

1 SECTION 1. Chapter 6 of the General Laws is hereby amended by inserting after section
2 15MMMMM the following section:-

3 15NNNNN. The governor shall annually issue a proclamation setting apart the fourth
4 Wednesday in January as No Name Calling Day to increase public awareness of the devastating
5 effects of verbal bullying, to encourage students to use positive dialogue and pledge not to use
6 hurtful names on this designated day, to promote tolerance and respect for differences and to
7 reaffirm the commitment of the citizens of the commonwealth to basic human rights and dignity.

8 SECTION 2. The third paragraph of section 1D of chapter 69 of the General Laws, as appearing
9 in the 2008 Official Edition, is hereby amended by striking out the fourth sentence and inserting
10 in place thereof the following sentence:- The standards may provide for instruction in the issues
11 of nutrition, physical education, AIDS education, violence prevention, including teen dating
12 violence, bullying prevention, conflict resolution and drug, alcohol and tobacco abuse
13 prevention.

14 SECTION 3. The first paragraph of section 37H of chapter 71 of the General Laws, as so
15 appearing, is hereby amended by inserting after the third sentence the following sentence:- The
16 policies shall also prohibit bullying as defined in section 37O and shall include the student-
17 related sections of the bullying prevention and intervention plan required by said section 37O.

18 SECTION 4. The third paragraph of said section 37H of said chapter 71, as so appearing, is
19 hereby amended by inserting after the first sentence the following sentence:- The student
20 handbook shall include an age-appropriate summary of the student-related sections of the
21 bullying prevention and intervention plan required by section 37O.

22 SECTION 5. Said chapter 71 is hereby further amended by inserting after section 37N the
23 following section:-

24 Section 37O. (a) As used in this section the following words shall, unless the context clearly
25 requires otherwise, have the following meaning:-

26 "Approved private day or residential school", a school that accepts, through agreement with a
27 school committee, a child requiring special education pursuant to section 10 of chapter 71B.

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

35 “Charter school”, commonwealth charter schools and Horace Mann charter schools established
36 pursuant to section 89 of chapter 71.

37 “Cyber-bullying”, bullying through the use of technology or any electronic communication,
38 which shall include, but shall not be limited to, any transfer of signs, signals, writing, images,
39 sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio,
40 electromagnetic, photo electronic or photo optical system, including, but not limited to,
41 electronic mail, internet communications, instant messages or facsimile communications. Cyber-
42 bullying shall also include (i) the creation of a web page or blog in which the creator assumes the
43 identity of another person or (ii) the knowing impersonation of another person as the author of
44 posted content or messages, if the creation or impersonation creates any of the conditions
45 enumerated in clauses (i) to (v), inclusive, of the definition of bullying. Cyber-bullying shall
46 also include the distribution by electronic means of a communication to more than one person or
47 the posting of material on an electronic medium that may be accessed by one or more persons, if
48 the distribution or posting creates any of the conditions enumerated in clauses (i) to (v),
49 inclusive, of the definition of bullying.

50 “Collaborative school”, a school operated by an educational collaborative established pursuant to
51 section 4E of chapter 40.

52 “Department”, the department of elementary and secondary education.

53 “Hostile environment”, a situation in which bullying causes the school environment to be
54 permeated with intimidation, ridicule or insult that is sufficiently severe or pervasive to alter the
55 conditions of the student’s education.

56 “Plan”, a bullying prevention and intervention plan established pursuant to subsection (d).

57 “Perpetrator”, a student who engages in bullying or retaliation.

58 “School district”, the school department of a city or town, a regional school district or a county
59 agricultural school.

60 “School grounds”, property on which a school building or facility is located or property that is
61 owned, leased or used by a school district, charter school, non-public school, approved private
62 day or residential school, or collaborative school for a school-sponsored activity, function,
63 program, instruction or training.

64 “Victim”, a student against whom bullying or retaliation has been perpetrated.

65 (b) Bullying shall be prohibited: (i) on school grounds, property immediately adjacent to
66 school grounds, at a school-sponsored or school-related activity, function or program whether on
67 or off school grounds, at a school bus stop, on a school bus or other vehicle owned, leased or
68 used by a school district or school, or through the use of technology or an electronic device
69 owned, leased or used by a school district or school and (ii) at a location, activity, function or
70 program that is not school-related, or through the use of technology or an electronic device that
71 is not owned, leased or used by a school district or school, if the bullying creates a hostile
72 environment at school for the victim, infringes on the rights of the victim at school or materially
73 and substantially disrupts the education process or the orderly operation of a school. Nothing
74 contained herein shall require schools to staff any non-school related activities, functions, or
75 programs.

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

79 (c) Each school district, charter school, approved private day or residential school and
80 collaborative school shall provide age-appropriate instruction on bullying prevention in each
81 grade that is incorporated into the curriculum of the school district or school. The curriculum
82 shall be evidence-based.

83 (d) Each school district, charter school, non-public school, approved private day or residential
84 school and collaborative school shall develop, adhere to and update a plan to address bullying
85 prevention and intervention in consultation with teachers, school staff, professional support
86 personnel, school volunteers, administrators, community representatives, local law enforcement
87 agencies, students, parents and guardians. The consultation shall include, but not be limited to,
88 notice and a public comment period; provided, however, that a non-public school shall only be
89 required to give notice to and provide a comment period for families that have a child attending
90 the school. The plan shall be updated at least biennially.

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

114 A school district, charter school, non-public school, approved private day or residential
115 school or collaborative school may establish separate discrimination or harassment policies that
116 include categories of students. Nothing in this section shall prevent a school district, charter
117 school, non-public school, approved private day or residential school or collaborative school
118 from remediating any discrimination or harassment based on a person's membership in a legally
119 protected category under local, state or federal law.

120 The plan for a school district, charter school, approved private day or residential school
121 and collaborative school shall include a provision for ongoing professional development to build
122 the skills of all staff members, including, but not limited to, educators, administrators, school
123 nurses, cafeteria workers, custodians, bus drivers, athletic coaches, advisors to extracurricular
124 activities and paraprofessionals, to prevent, identify and respond to bullying. The content of
125 such professional development shall include, but not be limited to: (i) developmentally
126 appropriate strategies to prevent bullying incidents; (ii) developmentally appropriate strategies
127 for immediate, effective interventions to stop bullying incidents; (iii) information regarding the
128 complex interaction and power differential that can take place between and among a perpetrator,
129 victim and witnesses to the bullying; (iv) research findings on bullying, including information
130 about specific categories of students who have been shown to be particularly at risk for bullying
131 in the school environment; (v) information on the incidence and nature of cyber-bullying; and
132 (vi) internet safety issues as they relate to cyber-bullying. The department shall identify and offer
133 information on alternative methods for fulfilling the professional development requirements of
134 this section, at least 1 of which shall be available at no cost to school districts, charter schools,
135 approved private day or residential schools and collaborative schools.

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

140 The department shall promulgate rules and regulations on the requirements related to a
141 principal's duties under clause (viii) of the second paragraph of this subsection; provided, that
142 school districts, charter schools, approved private day or residential schools and collaborative
143 schools shall be subject to the regulations. A non-public school shall develop procedures for

144 immediate notification by the principal or person who holds a comparable role to the local law
145 enforcement agency when criminal charges may be pursued against the perpetrator.

146 (e)(1) Each school district, charter school, non-public school, approved private day or residential
147 school and collaborative school shall provide to students and parents or guardians, in age-
148 appropriate terms and in the languages which are most prevalent among the students, parents or
149 guardians, annual written notice of the relevant student-related sections of the plan.

150 (2) Each school district, charter school, non-public school, approved private day or residential
151 school and collaborative school shall provide to all school staff annual written notice of the plan.
152 The faculty and staff at each school shall be trained annually on the plan applicable to the school.
153 Relevant sections of the plan relating to the duties of faculty and staff shall be included in a
154 school district or school employee handbook.

155 (3) The plan shall be posted on the website of each school district, charter school, non-public
156 school, approved private day or residential school and collaborative school.

157 (f) Each school principal or the person who holds a comparable position shall be responsible for
158 the implementation and oversight of the plan at his school.

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

171 (h) If an incident of bullying or retaliation involves students from more than one school district,
172 charter school, non-public school, approved private day or residential school or collaborative
173 school, the school district or school first informed of the bullying or retaliation shall, consistent
174 with state and federal law, promptly notify the appropriate administrator of the other school
175 district or school so that both may take appropriate action. If an incident of bullying or retaliation
176 occurs on school grounds and involves a former student under the age of 21 who is no longer
177 enrolled in a local school district, charter school, non-public school, approved private day or
178 residential school or collaborative school, the school district or school informed of the bullying
179 or retaliation shall contact law enforcement consistent with the provisions of clause (viii) of the
180 second paragraph of subsection (d).

181 (i) Nothing in this section shall supersede or replace existing rights or remedies under any other
182 general or special law, nor shall this section create a private right of action.

183 (j) The department, after consultation with the department of public health, the department of
184 mental health, the attorney general, the Massachusetts District Attorneys Association and experts
185 on bullying shall: (i) publish a model plan for school districts and schools to consider when
186 creating their plans; and (ii) compile a list of bullying prevention and intervention resources,
187 evidence-based curricula, best practices and academic-based research that shall be made
188 available to schools. The model plan shall be consistent with the behavioral health and public
189 schools framework developed by the department in accordance with section 19 of chapter 321 of
190 the acts of 2008. The resources may include, but shall not be limited to, print, audio, video or
191 digital media; subscription based online services; and on-site or technology-enabled professional
192 development and training sessions. The department shall biennially update the model plan and
193 the list of the resources, curricula, best practices and research and shall post them on its website.

194 SECTION 6. Said chapter 71 is hereby further amended by adding after section 92, added by
195 section 8 of chapter 12 of the acts of 2010, the following section: -

196 Section 93. Every public school providing computer access to students shall have a policy
197 regarding internet safety measures to protect students from inappropriate subject matter and
198 materials that can be accessed via the internet and shall notify the parents or guardians of all
199 students attending the school of the policy. The policy and any standards and rules enforcing the

200 policy shall be prescribed by the school committee in conjunction with the superintendent or the
201 board of trustees of a commonwealth charter school.

202 SECTION 7. The sixth paragraph of section 3 of chapter 71B of the General Laws, as appearing
203 in the 2008 Official Edition, is hereby amended by inserting after the third sentence the
204 following sentence:-

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

210 SECTION 8. Said section 3 of said chapter 71B, as so appearing, is hereby amended by
211 inserting after the word "proficiencies", in line 154, the following words:- ; the skills and
212 proficiencies needed to avoid and respond to bullying, harassment or teasing.

213 SECTION 9. Section 43 of chapter 265 of the General Laws, as so appearing, is hereby amended
214 by striking out subsection (a) and inserting in place thereof the following subsection:-

215 (a) Whoever (1) willfully and maliciously engages in a knowing pattern of conduct or series of
216 acts over a period of time directed at a specific person which seriously alarms or annoys that
217 person and would cause a reasonable person to suffer substantial emotional distress, and (2)
218 makes a threat with the intent to place the person in imminent fear of death or bodily injury, shall
219 be guilty of the crime of stalking and shall be punished by imprisonment in the state prison for
220 not more than 5 years or by a fine of not more than \$1,000, or imprisonment in the house of
221 correction for not more than 2 ½ years or by both such fine and imprisonment. The conduct, acts
222 or threats described in this subsection shall include, but not be limited to, conduct, acts or threats
223 conducted by mail or by use of a telephonic or telecommunication device or electronic
224 communication device including, but not limited to, any device that transfers signs, signals,
225 writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a
226 wire, radio, electromagnetic, photo-electronic or photo-optical system, including, but not limited
227 to, electronic mail, internet communications, instant messages or facsimile communications.

228 SECTION 10. Section 43A of said chapter 265, as so appearing, is hereby amended by striking
229 out paragraph (a) and inserting in place thereof the following paragraph:-

230 (a) Whoever willfully and maliciously engages in a knowing pattern of conduct or series of acts
231 over a period of time directed at a specific person, which seriously alarms that person and would
232 cause a reasonable person to suffer substantial emotional distress, shall be guilty of the crime of
233 criminal harassment and shall be punished by imprisonment in a house of correction for not more
234 than 2 ½ years or by a fine of not more than \$1,000, or by both such fine and imprisonment. The
235 conduct or acts described in this paragraph shall include, but not be limited to, conduct or acts
236 conducted by mail or by use of a telephonic or telecommunication device or electronic
237 communication device including, but not limited to, any device that transfers signs, signals,
238 writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a
239 wire, radio, electromagnetic, photo-electronic or photo-optical system, including, but not limited
240 to, electronic mail, internet communications, instant messages or facsimile communications.

241 SECTION 11. Subsection (3) of section 13B of chapter 268 of the General Laws, as so
242 appearing, is hereby amended by striking out the second sentence and inserting in place thereof
243 the following sentence:- Such act shall include, but not be limited to, an act conducted by mail or
244 by use of a telephonic or telecommunication device or electronic communication device
245 including but not limited to any device that transfers signs, signals, writing, images, sounds, data,
246 or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic,
247 photo-electronic or photo-optical system, including, but not limited to, electronic mail, internet
248 communications, instant messages or facsimile communications.

