INFO – GRAM

Legal Updates from Murphy, Lamere & Murphy, P.C.
For Municipalities, School Districts & Special Education Directors

GOVERNOR SIGNS BILL ON ANTI-BULLYING IN SCHOOLS

Governor Patrick recently signed new legislation entitled *An Act Relative To Bullying In Schools*. The legislation requires districts to prepare new policies, conduct prevention and response training, and implement curriculum relative to bullying in the school context. As required by the legislation, the Department of Elementary and Secondary Education plans to develop curriculum and promulgate regulations to support the legislation.

Important features of the legislation, which amends M.G.L. c. 71, by inserting a new section, 37O, are as follows:

- Imposes obligations upon public school districts, approved private day and residential schools, charter schools, collaborative and non-public schools;
- Defines bullying as "the **repeated** use by one or more students of a written, verbal or electronic expression **OR a** physical 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 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."
- Includes cyber-bullying in the definition of bullying and defines cyber-bullying broadly;
- Requires school districts to incorporate evidence-based bullying prevention instruction/training into the school curriculum;
- Requires school districts to develop a plan to address bullying prevention and intervention, including provisions for investigating, reporting, staff and student training, disciplinary procedures, notification of parents and law enforcement agencies and counseling referrals.

- ***Timelines for Implementation:***

  - Effective immediately, Districts are required to investigate, prevent, report, and intervene in reported instances of bullying;
  - Districts must provide ongoing professional development to all staff relative to bullying prevention and intervention at the start of the 2010-2011 school year;
  - Districts must develop prevention and implementation plans and file them with DESE by December 31, 2010;

- ***Changes to 71B Section 3: New Requirements for IEP Development for Vulnerable Students:***

  - When an IEP Team evaluates a student with disabilities that affect social skills development or for students who are vulnerable to bullying, the Team is required to address in the IEP the skills needed to avoid and respond to bullying, harassment or teasing.
  - We advise special education teams to implement this law in the context of annual IEP reviews.

We will provide tips for implementation of IEP requirements in a separate Infogram.

As we know, increased vigilance is required by districts to limit the impact of bullying in a school community. Most districts already have policies and procedures in place to address harassment, although the new legislation places additional requirements upon districts to be more pro-active and formal in both prevention and response to bullying. There are sure to be legal challenges to the legislation, particularly by First Amendment advocates. It will be important for school districts to weigh in on any regulations in this area proposed by DESE and to also consider guidance from local District Attorneys and law enforcement agencies.

We will be available to our clients for further advice and consultation.

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