

Bullying and New School Violence: An American Perspective

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1. Introduction

Sadly, while not unique to the United States, there is a history of violence in and around American public schools. Perhaps the earliest, seemingly forgotten, episode occurred on May 18, 1927. On this fateful date, more than forty individuals, mostly children, were killed and almost sixty persons were injured when a disgruntled member of a local school board used dynamite to destroy a new school building in Bath, Michigan (N.Y. Times, 1927a). The killer, who took his own life, dynamited the school in response to a disagreement for the amount of taxes he had to pay for the new school (N.Y. Times, 1927b).

More recently, in the aftermath of the tragic school shootings in Columbine in 1999, coupled with widely-reported suicides of bullying victims and seemingly countless acts of bullying violence by students, few issues have generated more interest from educators and their lawyers than bullying. Moreover, as an often quoted 2005 study notes, “The National Education Association estimates that 160,000 students avoid school every day for fear of being physically or emotionally abused by their peers (cited at Bloom, 2007, p. 108).”

127

Amid efforts to prevent bullying, a comprehensive study by the United States Department of Education (USDOE) reports that as of April 2011 “Forty-six states have bullying laws” (2011a, p. x)” designed to prevent or reduce bullying in and near schools. A later USDOE map indicates that all states but Montana, which already adopted a policy, enacted laws dealing with bullying (<http://www.stopbullying.gov/laws/index.html>).

At the outset, it is important to note that bullying, the most common form of school violence (Dayton, 2011), can involve physical acts or cyber means. It is also important to recognize as an initial matter that bullying is so insidious because, regardless of how it is perpetrated, it is unlike other kinds of conflicts insofar as bullies intend to inflict repeated suffering on their victims due to the imbalance of power between victims and predators.

Based on the great deal of attention devoted to bullying in both the popular and academic presses, this paper examines bullying rather than the broader issue of other types of violence in schools. As such, the remainder of this paper divided into four substantive parts. The first part defines bullying and described bullies. The second section presents statistics on the pervasiveness of bullying in schools. The third part provides a brief overview of statutes in the United States. The fourth section offers recommendations for policy development for educational leaders and lawyers as they seek to eliminate bullying in their schools. The article rounds out with a brief conclusion.

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2. Bullying and Bullies Defined

According to the USDOE, “Bullying is unwanted, aggressive behavior among school aged children that involves a real or perceived power imbalance. The behavior is repeated, or has the potential to be repeated, over time. Bullying includes actions such as making threats, spreading rumors, attacking someone physically or verbally, and excluding someone from a group on purpose (USDOE, Bullying, 2011b).” Of course, bullying can manifest itself as physical acts of violence and/ or aggression, verbal taunts, relational or social aggression, and cyber bullying (Jordan & Austin, 2012).

The USDOE adds that “Cyber bullying is bullying that takes place using electronic technology. Examples of cyber bullying include mean text messages or emails, rumors sent by email or posted on social networking sites, and embarrassing pictures, videos, web-sites, or fake profiles (Cyber bullying, 2011b).” Cyber bullying can also manifest itself when individuals send unwelcomed messages or threats to email accounts or cell phones, post threatening messages on social networking sites or web pages, steal account information to break into others’ accounts, and “sexting,” or circulating sexually suggestive pictures or messages about others.

A discussion of bullying would not be complete without at least a brief mention of what motivates bullies. This information is important because it is all the more difficult to develop prevention strategies without first having an understanding of why bullies act as they do.

Research suggests that bullies may be influenced by such factors as the personal characteristics and physical appearances of their victims including their race; dress; size; gender; sexual orientations, actual or perceived; how they “look;” whether they have friends and are accepted by others; and family socioeconomic status. Further, boards need to consider why bullies, who typically lack social skills and have often been abused, need to act out by dominating others even as they have never been taught to accept the consequences of their actions (Craig & Pepler, 2007). To the extent that board policies can address these underlying causes and develop programs to address these conditions, then they are likely to help reduce bullying in and around schools.

3. Statistics

A brief look at data on bullying in the United States, whether it is perpetrated in-person or via cyber space is startling.

A. In-person Bullying

One out of four students is subjected to bullying while one out of five admits to having engaged in acts of bullying. Additionally, forty-three percent of children expressed their fears that they will be harassed in school bathrooms, 282,000 students are physically attacked in secondary schools each month, and eighty percent of arguments with bullies end in fights (Stomp Out Bullying, n.d.; this source aggregates data from websites listed under it in the References).

At the same time, one in three students report that they heard a peer threaten to kill someone as a result of bullying and thirty percent of those who reported being bullied said that they brought weapons to school on occasion (Stomp Out Bullying, n.d.). In a particularly telling statistic, bullies are six times more likely to be incarcerated by the time they reach the age of twenty-four and are five times more likely to have serious criminal records when they grow up (Proactive Behavioral management, n.d.). Finally, males and females students are subjected to bullying in different ways (http://stompoutbullying.com/aboutbullying_theissue.php).

B. Cyber Bullying

Forty-three percent of students report that they were bullied while online, that ninety percent of LGBT students experienced harassment online and at school, and that ninety-seven percent of middle school students are bullied online. Further, thirty-five percent of students have been threatened online while twenty-one percent of respondents received mean or threatening e-mails or other messages (Stomp Out Bullying, n.d.).

In terms of the content of online messages, fifty-eight percent of students admit someone has said “mean” or “hurtful” things to them online while fifty-three percent of students admit having said something mean or hurtful to another person online; more than one in three respondents admit to having engaged in such behavior more than once (Stomp Out Bullying, n.d.). Yet, in an important legal point insofar as students who are accused of being bullied can claim that school rules are vague or overbroad, and not trying to minimize this information, a difficulty with this data is that neither it nor many policies clearly define how such terms as “mean” or “hurtful” can be interpreted or applied in terms of disciplining students for such (mis)behavior. Since it is difficult to monitor such behavior, policies must clearly stipulate that students should report all incidents of bullying to named educational personnel.

