

# BULLYING

GREAT BARRINGTON POLICE DEPARTMENT POLICY & PROCEDURE NO.  <b>2.24</b>	EFFECTIVE DATE: <u>05/04/2012</u>
	REVISION DATE:
MASSACHUSETTS POLICE ACCREDITATION STANDARDS  REFERENCED: <b>44.2.1</b>	REVIEW DATE: <u>09/30/2020</u>

## I. GENERAL CONSIDERATIONS AND GUIDELINES

The Great Barrington Police Department recognizes the potential harm caused by the actions of school-aged bullies and Department personnel will take appropriate measures to protect the welfare of our children.

## II. POLICY

The Department will work with the Berkshire Hills Regional School District, charter schools, and all other applicable educational facilities to enforce the provisions of law when investigating bullying activities taking place both on and off of school grounds.

The BHRSD policy on Bullying can be found on the Department's Share Drive.

## III. PROCEDURES

All officers will be conducting preliminary investigations to the maximum extent possible. This includes conducting interviews and taking statements whenever necessary.

Unless the case is assigned by the Chief of Police or Sergeants to the department's Investigator, the primary case officer conducting the preliminary investigation shall continue with the follow-up investigation.

## IV. DEFINITIONS

- A. *Abuse*: Attempting to cause or causing physical harm to another or placing another in fear of imminent serious physical harm.
- B. *Aggressor*: Is a student who engages in bullying, cyberbullying, or retaliation.
- C. *Bullying*: As defined in M.G.L. c. 71, s 370, is the repeated use by one or more students of a written, verbal, or electronic expression or a physical act or gesture or any combination thereof, directed at a target that:
  - 1. causes physical or emotional harm to the target or damage to the target's property;
  - 2. places the target in reasonable fear of harm to himself or herself or of damage to his or her property;
  - 3. creates a hostile environment at school for the target;
  - 4. infringes on the rights of the target at school; or
  - 5. materially and substantially disrupts the education process or the orderly operation of a school.
- D. *Cyberbullying*: Is bullying through the use of technology or electronic devices such as telephones, cell phones, computers, and the Internet. It includes, but is not limited to, email, instant messages, text messages, and Internet postings. See M.G.L. c. 71, s 370 for the legal definition of cyberbullying.
- E. *Hostile environment*: As defined in M.G.L. c. 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.
- F. *Retaliation*: Is any form of intimidation, reprisal, or harassment directed against a student who reports bullying, provides information during an investigation of bullying, or witnesses or has reliable information about bullying.
- G. *Staff*: Includes, but is not limited to, educators, administrators, counselors, school nurses, cafeteria workers, custodians, bus drivers, athletic coaches, advisors to extracurricular activities, support staff, or paraprofessionals.
- H. *Target*: Is a student against whom bullying, cyberbullying, or retaliation has been perpetrated.
- I. *Harassment* : Either;
  - 1. Three or more acts of willful and malicious conduct aimed at a specific person committed with the intent to cause fear,

intimidation, abuse or damage to property and that does in fact cause fear, intimidation, abuse or damage to property.

2. An act that by force, threat or duress causes another to involuntarily engage in sexual relations; or

4. A violation of section 13B, 13F, 13H, 22, 22A, 23, 24, 24B, 26C, 43 or 43A of chapter 265 or section 3 of chapter 272.

- J. *School grounds*: Property on which a school building or facility is located or property that is owned, leased or used by a school district, commonwealth charter school or non-public school for any school-sponsored activities, functions, programs, instruction or training.

## **V. NOTIFICATION BY SCHOOLS**

Under Massachusetts law, the principals of public schools, charter schools and certain other schools are mandated, once they determine that bullying constitutes a criminal act, to report the incident to the local police.

- A. At any point after receiving a report of bullying or retaliation, including after an investigation, if the principal or designee has a reasonable basis to believe that criminal charges may be pursued against the aggressor, the principal will notify the local law enforcement agency. Notice will be consistent with the requirements of 603 CMR 49.00. Also, if an incident occurs on school grounds and involves a former student under the age of 21 who is no longer enrolled in school, the principal or designee shall contact the local law enforcement agency if he or she has a reasonable basis to believe that criminal charges may be pursued against the aggressor.

