

Outline

- I. Introduction
- II. Reasons for Bullying
- III. Bullying Defined
- IV. Status of the Law
- V. Policy Recommendations
- V. Conclusion

Bullying, the Law, and Safe Schools

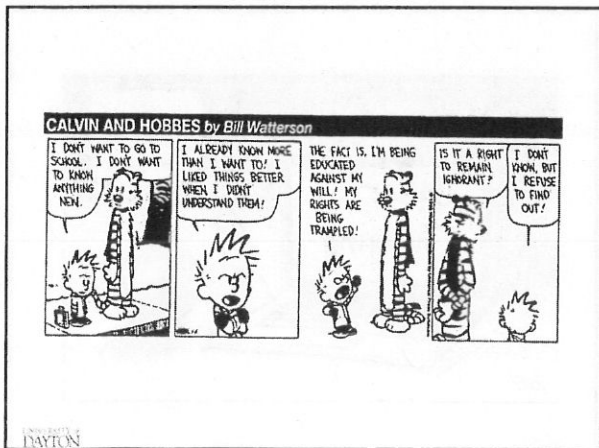
**Annual Meeting and Expo of the
Association of School
Business Officials International**
September 22, 2018
2.00 PM-3.00 PM
DG 06

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I. Introduction

Bullying, the most common form of violence in schools, can be distinguished from other types of conflicts in 3 ways because bullies

1. intend to inflict suffering
2. repeatedly inflict suffering
3. are aware of the imbalance of power between themselves and their victims



I. Introduction

4 Types of bullying

Physical: hitting, kicking, punching, spitting, tripping, pushing

Verbal: teasing, name calling, inappropriate sexual comments, or verbal or written threats



I. Introduction

12% of public schools report that bullying happens at least once a week.

Rates are highest for middle schools (22%) compared to high schools (15%), combined schools (11%), and primary schools (8%).

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I. Introduction

Social: teasing, name calling, inappropriate sexual comments, or verbal or written threats excluding someone, spreading rumors, making embarrassing comments

Cyber bullying: “willful and repeated harm inflicted through the use of computers, cell phones, and other electronic devices”

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I. Introduction

Bullying can happen online: For example, over 15% of high school students report being cyberbullied in the last year.

Data from
<https://www.edc.gov/violenceprevention/pdf/bullying-factsheet.pdf> (2017)

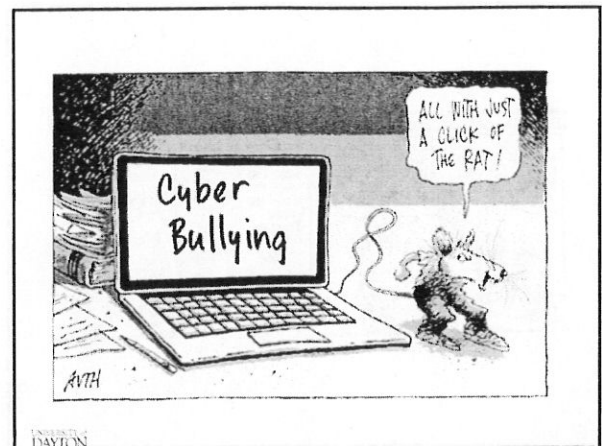
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I. Introduction

Bullying is common: 1 in 5 high school students reported being bullied at school in the last year.

Bullying is frequent: bullying is among the most commonly reported discipline problems in public schools....

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II. Reasons for Bullying: Victims

Personal Characteristics of Victims

Physical appearance: race, dress, size, "looks"

Sexual orientation, actual or perceived

Gender cf. Sexual Harassment

Whether one has friends, is accepted

Family SES

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III. Bullying Defined

Model Statute

"Harassment, intimidation, or bullying" means either of the following:

(a) Any intentional written, verbal, electronic, or physical act that a student has exhibited toward another particular student more than once and the behavior both:

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II. Reasons for Bullying: Bullies

Abuse and the Need to Dominate

Acting Out Problems from Home

Lack of Social Skills

Lack of Consequences and Supervision

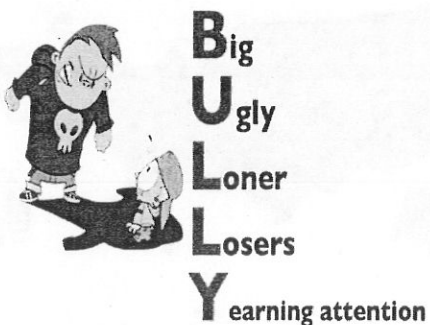
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III. Bullying Defined

Model Statute

(i) Causes mental or physical harm to the other student;
(ii) Is sufficiently severe, persistent, or pervasive that it creates an intimidating, threatening, or abusive educational environment for the other student.

