

SAU 24

PUPIL SAFETY AND VIOLENCE PREVENTION – BULLYING

See also JBAA, JIC, JICD, IHBA

I. Definitions (RSA 193-F:3)

1. Bullying. Bullying means a single significant incident or a pattern of incidents involving a written, verbal, or electronic communication, or a physical act or gesture, or any combination thereof, directed at another pupil which:

- (1) Physically harms a pupil or damages the pupil's property;
- (2) Causes emotional distress to a pupil;
- (3) Interferes with a pupil's educational opportunities;
- (4) Creates a hostile educational environment; or
- (5) Substantially disrupts the orderly operation of the school.

Bullying shall also include actions motivated by an imbalance of power based on a pupil's actual or perceived personal characteristics, behaviors, or beliefs, or motivated by the pupil's association with another person and based on the other person's characteristics, behaviors, or beliefs.

2. Cyberbullying. Cyberbullying means any conduct defined as "bullying" in this policy that is undertaken through the use of electronic devices. For purposes of this policy, any references to the term bullying shall include cyberbullying.

3. Electronic Devices. Electronic devices include, but are not limited to, telephones, cellular phones, computers, pagers, electronic mail, instant messaging, text messaging, and websites.

4. Electronic Communication. Electronic Communication includes, but is not limited to, electronic mail messages; instant messages; text messages; electronically transmitted image or audio files; internet postings made to websites, including social media sites and blogs; and postings made to intranet sites or blogs.

5. School Property. School property means all real property and all physical plant and equipment used for school purposes, including public or private school buses or vans.

6. Perpetrator. Perpetrator means a pupil who engages in bullying or cyberbullying.

7. Victim. Victim means a pupil against whom bullying or cyberbullying has been perpetrated.

8. Parent. Parent means parent or legal guardian.

9. Designated Volunteer. Designated Volunteer means any volunteer who comes in direct contact with pupils on a regularly scheduled basis, or meets with pupils one-on-one, or any other volunteer so designated by the Board or Principal (or his/her designee).

II. Statement Prohibiting Bullying of a Pupil (RSA 193-F:4, II(a))

The Board is committed to providing all pupils a safe and secure school environment. This policy is intended to comply with RSA 193-F. Conduct constituting bullying will not be tolerated and is hereby prohibited.

Further, in accordance with RSA 193-F:4, the District reserves the right to address bullying and, if necessary, impose discipline for bullying that:

- (1) Occurs on, or is delivered to, school property or a school-sponsored activity or event on or off school property; or
- (2) Occurs off of school property or outside of a school-sponsored activity or event, if the conduct interferes with a pupil's educational opportunities or substantially disrupts the orderly operations of the school or school-sponsored activity or event.

The Superintendent of Schools is responsible for ensuring that this policy is implemented.

III. Statement prohibiting retaliation or false accusations (RSA 193-F:4, II(b))

False Reporting

A pupil found to have wrongfully and intentionally accused another of bullying may face discipline or other consequences, ranging from positive behavioral interventions up to and including suspension or expulsion.

Reprisal or Retaliation

The District will discipline and take appropriate action against any pupil who retaliates against any person who makes a good faith report of alleged bullying or against any person who testifies, assists, or participates in a proceeding or hearing relating to such bullying.

1. The consequences and appropriate remedial action for a pupil who engages in reprisal or retaliation shall be determined by the Principal after consideration of the nature, severity and circumstances of the act, in accordance with law, Board policies and any applicable collective bargaining agreements.
2. Any pupil found to have engaged in reprisal or retaliation in violation of this policy shall be subject to measures up to, and including, suspension and expulsion.

Process To Protect Pupils From Retaliation

If the alleged victim or any witness expresses to the Principal or other staff member that he/she believes he/she may be retaliated against, the Principal shall develop a process or plan to protect that pupil from possible retaliation.

