

STONEHAM PUBLIC SCHOOLS
ANTI-BULLYING PLAN
FALL 2010
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PART ONE: INTRODUCTION

The Stoneham Public Schools are committed to ensuring all students and staff the opportunity to learn and work in a safe building, without the distraction of behavior that compromises one's physical or emotional safety. Educators and parents across the State of Massachusetts have taken an active lead in creating a zero tolerance for bullying. By defining unacceptable behavior and practices, formally identifying individuals involved, tracking incidents of bullying, and educating staff, students and families about intimidating behaviors and how to address them, we as educators strive to eliminate bullying from our schools.

Bullying is a problem that has grown significantly in recent years and some growth can be attributed to the Internet, specifically social networking sites. Many adolescents are not mature enough to use social networking sites for the intended purpose. In a survey conducted during 2009-10 at the Stoneham Middle School, seventy-five percent of seventh and eighth graders reported that they have unsupervised internet access. In grade six, nearly sixty percent of the students report having unsupervised Internet access. In addition, close to seventy percent of the students surveyed have accounts with social network sites.

There are a multitude of problems associated with unsupervised students accessing social networking sites and the Internet outside of school hours. For example, the number of individuals involved in one bullying incident increases significantly because of the communication opportunities provided by the Internet. The Internet offers a forum for individuals who normally would not be involved in a specific bullying incident to respond because face to face contact with the victim is not involved.

We recognize that certain students may be more vulnerable to becoming a target of bullying or harassment based on actual or perceived differentiating characteristics, including race, color, religion, ancestry, national origin, sex, socioeconomic status, homelessness, academic status, gender identify or expression, physical appearance, pregnant or parenting status, sexual orientation, mental, physical, developmental or sensory disability or by association with a person who has or is perceived to have one or more of these characteristics.

At least every four years beginning with 2015-16, the district will administer a Department of Elementary and Secondary Education developed student survey to assess school climate and the prevalence, nature, and severity of bullying in our schools. Similarly, faculty, staff and parents/guardians will assist in determining school climate needs. The district will annually report bullying incident data to the DESE.

We commit ourselves to sustain school environments in which students have the opportunity to learn without the disruption of intimidation or humiliation. We educate our school community about the damage to our school climate created by bullying and harassment and give students, teachers and families the tools to recognize and address these behaviors.

PART TWO: TRAINING AND PROFESSIONAL DEVELOPMENT

A. INITIAL TRAINING FOR ALL STAFF

February 3, 2011 by Department of Elementary and Secondary Education

B. ANNUAL TRAINING

- For new staff during new teacher orientation
- For all staff during principals' orientation
- For athletic coaches prior to each season

C. WRITTEN NOTICE

- In student handbooks
- In annual School Department Calendar and Manual
- On School Department website
- Future School Department curriculum documents

D. REQUIRED COMPONENTS

- Developmentally appropriate strategies to prevent bullying
- Developmentally appropriate strategies to stop incidents
- Information regarding the complex interaction and power differential between and among an aggressor, a target and witnesses
- Research findings, including information on vulnerable or at-risk students
- Information on the incidence and nature of cyberbullying
- Internet safety issues as they relate to cyberbullying

PART THREE: RESOURCES AND SERVICES

A. RESOURCES FOR BULLYING PREVENTION:

Social Competency Programs such as Open Circle
Classroom Libraries connected to Open Circle
Enrichment Programs with bullying theme such as Power of One, Jedli Clown...such programs provide support and encouragement for bystanders
Power of One www.powerofonefoundation.org
Packaged programs...
Attorney General of Massachusetts recommends:
MA Dept of Education
Department of Public Health
Mass Commission on GLBT Youth
National Youth Violence Prevention Resource Center
US Department of Health and Human Services
MA Attorney General's Office
Essex District Attorney, Salem MA (Kids to Kids Prevention Project)
DA office website: www.lawlib.state.ma.us/subject/about/bullying.html

There are many sources of DVD and activity packets:

Human Relations Media www.hrmvideo.com
Sunburst Visual Media 2 Skyline Dr. Hawthorne, N.Y. (Teacher activities are good)
Hazeldon Publishing www.hazeldon.org
US Dept of Health and Human Services www.stopbullyingnow.hrsa.gov
Channing Bete www.channing-bete.com student activity book on topic
NAESP No Name Calling Week www.naesp.org and www.glsen.org
School building based programs- at CP we have contracts, protocols for discipline and/or consequences, classroom "looks like" posters.
Information for parents at Parent Night or Curriculum Night (Information, definitions, district wide policy)
Pediatricians
Connection to Sports and Social programs in community for common goals& sharing information
Professional Development for all school personnel to develop plans to identify and report bullying situations
Bullying Workshops for parents (Define bullying, How to help at home, Resources)
Melrose Alliance Against Violence www.maav.org/home/ (works with Stoneham)
Bullying Prevention School Assemblies 45-60 min. \$400
Bullying Prevention parent training sessions 1 ½ hours \$400
Bullying Prevention staff training 1 ½ hour \$400
Stoneham Alliance Against Violence: Linda Leis 781-438-1215 ext. 3106
Bridgewater State offers anti-bullying programs for grades K-12. These are grant supported and presently are at no cost to schools.
<http://www.bridgew.edu/MARC/marc%20template%20K-12%20program.cfm>

Stoneham Police Department: Chris Dalis: Juvenile Detective 781-438-1215 ext. 3133
cdalis@police.stoneham.ma.us

North Suburban Family Network (works with families of young children)

Northeast Center for Healthy Communities 978-688-2323 www.ncyhc.com

National Violence Prevention Resource Center: www.safeyouth.org

Nemours Foundation's Center for Child Health Media: Teen Suicide www.kidshealth.org

Young Audiences of Mass. www.yamass.org

Improv Boston's interactive antibullying workshop

STRYVE: Striving to Reduce Youth Violence Everywhere:

www.safeyouth.gov/Pages/Home.aspx

Bullying Prevention Plan of the Department of Education for the State of Maine:

www.maine.gov/education/bullyingprevention/resources.html

Northeastern Univ. www.eyesonbullying.org: offers toolkits for school age youth and parents free of charge.

Names of Top Bully Prevention Programs

- 1.) Lion's Quest – Conflict Management Programs
- 2.) Teaching Students to be Peacemakers
- 3.) Second Step
- 4.) Bullyproof
- 5.) Peace Builders
- 6.) Skills for Life
- 7.) Violence Prevention Curriculum for Adolescents
- 8.) Conflict Resolution: A Curriculum for Youth Providers
- 9.) PATHS: Promoting Alternative Thinking Strategies
- 10.) Reach/Challenge
- 11.) Resolving Conflict Creatively Program (RCCP)
- 12.) Responding in Peaceful and Positive Ways (RIPP)
- 13.) Smart Team
- 14.) Peacemakers
- 15.) Aggressors, Victims & Bystanders: Thinking and Acting to Prevent Violence
- 16.) Bully Proofing Your School
- 17.) Alberta Teacher's Association's Safe and Caring Schools (SACS)
- 18.) Teasing and Bullying: Unacceptable Behavior Program (TAB)
- 19.) Bullying Prevention Program (BPP)
- 20.) Conflict Managers
- 21.) Creating the Peaceable School
- 22.) Project Peace: A Safe-Schools Skills Training Program for Adolescents
- 23.) Working Together to Resolve Conflict
- 24.) The Coolien Challenge: Youth Violence Prevention
- 25.) Bully B'ware
- 26.) BeCool
- 27.) Quit It!

