

Confidential
MEMORANDUM

To: Lenox School Committee Chair, Robert Vaughn

From: Mariem Marquetti, Esq.
Nan O'Neill, Esq.

Date: August 22, 2022

Re: Review of Lenox Memorial Middle and High School Administration Response to Bullying Complaints

RECOMMENDATIONS

I. Policy and Website Revisions

A. Specify Duty to Investigate All Reports of Bullying

The policy should be revised to make clear that ALL reports of bullying will be taken seriously and investigated accordingly, regardless of whether the report was made through the submission of a formal report, via email, text, letter, communicated verbally, or submitted anonymously.

Either in the Bullying Prevention Plan or a separate document should specify the step-by-step procedures on how to investigate bullying reports, complaints or concerns. Those procedures shall include a statement that the investigator will provide each student the option to have their guidance counselor, another member from guidance, or an individual they trust be present in the room during the investigative meeting. Both the Principal and designee should be familiar with the step-by-step procedure.

B. Submitting Anonymous Complaints

The Anti-Bullying policy should indicate where exactly an anonymous complaint could be submitted. If online, the link to the anonymous report should be provided in the text of the policy itself. Both the policy and the anonymous complaint form should include a disclaimer stating that disciplinary action will not be taken solely on the basis of an anonymous report or complaint. Additionally, the anonymous reporting form on the LMMHS website should allow for more space to provide a thorough description of the bullying complaint. At the moment, the form allows for only 300 characters of writing.

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C. Revising the Bullying Report Form

The Anti-Bullying policy provides that anyone who wishes to report staff-to-student bullying should do so on the Bullying Incident Reporting Form (Form A). However, Form A asks for the Aggressor's "Grade" which presumes that the Aggressor is a student. Therefore, Form A should be revised to accommodate instances of staff-to-student bullying reporting.

Furthermore, if the long-standing practice is for the Assistant Principal to investigate bullying reports, Form A, at the bottom, should be revised to state either "Building Principal or designee" or "Assistant Principal" so that it is clear to anyone reporting who is responsible for investigating the bullying report.

D. Notification of Report

While not explicitly required in the policy, if the practice is to notify parents/guardians before the bullying investigation, that should be reflected in the policy, and followed for each instance of bullying.

E. Reporting Staff-to-Student Bullying and Staff-to-Staff Bullying

The Anti-Bullying policy should provide clear instructions on how to report staff-to-student bullying, as there is no formal mechanism. The protocol for staff-to-student bullying is reportedly the same as the protocol for student-to-student bullying. However, in meeting with several parents, it is unclear to parents and their students on how to report allegations of staff bullying. There should be a separate and clear section on how to report suspected staff bullying behaviors, as well as a step-by-step procedure for conducting the investigation, e.g. meeting with the target first, then the staff member, and any witnesses including students in the classroom at the time of the alleged conduct.

The Massachusetts Anti-Bullying Law limits "victim" to students. However, the LMMHS Anti-Bullying policy identifies both students and *staff* as potential victims of bullying. The LMMHS Anti-Bullying policy should be revised either to: (1) limit the definition of "victim" or "target" to only students in accordance with the Anti-Bullying Law; or (2) to include clear procedures on how to report and investigate staff-to-staff bullying complaints in the policy.

F. Investigative Procedures Regarding Bullying Allegations Against Administrators

The current Bullying Prevention Plan is not clear on the procedures required for documenting and reporting findings with respect to bullying allegations against administrators. The Bullying Prevention Plan only states that the Superintendent or School Committee shall designate an alternative bullying investigator. Presumably, the alternative bullying investigator must follow

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the same steps as in a student-to-student bullying investigation. If this is the case, the policy should explicitly state so, or otherwise provide procedures for how investigations into alleged inappropriate conduct by administrators shall proceed and how findings should be documented and reported.

II. Policy Enforcement

A. Reporting

The Bullying Incident Report Form shall be made available in a conspicuous location in the main office. Every student should be informed at the beginning of the year of the option to file a formal bullying report, an anonymous complaint through the website, or sharing their concerns with a staff member or administrator, in which case the staff member will remind the student of the option to file a bullying report or an anonymous complaint *and* report the bullying concern to the administrator who will then arrange to meet with the student reporting the concern.

B. Staff Training

The Bullying Prevention Plan does require annual staff training. As indicated in the findings of this report, staff are not sufficiently trained on how to identify and report acts of bullying. Staff is only provided slides at the beginning of the year to sign with no formal meeting or seminar to ensure proper reporting identification and procedure. A more robust annual training program for staff at the beginning of each school year is recommended, including by way of example, formal faculty meetings to address bullying identification and reporting, and/or simulations.