Each process or plan may be developed on a case-by-case basis. Suggestions include, but are not limited to, re-arranging pupil class schedules to minimize their contact, stern warnings to alleged perpetrators, temporary removal of privileges, or other means necessary to protect against possible retaliation.

IV. Protection of all Pupils (RSA 193-F:4, II(c))

This policy shall apply to all pupils and school-aged persons on school district grounds and participating in school district functions, regardless of whether such pupil or school-aged person is a pupil within the District.

V. Disciplinary Consequences For Violations of This Policy (RSA 193-F:4, II(d))

The district shall impose disciplinary measures against any pupil who commits an act of bullying, falsely accuses another pupil of bullying, or who retaliates against any pupil or witness who provides information about an act of bullying.

In addition to imposing discipline under such circumstances, the Board directs the administration and

school district staff to develop and implement alternatives to traditional discipline, including, but not limited to, early intervention measures, alternative dispute resolution, conflict resolution and other similar measures.

VI. Distribution and Notice of This Policy (RSA 193-F:4, II(e))

Staff and Volunteers

All staff will be provided with a copy of this policy. The Superintendent may determine the method of providing the policy (employee handbook, hard copy, website posting, etc.)

The Superintendent will ensure that all school employees and volunteers receive annual training on bullying and related district's policies.

Pupils

All pupils will be provided with a copy of this policy annually. The Superintendent may determine the method of providing the policy (pupil handbook, mailing, hard copy, website posting, etc.)

Pupils will participate in an annual education program which sets out expectations for pupil behavior and emphasizes an understanding of harassment, intimidation, and bullying of pupils, the District's prohibition of such conduct and the reasons why the conduct is destructive, unacceptable, and will lead to discipline. Pupils shall also be informed of the consequences of bullying conduct toward their peers.

The Superintendent, in consultation with staff, may incorporate pupil anti-bullying training and education into the district's curriculum.

Parents

All parents will be provided with a copy of this policy annually. The Superintendent may determine the method of providing the policy (parent handbook, mailing, website posting, etc.). Parents will be informed of the program and the means for pupils to report bullying acts toward them or other pupils. They will also be told that to help prevent bullying at school they should encourage their children to:

1. Report bullying when it occurs;
2. Take advantage of opportunities to talk to their children about bullying;
3. Inform the school immediately if they think their child is being bullied or is bullying other pupils;
4. Cooperate fully with school personnel in identifying and resolving incidents.

Additional Notice and School District Programs

The Board may, from time to time, host or schedule public forums in which it will address the anti-bullying policy, discuss bullying in the schools, and consult with a variety of individuals including teachers, administrators, guidance counselors, school psychologists and other interested persons.

VII. Procedure for Reporting Bullying (RSA 193-F:4, II(f))

At each school, the Principal or designee shall be responsible for receiving complaints of alleged violations of this policy.

Pupil Reporting

1. Any pupil who believes he or she has been the victim of bullying should report the alleged acts

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immediately to the Principal or the designee. If the pupil is more comfortable reporting the alleged act to a person other than the Principal or the designee, the pupil may tell any school district employee or volunteer about the alleged bullying.

2. Any school employee or designated volunteer who witnesses, receives a report of, or has knowledge or belief that bullying may have occurred shall inform the Principal or designee as soon as possible, but no later than the end of that school day.

3. Upon receipt of a report of bullying, the Principal shall commence an investigation consistent with the provisions of Section XI of this policy.

Staff Reporting

1. An important duty of the staff is to report acts or behaviors they witness that appear to constitute bullying.

2. Any school employee or volunteer who witnesses, receives a report of, or has knowledge or belief that bullying may have occurred shall inform the Principal or designee as soon as possible, but no later than the end of that school day.

3. Upon receipt of a report of bullying, the Principal or designee shall commence an investigation consistent with the provisions of Section XI of this policy.

VIII. Procedure for Reporting Requirements (RSA 193-F:4, II(g))

A) External Reports

In order to satisfy the reporting requirements of RSA 193-F:6, the Principal or designee shall be responsible for completing all New Hampshire Department of Education forms and reporting documents of substantiated incidents of bullying.

B) Internal Reporting

The Principal or designee shall report any substantiated bullying incident to the Superintendent in writing. The Principal or designee shall retain a copy of the report.. The Superintendent shall maintain such reports in a safe and secure location.

IX. Notifying Parents of Alleged Bullying (RSA 193-F:4, II(h))

The Principal shall report to the parents of a pupil who has been reported as a victim of bullying and to the parents of a pupil who has been reported as a perpetrator of bullying within 48 hours of receiving the report. Such notification may be made by telephone, writing or personal conference. The date, time, method, and location (if applicable) of such notification and communication shall be noted in the report. All notifications shall be consistent with the pupil privacy rights under the applicable provisions of the Family Educational Rights and Privacy Act of 1974 (FERPA).

X. Waiver of Notification Requirement (RSA 193-F:4, II(i))

The Superintendent may, within a 48 hour time period, grant the Principal a waiver from the requirement that the parents of the alleged victim and the alleged perpetrator be notified of the filing of a report. A waiver may only be granted if the Superintendent deems such a waiver to be in the best interest of the victim or perpetrator. Any waiver granted shall be in writing.

XI. Investigative Procedures (RSA 193-F:4, II(j))

1. Upon receipt of a report of bullying, the Principal shall, within 5 school days, initiate an investigation into the alleged act.

2. The Principal shall complete the investigation within 10 school days of receiving the initial report. If the Principal needs more than 10 school days to complete the investigation, the Superintendent may grant an extension of up to 7 school days. In the event such extension is granted, the Principal shall notify in writing all parties involved of the granting of the extension.

XII. Response to Remediate Substantiated Instances of Bullying (RSA 193-F:4, II(k))

The principal or designee shall develop a response to remediate any substantiated incident of bullying, including imposing discipline, if appropriate, to reduce the risk of future incidents and, where deemed appropriate, to offer assistance to the victim or perpetrator. When indicated the principal or designee shall recommend a strategy for protecting all pupils from retaliation of any kind.

Consequences and appropriate remedial actions for a pupil who commits one or more acts of bullying or retaliation may range from positive behavioral interventions up to and including suspension or expulsion

XIII. Reporting of Substantiated Incidents to the Superintendent (RSA 193-F:4, II(l))

The Principal shall forward all substantiated reports of bullying to the Superintendent upon completion of the Principal's investigation.

XIV. Communication With Parents Upon Completion of Investigation (RSA 193-F:4, II(m))

1. Within two school days of completing an investigation, the Principal will notify the pupils involved in person of his/her findings and the result of the investigation.
2. Within two school days of completing an investigation, the Principal will notify the parents of the alleged victim and alleged perpetrator via telephone or email of the results of the investigation. The Principal will also send a follow-up letter to the parents within 48 hours of notifying them of the results of the investigation.
3. In accordance with the Family Educational Rights and Privacy Act and other law concerning pupil privacy, the District will not disclose educational records of pupils including the discipline and remedial action assigned to those pupils and the parents of other pupils involved in a bullying incident.

XV. Appeal

For non-disciplinary remedial actions where no other review procedures govern, the parents of the pupils involved in the alleged bullying shall have the right to appeal the Principal's decision to the Superintendent in writing within five (5) school days. The Superintendent shall review the Principal's decision and issue a written decision within ten (10) school days. If the appellant party is still not satisfied with the outcome, the appellant party may file a written request for review by the School Board within ten (10) school days of the Superintendent's decision. The School Board will adhere to all applicable New Hampshire Department of Education administrative rules.

XVI. School Officials (RSA 193-F:4, II(n))

The Superintendent of Schools is responsible for ensuring that this policy is implemented.

Legal References:

RSA 193-F:3, Pupil Safety and Violence Prevention Act
RSA 570-A:2, Capture of Audio Recordings on School Buses Allowed
NH Code of Administrative Rules, Section Ed 306.04(a)(8), Pupil Harassment
RSA 193:13, Ed. 317

CHAPTER 155
HB 1523 – FINAL VERSION

11Mar2010... 0764h

05/12/10 1861s

2010 SESSION

10-2094

04/05

HOUSE BILL ***1523***

AN ACT revising the pupil safety and violence prevention act.

SPONSORS: Rep. Schlachman, Rock 13; Rep. Judith Day, Rock 13; Rep. Spaulding, Hills 18; Rep. Stiles, Rock 15; Rep. P. Price, Hills 26; Sen. Hassan, Dist 23; Sen. Kelly, Dist 10

COMMITTEE: Education

ANALYSIS

This bill revises the statute on pupil safety and violence prevention to include harassment, intimidation, bullying, and cyberbullying.

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears ~~[in brackets and struck through.]~~

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

11Mar2010... 0764h

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10-2094

04/05

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Ten

AN ACT revising the pupil safety and violence prevention act.

Be it Enacted by the Senate and House of Representatives in General Court convened:

155:1 Pupil Safety and Violence Prevention; Purpose. RSA 193-F:2 is repealed and reenacted to read as follows:

193-F:2 Purpose and Intent.

I. All pupils have the right to attend public schools, including chartered public schools, that are safe, secure, and peaceful environments. One of the legislature's highest priorities is to protect our children from physical, emotional, and psychological violence by addressing the harm caused by bullying and cyberbullying in our public schools.

II. Bullying in schools has historically included actions shown to be motivated by a pupil's actual or perceived race, color, religion, national origin, ancestry or ethnicity, sexual orientation, socioeconomic status, age, physical, mental, emotional, or learning disability, gender, gender identity and expression, obesity, or other distinguishing personal characteristics, or based on association with any person identified in any of the above categories.

III. It is the intent of the legislature to protect our children from physical, emotional, and psychological violence by addressing bullying and cyberbullying of any kind in our public schools, for all of the historical reasons set forth in this section, and to prevent the creation of a hostile educational environment.

IV. The sole purpose of this chapter is to protect all children from bullying and cyberbullying, and no other legislative purpose is intended, nor should any other intent be construed from the enactment of this chapter.

155:2 Pupil Safety and Violence Prevention; Definitions. RSA 193-F:3 through RSA 193-F:5 are repealed and reenacted to read as follows:

193-F:3 Definitions. In this chapter:

I.(a) "Bullying" means a single significant incident or a pattern of incidents involving a written, verbal, or electronic communication, or a physical act or gesture, or any combination thereof, directed at another pupil which:

- (1) Physically harms a pupil or damages the pupil's property;
- (2) Causes emotional distress to a pupil;
- (3) Interferes with a pupil's educational opportunities;
- (4) Creates a hostile educational environment; or
- (5) Substantially disrupts the orderly operation of the school.

(b) "Bullying" shall include actions motivated by an imbalance of power based on a pupil's actual or perceived personal characteristics, behaviors, or beliefs, or motivated by the pupil's association with another person and based on the other person's characteristics, behaviors, or beliefs.

II. "Cyberbullying" means conduct defined in paragraph I of this section undertaken through the use of electronic devices.

III. "Electronic devices" include, but are not limited to, telephones, cellular phones, computers, pagers, electronic mail, instant messaging, text messaging, and websites.

IV. "Perpetrator" means a pupil who engages in bullying or cyberbullying.

V. "School property" means all real property and all physical plant and equipment used for school purposes, including public or private school buses or vans.

VI. "Victim" means a pupil against whom bullying or cyberbullying has been perpetrated.

193-F:4 Pupil Safety and Violence Prevention.

