*****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:**  | October 18, 2022 |
| **Subject:** | Proposed Technical Amendment to Regulations on Notification of Bullying or Retaliation, 603 CMR 49.00 |

On August 15, 2022, the Board of Elementary and Secondary Education (Board) voted to solicit public comment on a proposed technical amendment to 603 CMR 49.00. The proposed amendment conforms 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 makes non-substantive changes in formatting and numbering.

Having reviewed and considered the comments that were submitted, I recommend that the Board vote to adopt the technical amendment as presented.

**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.

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.

**Overview of Comments Received**

The public comment period closed on September 23, 2022. In total, the Department received three comments, all from parents. As set forth in the enclosed summary, one comment recommended that members of school district staff should be held accountable if they are found to be aggressors. One comment stated that the definition of bullying should apply to school staff and should include the use of electric shock and other violent aversives on students. The third comment stated that students who are attending school should be protected from bullying and harassment. These comments either support the proposed technical amendment or relate to issues outside the scope of these regulations. Consequently, I am recommending no changes to the proposed amendment as it was originally presented.

**Conclusion**

I recommend that the Board vote this month to adopt the technical amendment to the regulatory definition as well as the changes in formatting and numbering, as presented at the August meeting of the Board. At the October 25, 2022 Board meeting, Joshua Varon from the Department’s Legal Office will be present to respond to questions.

**Enclosures:**

* Summary of Public Comments Received and Department Response
* 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