C. Student Training

The Bullying Prevention Plan requires training for students on how to identify and/or report bullying. A presentation such as the one prepared by Ms. Cogswell could be used and presented to students at the beginning of the school year to assure students that the school takes bullying seriously and they should feel comfortable reporting any bullying concerns they have with administration, as well as know how to report bullying.

D. Disclosure of Information

All administrators, staff and other school personnel should be trained on what they may disclose if a parent/guardian, student or other individual requests information regarding a bullying investigation. Disclosure requirements under FERPA and the Massachusetts Regulations, 603 CMR 27.00, should be made clear during training and in any bullying materials provided to administration and staff.

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E. Clear Expectations for Administration

The administrator responsible for investigating bullying reports or concerns must understand their duties and expectations with respect to conducting bullying investigations. Said administrator should also make sure to respond, investigate, notify relevant parties, and report findings in a uniform manner to each instance of bullying.

It should also be made clear to the administrator responsible for investigating bullying that the duty to investigate applies not only to formal bullying reports, but any concerning activity that could constitute bullying, regardless of how the concern is brought to the administrator's attention.

LMMHS administrators responsible for responding to bullying, including the Building Principal and designee, should be provided the proper training to conduct bullying investigations to ensure that LMMHS administration is properly following the bullying policy and protocol for responding to bullying reports, complaints or concerns.

The designee should also promptly communicate to the Principal when the designee is not available to begin or complete a bullying investigation, in which case, the Principal shall be responsible for beginning or completing the investigation. The Principal and the designee must work together to ensure that every bullying report, complaint or concern is addressed promptly and appropriately.

LMMHS administration should also attend each BBST meeting to ensure they are aware of any potential patterns of activity that could constitute bullying that could either be prevented or addressed in a prompt manner.

F. Notification Procedures

Notification of Investigation: LMMHS administration must notify parents or guardians of both the target and the aggressor when a bullying report or complaint is made. LMMHS may provide such notice by way of letter, email, or phone call. However, it is best practice to have documentation showing that LMMHS administration did notify the parents/guardians. To ensure adequate notification, LMMHS could consider a combination of mailing a letter and sending an email or making a phone call to the parents or guardians. LMMHS should also ensure to have the correct address on file for the parent/guardian to avoid sending notification letters to the wrong individual. In any event, the practice to be used by LMMHS must be reflected in the policy and enforced in a uniform manner for each instance of bullying.

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Notification of Findings: At the conclusion of a bullying investigation, LMMHS administration must document the findings of the investigation, and promptly notify the parents or guardians of both the target and the aggressor of the investigation outcome, *e.g.* whether bullying/retaliation occurred or not, and actions being taken to prevent further acts of such whether bullying. LMMHS administration could notify the parents/guardians of the findings by letters, email or a phone call, so long as the parents/guardians are notified, and the notification is documented. The practice to be used by LMMHS in notifying the parents/guardians of the findings must be reflected in the policy and enforced in a uniform manner for each instance of bullying. In notifying the parents/guardians, LMMHS administration must not disclose specific information regarding the disciplinary action taken unless it involves a stay away order or other similar directive of which the target must be aware to report violations of such directives.

G. Gathering and Reporting Bullying Data

LMMHS currently has a team known as the Building Base Support Team (BBST). One of the duties of BBST is to identify any concerning patterns of bullying or harassment. My recommendation is for the members of BBST to develop a robust organized structure on how to discuss student behaviors and patterns, whether that be through the use of a binder to log behavioral issues or concerns, roundtable discussions, or other means. Each concern should be documented in an organized manner to detect if there are any patterns of bullying that should be addressed with the student who has not yet reported a concern. The idea is to ensure a consistent, robust approach to ensure proper bullying prevention, identification, and investigation procedure.

Any instance of bullying that is investigated must result in an outcome: either bullying occurred or did not. Those findings must be documented in the Investigator's Report Form (Form B) regardless of whether bullying was found or not.

Instances where bullying IS found must be reported to the Massachusetts Department of Elementary and Secondary Education.

H. Safety Plan

The reporter, target, witnesses and parents/guardians in a bullying investigation should be informed of the option to have a Safety Plan in place while the investigation is ongoing.

I. Prevention Strategies

The Bullying Prevention Plan provides that the District will inform parents and guardians of the anti-bullying curricula used in each school. Moreover, as the policy states, the notice must include information about the dynamics of bullying, including cyber bullying and online safety. Written notice of the student-related sections of the Plan and the District's Internet Safety policy must also be sent to parents and guardians. The notices must be made available in hard copy and

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electronically on the District's website. The District should make sure to follow this policy and send the written notice as provided in this section of the policy at the beginning of each school year.