

STUDENTS AND INSTRUCTION	5000
<u>STUDENT CONDUCT</u>	5400
PROHIBITION OF BULLYING AND CYBER –BULLYING	5401.01

1. Bullying and Cyber-bullying Prohibited

The Salem School Committee, recognizing its obligation under M.G.L. c. 71 § 37O, and also its general obligation to ensure the safety, welfare, and equal access to educational programs and services for all students, declares that bullying and cyber-bullying, as defined herein and in the aforementioned statute and its duly adopted implementing regulations, shall be prohibited in the Salem Public Schools.

2. Definition of Terms

For purposes of this policy, the following terms shall be defined as shown:

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

- B. "Cyber-bullying" shall mean bullying through the use of technology or any electronic communication, which shall include, but shall not be limited to, 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, photo electronic or photo optical system, including, but not limited to, electronic mail, internet communications, instant messages or facsimile communications. Cyber-bullying shall also include (i) the creation of a web page or blog in which the creator assumes the identity of another person or (ii) 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 in clauses (i) to (v), inclusive, of the definition of bullying. Cyber-bullying shall also include the distribution by electronic means of a 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 in clauses (i) to (v), inclusive, of the definition of bullying.

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C "Hostile environment", 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 the student's education.

D "Perpetrator", a student who engages in bullying or retaliation.

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

F. "Victim", a student against whom bullying or retaliation has been perpetrated.

3. Specific prohibitions

A. Bullying, as defined herein, shall be prohibited: (i) on school grounds, property immediately adjacent to school grounds, at a school-sponsored or school-related 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 school district or school, or through the use of technology or an electronic device owned, leased or used by a school district or school and (ii) 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, leased or used by a school district or school, if the bullying creates a hostile environment at school for the victim, infringes on the rights of the victim at school or materially and substantially disrupts the education process or the orderly operation of a school. Nothing contained herein shall require schools to staff any non-school related activities, functions, or programs.

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

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4. Responsibility of School Personnel

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, shall immediately report any instance of bullying or retaliation the staff member has witnessed or become aware of to the principal or to the school official identified in the plan as responsible for receiving such reports or both. Upon receipt of such a report, the school principal or a designee shall promptly conduct an investigation. If the school principal or a designee determines that bullying or retaliation has occurred, the school principal or designee shall: (i) notify the local law enforcement agency if the school principal or designee believes that criminal charges may be pursued against a perpetrator; (ii) take appropriate disciplinary action; (iii) notify the parents or guardians of a perpetrator; and (iv) notify the parents or guardians of the victim, and to the extent consistent with state and

federal law, notify them of the action taken to prevent any further acts of bullying or retaliation.

5. Principal's Responsibility

Each school principal or the person who holds a comparable position shall be responsible for the implementation and oversight of the plan at her/his school.

6. Reporting of Bullying

The superintendent shall see to the establishment of a standardized reporting procedure, appropriate for the student's age and grade level, for use by any student who believes she/he has been or is the victim of bullying or cyber-bullying as herein defined. Any report received by any school administrator, teacher, or support employee that a student has been, is being, or may be a victim of bullying or cyber-bullying shall be investigated as prescribed in the district's bullying prevention plan, and appropriate action shall be taken based on the outcome of the investigation. No student shall be deemed to be a perpetrator of bullying or cyber-bullying except as the conclusion of an investigation of a report of bullying or cyber-bullying.

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7. Bullying As a Matter for Disciplinary Action

A. The victimization through bullying or cyber-bullying of a student by another student may, based on all the pertinent circumstances as known, be deemed to be a disciplinary matter by the building principal, and shall be dealt with accordingly.

B. Nothing set forth herein, or in the Salem Public Schools anti-bullying plan, shall be understood by an employee of the Salem Public Schools, or by any other person, to require or recommend a course of action that violates any student’s rights under: the federal Individuals with Disabilities Education Act; Section 504 of the federal Rehabilitation Act of 1973; the Family Educational Rights and Privacy Act (FERPA); the Massachusetts student records law and its implementing regulations; a student’s right to appropriate forms of due process of law as recognized in federal and Massachusetts case law; any provision of the Massachusetts General Laws that establishes student’s civil rights; or any other federal or state statute or regulation that is germane to student discipline and to matters arising under facts that show or may tend to show the perpetration of bullying or cyber-bullying by one student upon another.

7. Implementation of Prevention Plan

The Superintendent of Schools shall see to the full implementation of the Salem Public Schools’ bullying prevention plan, as adopted by the Committee on December 20, 2010, and as may be amended from time to time thereafter.

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References

M.G.L. c. 71 § 37O (Mass. Anti-Bullying Law)
603 C.M.R. 49.00
20 U.S.C § 1232G (FERPA)
29 U.S.C. § 794 (“Section 504”)
M.G.L. c. 71 § 34E (Student Records Confidentiality)
603 C.M.R. 23.00
Goss v. Lopez, 419 U.S. 565 (1975)

Approved: 3/20/2011

Reviewed by Policy Subcommittee October 2015