

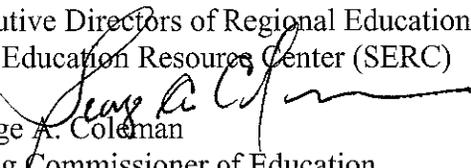
STATE OF CONNECTICUT

DEPARTMENT OF EDUCATION



SERIES: 2011 – 2012
CIRCULAR LETTER: C-3

TO: Superintendents of Schools
Executive Directors of State-Approved Nonpublic Special Education Programs
Executive Directors of Regional Education Service Centers (RESC)
State Education Resources Center (SERC)

FROM: 
George A. Coleman
Acting Commissioner of Education

DATE: September 12, 2011

SUBJECT: An Act Concerning the Strengthening of School Bullying Laws

During the 2011 Legislative Session, Connecticut's existing Policy on Bullying Behaviors was amended. Connecticut General Statutes (C.G.S.) Section 10-222d was repealed and substitute language, which has been operational since July 1, 2008, replaced. Effective July 1, 2011, a number of substantive changes are required to be made at the school and district levels. This letter will provide guidance for such implementation.

Certain components of this statute are phased in over the next 12 months. Importantly, this current legislation ties together the problem of bullying with the solution of creating and maintaining a positive school climate. This is a critical paradigm shift away from a primary focus on interventions, including disciplinary action, once verified acts of bullying have been identified to a more preventive and proactive stance of improving school climate and creating safe, healthy and respectful school environments. Each and every school community member (student, faculty, staff, administrator and family) has the right to learn, work, interact and socialize in physically, emotionally and intellectually safe, healthy, respectful and positive school environments. This expressed purpose aligns with the existing February 2010 State Board of Education Position Statement, "Creating a Healthy Environment that is Physically, Emotionally and Intellectually Safe." You can find this statement at

http://www.sde.ct.gov/sde/LIB/sde/pdf/board/Creating_Learning_Environment.pdf.

Local educational agencies (LEAs), therefore, have the responsibility to create, maintain and nurture positive school climate, which in the current legislation is defined as, "the quality and character of school life with a particular focus on the quality of the relationships within the school community between and among students and adults."

Role of the Connecticut State Department of Education

A more active role is delineated for the State Department of Education (CSDE) working in partnership with LEAs to fulfill the requirements of this amended legislation and support LEAs with training and technical assistance.

Decisions surrounding the identification, verification and consequences of acts of bullying remain at the local LEA level. Although the CSDE will be collecting certain information about existing practices, data and documents from LEAs, as well as providing recommendations for developmentally appropriate model Safe School Climate Plans and annual in-service training for school employees, the role of the CSDE remains exclusively as a resource to all school community members. The CSDE will be reporting to the legislature biennially beginning on or before February 1, 2012, the status of efforts to improve school climate (prevent bullying) and make recommendations for additional activities and funding that will further these goals.

Bullying and Protected Class Harassment

Since July 1, 2011, the definition of “bullying,” has changed. The following definition should replace the one stipulated in the 2008 C.G.S. Section 10-222d, and should be included in all documentation (student handbooks, policy manuals, Web site references, etc.) beginning with this 2011 – 12 school year:

“Bullying” means the repeated use by one or more students of a written, verbal or electronic communication, such as cyber bullying, or a physical act or gesture directed at another student attending school *in the same school district* that:

- causes physical or emotional harm to such student or damage to such student’s property;
- places such student in reasonable fear of harm to himself or herself, or of damage to his or her property;
- creates a hostile environment (a situation in which bullying among students is sufficiently severe or pervasive to alter the conditions of the school climate) at school for such student;
- infringes on the rights of such student at school, or
- substantially disrupts the education process or the orderly operation of a school.

Bullying shall include, but not be limited to, a written, verbal or electronic communication or physical act or gesture based on any actual or perceived differentiating characteristics, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression, socioeconomic status, academic status, gender identity, physical appearance, or mental, physical, developmental or sensory disability, or by association with an individual or group

who has or is perceived to have one or more of such characteristics.

Schools are responsible for dealing with bullying on school grounds, at a school-sponsored activity, function or program whether on or off school grounds, at a school bus stop, on a school bus or other vehicle owned, leased or used by a local or regional board of education, or through the use of an electronic device or an electronic mobile device owned, leased or used by the local or regional board of education, and ***outside of the school setting*** if such bullying creates a hostile environment at school for the targeted student, infringes on the rights of the target at school or substantially disrupts the education process or the orderly operation of a school. This final provision is new. "Outside of the school setting," means at a location, activity or program that is not school related, or through the use of an electronic device or mobile electronic device that is not owned, leased or used by a local or regional board of education. It is recommended that a "good faith effort" be made to satisfy this requirement, as there remains significant questions about school jurisdiction over "outside of the school setting" environments, so defined.