Upon the receipt of such a report, the following provisions shall be implemented.

## **VI. PROCEDURES**

Upon receipt of a bullying complaint, the following procedures will take place:

1. A case number will be generated in IMC.
2. A police officer will be assigned to conduct an investigation.
3. If the complaint is received from a non-school source, the principal of the school(s) attended by the victim and suspect

shall be notified of the investigation at the investigating officer's earliest convenience.

4. Subsequent to the completion of the preliminary investigation and any criminal charges, the investigating offices shall file an incident report.
5. The investigating officer will also submit a copy of the report to the Sergeants for review and perform any follow-up duties that are necessary.

## **VII. RELATED LAWS**

Bullying activities may violate the provisions of the following state laws:

- A. MGL c.12 s. 11H "Violation of Constitutional Rights".
- B. MGL c.265 s. 43 "Stalking".
- C. MGL c.265 s. 43A "Criminal Harassment".
- D. MGL c.266 s. 37E "Identity Fraud".
- E. MGL c.268 s. 13B "Intimidation of Witnesses".
- F. MGL c.269 s. 17-19 "Hazing".
- G. MGL c.272 s. 40 "Disturbance of Schools or Assemblies"
- H. MGL c.275 s. 2 "Threat to Commit Crime"

Officers will deal with criminal violations of these and other applicable laws as appropriate.

## **VIII. JUVENILE OFFENDERS**

Juveniles charged with criminal violations as the result of a bullying investigation shall be subject to the provisions of *Policy & Procedure 1.15*

"Handling Juveniles. **[44.2.1 a,b,c]**

When dealing with juvenile offenders, officers are required to use the least coercive among reasonable alternatives appropriate for resolving the situation.

The following alternatives are available for consideration by officers:

1. Release to parent/guardian with no further court action.
2. Requesting a clerk magistrate's hearing for a misdemeanor.
3. Issue a summons or citation, or
4. Taking the juvenile into custody.

Officers shall consider several factors when determining the proper means of handling a juvenile offender, including but not limited to:

1. The nature of the offense, and
2. The juvenile's prior record.

## **IX. HARASSMENT PREVENTION**

Per MGL c.258E s.8, whenever an officer has reason to believe that a person has been abused or harassed or is in danger of being abused or harassed, such officer shall use all reasonable means to prevent further abuse or harassment. This shall include bullying complaints that meet the definitions of abuse or harassment.

Officers shall make every effort to do the following as part of their emergency response to an abuse or harassment complaint:

1. Assess the immediate physical danger to the victim and provide assistance reasonably intended to mitigate the safety risk.
2. If there is observable injury to the victim or if he/she is complaining of injury, encourage him/her to seek medical attention and arrange for medical assistance or request an ambulance for transport to a hospital.
3. If a sexual assault has occurred, notify the victim that there are time sensitive medical or forensic options that may be available, encourage him/her to seek medical attention and arrange for medical assistance or request an ambulance for transport to a hospital.
4. Provide the victim with referrals to local resources that may assist him/her in locating and getting to a safe place.
5. Provide adequate notice to the victim of his/her rights including, but not limited to, obtaining a Harassment Prevention Order.

## **X. HARASSMENT PREVENTION ORDERS**

Under MGL c.258E, a person suffering from harassment may file a complaint in the appropriate court requesting protection from such harassment. A Harassment Protection Order (HPO) is a potentially useful tool in cases of chronic bullying.

HPOs may include provisions that the defendant:

1. Refrain from abusing or harassing the plaintiff, whether the defendant is an adult or minor.

2. Refrain from contacting the plaintiff, unless authorized by the court, whether the defendant is an adult or minor.
3. Remain away from the plaintiff's household or workplace, whether the defendant is an adult or minor.
4. Pay compensation for any losses suffered as a direct result of the harassment.

Victims may apply for a HPO through the court during business hours, or may seek an emergency order through the Department when the court is closed.

The violation of a HPO is a criminal offense with no right of arrest.

ISSUING AUTHORITY:

Chief William R. Walsh Jr.:

