

MASC Bulletin

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MASSACHUSETTS ASSOCIATION OF SCHOOL COMMITTEES

Proponents/Opponents Reach Compromise on Proposed Education Ballot Initiative

A TENTATIVE AGREEMENT WAS reached last week between the proponents and opponents of a proposed ballot question that will impact how teachers are hired, transferred and removed relative to seniority; will give principals more authority in staffing decisions; establish an educator evaluation data advisory committee to advise the Board of Education on information to be collected for assessing and disseminating district evaluation data; and authorize appropriation for training fund grants required to implement the new teacher and administrator evaluations.

The consensus language is contained in a legislative proposal that

will need both legislative and gubernatorial approval prior to the upcoming July 3 in order to become effective on September 1, 2012. If the proposal is passed, the ballot sponsors have agreed to abandon their efforts to secure the far more prescriptive language slated to be presented to state voters this November.

MASC has reviewed the proposed language and suggests that while a number of important questions still exist about the efficacy, implementation and sustainability of the compromise, the Board of Directors is encouraged by the fact that the proposed language incorporates many of the collective bargaining recommendations that MASC has consistently

endorsed as a component of raising student achievement.

Below is the statement from the Board of Directors re the proposed changes to the MA Educator Evaluation System, released by MASC President Penny Blackwell, Upper Cape Cod Reg. Voc. Tech.:

“MASC believes that the new educator evaluation system is already highly detailed, complex and demanding of the full attention of school leaders and local policy makers in order to improve the quality of classroom instruction and direct services to children in Massachusetts. The most diligent efforts of teachers, prin-

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Where Bullying Intervention and Special Education Intersect

by Mary Joann Reedy Murphy, Lamere and Murphy, P.C.
Research conducted has demonstrated conclusively that children with disabilities are significantly more likely than their peers to be the victims of bullying. The statistical rate of bullying for this demographic is wide ranging. A study in the British Journal of Learning Support (2008) found that 60 percent of students with disabilities reported being bullied compared to 25 percent of the general student population. According to researchers Wall, Wheaton and Zuver (2009) only

In the past few years, increased concern about the effects of bullying in schools in Massachusetts and nationwide has led to the enactment of statutory requirements for investigation and reporting of bullying as well as the development of social/emotional curricula to address the causes of bullying conduct. These important developments, which apply to all public school students, clearly have particular relevance for students with disabilities,

who are more likely than others to be the victims of bullying—and sometimes the bully as well. Thorough implementation of the investigation, notice and reporting requirements found in M.G.L. c. 71, § 37O are important in assuring compliance with the bullying intervention initiatives. However, it is equally important for school districts to have a clear understanding of where and how the laws governing the rights of students with disabilities intersect with

10 studies have been conducted in the United States on bullying and developmental disabilities. All studies found that children with disabilities were two to three times more likely to be victims of bullying than their non-disabled peers. In addition, the researchers found that the bullying experienced by these children was more chronic in nature and was most often directly related to their disability.

WALK A MILE IN THEIR SHOES, Bullying and the Child with Special Needs, ABILITYPATH.org

and supplement the broader bullying prevention initiative. Here are some critical points.

Different Perspectives

As anti-bullying initiatives were implemented in various states, the Office for Civil Rights of the United States Department of Education (“OCR”) issued an advisory letter reminding school districts that reports of bullying

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MASC News

SOMERVILLE STUDENT WINS MASC PAST PRESIDENTS' SCHOLARSHIP

Mattie Barber-Bockelman, daughter of Somerville School Committee member Paul Bockelman, has been named the recipient of the 2012 MASC Past Presidents' Scholarship award.

An honors graduate of Somerville High School and member of the National Honor Society, Mattie has distinguished herself as not only a scholar, but as a student leader and mentor, musician, athlete, actress, activist and volunteer, who has over and over demonstrated her commitment to giving back to her school and her community. In a moving statement to the selection committee, Mattie indicated her desire to "understand how the world is put together, so I can better understand how to help change it to make it a better place." She will be enrolling at Connecticut College in the fall. Congratulations to all this year's applicants and MASC wishes you success in the year ahead.

