

Southeastern MA Educational Collaborative
Bullying Prevention Plan and Policy
Updated May 2015

The Southeastern MA Educational Collaborative (SMEC) is committed to providing our students equal educational opportunities in a safe learning environment where students are free from bullying and cyber-bullying and the effects thereof.

Please note that incidents of bullying may, in addition to being a violation of this policy, constitute a violation of civil rights laws including but not limited to Title II, Title IX and Section 504. Please see the SMEC anti-discrimination and anti-harassment policies for further information.

Acts of bullying and cyber-bullying are prohibited:

- a) On school grounds, property immediately adjacent to school grounds, at school sponsored or school related activities, functions or programs whether on or off school grounds, at a school bus stop or on a school vehicle that is owned, leased or used by the Collaborative or school district; or through the use of technology or an electronic device owned, leased or used by the Collaborative or school district and;
- b) At a location, activity, function or program that is not school-related, or through the use of technology or an electronic device that is not owned by the Collaborative or school district, if the acts create a hostile environment at school for the target, or infringes on the rights of the target at school or materially and substantially changes disrupts the education process or orderly operation of the school or school program.

Retaliation against a person who reports bullying, provides information during an investigation of bullying, or witnesses or has reliable information about bullying is also prohibited.

A. Definitions

Aggressor is a student or member of school staff who engages in bullying, cyber-bullying or retaliation.

Bullying is defined in M.G.L. c. 71, s. 370, as the repeated use by one or more students, or 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 of written, verbal or electronic expression or a physical act or gesture or any combination thereof, directed at a victim that:

- a. Causes physical or emotional harm to the victim or damage to the victim's property;
- b. Places the victim in reasonable fear of harm to himself or of damage to his property;
- c. Creates a hostile environment at school for the victim;
- d. Infringes on the rights of the victim at school; or
- e. Materially and substantially disrupts the education process or the orderly operation of the school. Bullying also includes cyber bullying.

Bullying may include conduct such as physical intimidation or assault, including intimidating an individual into taking action against his/her will, oral or written threats, teasing, name-calling, stalking, threatening looks or gestures, cruel rumors, false accusations and social isolation.

Cyber-bullying, as defined in M.G.L. Ch. 71, s. 370 is bullying through the use of technology or any electronic communication, which shall include, but not be limited to, any transfer of signs, signals, writings, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electro-magnetic, photo electronic or photo optical system, including but not limited to electronic mail, internet communications, instant messages or facsimile communications. Cyber bullying also includes:

- a. The creation of a web page or blog in which the creator assumes the identity of another person;
- b. The knowing impersonation of another person as the author of posted content or messages, if the creation or impersonation creates any of the conditions enumerated above in clauses (a) to (e) inclusive, of the definition of bullying; and
- c. The distribution by electronic means of communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more persons, if the distribution or posting creates any of the conditions enumerated above in clauses (a) through (e), inclusive, of the definition of bullying.

Cyber-bullying may include conduct such as sending derogatory, harassing or threatening email messages, instant messages, or text messages; creating websites that ridicule, humiliate or intimidate others; and posting on websites or disseminating embarrassing or inappropriate pictures or images of others.

Hostile Environment, as defined in M.G.L. ch. 71, s. 370, is a situation in which bullying causes the school environment to be permeated with intimidation, ridicule or insult that is sufficiently severe or pervasive to alter the conditions of a student's education.

Retaliation is any form of intimidation, reprisal or harassment directed against a person who reports bullying, provides information during an investigation of bullying or witnesses and has reliable information about bullying.

School staff may include an educator, administrator, school nurse, cafeteria worker, custodian, bus driver, athletic coach, advisor to an extracurricular activity, direct care staff or paraprofessional.

Target is a student against whom bullying, cyber-bullying or retaliation has been perpetrated.

B. Bullying and Retaliation Are Prohibited and Will Lead to Discipline

The Southeastern MA Educational Collaborative absolutely prohibits bullying, cyber-bullying and retaliation as defined above. Students who engage in bullying or retaliation will be subject to disciplinary action; however, disciplinary action taken must balance the need for accountability with the need to teach appropriate behavior. The range of disciplinary action includes, but is not limited to, one or more of the following: verbal warnings, written warnings, reprimands,

short-term or long-term suspensions, or removal from the program as determined by the SMEC administration in consultation with the perpetrator's responsible school district and the host school district as applicable and subject to applicable due process and team placement decision requirements. Nothing in this policy is intended to prevent SMEC from taking disciplinary action against a student for conduct that does not meet the definition of bullying or cyber-bullying, as defined above, but nevertheless is inappropriate for the school environment.

C. Reporting Obligations

Reporting by Staff: A member of the SMEC or host 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, shall immediately report any instance of bullying or retaliation he/she has witnessed or become aware of to the school principal/program director or designee.

Reporting by Students, Parents/Guardians and Others: SMEC expects students, parents/guardians and others who witness or become aware of an instance of bullying or retaliation involving a student to report it to the program director, executive director or designee. An individual may make an anonymous report of bullying or retaliation, however, no disciplinary action may be taken against a student solely on the basis of an anonymous report. A student who knowingly makes a false accusation of bullying or retaliation shall be subject to disciplinary action.

Reporting to Parents/Guardians: The Program Director/Executive Director or designee must promptly notify the parent/guardian of the alleged target and the alleged aggressor of a report of bullying or retaliation and of the schools procedures for investigating the report. If the alleged target and alleged aggressor attend different schools, the Program Director receiving the report shall inform the principal of the other student's school, who shall notify the student's parents of the report and procedures.