I. Bullying or cyberbullying shall occur when an action or communication as defined in RSA 193-F:3:

- (a) Occurs on, or is delivered to, school property or a school-sponsored activity or event on or off school property; or

(b) Occurs off of school property or outside of a school-sponsored activity or event, if the conduct interferes with a pupil's educational opportunities or substantially disrupts the orderly operations of the school or school-sponsored activity or event.

II. The school board of each school district and the board of trustees of a chartered public school shall, no later than 6 months after the effective date of this section, adopt a written policy prohibiting bullying and cyberbullying. Such policy shall include the definitions set forth in RSA 193-F:3. The policy shall contain, at a minimum, the following components:

(a) A statement prohibiting bullying or cyberbullying of a pupil.

(b) A statement prohibiting retaliation or false accusations against a victim, witness, or anyone else who in good faith provides information about an act of bullying or cyberbullying and, at the time a report is made, a process for developing, as needed, a plan to protect pupils from retaliation.

(c) A requirement that all pupils are protected regardless of their status under the law.

(d) A statement that there shall be disciplinary consequences or interventions, or both, for a pupil who commits an act of bullying or cyberbullying, or falsely accuses another of the same as a means of retaliation or reprisal.

(e) A statement indicating how the policy shall be made known to school employees, regular school volunteers, pupils, parents, legal guardians, or employees of a company under contract to a school, school district, or chartered public school. Recommended methods of communication include, but are not limited to, handbooks, websites, newsletters, and workshops.

(f) A procedure for reporting bullying or cyberbullying that identifies all persons to whom a pupil or another person may report bullying or cyberbullying.

(g) A procedure outlining the internal reporting requirements within the school or school district or chartered public school.

(h) A procedure for notification, within 48 hours of the incident report, to the parent or parents or guardian of a victim of bullying or cyberbullying and the parent or parents or guardian of the perpetrator of the bullying or cyberbullying. The content of the notification shall comply with the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g.

(i) A provision that the superintendent or designee may, within the 48-hour period, grant the school principal or designee a waiver from the notification requirement if the superintendent or designee deems such waiver to be in the best interest of the victim or perpetrator. Any such waiver granted shall be in writing. Granting of a waiver shall not negate the school's responsibility to adhere to the remainder of its approved written policy.

(j) A written procedure for investigation of reports, to be initiated within 5 school days of the reported incident, identifying either the principal or the principal's designee as the person responsible for the investigation and the manner and time period in which the results of the investigation shall be documented. The superintendent or designee may grant in writing an extension of the time period for the investigation and documentation of reports for up to an additional 7 school days, if necessary. The superintendent or superintendent's designee shall notify in writing all parties involved of the granting of an extension.

(k) A requirement that the principal or designee develop a response to remediate any substantiated incident of bullying or cyberbullying, including imposing discipline if appropriate, to reduce the risk of future incidents and, where deemed appropriate, to offer assistance to the victim or perpetrator. When indicated, the principal or designee shall recommend a strategy for protecting all pupils from retaliation of any kind.

(l) A requirement that the principal or designee report all substantiated incidents of bullying or cyberbullying to the superintendent or designee.

(m) A written procedure for communication with the parent or parents or guardian of victims and perpetrators regarding the school's remedies and assistance, within the boundaries of applicable state and federal law. This communication shall occur within 10 school days of completion of the investigation.

(n) Identification, by job title, of school officials responsible for ensuring that the policy is implemented.

III. The department of education may develop a model policy in accordance with the requirements set forth in this chapter which may be used by schools, school districts, and chartered public schools as a basis for adopting a local policy.

IV. A school board or board of trustees of a chartered public school shall, to the greatest extent practicable, involve pupils, parents, administrators, school staff, school volunteers, community representatives, and local law enforcement agencies in the process of developing the policy. The policy shall be adopted by all public schools within the school district and, to the extent possible, the policy should be integrated with the school's curriculum, discipline policies, behavior programs, and other violence prevention efforts.

193-F:5 Training and Assessment.