END OF YEAR CONFERENCE SUPER SAVINGS (\$\$) AVAILABLE

Register now with your end of fiscal year dollars and be eligible for the super-low **MASC/MASS Joint Conference full registration rate of \$250**. The conference will be held at the Resort & Conference Center in Hyannis Nov. 7-10. More than 60 keynote programs, targeted workshop strands and special sessions are being planned on school governance, leading for student achievement, the new educator/administrator evaluation process, advocacy, and an entire strand on cost-saving strategies. Guest speakers will be announced in the next few weeks, as will special dinner and post-dinner programs.

Don't wait to register and miss these special savings! Register online easily at www.masc.org or call (800)392-6023 for more information. Hotel registration forms are also available on the MASC website.

Bullying Rates Alcohol/Tobacco Use Decline

New reports on health behaviors of youth in MA show reduced rates of bullying among high school students and lower rates of tobacco and alcohol use among high school and middle school students.

The data is drawn from two reports issued this month: *Health and Risk Behaviors of Massachusetts Youth, 2011* and *A Profile of Health Among Massachusetts Middle and High School Students, 2011*.

Key findings include: The percentage of high school students who reported being bullied at school has significantly declined from 23% in 2003 to 18% in 2011. For the first time, the report also included data on rates of cyber-bullying. In 2011, 14% of middle school students and 16% of high school students reported being victims of cyber-bullying.

Rates of alcohol use are declining among both high school and middle school aged youth in MA. Lifetime alcohol use among high school students has shown a significant decline since 2003, from 75% to 68%. Fewer

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Compromise reached on education initiative

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cipals and other administrators will be required to implement this plan efficiently, and this is a process that should not be rushed into place without careful planning and professional development for all stakeholders.

At the same time, MASC has long called for stronger policy at the local level to ensure that the collective bargaining process and educator evaluations will be used primarily to boost the quality of instruction and proficiency of our educators so we may make continuous improvement in student achievement and overall outcomes for our students.

The proposed ballot initiative is overly prescriptive, or "top down," in that it strips educators and local policy makers of the ability to fit the evaluation system to the appropriate needs of individual school districts and communities. It also further expands state authority over local government in an area where school district officials should be allowed to lead implementation of the evaluation system.

The alternative (compromise) pro-

posal that allows local leaders to negotiate for more effective criteria for teacher assignment and allows four years to plan and implement these changes will be essential elements of the work necessary to strengthen both the quality of instruction and the overall professional practice of our educators. This is consistent with the public policy that MASC has advocated during the Education Reform movement. It will enable people who lead local school districts and serve children to channel their positive energy into building stronger public education programs. We are pleased that the MA Teachers Association has facilitated this agreement based on language negotiated in previous collective bargaining agreements.

The proposed funding of \$13 million to implement the system will also be a welcome resource to encourage collaboration and care to make the educator evaluation program a national model for districts eager to emulate the strategies that have made Massachusetts students the highest performing in the nation."

MASC will keep members apprised of developments on this proposed initiative. A more detailed analysis from MASC can be found on the MASC website.

MASC: Working for YOU

This spring has been an exceptionally busy time for MASC staff who have been working closely with member districts, providing guidance on the new educator/administrator evaluation requirements; the implications of revised state policies around social media, harassment and bullying, concussions, and nutrition; changes to the open meeting and public records laws; and numerous administrator searches. Below is a partial listing of some of the many ways in which MASC assists members in their leadership role and represents school committee interests and concerns at the local, state and national levels.

1. Providing members the most up-to-date communications and information

- Legislative Bulletins analyzing the House and Senate Ways & Means FY13 budget proposals; Legal Advisory on filing requirements for school choice; Early Bird announcement of special end of year savings for MASC/MASS Joint Conference.
- Day on the Hill, MASC's annual legislative advocacy program held at the State House with guest speakers this year including the House and Senate Education Chairs; the State Auditor; the Chairs of Senate Ways & Means and the Committee on Public Service; and the House Ways & Means Vice Chair.
- In response to recent legislative action, MASC sent out newsletters and listserv blasts on new requirements around preventing/monitoring student concussions; the new nutrition guidelines; and the new, web-based iCORI system.