A final, unfortunate statistic is that fifty-eight percent of students have not informed their parents or adults when something inappropriate occurred on line (Stomp Out Bullying, n.d.). Accordingly, policies must encourage reporting of incidents in a timely manner.

4. State Bullying Laws

This section highlights the most salient facts about bullying laws across the United States based on a recent report from the USDOE. Based on the analysis in the USDOE study, “between 1999 to 2010 there were more than 120 bills enacted by state legislatures nationally that have either introduced or amended education or criminal statutes to address bullying and related behaviors. Twenty-one new bills were passed in 2010 and eight additional bills were signed into law through April 30, 2011 (2011a, p. 15).”

Turning to specifics, “Forty-six states have bullying laws and 45 [sic] of those laws direct school districts to adopt bullying policies (2011a, p. x);” as noted, though, a more recent map published by the USDOE reports that all states but Montana have bullying statutes in place. Still, it is important to acknowledge that Montana does address bullying via a regulation. Among the states, thirty-six forbid cyber bullying or the use of electronic media in acts of bullying. Also, thirteen state laws specify that school officials have jurisdiction over off-campus bullying behavior if it creates a hostile school environment (2011b, a. 15).

Forty-two states explicitly prohibit bullying, but three of these laws fail to define bullying (2011a, p. 15), leaving it up to local school boards to write their own definitions. In terms of content, state laws typically speak of “‘bullying,’ ‘bullying and harassment,’ or ‘bullying, harassment, or intimidation.’” using terms interchangeably (USDOE, 2011a, p. 15). Of these, “Nine states distinguish between ‘bullying’ and ‘harassment’ and define them separately under the law. Two states only address ‘harassment’ as it pertains to behavior in schools, with no mention of ‘bullying’ (p. 15).”

5. Policy Recommendations

In order to address bullying in their schools, and consistent with most state laws, lawyers should work with educational leaders to develop policies that are mindful of the following recommendations so that they can take more proactive approaches to addressing this perplexing problem. It is important

for SBOs to be mindful of these issues because even if they do not have direct contact with students on daily bases, they help to set the tones in their school systems.

First, when developing policies boards should 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. At a minimum, committees should include board members, the board lawyer, administrators, teachers, staff, parents and students, particularly at the secondary and middle school levels, since bullying has become such an unwelcomed element in student life.

Second, policies, which should be incorporated into student and faculty handbooks, must include clear definitions of bullying, intimidation, harassment, and other unacceptable behaviors such as being subject to punishment for acting or saying something that one could be interpreted as “mean” or “hurtful.” Doing so puts students on notice over the types of acts that will not be tolerated. Policies should make it clear what behaviors are unacceptable in schools, on school grounds, on property adjacent to schools, at school-sponsored and school-related events and activities (regardless of whether they occur on or off school grounds), at school bus stops, and on school busses. It is crucial to define policies as carefully as possible so boards and educational leaders can avoid challenges based on claims that their rules are vague or overbroad.

Third, in a closely related item, policies should specify that off-campus behaviors may be punishable if they create hostile environments at or away from schools for victims, infringes on their rights, or creates material and substantial disruptions to the educational process.

Fourth, boards should craft provisions carefully to encompass verbal, written, and electronic communications that can lead to physical acts or gestures causing physical or emotional harm, damage to victims’ property, place victims in fear of harm, create hostile environments, and/ or infringe on the rights of others.

Fifth, policies should prohibit all forms of bullying, intimidation, and harassment on the basis of such characteristics as race, ethnicity, national origin, socio-economic status, religion, gender, sexual orientation, and/ or disability.

Sixth policies must include adequate substantive and procedural due process protections. Policies should

- a) mandate that students and staff immediately report instances of bullying, harassment, and intimidation to designated school officials;
- b) identify multiple persons to whom students can make reports of bullying;
- c) require administrators to complete thorough investigations of reports within set time frames. As in litigation involving sexual harassment, courts agree that educators are liable for deliberate indifference by failing to conduct proper investigations and responding to incidents of harassment and bullying;
- d) be mindful of the need to protect the due process rights of the accused since allegations are nothing more than that unless or until they are substantiated. More specifically, policies should set deadlines by which times investigations must occur and penalties meted out and timeframes during which appeals can be filed and resolved. Needless to say, proceedings must be kept confidential;
- e) specify a range of penalties, consistent with disciplinary procedures in student handbooks, for first, second, and repeat offenders. Penalties should range from short term suspensions to expulsions while adding that students can receive significant sanctions even on first offenses if their actions warrant such discipline; and
- f) mandate the reporting of incidents to law enforcement authorities if there is evidence that bullies may have committed crimes.

Seventh, boards should provide regular professional development opportunities for teachers and staff.

Eighth, boards should offering programs for parents and community members to help them better understand and respond to bullying.

Ninth, boards should build instruction about how to deal with bullying into school curricula at all levels of schooling.

Tenth, boards should offer counseling to victims and their families to help overcome the effects of being bullied.

Eleventh, boards should develop peer-intervention programs to help students deal with bullying in their lives.

Twelfth, as with all other policies, boards should review their guidelines annually, typically between school years, not during or immediately after controversies in order to ensure that they are up-to-date with developments in state and federal law.

6. Conclusion

In the past, bullying was often dismissed as “kids just being kids.” However, given the harm that bullying causes, it is evident that what happened in the past cannot be permitted to continue. To the extent that educational leaders and lawyers develop policies to protect children, then they will help to maintain safe and orderly learning environments in which all students can be safe to learn free from the threat of bullying.

7. References

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