I. Each school district and chartered public school shall provide:

(a) Training on policies adopted pursuant to this chapter, within 9 months of the effective date of this section and annually thereafter, for school employees, regular school volunteers, or employees of a company under contract to a school, school

district, or chartered public school who have significant contact with pupils for the purpose of preventing, identifying, responding to, and reporting incidents of bullying or cyberbullying; and

(b) Educational programs for pupils and parents in preventing, identifying, responding to, and reporting incidents of bullying or cyberbullying. Any such program for pupils shall be written and presented in age appropriate language.

II. The department of education shall provide evidence-based educational programs to support training as required under paragraph I.

III. Nothing in this chapter shall require the inclusion of any specific curriculum, textbook, or other material designed to prevent bullying or cyberbullying in any program or activity conducted by an educational institution. The omission of such subject matter from any curriculum, textbook, or other material in any program or activity conducted by an educational institution shall not constitute a violation of this chapter.

155:3 New Sections; Pupil Safety and Violence Prevention. Amend RSA 193-F by inserting after section 5 the following new sections:

193-F:6 Reporting.

I. Each school district and chartered public school shall annually report substantiated incidents of bullying or cyberbullying to the department of education. Pursuant to the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, such reports shall not contain any personally identifiable information pertaining to any pupil. The department shall develop a form to facilitate the reporting by school districts and chartered public schools. The department shall maintain records of such reports.

II. The department of education shall prepare an annual report of substantiated incidents of bullying or cyberbullying in the schools. The report shall include the number and types of such incidents in the schools and shall be submitted to the president of the senate, the speaker of the house of representatives, and the chairpersons of the house and senate education committees. The department of education shall assist school districts with recommendations for appropriate actions to address identified problems with pupil safety and violence prevention.

193-F:7 Immunity. A school administrative unit employee, school employee, chartered public school employee, regular school volunteer, pupil, parent, legal guardian, or employee of a company under contract to a school, school district, school administrative unit, or chartered public school, shall be immune from civil liability for good faith conduct arising from or pertaining to the reporting, investigation, findings, recommended response, or implementation of a recommended response under this chapter. The department of education shall be immune from civil liability for its good faith conduct in making

recommendations under this chapter.

193-F:8 School District Discrimination or Harassment Policies. A school district or chartered public school may establish separate discrimination or harassment policies that include categories of pupils, and nothing in this chapter shall prevent a school district or chartered public school from remediating any discrimination or harassment based on a person's membership in a legally protected category under local, state, or federal law.

193-F:9 Private Right of Action Not Permitted. Nothing in this chapter shall supersede or replace existing rights or remedies under any other general or special law, including criminal law, nor shall this chapter create a private right of action for enforcement of this chapter against any school district or chartered public school, or the state.

193-F:10 Public Academies. The provisions of this chapter shall apply to public academies as defined in RSA 194:23.

155:4 Wiretapping and Eavesdropping; Interception and Disclosure. Amend RSA 570-A:2, II(k)(1) to read as follows:

(k)(1) The owner or operator of a school bus, as defined in RSA 259:96, to make an audio recording in conjunction with a video recording of the interior of the school bus while students are being transported to and from school or school activities, provided that the school board authorizes audio recording, the school district provides notification of such recording to the parents and students as part of the district's pupil safety and violence prevention policy required under ~~[RSA 193-F:3, I(b)]~~ **RSA 193-F**, and there is a sign informing the occupants of such recording prominently displayed on the school bus.

155:5 New Section; Safe School Zones; Liability for Reporting. Amend RSA 193-D by inserting after section 8 the following new section:

193-D:9 Liability for Reporting. Any public or private school employee or employee of a company under contract to a school or school district who in good faith has made a report under RSA 193-D shall not be subject to liability for making the report.

155:6 Effective Date. This act shall take effect July 1, 2010.

Approved: June 15, 2010

Effective Date: July 1, 2010