*****Massachusetts Department of***

***Elementary and Secondary Education***

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| Jeffrey C. Riley*Commissioner* |  |

# MEMORANDUM

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| **To:** | Members of the Board of Elementary and Secondary Education |
| **From:**  | Jeffrey C. Riley, Commissioner |
| **Date:**  | August 10, 2022 |
| **Subject:** | Proposed Technical Amendment to Regulations on Notification of Bullying or Retaliation, 603 CMR 49.00 |

At the meeting of the Board of Elementary and Secondary Education (Board) on August 15, 2022, I will ask the Board to vote to solicit public comment on a proposed technical amendment to the Regulations on Notification of Bullying or Retaliation, 603 CMR 49.00. The proposed amendment would conform the regulatory definition of bullying to the statutory definition in Mass. General Laws Chapter 71, §37O, as amended by St. 2013, c. 38, sec. 72, and also make non-substantive changes in formatting and numbering.

With the Board’s approval, the Department of Elementary and Secondary Education (Department) will solicit public comment on the proposed amendment in accordance with the Administrative Procedure Act. After reviewing the comments and making any adjustments as needed, I expect to bring the proposed amendment back to the Board for final action in October 2022.

**Background**

Enacted in 2010 as An Act Relative to Bullying in Schools, G.L. c. 71, §37O defines and prohibits bullying, including cyberbullying, and requires schools to adopt and implement bullying prevention and intervention plans. The Department has [posted](https://www.doe.mass.edu/sfs/bullying/) resources about bullying prevention and intervention, and the Board has adopted regulations on notification of bullying or retaliation, as required by the statute.

Originally, the statute defined bullying as certain conduct committed by “one or more students.” In 2013, through St. 2013, c. 38, sec. 72, the Legislature expanded the definition of bullying to include certain conduct by “a member of a school staff including, but not limited to, an educator, administrator, school nurse, cafeteria worker, custodian, bus driver, athletic coach, advisor to an extracurricular activity or paraprofessional.” The proposed technical amendment to the regulations conforms the regulatory definition of bullying to the statutory definition. It also makes non-substantive changes in formatting and numbering.

The proposed amendment to 603 CMR 49.00 is attached, along with a motion to solicit public comment. Associate Commissioner Rachelle Engler Bennett will be at the Board meeting on August 15 to answer your questions.

**Enclosures:**

* Proposed Amendment to Notification of Bullying or Retaliation Regulations, 603 CMR 49.00 – strikethrough (redlined) version
* Proposed Amendment to Notification of Bullying or Retaliation Regulations, 603 CMR 49.00 – clean version
* Motion