

# Massachusetts Anti-bullying Law:

## IEP and Schoolwide Strategies to Prevent Bullying of Students with Disabilities

Bullying is an important concern for all children

Children with disabilities are  
**two to three times** more likely  
to be targets of bullying than  
nondisabled peers

# SOLUTIONS?

# MA Bullying Prevention and Intervention Law

**\*UPDATED 2014\***

What are some of basic requirements of anti-bullying law?

- ❖ Bullying (and retaliation) prohibited
- ❖ District-wide bullying and prevention plan
- ❖ Required reporting
- ❖ Informing families of target and aggressor
- ❖ Staff training/professional development
- ❖ Anti-bullying curriculum for all students by grade
- ❖ IEP protections for students with disabilities
- ❖ **Student survey**
- ❖ **Procedures for collecting, maintaining, and reporting data to DESE**

## MA Bullying Prevention and Intervention Law

### Annual report to DESE shall include:

- Number of reported allegations of bullying/retaliation
- Number and nature of substantiated bullying/retaliation incidents
- Number of students disciplined for bullying/retaliation
- Any other information required by DESE

# MA Bullying Prevention and Intervention Law

## DESE Responsibility

- Annual report to legislators and Attorney General
- Complaint management

# MA Bullying Prevention and Intervention Law

## Definition of Bullying

The repeated verbal, written, electronic expression , or physical act  
**by one or more students or by a member of a school staff**

1. Includes cyber bullying
  2. Causes physical or emotional harm or property damage
  3. Places target in reasonable fear of harm to self or property
  4. Creates a hostile environment at school for the target
  5. Infringes on the rights of the target at school
- OR
6. Materially and substantially disrupts the education process or the orderly operation of a school

MLG ch.71 sec 37O(a)



# MA Bullying Prevention and Intervention Law

## IMPORTANT:

Students can be vulnerable as targets and aggressors because of unique needs resulting from their disabilities.

# MA Bullying Prevention and Intervention Law

## **Bullying is Prohibited:**

- **At school**, immediately next to school, school bus, bus stop, school-sponsored or related activities, or through district technology
- **Any location**, or program, activity, or technology **if** the bullying:
  - Creates hostile environment at school for target
  - Infringes on rights of target at school

MLG ch.71 sec 37O(b)

# MA Bullying Prevention and Intervention Law

Massachusetts anti-bullying law has two major requirements for **students with disabilities**:

- 1) schoolwide response to prevent bullying of students with disabilities
- 2) IEPs to develop individual student's ability to avoid and respond to bullying

## Schoolwide Response

*Districts must develop a Bullying and Intervention*

*Plan* - shall apply to students and members of a school staff

Must consult with:

- ✓ Parents
- ✓ School teachers, staff
- ✓ Students
- ✓ Community representatives and law enforcement agencies

MLG ch.71 sec 37O(d)

# *Definition of Parent*

For special educational decision-making, parent shall mean:

- **Father**
- **Mother**
- **Legal guardian**
- **Person acting as a parent of the child**
- **Foster parent**
- **Educational surrogate parent** appointed in accordance with federal law.

603 CMR 28.02(15)

# Schoolwide Response

- The first district plans were submitted in December 2010
- Must be updated every 2 years
- On district website
- Written notice to parents and students yearly

# Schoolwide Response

All aspects of the schoolwide response must address the needs of students with disabilities necessary to prevent bullying

- Needs Assessment
- Training and Professional Development
- Anti-bullying Curriculum
- Student and parent reporting

# Schoolwide Response

## Needs Assessment

- Schools should conduct periodic needs assessment
  - Include students with disabilities, parents, special educators, and other experts in surveys, data collection, ongoing review and planning
  - Focus on “hot spots” (hallways, buses, lunch, recess, bathrooms, bus...)

DESE Model Bullying and Prevention Plan, 8/10. P. 1



# Schoolwide Response

## Training and Professional Development:

**Schools must train staff members to build skills to prevent, identify, and respond to bullying of students with disabilities.**

Educators

Administrators

School nurses

Cafeteria workers

Custodians

Bus drivers

Athletic coaches

Paraprofessionals

Advisors to extracurricular activities

MLG ch.71 sec 37O(d)

# Schoolwide Response Anti-Bullying Curriculum

- Age-appropriate instruction on bullying prevention for students with disabilities must be incorporated into the curriculum of every grade
- Parents must be informed about the bullying prevention curriculum:
  - how to reinforce at home and support the plan
  - dynamics of bullying
  - online safety and cyber-bullying

MLG ch.71 sec 37O(c),(e)

DESE Consideration in Addressing the Needs of Students with Disabilities in the IEP and in School Bullying Prevention and Intervention Efforts; hereafter “DESE Resource Guidance” , p. 9

Note: Involve parents, students, and special education staff to addresses needs of students with all types of disabilities, including emotional impact of curriculum.

