stephanie R. Isazrd, M.Ed.
Mrs. Madhu Sidhu
Laura E. Weeldreyer
Jannette O'Neill-Gonzalez, MHS
Laurie Halverson
Barbara J. Shreeve
Guffire M. Smith, Jr.
David O. Edimo, Student Member

Karen B. Salmon, Ph.D.
State Superintendent of Schools

Larry Hogan
Governor

The Maryland State Department of Education does not discriminate on the basis of age, ancestry/national origin, color disability, gender identity/expression, marital status, race, religion, sex, or sexual orientation in matters affecting employment or in providing access to programs and activities and provides equal access to Boy Scouts and other designated youth groups. For related inquiries related to Department Policy, please contact:

Equity Assurance and Compliance Office
Office of the Deputy Superintendent for Finance and Administration
Maryland State Department of Education
200 W. Baltimore Street – 6th Floor
Baltimore, Maryland 21201-2595
410-767-0426 – voice
410-767-0431 – fax
410-333-6442 – TTY/TDD

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

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 verbal, physical, or written conduct or electronic communication that creates a hostile educational environment by substantially interfering with a student's educational benefits, opportunities, performance, or with a student's physical or psychological well-being.

"Electronic communication" means a communication transmitted by means of an electronic device, including a telephone, cellular phone, computer, or tablet. Cyberbullying is a form of bullying, harassment, and intimidation. Cyberbullying means a communication transmitted by means of an electronic device and includes the use of social media sites. Cyberbullying shall include any future applications that fall under "electronic communication".

Bullying, harassment, or intimidation 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;
- occurs on school property, at a school activity or event, or on a school bus; or,
- substantially disrupts the orderly operation of a school.

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.

CyberBullying: means a communication transmitted by means of an electronic device and includes the use of social media sites. Cyberbullying shall include any future applications that fall under "electronic communication".

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.