249 SECTION 12. Chapter 269 of the General Laws is hereby amended by striking out section 14A,
250 as so appearing, and inserting in place thereof the following section:-

251 Section 14A. Whoever telephones another person or contacts another person by electronic
252 communication, or causes a person to be telephoned or contacted by electronic communication,
253 repeatedly, for the sole purpose of harassing, annoying or molesting the person or the person's
254 family, whether or not conversation ensues, or whoever telephones or contacts a person
255 repeatedly by electronic communication and uses indecent or obscene language to the person,

256 shall be punished by a fine of not more than \$500 or by imprisonment for not more than 3
257 months, or by both such a fine and imprisonment.

258 For purposes of this section, “electronic communication” shall include, but not be limited to, any
259 transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted
260 in whole or in part by a wire, radio, electromagnetic, photo-electronic or photo-optical system.

261 SECTION 13. The department of elementary and secondary education shall periodically review
262 school districts, charter schools, approved private day or residential schools and collaborative
263 schools to determine whether the districts and schools are in compliance with this act.

264 SECTION 14. The department of elementary and secondary education shall issue a report
265 detailing cost-effective ways to implement the professional development requirements in
266 subsection (d) of section 370 of chapter 71 of the General Laws; provided, further, that the
267 report shall: (i) include an option available at no cost to school districts, charter schools,
268 approved private day or residential schools and collaborative schools; (ii) explore the feasibility
269 of an option for a “train-the-trainer” model, so-called, with demonstrated success and an option
270 for online professional development; and (iii) include any other options which may be cost
271 effective; provided, further, that the report shall include a cost estimate for the professional
272 development; and provided, further, that the report shall be provided to the clerks of the senate
273 and house of representatives not later than August 31, 2010; and provided, further, that the clerks
274 of the senate and house of representatives shall forward the report to the chairs of the house and
275 senate committees on ways and means and the house and senate chairs of the joint committee on
276 education.

277 SECTION 15. School districts, charter schools, approved private day or residential schools and
278 collaborative schools shall establish a bullying prevention and intervention plan in compliance
279 with this act and shall file the plan with the department of elementary and secondary education
280 on or before December 31, 2010; provided, however, that school districts, charter schools,
281 approved private day or residential schools and collaborative schools shall establish and have in
282 place the professional development provisions of the fourth paragraph of subsection (d) of
283 section 370 of chapter 71 of the General Laws at the start of the 2010-2011 academic year.

284 Non-public schools shall establish a bullying prevention and intervention plan in compliance
285 with this act on or before December 31, 2010.

286 SECTION 16. The department of elementary and secondary education shall publish guidelines
287 for the implementation of social and emotional learning curricula in kindergarten to grade 12,
288 inclusive, on or before June 30, 2011. The guidelines shall be updated biennially. For purposes
289 of this section, social and emotional learning shall mean the processes by which children acquire
290 the knowledge, attitudes and skills necessary to recognize and manage their emotions,
291 demonstrate caring and concern for others, establish positive relationships, make responsible
292 decisions and constructively handle challenging social situations.

293 SECTION 17. The department of elementary and secondary education shall promulgate the rules
294 and regulations required under the last paragraph of subsection (d) of Section 37O of chapter 71
295 of the General Laws on or before September 30, 2010.

296 SECTION 18. There shall be a special commission to consist of 7 members: 1 of whom shall be
297 the attorney general or a designee who shall chair the commission; 1 of whom shall be a
298 representative of the Massachusetts District Attorneys Association; 1 of whom shall be a
299 representative of the Massachusetts Chiefs of Police Association; 1 of whom shall be a
300 representative of the Massachusetts Sheriffs' Association; 1 of whom shall be a representative of
301 the Massachusetts Association of School Committees; 1 of whom shall be a representative of the
302 Massachusetts Association of School Superintendents; and 1 of whom shall be a representative
303 of the Association of Independent Schools in New England who represents a Massachusetts
304 school, for the purpose of making an investigation and study relative to bullying and cyber-
305 bullying. The commission shall review the General Laws to determine if they need to be
306 amended in order to address bullying and cyber-bullying; provided, further, that the commission
307 shall also investigate parental responsibility and liability for bullying and cyber-bullying. The
308 commission shall report to the general court the results of its investigation and study and its
309 recommendations, if any, together with drafts of legislation necessary to carry out such
310 recommendations, by filing the same with the clerks of the senate and the house of
311 representatives who shall forward the same to the chairs of the joint committee on education, the
312 chairs of the joint committee on the judiciary, and the chairs of the house and senate committees
313 on ways and means on or before June 30, 2011.