2. Representing MA School Committees at the state and national levels

- MASC is represented by the Executive Committee on Governor

Bid your grads farewell—but not forever

June Advocacy Tip

Once again, it's the season of "Pomp & Circumstance" and as school leaders present this year's graduates with their hard-earned diplomas, you can take pride in knowing that you, your administrators, educators and the entire school community have helped prepare these young people for the next stage of their careers and lives as productive, contributing citizens.

But don't consider their march off the stage as the end of your connection with them. Graduation ceremonies are an excellent opportunity to tap into strong feelings of pride among students, their families and community members and businesses, which can reap long-term benefits for the district.

There are many ways you can engage your recent and returning alumni. For new graduates, reach out to those who have shown leadership and interest in maintaining connections with your school to start a "young alumni" group. You can help them stay in touch through newsletter columns or through the district web page or social networking site. Young graduates in particular may be apprehensive about what the future holds for them and the challenges of the new college or workplace environment. Keeping connected

Patrick's Local Government Advisory Council (LGAC) and participate at monthly meetings with the Governor or Lt. Governor, key members of the Executive Office administration and members of the MA Municipal Association, providing expertise and insight on education issues that impact city and town management and budgets.

- MASC General Counsel testified before the Legislature and in smaller, informational meetings on a number of issues, including educational collaboratives (in which MASC played a significant role in shaping the final legislative language), and most recently the FY13 budget in which the Association was able to secure

with their high school classmates may help them better adjust to this next stage of their careers.

If your district already has a strong alumni group, encourage them to engage with recent graduates to provide a support network. Older alumni can often become role models or mentors to younger grads and may be able to counsel on professional or career options, or in some cases, be a connection to potential employers. In addition, this bond between recent and older grads may help leverage positive associations with the school district and motivate students who have moved on to nevertheless consider themselves part of the ongoing school community and its culture.

Alumni can also be a valuable resource to the district when building, programming or override campaigns are in the forecast. Engaged alumni are more likely to support district improvement efforts and may be among your most effective advocates. Make a point of thanking your alumni for their support and reminding them of how proud you are of their accomplishments. Your efforts are likely to be rewarded with a strong base of continued support for the community and the district.

important increases in Chapter 70 dollars, as well as near full funding of the special education circuit breaker, and new increases in regional school transportation.

- Members of MASC staff and Board of Directors participated on and/or led key sessions on school governance, student mobility and the uses of data for student achievement at the National School Boards Association annual conference held this April in Boston.
- MASC is currently participating on the Labor Management Initiative Project in collaboration with the representatives from the teachers'

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Bullying

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and harassment involving students with disabilities (under IDEA or Section 504) might involve more than just violations of state law or school rules. Because students with disabilities are considered members of a protected class under non-discrimination statutes such as Section 504 of the Rehabilitation Act of 1973, bullying or harassment of students with disabilities may well be unlawful discrimination under federal civil rights statutes. (OCR notes that the same concerns apply where bullying or harassing conduct is directed at a student because of gender, ethnicity or race, national origin, or sexual orientation, for example). In *Dear Colleague Letter re: Harassment and Bullying*, October 26, 2010, OCR strongly suggests that any allegations of bullying or harassment be examined under the lens of federal civil rights law so that appropriate action can be taken with an understanding of the potential ramifications of inaction. For example, failure to properly assess and respond to allegations of “teasing” directed to a student with disabilities can lead to mischaracterization of conduct which is really discrimination as merely “students behaving badly.”

In addition, under state law, M.G.L. c. 71 § 37O bullying is defined as *repeated* acts of harassment or bullying prohibited by the law. Unlawful discrimination, on the other hand, can be shown by *one* sufficiently serious act of bullying which is based upon the victim’s disability status. In order to keep these additional civil rights implications in mind, it is important for school districts to train administrators or others designated to investigate allegations of bullying to look beyond the single incident or incidents at hand to the broader context of the school environment. That is because charges of allowing a hostile environment to develop where bullying or harassment directed against students with disabilities or other protected groups can quickly become costly civil rights claims. The implications of civil rights violations in this context are vast

and costly, as there is potential for individual as well as school district liability where established legal principles and procedures are not followed.