- 28.) Motivational Magic – Be Aware and Care: A Bully Prevention Program
- 29.) Steps to Respect – A Complete School Program

B. RESOURCES FOR TARGETS, AGGRESSORS AND FAMILIES AFTER AN INCIDENT:

Targets

Provide family support: building based or referrals
Provide lists of information sources such as the following available through Office of the MA Attorney General
Cyberbullying: A Guide for Parents
Social Networking Online
Stop Bullying Now: What to do if Your Child is Being Bullied
What to do when your Child is Being Bullied
Why is it Confidential? Understanding Your School's Limits on Sharing Information
www.stopbullyingnow.hrsa.gov

Classroom or grade level lessons by school counselor addressing topic not the specific incident
Ongoing communication link between school and family
Follow up on regular basis with target

Aggressor:

Interview the aggressor: May be done by principal, school adjustment counselor, guidance counselor, or school psychologist
Inform parents (Confidentiality Limitations Apply)
Inform law enforcement if appropriate
Interview other parties if they have first hand information
Address issue of bystanders if any
If Bullying is determined...follow school protocols for discipline
Suggest District Attorney sources:
Cyberbullying: A Guide For Parents
Help for Youth Who Bully
Stopping Bullying and Raising Responsible, Caring Children
Offer school assistance through Psychologist or Adjustment Counselor in individual or social group situations
Provide resources to families regarding Anger Management Programs

Families:

The course of action for families is to provide:

*Opportunities for families to be informed and involved in the school social competency program

* Basic information about the topic of bullying in all forms

Publish school and system policies and protocols each year in multiple formats including on website

Encourage parent participation in problem solving

Provide multiple ways for parents, students to report incidents of bullying

Support families of Targets and Aggressors with referrals and assistance at the school and community level

Maintain open communication link with families

Family Resource Center North Shore Medical Center 978-354-2660

www.nsmcfamilyresourcecenter.org

NAMI- North Shore National Alliance on Mental Illness 978-354-2660

www.namimass.org

C. COUNSELING AND OTHER SERVICES

Referrals for Counseling for Bullies and Victims

- 1.) Cambridge Health Alliance (24 hr Psychological Emergency Services) 617-575-5700
- 2.) SafeLink Hot Line – 1-877-785-2020
- 3.) Arlington Youth Consultation Center (Emergency Referral Line) – 781-316-3255
- 4.) Bridge Over Trouble Waters (24 hr emergency hot line for suicide, counseling, shelter, drugs) 617-423-9575
- 5.) Samaritans, Inc. (Prevention help, suicidal help) 617-247-0220
- 6.) DCS – Medford Family Counseling – 781-396-1199
- 7.) Lakeside Counseling, Wakefield – 781-224-9884
- 8.) Medford Malden Family Counseling Center – 781-322-3318
- 9.) New Beginnings, Stoneham – 781-438-0038
- 10.) Psychotherapy Associates, N. Reading – 978-664-2566
- 11.) Riverside Outpatient, Wakefield – 781-246-2003
- 12.) Michael Luba, LICSW, Wakefield – 781-665-0607 (Social Skills Groups)
- 13.) Arbor Counseling – 781-322-1503
- 14.) Eliot Community Services, Everett – 781-388-6225

Referrals for Parents of Children Who Are Bullying or Are Victims of Bullying.

- 1.) Parent Resource Network Line – 1-866-815-8122
- 2.) Parent Stress Line – 1-800-632-8188
- 3.) Parents Helping Parents – 800-882-1250
- 4.) Families First – 617-868-7687
- 5.) Parent Resource Associates, Lexington – 781-862-4446

- 6.) HAWC (Help for Abused Women and Children) – 978-744-8552
- 7.) Stoneham Parents Support Group – 781-438-8192
- 8.) Bay State Anger Management, Chelmsford – 978-606-3955
- 9.) F & S Computer Services, Saugus (Internet Safety)

Students with disabilities:

G.L.c.71B, S 3 requires that Individual Education Program (IEP) plans indicate whether the particular student is vulnerable to bullying and, if so, how that child will be taught “the skills and proficiencies needed to avoid and respond to bullying, harassment or teasing.”

Student Disability Awareness programs: Ideas of program to educate all children about children with differences.

www.maine.gov/education/bullyingprevention/resources.html

D. REFERRALS TO OUTSIDE AGENCIES

Current steps taken in school to refer a student for support who has been bullied:

- 1.) The school counselor or school psychologist is informed.
- 2.) The school counselor or school psychologist meets with the child/children’s parents to discuss the incident and to decide if a referral for counseling needs to occur (in school counseling or outside counseling).
- 3.) If in school counseling is to occur, the parent will sign permission for the counseling to occur and the counselor will set up a time with the child’s teacher to choose a time for the counseling sessions to begin.
- 4.) If outside counseling is needed, the school counselor or school psychologist will obtain the child’s health insurance information and facilitate a referral for outside counseling. In addition the counselor will request to obtain a release to speak with the outside counselor.
- 5.) The school counselor or school psychologist will continue to follow up with the child, the parent, the outside counselor and the child’s teacher.
- 6.) The school counselor or the school psychologist will update the school principal about the progress.

PART FOUR: ACADEMIC AND NONACADEMIC ACTIVITIES

K-5 CURRICULUM

OPEN CIRCLE CURRICULUM – Specific topics include:

- enhancing students’ skills for engaging in health relationships and respectful communications
- engaging students in safe, supportive school environment that is respectful of diversity and difference
- using scripts and role plays to develop skills
- classroom and whole school approach to social skill development
- setting clear expectations for students
- establishing school and classroom routines
- creating a safe school and classroom environment for all students
- using appropriate and positive responses and reinforcement, even when students require discipline
- using positive behavioral supports
- encouraging adults to develop positive relationships with students
- modeling, teaching and rewarding pro-social, healthy and respectful behaviors
- using positive approaches to behavioral health, including collaborative problem solving

Skills to be addressed by other curricula:

- empowering students to take action by know what to do when they witness other students engaged in acts of bullying or retaliation
- helping students understand the dynamics of bullying and cyberbullying
- emphasizing cyberbullying, including safe and appropriate use of electronic communications
- Internet safety

Future curricula to be evaluated:

- Open Circle update
- Massachusetts Aggression Reduction Center (MARC) curriculum

MIDDLE SCHOOL

GRADE SIX

“Think Before you click: Playing It Safe Online” video – focus on online bullying and reporting online harassment

Class discussions – “How Bullying Affects Target / Bystander,” “Types of Bullying” and “What to do...”

Activity – students explain how all people involved in a bullying situation would feel and offer advice to each person

GRADE SEVEN

Get Real Program – Creating a Safe School Environment. Students describe the effects of bullying and clarify their personal values about bullying and harassment. Students rehearse and demonstrate ways to confront hurtful behavior.

In the Mix – Cliques – behind the labels. DVD and discussion

Oleweus Bullying Prevention Curriculum – discussions on types of harassment (including cyberbullying, sexual harassment), conflict resolution, and identifying social networks

GRADE EIGHT

In the Mix – Dealing with Differences. Video on tolerance and stereotypes

Oleweus Bullying Prevention Curriculum – cyberbullying curriculum: legal consequences, conflict resolution, reporting, ally support, identifying support networks, and community impact

HIGH SCHOOL

NINTH GRADE

Peer leaders visit ninth grade earth science classes twice during the second term. The Anti-Defamation League’s World of Difference curriculum is used. Activities and discussions center around current issues relating to bullying and discriminatory behavior. Relevant scenarios are used.

TENTH GRADE

Health Education curriculum includes lessons on sexual harassment, racism, homophobia, and hate crimes. Local speakers come into the schools to address these issues. Curriculum is from sources prepared by the Anti-Defamation League, PFLAG, and the Teenage Health Teaching Modules.