This definition of bullying identifies some, but not all of the categories that are protected through separate state and federal harassment statutes (Title VI of the Civil Rights Acts of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990 and C.G.S. Section 10-15c). Protected class harassment and bullying are often conflated. When making determinations through investigations and verification of acts of bullying, it is important to recognize that some acts of bullying are also protected class harassment. Some protected class harassment might not be labeled bullying, given the definition above and some bullying might be distinct from protected class harassment. Bullying and harassment are related and often overlap, but they are separate concepts, with distinct legal remedies and should be recognized as such. Although not included specifically or cited in C.G.S. Section 10-222d, harassment means:

Any physical or verbal hostility toward someone with legally protected status. Such status pertains to race, color, religious creed, sex, age, national origin, ancestry, marital status, sexual orientation, disability (including past or present history of mental disability), physical disability, learning disability, mental retardation, genetic information, prior criminal conviction, or other lawfully protected status. Such hostility can be severe, persistent or pervasive.

Cyber bullying

Additionally, this 2011 statute includes specific definitions and responsibilities around what is called, "cyber bullying." Cyber bullying is a subset of bullying and must be managed, as would any allegation of bullying as long as the students involved attend school ***in the same school district***. A number of related concepts are defined in C.G.S. Section 10-222d and are also effective immediately:

“Cyber bullying” means any act of bullying through the use of the Internet, interactive and digital technologies, cellular mobile telephone or other mobile electronic devices or any electronic communications. Further, “mobile electronic device” means any hand-held or other portable electronic equipment capable of providing data communication between two or more individuals, including, but not limited to, a text messaging device, a paging device, a personal digital assistant, a laptop computer, equipment that is capable of playing a video game or a digital video disk, or equipment on which digital photographs are taken or transmitted. Finally, “electronic communication means any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photo-optical system.

Safe School Climate Specialist (SSCS), Coordinator (SSCC) and Committee

Allegations of bullying are to be managed by a school-based SSCS. No later than the beginning of the school year commencing July 1, 2012, and every year thereafter, the school principal or the principal’s designee, shall serve in that role. This person will be appointed from existing school district staff. The responsibilities of the SSCS are to:

- investigate or supervise the investigation of allegations of bullying;
- collect and maintain records of allegations and investigations of bullying; and
- act as the primary school official responsible for improving school climate and identifying and responding to allegations of bullying.

It is recommended that the SSCS serve as the chair of a school-based committee responsible for fostering a safe school climate and addressing issues related to bullying. This committee must include at least one parent/guardian of a student enrolled in the school. Any parent(s)/guardian(s) serving on this committee may not have full access to information that would compromise the confidentiality of any individual student(s). Although this specialist and the committee need not be in place prior to July 1, 2012, it is recommended that this specialist be identified and the committee be formed and begin meeting, during the 2011 –12 school year. The principal is responsible for identifying members of this committee.

The charge of the Safe School Climate Committee (SSCC) is to develop and foster a safe school climate. The specific responsibilities of this committee are to:

- receive copies of completed reports from bullying investigations;
- identify and address patterns of student bullying;
- review and amend school policies related to bullying;
- review and make recommendations to the district’s SSCC regarding the district’s safe school climate plan based upon the particular school context;
- educate all school community members (students, school employees,

- parents/guardians) on issues relating to bullying;
- collaborate with the district's SSCC in the collection of data (allegations and verified acts of bullying, school climate assessment results); and
- perform other duties determined by the principal related to the identification, prevention and response to school bullying.

It is recommended that this committee be singularly focused on improving the overall school climate (prevention) as it satisfies the requirements pertaining specifically to bullying. Bullying is an unnecessary outcome of the lack of attention paid to the quality of the school climate.

Not later than the beginning of the school year commencing July 1, 2012, and every year thereafter, the district superintendent or the local or regional board of education, shall appoint an individual to serve as the district SSCC. This person will be appointed from existing school district staff. The responsibilities of the SSCC are to:

- be responsible for overseeing the implementation of the district's Safe School Climate Plan;
- collaborate with the SSCCs from throughout the district with respect to matters pertaining to bullying;
- collaborate with the district's superintendent and provide the data and information as requested to the CSDE; and
- meet with the SSCCs at least twice during the school year to discuss issues relating to bullying and to make recommendations concerning the district's Safe School Climate Plan.