Discipline

We all know that the discipline process for students with disabilities provides for additional protections, primarily requiring that the school consider whether the misconduct is disability related before imposing discipline and also requiring school districts to continue educational services to students with disabilities even if they are removed from the regular school program. Studies suggest that students with disabilities, though often the targets of bullying, can engage in bullying behavior as well. Sometimes a student is both a bully and a target of bullying. The studies assert various reasons for the particular vulnerability of students with disabilities to bullying behavior. Sometimes students bully as a byproduct of being bullied themselves; sometimes frustration, impulsivity or poor social judgment are at play. As cases involving bullying by students with disabilities are being reported with increasing frequency, it will be important for school districts to make sure that the process is followed carefully. As is often the case with the discipline of students with disabilities, there are the multiple issues involved in managing the case: making sure the student understands the nature and seriousness of his/her conduct, reviewing the student’s IEP to ensure that proper supports are in place, sending a message to the school community the certain conduct cannot be tolerated, and assuring parents that their children are safe in school. Good case management is important, as there are often competing interests, and involve the application of due process, special education and confidentiality rights at a minimum.

IEP Development and Child Find

The Massachusetts Bullying Intervention Statute, Chapter 92 of the Acts of 2010 also amended M.G.L. c. 71B, the state special education law to require IEP development to consider whether the student’s disability affects social skills development, or “makes him or her vul-

nerable to bullying, harassment or teasing” and to include in the IEP services or accommodations to address those concerns. The Act specifically requires a special education team to consider social skills development and bullying concerns for students with autism spectrum diagnoses—a disability marked by reduced social skills. Certainly many students with disabilities will benefit from and only require the level of social skills instruction found in the anti-bullying curriculum for all students. Other students will require more direct instruction in social skills. It is very important that the IEP team for each student with a disability consider and document its discussion about that particular student’s level of need in this area. As well as documenting the student’s program and services, the IEP can be powerful evidence that the district has met its obligation to address any culture of bullying that might exist in the school.

School districts are required under both IDEA and Section 504 to have “child find” procedures in place which will help to identify students who may require evaluation, leading to services or accommodations. In addition to outreach to parents and local schools to notify them of the availability of the eligibility process under IDEA or 504, the child find obligation extends to referring for evaluation students already in the district who may be evidencing signs of behavior or functioning in other areas that might suggest the existence of a disability. Students who are bullies may, or may not have underlying disabilities which result in their unacceptable behavior. Not considering whether a student should be referred for an evaluation when behaviors become problematic can be a costly error. Note: this is all about the process of considering referral—not necessarily a requirement that all bullies be evaluated, or that all bullies will be found eligible for special education. It is important as well that consideration of whether to refer a bullying student for an evaluation should be thoughtful and take into account all of the information known about the student.

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MASC: Working for YOU

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unions, superintendents association, Department of Labor, and Northeastern, UMASS and MIT Universities as part of a groundbreaking effort to develop strategies to better facilitate the collective bargaining process.

- MASC is represented on the Legislature's Collaborative Commission, which is studying issues relative to MA Educational Collaboratives oversight and management. The Commission is expected to release recommendations later this year.

- MASC continues its ongoing participation in MA Partners discussions with other education associations. This year's focus has been on concerns around regulatory overload and superintendents checklist.

- MASC is represented on the state's Race to the Top Advisory Commission which is advising the Commissioner on Race to the Top implementation issues among other concerns.

3. Providing services to meet member needs

- Division meetings held state-wide on educator evaluation requirements and the implications for collective bargaining; pending legislative issues; and demographic projections that will impact upcoming school enrollments and budgets.

- MASC is currently assisting more than 20 school districts in development or upgrade of their policy manuals.

- MASC recently conducted customized workshops for member districts on Roles & Responsibilities; Meeting Protocols, and Team Building.