ELEVENTH AND TWELFTH GRADE

Health elective course for juniors and seniors – Current Health Issues.

PART FIVE: REPORTING AND RESPONSE

- A. **Reporting bullying or retaliation.** Reports of bullying or retaliation may be made by staff, students, parents or guardians, or others, and may be oral or written. Oral reports made by or to a staff member shall be recorded in writing. A school or district staff member is required to report immediately to the principal or designee any instance of bullying or retaliation the staff member becomes aware of or witnesses. Reports made by students, parents or guardians, or other individuals who are not school or district staff members, may be made anonymously. The school or district will make a variety of reporting resources available to the school community including, but not limited to, an Incident Reporting Form,¹ a webpage on the district website, a voicemail box and email addresses for reporting incidents.

Use of an Incident Reporting Form is not required as a condition of making a report. The school or district will: 1) include a copy of the Incident Reporting Form in the beginning of the year packets for students and parents or guardians; 2) make it available in the school's main office, the counseling office, the school nurse's office, and other locations determined by the principal or designee; and 3) post it on the school's website. The Incident Reporting Form will be made available in the most prevalent language(s) of origin of students and parents or guardians.

At the beginning of each school year, the school or district will provide the school community, including administrators, staff, students, and parents or guardians, 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 of the principal or designee, will be incorporated in student and staff handbooks, on the school or district website, and in information about the Plan that is made available to parents or guardians.

1. Reporting by Staff

A staff member will report immediately to the principal or designee when he/she witnesses or becomes aware of conduct that may be bullying or retaliation. The requirement to report to the principal or designee does not limit the authority of the staff member to respond to behavioral or disciplinary incidents consistent with school or district policies and procedures for behavior management and discipline.

2. Reporting by Students, Parents or Guardians, and Others

The school or district expects students, parents or guardians, and others who witness or become aware of an instance of bullying or retaliation involving a student to report it to the principal or designee. Reports may be made anonymously, but no disciplinary action will be taken against an alleged aggressor solely on the basis of an anonymous report. Students, parents or guardians, and others may request assistance from a staff member to complete a

¹ See Appendix C for Incident Reporting Form.

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 principal or designee.

B. Responding to a report of bullying or retaliation.

1. Safety

Before fully investigating the allegations of bullying or retaliation, the principal 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 be limited to, creating a personal safety plan; pre-determining seating arrangements for the target and/or the aggressor in the classroom, or at lunch; identifying a staff member who will act as a “safe person” for the target; and altering the aggressor’s schedule and access to the target. The principal or designee will take additional steps to promote safety during the course of and after the investigation, as necessary.

The principal or designee will implement appropriate strategies for protecting from bullying or retaliation 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. (Include locally established student safety planning policies and procedures here.)

2. Obligations to Notify Others

- a. Notice to parents or guardians. Upon determining that bullying or retaliation has occurred, the principal or designee will promptly notify the parents or guardians of the target and the aggressor of this, and of the procedures for responding to it. There may be circumstances in which the principal or designee contacts parents or guardians prior to any investigation. Notice will be consistent with state regulations at 603 CMR 49.00.
- b. Notice to Another School or District. 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 principal or designee first informed of the incident will 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.
- c. Notice to Law Enforcement. At any point after receiving a report of bullying or retaliation, including after an investigation, if the principal or designee has a reasonable basis to believe that criminal charges may be pursued against the

aggressor, the principal 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. Also, 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 principal 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. In making this determination, the principal will, consistent with the Plan and with applicable school or district policies and procedures, consult with the school resource officer, if any, and other individuals the principal or designee deems appropriate.

3. Tracking Incident Reporting Forms

- a. A log will be kept by the principal or designee of Incident Reporting Forms. The log should include the following information: name of target, name of aggressor, year of graduation for both students, and the date the form was received by the principal or designee.
- b. All Incident Reporting Forms should be kept by the principal or designee who received them. The forms should be organized in chronological order by the date the form was received.

C. Investigation. The principal 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 principal or designee will, among other things, interview students, staff, witnesses, parents or guardians, and others as necessary. The principal 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.

Interviews may be conducted by the principal or designee, other staff members as determined by the principal or designee, and in consultation with the school counselor, as appropriate. To the extent practicable, and given his/her obligation to investigate and address the matter, the principal or designee will maintain confidentiality during the investigative process. The principal or designee will maintain a written record of the investigation.

Procedures for investigating reports of bullying and retaliation will be consistent with school or district policies and procedures for investigations. If necessary, the principal or designee will consult with legal counsel about the investigation.

D. Determinations. The principal or designee will make a determination based upon all of the facts and circumstances. If, after investigation, bullying or retaliation is substantiated, the principal 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 principal 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 principal or designee may choose to consult with the students' teacher(s) and/or school counselor, and the target's or aggressor's parents or guardians, to identify any underlying social or emotional issue(s) that may have contributed to the bullying behavior and to assess the level of need for additional social skills development.

The principal or designee will promptly notify the parents or guardians 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, the principal or designee cannot report specific information to the target's parent or guardian about the disciplinary action taken unless it involves a "stay away" order or other directive that the target must be aware of in order to report violations.

The principal shall inform the parent or guardian of the target about the Department of Elementary and Secondary Education's problem resolution system and the process for accessing that system, regardless of the outcome of the determination.

E. Responses to Bullying.

1. Teaching Appropriate Behavior Through Skills-building

Upon the principal or designee determining that bullying or retaliation has occurred, the law requires that the school or district use a range of responses that balance the need for accountability with the need to teach appropriate behavior. M.G.L. c. 71, § 37O(d)(v). Skill-building approaches that the principal or designee may consider include:

- offering individualized skill-building sessions based on the school's/district's anti-bullying curricula;
- providing relevant educational activities for individual students or groups of students, in consultation with guidance counselors 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; and
- making a referral for evaluation.

2. Taking Disciplinary Action

If the principal or designee decides that disciplinary action is appropriate, the disciplinary action will be determined on the basis of facts found by the principal 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 Plan and with the school's or district's code of conduct.

Discipline procedures for students with disabilities are governed by the federal Individuals with Disabilities Education Improvement Act (IDEA), which should be read in cooperation with state laws regarding student discipline.

If the principal or designee determines that a student knowingly made a false allegation of bullying or retaliation, that student may be subject to disciplinary action.

3. Promoting Safety for the Target and Others

The principal 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. One strategy that the principal or designee may use is to increase adult supervision at transition times and in locations where bullying is known to have occurred or is likely to occur.

Within a reasonable period of time following the determination and the ordering of remedial and/or disciplinary action, the principal 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 principal or designee will work with appropriate school staff to implement them immediately.

PART SIX: COLLABORATION WITH FAMILIES

The School Department will work with and support parents on the following issues:

- How to support the curriculum at home
- Definition and dynamics of bullying behavior
- On-line Safety and Cyberbullying awareness

Parent Education and Resources

- District together with the PTO, School Council, provides workshops for parents to attend
 - ex. Cyberbullying workshop to be held at Middle School in November
- Create resource library at each school where parents can check out materials
 - Books
 - Videos
- Assign an individual the point person for parents to contact to learn more ex. School Adjustment Counselor/School Psychologist

Parent Notification

- Provide parents with a letter each year that outlines the school district's antibullying program including the dynamics of bullying, cyberbullying, and online safety.

PART SEVEN: PROHIBITIONS

Acts of bullying, which include cyberbullying, are prohibited:

- (i) on school grounds and property immediately adjacent to school grounds, at a school-sponsored or school-related activity, function, or program whether on or off school grounds, at a school bus stop, on a school bus or other vehicle owned, leased, or used by a school district or school; or through the use of technology or an electronic device owned, leased, or used by a school district or school, and
- (ii) at a location, activity, function, or program that is not school-related through the use of technology or an electronic device that is not owned, leased, or used by a school district or school, if the acts create a hostile environment at school for the target or witnesses, infringe on their rights at school, or materially and substantially disrupt the education process or the orderly operation of a school.

Retaliation against a person who reports bullying, provides information during an investigation of bullying, or witnesses or has reliable information about bullying is also prohibited.

As stated in M.G.L. c. 71, § 37O, nothing in this Plan requires the district or school to staff any non-school related activities, functions, or programs.

Consistent with state and federal laws, and the policies of the school or district, no person shall be discriminated against in admission to a public school of any town or in obtaining the advantages, privilege and courses of study of such public school on account of race, color, sex, religion, national origin, or sexual orientation. Nothing in the Plan prevents the school or district from taking action to remediate discrimination or harassment based on a person's membership in a legally protected category under local, state, or federal law, or school or district policies.

In addition, nothing in the Plan is designed or intended to limit the authority of the school or district to take disciplinary action or other action under M.G.L. c. 71, §§ 37H or 37H½, other applicable laws, or local school or district policies in response to violent, harmful, or disruptive behavior, regardless of whether the Plan covers the behavior.

PART EIGHT: PROBLEM RESOLUTION

Any parent wishing to file a claim / concern or seeking assistance outside of the district may do so with the Department of Elementary and Secondary Education Problem Resolution System (PRS). That information can be found at <http://doe.mass.edu/pqa>; emails can be sent to compliance@doe.mass.edu. Individuals can call 781-338-3700. Hard copies of this information is also available at the Superintendent's office.

PART NINE: DEFINITIONS

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

"Cyber-bullying," bullying through the use of technology or any electronic communication, which shall include, but shall not be limited to, any transfer of signs, signals, 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. Cyber-bullying shall also include (i) the creation of a web page or blog in which the creator assumes the identity of another person or (ii) the knowing impersonation of another person as the author of posted content or messages, if the creation or impersonation creates any of the conditions enumerated in clauses (i) to (v), inclusive, of the definition of bullying. Cyber-bullying shall also include the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more persons, if the distribution or posting creates any of the conditions enumerated in clauses (i) to (v), inclusive, of the definition of bullying.

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

"Perpetrator", a student who engages in bullying or retaliation. Also known as "Aggressor."

"Retaliation," is any form of intimidation, reprisal, or harassment directed against a student who: reports bullying; provides information during an investigation of bullying; or witnesses or has reliable information about bullying.

"Victim," a student against whom bullying or retaliation has been perpetrated. Also known as "Target."

SCHOOL COMMITTEE POLICY

BULLYING IN SCHOOLS

A safe learning environment is one in which every student develops emotionally, academically, and physically in a caring and supportive atmosphere free of intimidation and abuse. Bullying of any type has no place in a school setting. The Stoneham Public Schools will endeavor to maintain a learning and working environment free of bullying. The Stoneham School Committee and all of the Stoneham Public Schools shall not tolerate bullying.

Definition:

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

“Cyber-bullying” is bullying through the use of technology or any electronic communication, which shall include, but shall 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. Cyber-bullying shall also include (i) the creation of a web page or blog in which the creator assumes the identity of another person or (ii) the knowing impersonation of another person as the author of posted content or messages, if the creation or impersonation creates any of the conditions enumerated in clauses (i) to (v), inclusive, of the definition of bullying. Cyber-bullying shall also include the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more persons, if the distribution or posting creates any of the conditions enumerated in clauses (i) to (v), inclusive, of the definition of bullying.

Bullying shall be prohibited: (i) on school grounds, property immediately adjacent to school grounds, at a school-sponsored or school-related activity, function or program whether on or off school grounds, at a school bus stop, on a school bus or other vehicle owned, leased or used by a school district or school, or through the use of technology or an electronic device owned, leased or used by a school district or school and (ii) 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, if the bullying creates a hostile environment at school for the victim, infringes on the rights of the victim at school or materially and substantially disrupts the education process or the orderly operation of a school. Nothing contained herein shall require schools to staff any non-school related activities, functions, or programs.

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

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

The school district shall develop, adhere to and update a plan to address bullying prevention and intervention in consultation with teachers, school staff, professional support personnel, school volunteers, administrators, community representatives, local law enforcement agencies, students, parents and guardians. The consultation shall include, but not be limited to, notice and a public comment period; provided, however, that a non-public school shall only be required to give notice to and provide a comment period for families that have a child attending the school. The plan shall be updated at least biennially.

Each plan shall include, but not be limited to: (i) descriptions of and statements prohibiting bullying, cyber-bullying and retaliation; (ii) clear procedures for students, staff, parents, guardians and others to report bullying or retaliation; (iii) a provision that reports of bullying or retaliation may be made anonymously; provided, however, that no disciplinary action shall be taken against a student solely on the basis of an anonymous report; (iv) clear procedures for promptly responding to and investigating reports of bullying or retaliation; (v) the range of disciplinary actions that may be taken against a perpetrator for bullying or retaliation; provided, however, that the disciplinary actions shall balance the need for accountability with the need to teach appropriate behavior; (vi) clear procedures for restoring a sense of safety for a victim and assessing that victim's needs for protection; (vii) strategies for protecting from bullying or retaliation a person who reports bullying, provides information during an investigation of bullying or witnesses or has reliable information about an act of bullying; (viii) procedures consistent with state and federal law for promptly notifying the parents or guardians of a victim and a perpetrator; provided, further, that the parents or guardians of a victim shall also be notified of the action taken to prevent any further acts of bullying or retaliation; and provided, further, that the procedures shall provide for immediate notification pursuant to regulations promulgated under this subsection by the principal or person who holds a comparable role to the local law enforcement agency when criminal charges may be pursued against the perpetrator; (ix) a provision that a student who knowingly makes a false accusation of bullying or retaliation shall be subject to disciplinary action; and (x) a strategy for providing counseling or referral to appropriate services for perpetrators and victims and for appropriate family members of said students. The plan shall afford all students the same protection regardless of their status under the law.

The school district plan shall include a provision for ongoing professional development to build the skills of all staff members, including, but not limited to, educators, administrators, school nurses, cafeteria workers, custodians, bus drivers, athletic coaches, advisors to extracurricular activities and paraprofessionals, to prevent, identify and respond to bullying. The content of such professional development shall include, but not be limited to: (i) developmentally appropriate strategies to prevent bullying incidents; (ii) developmentally appropriate strategies for

immediate, effective interventions to stop bullying incidents; (iii) information regarding the complex interaction and power differential that can take place between and among a perpetrator, victim and witnesses to the bullying; (iv) research findings on bullying, including information about specific categories of students who have been shown to be particularly at risk for bullying in the school environment; (v) information on the incidence and nature of cyber-bullying; and (vi) internet safety issues as they relate to cyber-bullying.

The plan shall include provisions for informing parents and guardians about the bullying prevention curriculum of the school district or school and shall include, but not be limited to: (i) how parents and guardians can reinforce the curriculum at home and support the school district or school plan; (ii) the dynamics of bullying; and (iii) online safety and cyber-bullying.

The school district shall provide to students and parents or guardians, in age-appropriate terms and in the languages which are most prevalent among the students, parents or guardians, annual written notice of the relevant student-related sections of the plan.

The school district shall provide to all school staff annual written notice of the plan. The faculty and staff at each school shall be trained annually on the plan applicable to the school. Relevant sections of the plan relating to the duties of faculty and staff shall be included in a school district or school employee handbook. The plan shall be posted on the website of each school district.