Although this coordinator need not be in place prior to July 1, 2012, it is recommended that this person be identified and commence the aforementioned responsibilities during the 2011 – 12 school year.

Basic Provisions with Respect to Bullying

Students must be enabled to report allegations of bullying anonymously to school employees. Parents/guardians must be enabled to file written reports of suspected bullying. Enabled is intended to mean that it is easy to do so. Both students and parents/guardians must be notified annually of the process by which students can make such reports. There must be language in student codes of conduct concerning bullying. A procedure must be established by each school to document and maintain records relating to reports and investigations of bullying (managed by the SSCS) and make such a list available for public inspection and annually report the number of verified cases of bullying to the CSDE. In allowing the list to be made available for public inspection, strict compliance with the federal Family Educational Rights Privacy Act (FERPA) must be strictly enforced. Specific information will be provided in the future about procedures for submission of data to the CSDE.

Additionally, schools should direct the case-by-case development of interventions that address repeated incidents of bullying against a single individual or recurrently perpetrated incidents by the same individual. These interventions ought to be contextually considered and may include, but not be limited to, counseling and discipline.

Investigation, Verification, Retaliation and Notification Requirements pertaining to Bullying Allegations, Including FERPA

Among other provisions, there is a strict time frame for receiving allegations of bullying, investigating those claims, intervening to improve the conditions and communicating to family members the outcome. Once an oral, written or first hand witness report of bullying has been brought forward by or to a school employee (defined as any person employed full or part time by a local or regional board of education or any other individual who, in the performance of his or her duties, has regular contact with students or provides services to students) the SSCS must be notified not later than one school day after such report. If the SSCS is not available, the school administrator must be notified.

The SSCS must subsequently file a written report not later than two school days after notification. An investigation must then commence, being completed within ten school days after receipt of the report. This investigation will be conducted or supervised by the SSCS. The SSCS must also review any anonymous reports. No disciplinary action can be taken solely based on an anonymous report. If the investigation finds that the case was a verified act of bullying, not later than 48 hours after the completion of the investigation, parents/guardians of the "bully," and of the targeted child must be notified. The principal or designee must also notify appropriate law enforcement agencies, if the verified act is believed to constitute criminal conduct. Parents/guardians of these children must be invited to a school meeting not later than ten days after notification during which they will learn the measures being taken by the school to ensure the student's safety and to prevent further bullying. It is highly recommended that meeting with both sets of parents/guardians be held separately. And, FERPA supersedes any and all state laws and local district policies. The parents/guardians "rights to know" measures being taken at the school level must be in strict compliance with FERPA.

Intervention and Prevention Strategies

Districts and schools are charged to improve school climate (the ultimate remedy for bullying) and intervene when individuals are engaging in any mean-spirited behaviors including, but not limited to, bullying and harassment. Schools must have rules prohibiting bullying, harassment and intimidation as well as prohibiting any form of discrimination or retaliation for reporting or assisting in the investigation of incidents of such behaviors and establish and implement appropriate consequences for those who engage in such acts. This prohibition includes not allowing the continuation of hurtful or demeaning material to be disseminated. It is recommended that restorative discipline approaches be adopted and implemented because research demonstrates that student outcomes and positive behavior changes are more likely to occur.

Through the CSDE Safe School Climate Resource Network (SSCRN) evidence-based approaches that improve school climate and provide for sound intervention strategies after bullying has been verified will be identified. Appropriate grade-level instruction and role modeling to improve school climate should be implemented from kindergarten through high school. Schools must provide adequate supervision of common areas on the campus (outdoor areas, hallways, cafeterias, etc.) and should provide individual contextually-based interventions with relevant school community members when mean-spirited behaviors including, but not limited to, bullying and harassment occur. Schools should also promote parent/guardian involvement in the school climate improvement process through their inclusion in meetings, trainings and contextual interventions. Sound prevention and intervention also relies upon schoolwide training for school employees and students. These are among the strategies that schools may include, but are not limited to.

Training and Education

A significant component of this amended legislation rests in providing training and education for school employees and students around school climate improvement and bullying. This training may include, but not be limited to, content related to developmentally appropriate prevention and intervention strategies, classroom management, positive youth development, research findings, positive relationship building, managing the cyber-arena, conflict resolution and violence prevention. Within available appropriations, the CSDE is charged to provide annual training to all school employees, except for those holding initial, provisional or professional educators' certificates. Pre-service education students are now required to receive such educational content in their university programs, which is why the exemption is made. If certificate holding educators have not had such content in their programs, it is recommended that they also receive annual training. There are two ways that school employees can immediately receive CSDE provided training. The Connecticut Accountability for Learning Initiative (CALI) Improving School Climate training (two full days of Basic Training, and three subsequent days of Certification Training) is offered regionally throughout the school year. Registration for this training can be accessed through the following Web site: <http://www.sdecali.net/>.