4. Helping school committees increase student achievement

- Rollout of new materials and curriculum on collective bargaining, educator/administrator evaluations and using data for the District Governance Support Project, which 18 districts in the Commonwealth are currently participating in.

- MASC is participating on a DESE Special Education Advisory Group that is studying how to help districts address student achievement issues in light of special education regulations, school inclusion, and sped fiscal reforms and expense/cost issues.

- As a member of the TELL MASS Steering Committee, MASC has been instrumental in helping to develop and promote the educator survey that will report on school climate and professional concerns and the impact on student learning.

- MASC staff members served as judges at the 2012 Massachusetts SkillsUSA competition that recognizes the outstanding and varied accomplishments of the state's vocational-technical students.

5. Providing opportunities for members to learn how to better govern their districts

- New member orientation sessions (Charting the Course) have been held this spring at Greater Lawrence Voc. Tech., Barnstable, Plymouth and at Assabet Valley.

- MASC sponsored a COSCAP (Council of School Committee and Administrative Personnel) Workshop to help school committee secretaries/administrative assistants understand their roles and responsibilities in managing the myriad requests and requirements that come through the district office as well as keeping their school committee members and administrators informed and on track.

Tools for Schools

A ROADMAP FOR SCHOOL INVESTIGATIONS

Cole Facts System: A Roadmap for School Investigations is a practical comprehensive system for school investigations and response to discriminatory harassment under federal civil rights laws, as well as to bullying and cyberbullying as defined by state law. The program was developed and produced by Richard Cole, former Assistant Attorney General and Civil Rights Division Chief, MA Office of the Attorney General. The system is designed to promote quality and consistency in investigations and help schools ensure compliance with federal and state laws. For information: www.colecivilrights.com

MISC 2011 Year-End Report to be released in July

The eagerly-anticipated 2011 Year-End Management Information for School Committees (MISC) report is being finalized and will soon be in the mail to members. A cd version will be sent to all MASC members and superintendents will receive the report in both hard copy and cd format.

Additional copies can be ordered at www.masc.org or by phone: 800-392-6023 or fax: 617-742-4125. The cost is \$45.00 (hard copy) and \$23.00 for a cd format.

Bullying

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Conclusion

The interplay between the state and federal laws protecting students with disabilities and the statutes and processes requiring administrators to keep students safe from bullying and harassment are complicated. In reality there are no short cuts around faithful and professional adherence to the process required for special education/Section 504 discipline. There are significant consequences for insufficient investiga-

tion, lax procedural compliance or failure to adhere to acceptable professional standards of decision making when implementing bullying intervention protocols. Increased litigation regarding just such issues will cost school district money that could otherwise be used for educational programs and staffing. The only prevention is in defining and implementing specific protocols to make sure that all legal requirements are met. Oh—and call your school counsel when in doubt. An ounce of prevention, and all that...

Use declines

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high school students are reporting alcohol use before the age of 13 since 2003, from 25% in 2003 to 15% in 2011. Among middle school students, lifetime alcohol use decreased from 26% in 2009 to 20% in 2011.

Rates of cigarette use are declining among both high school and middle school aged youth. Both lifetime and current (past 30 days) cigarette use have been steadily declining among high school students since 2003 (lifetime use declined from 53% to 39%; and current use declined from 21% to 14%). Fewer high school students are reporting cigarette use before age 13 (15% in 2003 vs. 7% in 2011). And lifetime cigarette use in middle school students dropped from 15% in 2009 to 10% in 2011.

Health and Risk Behaviors of Massachusetts Youth, 2011 is available by contacting JC Considine at DESE, (781) 338-3112. Download *A Profile of Health Among Massachusetts Middle and High School Students, 2011*, at www.mass.gov/eohhs.

COMING SOON TO YOUR MAILBOX!

In the next few weeks, the 2012 edition of the **SELECTED GENERAL LAWS FOR SCHOOL COMMITTEES AND SCHOOL PERSONNEL** will be sent to all school committee members, superintendents and school business officers.

Additional copies can be ordered online at www.masc.org

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