Each school principal or the person who holds a comparable position shall be responsible for the implementation and oversight of the plan at his school. A member of a school staff, including, but not limited to, an educator, administrator, school nurse, secretary, cafeteria worker, custodian, bus driver, athletic coach, advisor to an extracurricular activity or paraprofessional, shall immediately report any instance of bullying or retaliation the staff member has witnessed or become aware of to the principal or to the school official identified in the plan as responsible for receiving such reports or both. Upon receipt of such a report, the school principal or a designee shall promptly conduct an investigation. If the school principal or a designee determines that bullying or retaliation has occurred, the school principal or designee shall (i) notify the local law enforcement agency if the school principal or designee believes that criminal charges may be pursued against a perpetrator; (ii) take appropriate disciplinary action; (iii) notify the parents or guardians of a perpetrator; and (iv) notify the parents or guardians of the victim, and to the extent consistent with state and federal law, notify them of the action taken to prevent any further acts of bullying or retaliation.

If an incident of bullying or retaliation involves students from more than one school district, the school district or school first informed of the bullying or retaliation shall, consistent with state and federal law, promptly notify the appropriate administrator of the other school district or school so that both may take appropriate action. 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 a local school district, the school district or school informed of the bullying or retaliation shall contact law enforcement.

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

MGL: Chapter 92 of the Acts of 2010

Adopted: September 9, 2010

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

October 26, 2010

Dear Colleague:

In recent years, many state departments of education and local school districts have taken steps to reduce bullying in schools. The U.S. Department of Education (Department) fully supports these efforts. Bullying fosters a climate of fear and disrespect that can seriously impair the physical and psychological health of its victims and create conditions that negatively affect learning, thereby undermining the ability of students to achieve their full potential. The movement to adopt anti-bullying policies reflects schools' appreciation of their important responsibility to maintain a safe learning environment for all students. I am writing to remind you, however, that some student misconduct that falls under a school's anti-bullying policy also may trigger responsibilities under one or more of the federal antidiscrimination laws enforced by the Department's Office for Civil Rights (OCR). As discussed in more detail below, by limiting its response to a specific application of its anti-bullying disciplinary policy, a school may fail to properly consider whether the student misconduct also results in discriminatory harassment.

The statutes that OCR enforces include Title VI of the Civil Rights Act of 1964¹ (Title VI), which prohibits discrimination on the basis of race, color, or national origin; Title IX of the Education Amendments of 1972² (Title IX), which prohibits discrimination on the basis of sex; Section 504 of the Rehabilitation Act of 1973³ (Section 504); and Title II of the Americans with Disabilities Act of 1990⁴ (Title II). Section 504 and Title II prohibit discrimination on the basis of disability.⁵ School districts may violate these civil rights statutes and the Department's implementing regulations when peer harassment based on race, color, national origin, sex, or disability is sufficiently serious that it creates a hostile environment and such harassment is encouraged, tolerated, not adequately addressed, or ignored by school employees.⁶ School personnel who understand their legal obligations to address harassment under these laws are in the best position to prevent it from occurring and to respond appropriately when it does. Although this letter focuses on the elementary and secondary school context, the legal principles also apply to postsecondary institutions covered by the laws and regulations enforced by OCR.

Some school anti-bullying policies already may list classes or traits on which bases bullying or harassment is specifically prohibited. Indeed, many schools have adopted anti-bullying policies that go beyond prohibiting bullying on the basis of traits expressly protected by the federal civil

¹ 42 U.S.C. § 2000d *et seq.*

² 20 U.S.C. § 1681 *et seq.*

³ 29 U.S.C. § 794.

⁴ 42 U.S.C. § 12131 *et seq.*

⁵ OCR also enforces the Age Discrimination Act of 1975, 42 U.S.C. § 6101 *et seq.*, and the Boy Scouts of America Equal Access Act, 20 U.S.C. § 7905. This letter does not specifically address those statutes.

⁶ The Department's regulations implementing these statutes are in 34 C.F.R. parts 100, 104, and 106. Under these federal civil rights laws and regulations, students are protected from harassment by school employees, other students, and third parties. This guidance focuses on peer harassment, and articulates the legal standards that apply in administrative enforcement and in court cases where plaintiffs are seeking injunctive relief.

rights laws enforced by OCR—race, color, national origin, sex, and disability—to include such bases as sexual orientation and religion. While this letter concerns your legal obligations under the laws enforced by OCR, other federal, state, and local laws impose additional obligations on schools.⁷ And, of course, even when bullying or harassment is not a civil rights violation, schools should still seek to prevent it in order to protect students from the physical and emotional harms that it may cause.

Harassing conduct may take many forms, including verbal acts and name-calling; graphic and written statements, which may include use of cell phones or the Internet; or other conduct that may be physically threatening, harmful, or humiliating. Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Harassment creates a hostile environment when the conduct is sufficiently severe, pervasive, or persistent so as to interfere with or limit a student’s ability to participate in or benefit from the services, activities, or opportunities offered by a school. When such harassment is based on race, color, national origin, sex, or disability, it violates the civil rights laws that OCR enforces.⁸

A school is responsible for addressing harassment incidents about which it knows or reasonably should have known. In some situations, harassment may be in plain sight, widespread, or well-known to students and staff, such as harassment occurring in hallways, during academic or physical education classes, during extracurricular activities, at recess, on a school bus, or through graffiti in public areas. In these cases, the obvious signs of the harassment are sufficient to put the school on notice. In other situations, the school may become aware of misconduct, triggering an investigation that could lead to the discovery of additional incidents that, taken together, may constitute a hostile environment. In all cases, schools should have well-publicized policies prohibiting harassment and procedures for reporting and resolving ¹⁰complaints that will alert the school to incidents of harassment.

When responding to harassment, a school must take immediate and appropriate action to investigate or otherwise determine what occurred. The specific steps in a school’s investigation will vary depending upon the nature of the allegations, the source of the complaint, the age of the student or students involved, the size and administrative structure of the school, and other factors. In all cases, however, the inquiry should be prompt, thorough, and impartial.

If an investigation reveals that discriminatory harassment has occurred, a school must take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile

⁷ For instance, the U.S. Department of Justice (DOJ) has jurisdiction over Title IV of the Civil Rights Act of 1964, 42 U.S.C. § 2000c (Title IV), which prohibits discrimination on the basis of race, color, sex, religion, or national origin by public elementary and secondary schools and public institutions of higher learning. State laws also provide additional civil rights protections, so districts should review these statutes to determine what protections they afford (e.g., some state laws specifically prohibit discrimination on the basis of sexual orientation).

⁸ Some conduct alleged to be harassment may implicate the First Amendment rights to free speech or expression. For more information on the First Amendment’s application to harassment, see the discussions in OCR’s Dear Colleague Letter: First Amendment (July 28, 2003), available at <http://www.ed.gov/about/offices/list/ocr/firstamend.html>, and OCR’s *Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties* (Jan. 19, 2001) (*Sexual Harassment Guidance*), available at <http://www.ed.gov/about/offices/list/ocr/docs/shguide.html>.

⁹ A school has notice of harassment if a responsible employee knew, or in the exercise of reasonable care should have known, about the harassment. For a discussion of what a “responsible employee” is, see OCR’s *Sexual Harassment Guidance*.

¹⁰ Districts must adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee sex and disability discrimination complaints, and must notify students, parents, employees, applicants, and other interested parties that the district does not discriminate on the basis of sex or disability. See 28 C.F.R. § 35.106; 28 C.F.R. § 35.107(b); 34 C.F.R. § 104.7(b); 34 C.F.R. § 104.8; 34 C.F.R. § 106.8(b); 34 C.F.R. § 106.9.

environment and its effects, and prevent the harassment from recurring. These duties are a school's responsibility even if the misconduct also is covered by an anti-bullying policy, and regardless of whether a student has complained, asked the school to take action, or identified the harassment as a form of discrimination.