Reporting to Local Law Enforcement: At any point after receipt of a report of bullying or retaliation, or during or after an investigation, if the SMEC Program Director/Executive Director or designee has a reasonable basis to believe the incident may involve criminal conduct, the SMEC Program Director, Executive Director or designee will notify the local law enforcement agency.

Reporting to an Administrator of Another School District or School Program: If an incident of bullying or retaliation involves students from more than one school district, non-public school, approved private special education school or Educational Collaborative program and SMEC is the first to be informed of the bullying or retaliation, then the Executive Director of SMEC or designee must, consistent with state or federal law, notify the appropriate administrator of the other school district or school program so that both may determine and take appropriate action.

D. Investigation

The SMEC Program Director/Executive Director or designee in collaboration with host school administration as applicable and as warranted shall investigate promptly a report of bullying or retaliation giving consideration to all circumstances at hand, including the nature of the

allegations and the ages and developmental levels of the students involved. The following are general guidelines for responding to a report of bullying or retaliation. The guidelines will be adapted as necessary to respond appropriately to the complaint.

Pre-Investigation:

Even before fully investigating allegations of bullying or retaliation, SMEC personnel, in collaborative with host school administration for district-based programs, will consider whether there is a need to take immediate steps to support the alleged target and/or protect the alleged target from further potential incidents of concern. In taking any such action, however, the rights of the alleged target and alleged aggressor must be taken into consideration.

Written Statement of Complaint:

The investigator will seek to determine the basis of the complaint, gathering information from the complainant, including such matters as: what specifically happened, who committed the alleged acts, who was present or may have information about the events, when the event(s) occurred (date/time), and where the events occurred.

It is most beneficial to have these facts in writing. If age and/or developmentally appropriate, the complainant may be asked to put the complaint in writing and to sign and date it. If the complainant cannot or will not write a complaint, the investigator will record the allegations, read them to the complainant to confirm accuracy and ask the complainant to sign the document. If the complainant cannot or chooses not to sign, the investigator may indicate such and must sign and date the document him/herself.

Interviews:

Once the allegations of the complainant are established, the investigator will gather other evidence, which often involves interviews of the alleged aggressor and/or other witnesses. If appropriate, the investigator should remind the alleged aggressor and witnesses that retaliation against persons whom they believe might have reported the incident or cooperated with the investigation is strictly prohibited and will result in disciplinary action.

Confidentiality:

The confidentiality of the complainant and the other witnesses will be maintained to the extent practical given the Collaborative's obligation to investigate and address the matter.

E. Determination

Collaborative personnel must weigh all of the evidence objectively to determine whether the alleged events occurred and, if they did, whether the events constitute bullying or retaliation under the legal definition. The determination must be based on all facts and circumstances and the perspective of a reasonable person. When applied to children, the "reasonable person" standard is generally "that of a reasonable person of like age, intelligence and experience under the circumstances." See *Ellison v. Brady*, 924 F2d 872 (9th Cir. 1991).

If bullying or retaliation is substantiated, the Collaborative will take steps reasonably calculated to prevent recurrence and ensure that the target is not restricted in participating in school or in benefiting from school activities. As with the investigation, the response will be individually tailored to all of the circumstances, including the nature of the conduct and the age of the students involved. In addition to taking disciplinary action, the following are examples of steps that may be taken to prevent the recurrence of bullying or retaliation:

- Holding parent conferences;
- Limiting or denying student access to all or part of a classroom or building;
- Enhancing adult supervision on school premises;
- Excluding the aggressor from participation in school-sponsored or school-related activities, after school programs and/or extracurricular activities;
- Providing relevant educational activities for students or groups of students. Adjustment counselors and others in the school setting who have been trained in working with students on interpersonal issues may be helpful in providing such programs;
- Personalized Action Plans or Behavior Intervention Plans and directives for future conduct, including providing the target with a process for reporting future concerns immediately. It is critical to involve the student in creating the action plan that involves a reporting process that works for that particular student;
- Arranging for communication between the parties, if appropriate, to assist them with resolving the issues that have arisen between them. This approach should be used cautiously to ensure that the target's concerns are alleviated and not exacerbated;
- Providing counseling or other appropriate community services or referral to such services for the target and/or the aggressor, and/or the family of either party;
- Recommending a change of placement or services to the IEP team for the aggressor.

F. Closing the Complaint and Possible Follow-Up

Collaborative staff will promptly provide notice to the parent/guardian of the target and the aggressor about whether the complaint was substantiated and, if substantiated, what action is being taken to prevent any further acts of bullying or retaliation. Specific information about disciplinary action taken will typically not be released to the target's parents or guardians unless it involves a "stay away" or other directive that the target must be aware of to report violations.

If appropriate, within a reasonable time period following the closure of the complaint, the leadership staff or designee will contact the target to determine whether there has been any recurrence of the prohibited conduct.

The Collaborative will retain a report of the complaint, containing the name of the complainant, the date of the complaint, name of the investigator, school, a brief statement of the nature of the complaint, the outcome of the investigation and the action taken.

G. Bullying Prevention and Intervention Plan

This plan has been developed as required by MGL C. 71, Sec. 370. It is available on the Collaborative's website. The Collaborative Student Services Director and Executive Director are responsible for implementation of the plan within the Collaborative's school programs.

All Collaborative school personnel as well as parents and students in SMEC's school programs shall be provided annual written notice of the relevant sections of the Bullying Prevention and Intervention Plan. The SMEC student handbook shall contain a summary of the student related sections of the Plan.