The second way is various lengths (from ½ hour – three hours) of CSDE video training will be mailed by the Connecticut Association of Schools (CAS) to the superintendents of each district/charter/magnet school in the fall. Additional CSDE training and technical assistance will be made available on a case-by-case basis upon request as will statewide conferences on school climate improvement, the amended bullying legislation and other related content. Notification of these opportunities will be widely publicized. School districts that implement CSDE approved evidence-based model approaches to improving school climate are exempt from receiving annual training because it is assumed that the

chosen approach requires equivalent training.

School Climate Assessments and Safe School Climate Plan

Every local and regional board of education is required to develop and implement a Safe School Climate Plan that addresses the existence of bullying in schools. It is recommended that this plan fundamentally address overall school climate improvement (prevention) in addition to outlining provisions for intervening with verified acts of bullying. Not later than January 1, 2012, each local and regional board of education must approve the plan and within 30 days of approval, submit that plan to the CSDE. Further directions will come regarding the submission process. At the beginning of each school year, all school employees must receive a written or electronic copy of the approved plan and it must be included in district publication of rules, procedures, standards of conduct, student handbooks and posted on all school/district Web sites.

Many districts are already addressing school climate improvement and bullying in their broader district and school improvement plans. If managed in this way, no separate Safe School Climate Plan is required. It is recommended that all LEAs satisfy this provision in this way and will just submit that portion of their improvement plans. It is also recommended that districts review and become familiar with the National School Climate Standards that provide a comprehensive and standards-based approach to school climate. These standards can be found at:

http://www.sde.ct.gov/sde/LIB/sde/pdf/school_improvement/bullying/school_climate_standards_csee-march_2010.pdf.

These National School Climate Standards will also provide the basis and alignment for the newly required common developmentally appropriate school climate assessment instruments to be created and subsequently disseminated. CAS and the CSDE have been charged to collaborate on this task. CAS and the CSDE anticipate that not later than December 1, 2011, seven months prior to the statutory deadline, surveys for students, faculty/staff and parents/guardians will be ready for implementation. These instruments will be easy to administer and be provided electronically free of charge. In addition to CAS and the CSDE, the Connecticut Association of Public School Superintendents (CAPSS) and the Connecticut Association of Boards of Education (CABE) will also have approved them. The surveys will incorporate the best assessment strategies from instruments already in existence.

Safe School Climate Plans should be based on actual data. Interventions, strategies and programs chosen must be based upon that data. The long term goal is to have the school-based contextual data garnered from the statewide common school climate assessments to guide the development and implementation of Safe School Climate Plans (district/school improvement plans). By statute, schools will be required to assess climate biennially, but it is recommended that such assessments be conducted annually. Schools/districts are free to conduct any additional assessments desired at the local or regional level, but at the

minimum, every other year LEAs must conduct the statewide common assessments and submit that data to the CSDE according to submission procedures that will be provided in the future.

Safe School Climate Resource Network

Within available appropriations, the CSDE in consultation with SERC, the Governor's Prevention Partnership (GPP) and the Commission on Children (COC) is charged to create a statewide Safe School Climate Resource Network (SSCRN). The purpose of this is to provide school climate improvement resource materials and disseminate information about education and prevention of mean-spirited behaviors including, but not limited to, bullying and harassment. The SSCRN will monitor school climate improvement trends, including the amount of bullying and harassment in schools. It is anticipated that the SSCRN will initially be a web-based resource network and accessible through the CSDE Web site. It will be a work in progress that will develop over time as additional resources become available.

Safe School Climate Awareness Day

The first Wednesday in October each year is to be designated Safe School Climate Awareness Day. October 5, 2011, is so named. All public schools should suitably observe the day when increased focus is directed upon the effects of engaging in any form of mean-spirited behavior including, but not limited to, bullying and harassment. This day is intended to encourage school community members not to use hurtful names and to promote tolerance and respect for differences among individuals across the state.

For further information and resources, please go to <http://www.sde.ct.gov/sde/>. Under Quicklinks, click on Bullying and Harassment. If you have any questions, please contact Dr. Jo Ann Freiberg, Program Manager, by either e-mail at joann.freiberg@ct.gov or by telephone at 860-713-6598.

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