Appropriate steps to end harassment may include separating the accused harasser and the target, providing counseling for the target and/or harasser, or taking disciplinary action against the harasser. These steps should not penalize the student who was harassed. For example, any separation of the target from an alleged harasser should be designed to minimize the burden on the target's educational program (*e.g.*, not requiring the target to change his or her class schedule).

In addition, depending on the extent of the harassment, the school may need to provide training or other interventions not only for the perpetrators, but also for the larger school community, to ensure that all students, their families, and school staff can recognize harassment if it recurs and know how to respond. A school also may be required to provide additional services to the student who was harassed in order to address the effects of the harassment, particularly if the school initially delays in responding or responds inappropriately or inadequately to information about harassment. An effective response also may need to include the issuance of new policies against harassment and new procedures by which students, parents, and employees may report allegations of harassment (or wide dissemination of existing policies and procedures), as well as wide distribution of the contact information for the district's Title IX and Section 504/Title II coordinators.¹¹

Finally, a school should take steps to stop further harassment and prevent any retaliation against the person who made the complaint (or was the subject of the harassment) or against those who provided information as witnesses. At a minimum, the school's responsibilities include making sure that the harassed students and their families know how to report any subsequent problems, conducting follow-up inquiries to see if there have been any new incidents or any instances of retaliation, and responding promptly and appropriately to address continuing or new problems.

When responding to incidents of misconduct, schools should keep in mind the following:

The label used to describe an incident (*e.g.*, bullying, hazing, teasing) does not determine how a school is obligated to respond. Rather, the nature of the conduct itself must be assessed for civil rights implications. So, for example, if the abusive behavior is on the basis of race, color, national origin, sex, or disability, and creates a hostile environment, a school is obligated to respond in accordance with the applicable federal civil rights statutes and regulations enforced by OCR.

When the behavior implicates the civil rights laws, school administrators should look beyond simply disciplining the perpetrators. While disciplining the perpetrators is likely a necessary step, it often is insufficient. A school's responsibility is to eliminate the

¹¹ Districts must designate persons responsible for coordinating compliance with Title IX, Section 504, and Title II, including the investigation of any complaints of sexual, gender-based, or disability harassment. See 28 C.F.R. § 35.107(a); 34 C.F.R. § 104.7(a); 34 C.F.R. § 106.8(a).

hostile environment created by the harassment, address its effects, and take steps to ensure that harassment does not recur. Put differently, the unique effects of discriminatory harassment may demand a different response than would other types of bullying.

Below, I provide hypothetical examples of how a school's failure to recognize student misconduct as discriminatory harassment violates students' civil rights.¹² In each of the examples, the school was on notice of the harassment because either the school or a responsible employee knew or should have known of misconduct that constituted harassment. The examples describe how the school should have responded in each circumstance.

Title VI: Race, Color, or National Origin Harassment

Some students anonymously inserted offensive notes into African-American students' lockers and notebooks, used racial slurs, and threatened African-American students who tried to sit near them in the cafeteria. Some African-American students told school officials that they did not feel safe at school. The school investigated and responded to individual instances of misconduct by assigning detention to the few student perpetrators it could identify. However, racial tensions in the school continued to escalate to the point that several fights broke out between the school's racial groups.

In this example, school officials failed to acknowledge the pattern of harassment as indicative of a racially hostile environment in violation of Title VI. Misconduct need not be directed at a particular student to constitute discriminatory harassment and foster a racially hostile environment. Here, the harassing conduct included overtly racist behavior (*e.g.*, racial slurs) and also targeted students on the basis of their race (*e.g.*, notes directed at African-American students). The nature of the harassment, the number of incidents, and the students' safety concerns demonstrate that there was a racially hostile environment that interfered with the students' ability to participate in the school's education programs and activities.

Had the school recognized that a racially hostile environment had been created, it would have realized that it needed to do more than just discipline the few individuals whom it could identify as having been involved. By failing to acknowledge the racially hostile environment, the school failed to meet its obligation to implement a more systemic response to address the unique effect that the misconduct had on the school climate. A more effective response would have included, in addition to punishing the perpetrators, such steps as reaffirming the school's policy against discrimination (including racial harassment), publicizing the means to report allegations of racial harassment, training faculty on constructive responses to racial conflict, hosting class discussions about racial harassment and sensitivity to students of other races, and conducting outreach to involve parents and students in an effort to identify problems and improve the school climate. Finally, had school officials responded appropriately

¹² Each of these hypothetical examples contains elements taken from actual cases.

and aggressively to the racial harassment when they first became aware of it, the school might have prevented the escalation of violence that occurred.¹³

• *Over the course of a school year, school employees at a junior high school received reports of several incidents of anti-Semitic conduct at the school. Anti-Semitic graffiti, including swastikas, was scrawled on the stalls of the school bathroom. When custodians discovered the graffiti and reported it to school administrators, the administrators ordered the graffiti removed but took no further action. At the same school, a teacher caught two ninth-graders trying to force two seventh-graders to give them money. The ninth-graders told the seventh-graders, “You Jews have all of the money, give us some.” When school administrators investigated the incident, they determined that the seventh-graders were not actually Jewish. The school suspended the perpetrators for a week because of the serious nature of their misconduct. After that incident, younger Jewish students started avoiding the school library and computer lab because they were located in the corridor housing the lockers of the ninth-graders. At the same school, a group of eighth-grade students repeatedly called a Jewish student “Drew the dirty Jew.” The responsible eighth-graders were reprimanded for teasing the Jewish student.*

The school administrators failed to recognize that anti-Semitic harassment can trigger responsibilities under Title VI. While Title VI does not cover discrimination based solely on religion,¹⁴ groups that face discrimination on the basis of actual or perceived shared ancestry or ethnic characteristics may not be denied protection under Title VI on the ground that they also share a common faith. These principles apply not just to Jewish students, but also to students from any discrete religious group that shares, or is perceived to share, ancestry or ethnic characteristics (e.g., Muslims or Sikhs). Thus, harassment against students who are members of any religious group triggers a school’s Title VI responsibilities when the harassment is based on the group’s actual or perceived shared ancestry or ethnic characteristics, rather than solely on its members’ religious practices. A school also has responsibilities under Title VI when its students are harassed based on their actual or perceived citizenship or residency in a country whose residents share a dominant religion or a distinct religious identity.¹⁵

In this example, school administrators should have recognized that the harassment was based on the students’ actual or perceived shared ancestry or ethnic identity as Jews (rather than on the students’ religious practices). The school was not relieved of its responsibilities under Title VI because the targets of one of the incidents were not actually Jewish. The harassment was still based on the perceived ancestry or ethnic characteristics of the targeted students. Furthermore, the harassment negatively affected the ability and willingness of Jewish students to participate fully in the school’s

¹³ More information about the applicable legal standards and OCR’s approach to investigating allegations of harassment on the basis of race, color, or national origin is included in *Racial Incidents and Harassment Against Students at Educational Institutions: Investigative Guidance*, 59 Fed. Reg. 11,448 (Mar. 10, 1994), available at <http://www.ed.gov/about/offices/list/ocr/docs/race394.html>.

¹⁴ As noted in footnote seven, DOJ has the authority to remedy discrimination based solely on religion under Title IV.