# Schoolwide Response

## Reporting

School plan must develop accessible reporting procedures

- School staff are required reporters if witness or “become aware of” bullying or retaliation
- Procedures must include students and parents

MLG ch.71 sec 37O(g),(d)

# Schoolwide Response

- Investigate promptly
- Develop accessible reporting procedures
- “Balance the need for accountability with the need to teach appropriate behavior”
- Ensure students with disabilities understand what bullying is and know how to respond
- General education staff collaborate with IEP Teams when bullying occurs re: IEP considerations, including communication supports and accommodations
- Consult with IEP Team to consider role of student’s disability in the behavior before disciplining or reporting to police

MLG ch.71 sec 37O(d),(g), DESE *Resource Guidance, See Sections V, I, Whole School Considerations*

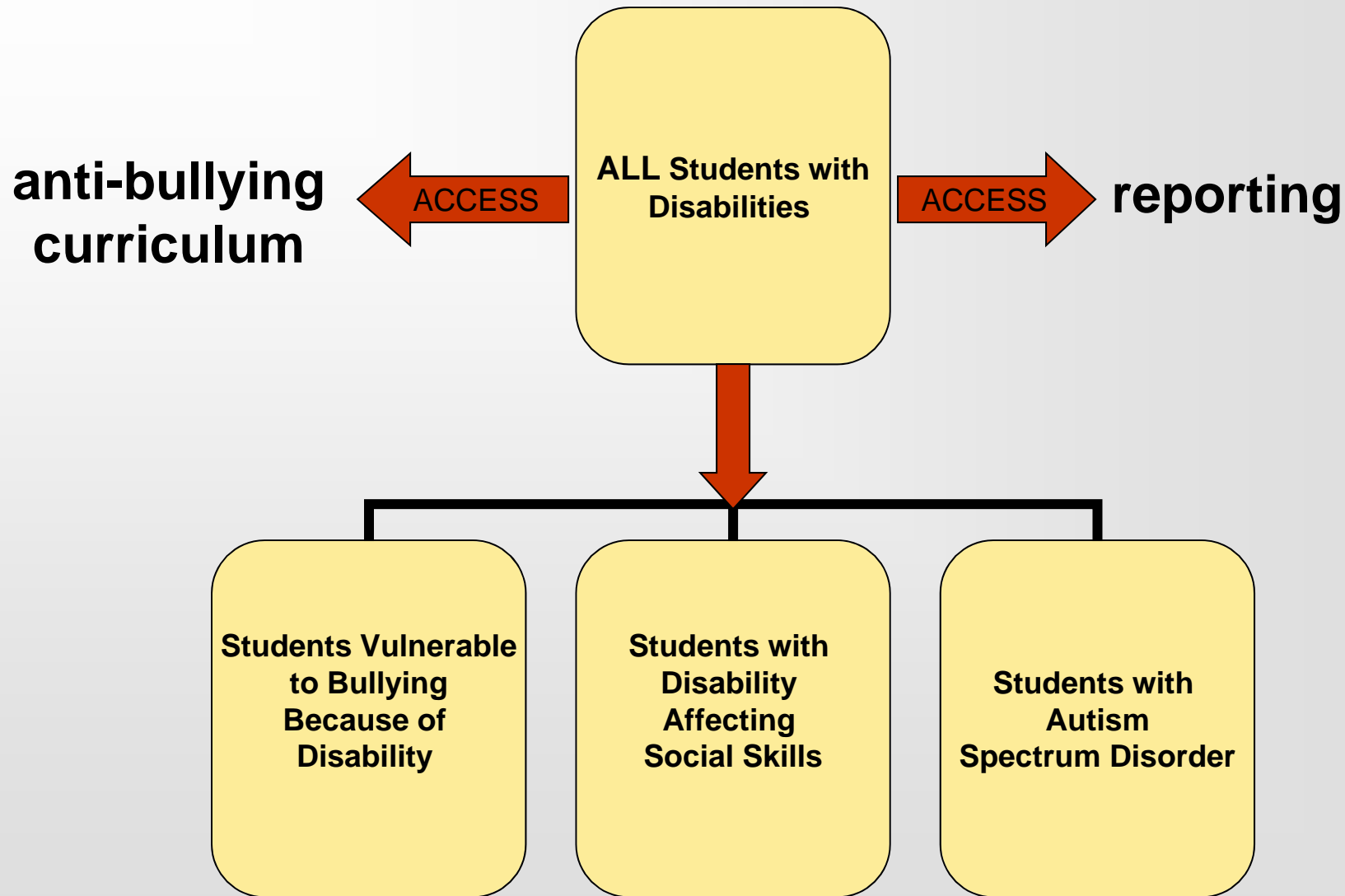
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# IEP Implications