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III. Bullying Defined

Model Statute

... includes calls for boards to develop policies prohibiting harassment, intimidation, or bullying on school property, on school buses, or at school-sponsored events and expressly providing for the possibility of suspension of students responsible for harassment, intimidation, or bullying by electronic acts;

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III. Bullying Defined

Model Statute

suggesting that policies address reporting/ documenting accusations; due process (including appeals); and steps to protect both victim and others from false claims.

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III. Cyber bullying

Pretending to be someone else online to hurt another

Taking unflattering pictures of others and spreading them through cell phones or the Internet, sexting, or circulating sexually suggestive pictures or messages about others

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IV. Status of the Law

State and local lawmakers have taken action to prevent bullying and protect children.

Bullying, cyberbullying, and related behaviors may be addressed in a single law or may be addressed in multiple laws.

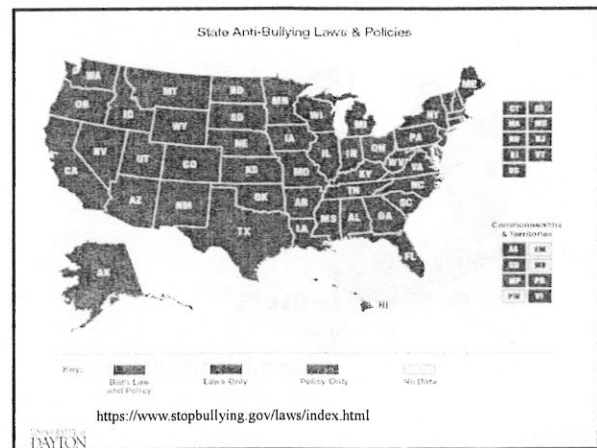
In some cases, bullying appears in the criminal code of a state that may apply to juveniles.

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III. Cyber bullying

- Sending unwelcomed messages or threats to a person's email account or cell phone
- Spreading rumors online or through text messages
- Posting hurtful or threatening messages on social networking sites or web pages
- Stealing account information to break into others' accounts to send damaging messages

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Case Law

G.D.S. ex rel. Slade v. Northport-E. Northport Union Free School Dist., 915 F. Supp.2d 268 (E.D.N.Y. 2012) involved anti-Semitic student-on-student religious harassment and bullying.

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Case Law

5. bullying of which they had actual knowledge and bullying that was so ...
6. severe, pervasive, and objectively offensive as to have ...
7. deprived the plaintiff of access to educational opportunities or benefits provided by the school.

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Case Law

Using language from Title IX sexual harassment claims, a federal trial court rejected a motion to dismiss the suit a high school student and his father filed alleging that the board and officials violated his right to equal protection under section 1983.

The court applied 7 criteria from *Davis v. Monroe County Board of Education* (1999)

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Case Law

Litigation is increasing over bullying of students who are

Disabled

LGBTQ

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Case Law

1. applies to public schools receiving federal financial aid assistance;
2. officials exercised substantial control over both the harasser and victim;
3. and the context in which the known harassment occurred;
4. officials demonstrated deliberate indifference to ...

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V. Recommendations

- 1a. Ensure that policy teams involve representatives of key constituencies in crafting guidelines, both when they are initially developed and when they are revised because ensuring cooperation can be of invaluable assistance.

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V. Recommendations

- 1b. At a minimum, committees should include a member of the school boards, the board lawyer, an administrators, the SBO, a teacher, a staff member, a parents, and a student, particularly at the secondary and middle school levels, since bullying is so common in student life.

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"On the Internet, nobody knows you're a dog."

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IV. Recommendations

2. Include clear definitions of bullying and intimidation to put students on notice as to the types of acts that will not be tolerated in or on school grounds, on property adjacent to schools, at school-sponsored and school-related events and activities (on or off school grounds), at school bus stops and on school busses.

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IV. Recommendations

4. Specify that off-campus behavior may be punishable if it creates hostile environments at schools for victims, infringes on the rights of victims, or creates material and substantial disruptions to the education process or school operations.

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IV. Recommendations

3. Definitions should encompass verbal written, and electronic communications that can lead to physical acts and gestures causing physical or emotional harm, damage to victims' property, place victims in fear of harm, create hostile environments, infringe on the rights of others.

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IV. Recommendations

5. Prohibit all forms of harassment, bullying, and intimidation on the basis of race, ethnicity, national origin, religion, gender, sexual orientation, and/ or disability.

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IV. Recommendations

8. Build instruction against bullying into school curricula . . . be proactive.
9. Develop peer-intervention programs.
10. Provide annual professional development for staff members.

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IV. Recommendations

11. Offer regular informational sessions for parents and interested community members.
12. Review policies annually, typically between school years, not during or immediately after controversies.

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V. Conclusion

Knowledge is power . . .

Francis Bacon

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