¹⁵ More information about the applicable legal standards and OCR’s approach to investigating complaints of discrimination against members of religious groups is included in OCR’s Dear Colleague Letter: Title VI and Title IX Religious Discrimination in Schools and Colleges (Sept. 13, 2004), available at <http://www2.ed.gov/about/offices/list/ocr/religious-rights2004.html>.

education programs and activities (e.g., by causing some Jewish students to avoid the library and computer lab). Therefore, although the discipline that the school imposed on the perpetrators was an important part of the school's response, discipline alone was likely insufficient to remedy a hostile environment. Similarly, removing the graffiti, while a necessary and important step, did not fully satisfy the school's responsibilities. As discussed above, misconduct that is not directed at a particular student, like the graffiti in the bathroom, can still constitute discriminatory harassment and foster a hostile environment. Finally, the fact that school officials considered one of the incidents "teasing" is irrelevant for determining whether it contributed to a hostile environment.

Because the school failed to recognize that the incidents created a hostile environment, it addressed each only in isolation, and therefore failed to take prompt and effective steps reasonably calculated to end the harassment and prevent its recurrence. In addition to disciplining the perpetrators, remedial steps could have included counseling the perpetrators about the hurtful effect of their conduct, publicly labeling the incidents as anti-Semitic, reaffirming the school's policy against discrimination, and publicizing the means by which students may report harassment. Providing teachers with training to recognize and address anti-Semitic incidents also would have increased the effectiveness of the school's response. The school could also have created an age-appropriate program to educate its students about the history and dangers of anti-Semitism, and could have conducted outreach to involve parents and community groups in preventing future anti-Semitic harassment.

Title IX: Sexual Harassment

Shortly after enrolling at a new high school, a female student had a brief romance with another student. After the couple broke up, other male and female students began routinely calling the new student sexually charged names, spreading rumors about her sexual behavior, and sending her threatening text messages and e-mails. One of the student's teachers and an athletic coach witnessed the name calling and heard the rumors, but identified it as "hazing" that new students often experience. They also noticed the new student's anxiety and declining class participation. The school attempted to resolve the situation by requiring the student to work the problem out directly with her harassers.

Sexual harassment is unwelcome conduct of a sexual nature, which can include unwelcome sexual advances, requests for sexual favors, or other verbal, nonverbal, or physical conduct of a sexual nature. Thus, sexual harassment prohibited by Title IX can include conduct such as touching of a sexual nature; making sexual comments, jokes, or gestures; writing graffiti or displaying or distributing sexually explicit drawings, pictures, or written materials; calling students sexually charged names; spreading sexual rumors; rating students on sexual activity or performance; or circulating, showing, or creating e-mails or Web sites of a sexual nature.

In this example, the school employees failed to recognize that the “hazing” constituted sexual harassment. The school did not comply with its Title IX obligations when it failed to investigate or remedy the sexual harassment. The conduct was clearly unwelcome, sexual (*e.g.*, sexual rumors and name calling), and sufficiently serious that it limited the student’s ability to participate in and benefit from the school’s education program (*e.g.*, anxiety and declining class participation).

The school should have trained its employees on the type of misconduct that constitutes sexual harassment. The school also should have made clear to its employees that they could not require the student to confront her harassers. Schools may use informal mechanisms for addressing harassment, but only if the parties agree to do so on a voluntary basis. Had the school addressed the harassment consistent with Title IX, the school would have, for example, conducted a thorough investigation and taken interim measures to separate the student from the accused harassers. An effective response also might have included training students and employees on the school’s policies related to harassment, instituting new procedures by which employees should report allegations of harassment, and more widely distributing the contact information for the district’s Title IX coordinator. The school also might have offered the targeted student tutoring, other academic assistance, or counseling as necessary to remedy the effects of the harassment.¹⁶

Title IX: Gender-Based Harassment

Over the course of a school year, a gay high school student was called names (including anti-gay slurs and sexual comments) both to his face and on social networking sites, physically assaulted, threatened, and ridiculed because he did not conform to stereotypical notions of how teenage boys are expected to act and appear (e.g., effeminate mannerisms, nontraditional choice of extracurricular activities, apparel, and personal grooming choices). As a result, the student dropped out of the drama club to avoid further harassment. Based on the student’s self-identification as gay and the homophobic nature of some of the harassment, the school did not recognize that the misconduct included discrimination covered by Title IX. The school responded to complaints from the student by reprimanding the perpetrators consistent with its anti-bullying policy. The reprimands of the identified perpetrators stopped the harassment by those individuals. It did not, however, stop others from undertaking similar harassment of the student.

As noted in the example, the school failed to recognize the pattern of misconduct as a form of sex discrimination under Title IX. Title IX prohibits harassment of both male and female students regardless of the sex of the harasser—*i.e.*, even if the harasser and target are members of the same sex. It also prohibits gender-based harassment, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping. Thus, it can be sex discrimination if students are harassed either for exhibiting what is perceived as a stereotypical characteristic for their

¹⁶ More information about the applicable legal standards and OCR’s approach to investigating allegations of sexual harassment is included in OCR’s *Sexual Harassment Guidance*, available at <http://www.ed.gov/about/offices/list/ocr/docs/shguide.html>.

sex, or for failing to conform to stereotypical notions of masculinity and femininity. Title IX also prohibits sexual harassment and gender-based harassment of all students, regardless of the actual or perceived sexual orientation or gender identity of the harasser or target.

Although Title IX does not prohibit discrimination based solely on sexual orientation, Title IX does protect all students, including lesbian, gay, bisexual, and transgender (LGBT) students, from sex discrimination. When students are subjected to harassment on the basis of their LGBT status, they may also, as this example illustrates, be subjected to forms of sex discrimination prohibited under Title IX. The fact that the harassment includes anti-LGBT comments or is partly based on the target's actual or perceived sexual orientation does not relieve a school of its obligation under Title IX to investigate and remedy overlapping sexual harassment or gender-based harassment. In this example, the harassing conduct was based in part on the student's failure to act as some of his peers believed a boy should act. The harassment created a hostile environment that limited the student's ability to participate in the school's education program (*e.g.*, access to the drama club). Finally, even though the student did not identify the harassment as sex discrimination, the school should have recognized that the student had been subjected to gender-based harassment covered by Title IX.

In this example, the school had an obligation to take immediate and effective action to eliminate the hostile environment. By responding to individual incidents of misconduct on an *ad hoc* basis only, the school failed to confront and prevent a hostile environment from continuing. Had the school recognized the conduct as a form of sex discrimination, it could have employed the full range of sanctions (including progressive discipline) and remedies designed to eliminate the hostile environment. For example, this approach would have included a more comprehensive response to the situation that involved notice to the student's teachers so that they could ensure the student was not subjected to any further harassment, more aggressive monitoring by staff of the places where harassment occurred, increased training on the scope of the school's harassment and discrimination policies, notice to the target and harassers of available counseling services and resources, and educating the entire school community on civil rights and expectations of tolerance, specifically as they apply to gender stereotypes. The school also should have taken steps to clearly communicate the message that the school does not tolerate harassment and will be responsive to any information about such conduct.¹⁷

Section 504 and Title II: Disability Harassment

- *Several classmates repeatedly called a student with a learning disability "stupid," "idiot," and "retard" while in school and on the school bus. On one occasion, these students tackled him, hit him with a school binder, and threw his personal items into the garbage. The student complained to his teachers and guidance counselor that he was continually being taunted and teased. School officials offered him counseling services and a*

¹⁷ Guidance on gender-based harassment is also included in OCR's *Sexual Harassment Guidance*, available at <http://www.ed.gov/about/offices/list/ocr/docs/shguide.html>.

psychiatric evaluation, but did not discipline the offending students. As a result, the harassment continued. The student, who had been performing well academically, became angry, frustrated, and depressed, and often refused to go to school to avoid the harassment.