All IEP Teams must address bullying

# Bullying: All IEP Teams



# Bullying: All IEP Teams Specific IEP Protections

Students  
Vulnerable  
to Bullying  
Because of  
Disability

Students with  
Disability  
Affecting  
Social Skills

Students  
with Autism  
Spectrum  
Disorder

**IEP DETERMINATION**

**IEP DETERMINATION**  
*Students likely have  
disability affecting  
social skills development with:  
developmental delays,  
emotional impairments,  
communication disorders,  
neurological and health  
impairments*

**IEP Protections  
Automatically  
Triggered**

# Implications for the IEP

For students in the previous three groups The IEP Team must address skills and proficiencies needed to avoid and respond to

Bullying

*or*

Harassment

*or*

Teasing

MGL CH 71 Bsec3



# Reconvening the IEP Team

District should convene IEP Team if you or a staff member believes your child is at risk of being bullied or is exhibiting bullying behavior due to disability

DESE Technical Assistance Advisory SPED 2011-2: Bullying Prevention and Intervention, p..2

# Implications for the IEP

## Evaluations and Re-evaluations

- Educational Assessment must assess social skills development:
  - social relations with peers and groups
  - communication skills
  - participation behaviors
  - attention skills
- All areas related to suspected disability including social and emotional status
- Psychological, Speech and Language, Functional Behavioral

603CMR sec.28.04(2)(a)(2)(ii); 34CFR sec.300.304(c)(4)

# Determining Impact of Disability on Bullying

## Questions to Assist at TEAM Meetings

- Does the student feel safe at school? If not, why not?
- Does the student have a clear understanding of what bullying is and is he or she able to identify bullying attempts?
- Does the student have sufficient self-advocacy skills to obtain help/know what to do if he/she is bullied?
- Does student engage in behavior that might make the student more vulnerable to bullying
- Does student engage in behavior that might be identified as bullying?
- Given the specific nature and extent of the student's disability, is the student able to conform to the school's code of conduct relative to bullying?
- What has been done to integrate the student into the social life of the school during the school day and during extracurricular activities?

# Developing the IEP

Address student needs related to bullying:

- i) Parent/student concerns/vision statement
- i) Present levels of Performance
- i) Measurable goals and short term objectives
- i) Accommodations
- i) Special Education and Related services (service delivery grid)
- i) Extracurricular and Nonacademic Activities
- i) Transportation

# CASE STUDY

## Considerations for IEP Teams

- School Leadership
- Training and Professional Development
- Access to Resources and Services
- Academic and Nonacademic Activities
- Policies and Procedures for Responding to Bullying
- Collaboration with Families

# Considerations for IEP Teams

## School Leadership

### Sample IEP Provisions

- Provide aide, accommodations, services, or activities during identified times (lunch, recess, study hall, bus, free times, extracurricular...) when student needs support or instruction to respond to or avoid bullying.
- Identify staff (guidance counselor, nurse, cafeteria workers, bus drivers, extracurricular staff) whom leadership should inform about particular concerns and IEP requirements about bullying.
- Specify how to inform leadership, particularly those with disciplinary responsibilities, of disability-related IEP accommodations to the student code of conduct for a particular student.

DESE Technical Assistance Advisory SPED 2011-2 ; DESE *Resource Guidance* 2/10/11, p.3

## Considerations for IEP Teams

### Training

#### Sample IEP Provisions

- Provide training or ongoing consultation to staff, identified teachers or service providers from a professional (either in- or out-of-district) with bullying expertise given the student's particular needs and disabilities.
- Provide specific training and consultation to staff related to the student's particular type of disability

*DESE Resource Guidance 2/10/11, p.3-4*



## Considerations for IEP Teams

### Access to Resources and Services

#### Sample IEP Provisions

- Social skills group (SLP or other trained professional)
- Social Stories, role plays
- Communication skills/pragmatic skills group

## Considerations for IEP Teams

### Academic and Nonacademic Activities

### Sample IEP Provisions

- Teach student how to address bullying in a safe way, including walking away after responding to a bullying situation and accessing "home base" or their "safe person."
- Provide non-academic and extracurricular opportunities, with supports if needed, for the student to demonstrate his/her strengths, practice social skills, and develop self-esteem.

## Considerations for IEP Teams

### Academic and Nonacademic Activities

#### Sample IEP Provisions

- Provide student opportunities to use strengths and to take a leadership role with other students, thereby providing a basis for forming friendships and developing self-esteem and self-confidence.
- Provide supported and monitored opportunities to develop social skills in the general education setting, reinforcing skills introduced and practiced in small groups.
- Provide specialized instruction that includes:
  - practice, reinforcement, extra practice, explicit instructions, and generalization.

DESE Resource Guidance 2/10/11, p.5

## Considerations for IEP Teams

### Policies and Procedures for Responding to Bullying

- Develop a “safety plan” that includes:
  - “home base”
  - “safe person” chosen by student and parents
  - ”checking in” to determine if student is feeling safe, has witnessed bullying, or has engaged in bullying behaviors
  - changes to school environment (locations or times of day where student is high risk, need for increased supervision, etc.)
  - Individualized plan to communicate with staff
  - Specifying all staff who have contact with the student and communicating IEP components relevant to bullying prevention, including safety plan, skills student is working on, script student may be using when confronted with bullying incidents, etc.

## Considerations for IEP Teams

# Policies and Procedures for Responding to Bullying

### Sample IEP Provisions

Identify accommodations and concerns in the event student is involved in a bullying incident, such as:

- Supports needed so student can communicate effectively
- Changing the seat of the aggressor rather than the target
- Supports to address difficulty with self-advocacy
- Identify any modifications to code of student conduct that are appropriate based on student's disabilities
- If student was aggressor, consult with IEP Team to consider impact of disability before disciplining or reporting incident to the police

*DESE Resource Guidance 2/10/11, p.6*

## Considerations for IEP Teams

### Collaboration with Families

#### Sample IEP Provisions

- Provide parent training on the following:
  - bullying curriculum and strategies to support student's mastery of curriculum in and out of school.
  - Strategies and approaches for helping build student's social skills.
  - Strategies to help student develop skills and proficiencies necessary to prevent and respond to bullying.
  - Strategies to help student understand Internet safety and develop skills to avoid cyberbullying.
- Use Team meeting process to educate families about the district's anti-bullying plan, curriculum, and the reporting mechanisms.

DESE Resource Guidance 2/10/11, p.7

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# Students with Disabilities Under Section 504

- Section 504 requires access to district or schoolwide bullying prevention and intervention programs and initiatives required by the new state law, including the new required curricula.
- Section 504 prohibits bullying if it constitutes harassment based on disability:
  - If peer harassment based on disability is so serious that it creates a hostile environment
  - and
  - If harassment is encouraged, tolerated, not adequately addressed, or ignored by school employees

10/26/10 Dear Colleague letter from U.S. Department of Education, Office for Civil Rights

# Summary

## Steps you can take

- ✓ Work with other parents
  - Ensure school's bullying training, curriculum, reporting, and investigatory procedures address needs of students with disabilities*
- ✓ Assist your child in communicating
- ✓ Maintain written log of all incidents
- ✓ Meet with leadership, teachers to discuss concerns
- ✓ Communicate concerns with school district in writing
- ✓ Request IEP Review



# Summary

## Steps you can take

- ✓ Prepare for IEP meeting
- ✓ Students 14 and older, determine how best to use opportunity to participate in IEP meeting
- ✓ Bureau of Special Education Appeals
  - mediation
  - hearing
- ✓ Program Quality Assurance at Massachusetts DESE
- ✓ U.S. Office for Civil Rights

# Resources

- AN ACT RELATIVE TO BULLYING IN SCHOOLS  
<http://www.malegislature.gov/Laws/SessionLaws/Acts/2010/Chapter92>
- Massachusetts Department of Elementary and Secondary Education (DESE) Technical Assistance Advisory SPED 2011-2: Bullying Prevention and Intervention  
[http://www.doe.mass.edu/sped/advisories/11\\_2ta.html](http://www.doe.mass.edu/sped/advisories/11_2ta.html)
- Massachusetts Department of Elementary and Secondary Education (DESE) Considerations in Addressing the Needs of Students with Disabilities in the IEP and in School Bullying Prevention and Intervention Efforts  
<http://www.doe.mass.edu/bullying/considerations-bully.html>
- Dear Colleague letter from U.S. Department of Education, Office for Civil Rights, 10/26/10 at:  
<http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.html>
- **Program Quality Assurance at DOE** 781-338-3700  
To report school violations of laws protecting students or of IEP's not being implemented
- **Bureau of Special Education Appeals** 781-338-6400  
For when the Team cannot reach consensus about Eligibility, Evaluations, IEP Development, Placement and can also address violations of law
- **US Department of Education Office for Civil Rights**, 5 Post Office Square , Boston MA 02109 , 617-289-0111, [OCR.Boston@ed.gov](mailto:OCR.Boston@ed.gov)

# Resources

If you think your child's rights are being violated, or you need basic rights information, you can call the organizations below:

- **Massachusetts Advocates for Children** 617-357-8431  
[www.massadvocates.org](http://www.massadvocates.org)
- **The Federation for Children with Special Needs** 800-331-0688  
<http://www.fcsn.org> ( Western MA ) 877-388-8180
- **The Disability Law Center** 617-723-8455
- **The Children's Law Center** 781-581-1977

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**The Federal IDEA Regulations (34 CFR 300):**

<http://www.ed.gov/legislation/FedRegister/finrule/2006-3/081406a.pdf>

**Massachusetts Special Education Regulations (603 CMR 28):**

<http://www.doe.mass.edu/lawsregs/603cmr28.html>

# Resources

## BULLYING RESOURCES FOCUSED ON STUDENTS WITH DISABILITIES

- Walk a Mile in their Shoes: A Report on Bullying and Children with Special Needs  
<http://dataserver.lrp.com/DATA/servlet/DataServlet?fname=02152011-walk-a-mile-in-their-shoes.pdf>
- **PACER Center Champions for Children with Disabilities, National Bullying Prevention Center**  
<http://www.pacer.org/bullying/>
- **The Gray Center**  
Resource to parents, professionals, and those with ASD. Activities and book recommendations about bullying:  
<http://www.thegraycenter.org/get-help/articles/95>
- **Asperger's Association of New England (AANE)** 617- 393-3824  
<http://www.aane.org>
- **Massachusetts Advocates for Children**  
Targeted, Taunted, Tormented: the Bullying of Children with Autism Spectrum Disorder  
[http://massadvocates.org/documents/Bullying-Report\\_000.pdf](http://massadvocates.org/documents/Bullying-Report_000.pdf)

# Appendix

## Determining Impact of Disability on Bullying

### More Questions to Assist at TEAM Meetings

- Is the school or parent aware of the student being a victim of bullying? Do any Team members believe the student is at risk? Why?
- Where does bullying (including cyber bullying) occur?
- Does the student display verbal or nonverbal behavior that makes him/her more vulnerable to bullying?
- Does the student have sufficient self-advocacy skills to obtain help/know what to do if he/she is bullied?
- Is the student socially and/or physically isolated?
- Does the student have someone she/he trusts at school to whom she/he may report bullying?
- Are there times of day with less adult supervision and less structure where bullying is more likely to occur?

DESE Resource Guidance, p.2

# Appendix

## Statutory Language

- Whenever the IEP Team evaluation indicates that a student's **disability affects social skills development**, or when the student's **disability makes him or her vulnerable to bullying, harassment, or teasing**, the IEP must address the skills and proficiencies needed to avoid and respond to bullying, harassment, or teasing.
- For students identified with a **disability on the autism spectrum**, the IEP Team must consider and specifically address the skills and proficiencies needed to avoid and respond to bullying, harassment, or teasing.

MGL c. 71B, §3, as amended by Chapter 92 of the Acts of 2010

## APPENDIX

For Students with **all** types of disabilities, the IEP Team must:

- Consider if services and modifications needed to progress in school's **anti-bullying curriculum**
- Include a Team member knowledgeable about **anti-bullying curriculum** when discussed at meeting
- Ensure students can fully participate in **reporting and investigatory** procedures

DESE Technical Assistance Advisory SPED 2011-2: Bullying Prevention and Intervention; 34 CFR § 300.304 (b)(ii); 34 CFR § 300.321; (a)(4)(ii); 34 CFR § 300.320 (a)(1)(i);[1] 34 CFR § 300.304 (a)(2)(ii).

## Appendix

Because of the nature of Autism Spectrum Disorders (ASD), progress in positive social skill development is already a likely focus within the IEP of every student with ASD. Social skills instruction should be at the student's skill level and appropriate for his/her age. The focus of the IEP in relation to the bullying intervention and prevention law will be to aid the student in accessing social and emotional learning to handle more effectively challenges in his/her academic, social, and communication realms.

DESE Technical Assistance Advisory SPED 2011-2:



## Appendix

### Implications for the IEP

**For all students, Teams should evaluate whether their disability affects social skills or results in vulnerability to bullying, harassment, or teasing**

*DESE Resource Guidance, p.1*