In this example, the school failed to recognize the misconduct as disability harassment under Section 504 and Title II. The harassing conduct included behavior based on the student's disability, and limited the student's ability to benefit fully from the school's education program (e.g., absenteeism). In failing to investigate and remedy the misconduct, the school did not comply with its obligations under Section 504 and Title II.

Counseling may be a helpful component of a remedy for harassment. In this example, however, since the school failed to recognize the behavior as disability harassment, the school did not adopt a comprehensive approach to eliminating the hostile environment. Such steps should have at least included disciplinary action against the harassers, consultation with the district's Section 504/Title II coordinator to ensure a comprehensive and effective response, special training for staff on recognizing and effectively responding to harassment of students with disabilities, and monitoring to ensure that the harassment did not resume.¹⁸

I encourage you to reevaluate the policies and practices your school uses to address bullying¹⁹ and harassment to ensure that they comply with the mandates of the federal civil rights laws. For your convenience, the following is a list of online resources that further discuss the obligations of districts to respond to harassment prohibited under the federal antidiscrimination laws enforced by OCR:

Sexual Harassment: It's Not Academic (Revised 2008):
<http://www.ed.gov/about/offices/list/ocr/docs/ocrshpam.html>

Dear Colleague Letter: Sexual Harassment Issues (2006):
<http://www2.ed.gov/about/offices/list/ocr/letters/sexhar-2006.html>

Dear Colleague Letter: Religious Discrimination (2004):
<http://www2.ed.gov/about/offices/list/ocr/religious-rights2004.html>

Dear Colleague Letter: First Amendment (2003):
<http://www.ed.gov/about/offices/list/ocr/firstamend.html>

¹⁸ More information about the applicable legal standards and OCR's approach to investigating allegations of disability harassment is included in OCR's Dear Colleague Letter: Prohibited Disability Harassment (July 25, 2000), available at <http://www2.ed.gov/about/offices/list/ocr/docs/disabharassltr.html>.

¹⁹ For resources on preventing and addressing bullying, please visit <http://www.bullyinginfo.org>, a Web site established by a federal Interagency Working Group on Youth Programs. For information on the Department's bullying prevention resources, please visit the Office of Safe and Drug-Free Schools' Web site at <http://www.ed.gov/offices/OESE/SDFS>. For information on regional Equity Assistance Centers that assist schools in developing and implementing policies and practices to address issues regarding race, sex, or national origin discrimination, please visit <http://www.ed.gov/programs/equitycenters>.

Sexual Harassment Guidance (Revised 2001):
<http://www.ed.gov/about/offices/list/ocr/docs/shguide.html>

Dear Colleague Letter: Prohibited Disability Harassment (2000):
<http://www.ed.gov/about/offices/list/ocr/docs/disabharassltr.html>

Racial Incidents and Harassment Against Students (1994):
<http://www.ed.gov/about/offices/list/ocr/docs/race394.html>

Please also note that OCR has added new data items to be collected through its Civil Rights Data Collection (CRDC), which surveys school districts in a variety of areas related to civil rights in education. The CRDC now requires districts to collect and report information on allegations of harassment, policies regarding harassment, and discipline imposed for harassment. In 2009-10, the CRDC covered nearly 7,000 school districts, including all districts with more than 3,000 students. For more information about the CRDC data items, please visit <http://www2.ed.gov/about/offices/list/ocr/whatsnew.html>.

OCR is committed to working with schools, students, students' families, community and advocacy organizations, and other interested parties to ensure that students are not subjected to harassment. Please do not hesitate to contact OCR if we can provide assistance in your efforts to address harassment or if you have other civil rights concerns.

For the OCR regional office serving your state, please visit:

<http://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm>, or call OCR's Customer Service Team at 1-800-421-3481.

I look forward to continuing our work together to ensure equal access to education, and to promote safe and respectful school climates for America's students.

Sincerely,

/s/

Russlynn Ali

Assistant Secretary for Civil Rights

BULLYING PREVENTION AND INTERVENTION INCIDENT REPORTING FORM

1. Name of Reporter/Person Filing the Report: _____

(Note: Reports may be made anonymously, but no disciplinary action will be taken against an alleged aggressor solely on the basis of an anonymous report.)

2. Check whether you are the: Target of the behavior Reporter (not the target)

3. Check whether you are a: Student Staff member (specify role) _____
 Parent Administrator Other _____

Your contact information/telephone number: _____

4. If student, state your school: _____ **Grade:** _____

5. If staff member, state your school or work site: _____

6. Information about the Incident:

Name of Target (of behavior): _____

Name of Aggressor (Person who engaged in the behavior): _____

Date(s) of Incident(s): _____

Time When Incident(s) Occurred: _____

Location of Incident(s) (Be as specific as possible): _____

7. Witnesses (List people who saw the incident or have information about it):

Name: _____ Student Staff Other _____

Name: _____ Student Staff Other _____

8. Describe the details of the incident (including names of people involved, what occurred, and what each person did and said, including specific words used). Please use additional space on back if necessary.

9. Signature of Person Filing this Report: _____ **Date:** _____

(Note: Reports may be filed anonymously.)

10: Form Given to: _____ **Position:** _____ **Date:** _____

FOR ADMINISTRATIVE USE ONLY

II. INVESTIGATION

1. Investigator(s): _____ Position(s): _____
2. Interviews:
- Interviewed aggressor Name: _____ Date: _____
- Interviewed target Name: _____ Date: _____
- Interviewed witnesses Name: _____ Date: _____
Name: _____ Date: _____
3. Any prior documented incidents by the aggressor? Yes No
If yes, have incidents involved target or target group previously? Yes No
Any previous incidents with findings of BULLYING, RETALIATION Yes No

Summary of Investigation:

(Please use additional paper and attach to this document as needed)

III. CONCLUSIONS FROM THE INVESTIGATION

1. Finding of bullying or retaliation:

- YES NO
- Bullying Incident documented as _____
- Retaliation Discipline referral only _____

2. Contacts:

- Target's parent/guardian Date: _____ Aggressor's parent/guardian Date: _____
- District Equity Coordinator Date: _____ Law Enforcement Date: _____

3. Action Taken:

- Loss of Privileges Detention Suspension
- Community Service Education Other _____

Describe Safety Planning: _____

Follow-up with Target: scheduled for _____ Initial and date when completed: _____

Follow-up with Aggressor: scheduled for _____ Initial and date when completed: _____

Report forwarded to Principal: Date _____

Report forwarded to Superintendent: Date _____

Signature and Title: _____ Date: _____

Elementary Level Response Procedures Chart

Action Areas	1 st Offense	2 nd Offense	3 rd Offense
Skill-Building	<ul style="list-style-type: none"> - Individualized skill-building sessions with counselor, psychologist or principal. -Phone call home to parents or guardian to engage parental support and to reinforce the anti-bullying curricula 	<ul style="list-style-type: none"> -Individualized skill-building sessions - Meeting with parent or guardian to engage parental support and to reinforce the anti-bullying curricula -Work with a Peer Leader 	<ul style="list-style-type: none"> -Develop Plan
Disciplinary Action	<ul style="list-style-type: none"> -1 quiet lunch/recess - 	<ul style="list-style-type: none"> -2 quiet lunches/recesses - 	<ul style="list-style-type: none"> - 3 quiet lunches/recesses -
Safety for Target and Others	<ul style="list-style-type: none"> -Increased adult supervision in trouble spots 	<ul style="list-style-type: none"> -Increased adult supervision in trouble spots -Ensure students are seated apart in classroom and lunchroom 	<ul style="list-style-type: none"> -Increased adult supervision in trouble spots -