

Bullying in Schools

Policy Q & A



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Bullying policies are common across the United States. Here are some questions and comments about bullying law.

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Is there a federal law that addresses bullying?

No. There is no federal law that specifically addresses bullying (stopbullying.org). However, if bullying overlaps with harassment, then there are Civil Rights laws that could apply to the situation. If the school does not adequately address the harassment situation, a federal law might be violated.

Does Nebraska have a bullying law?

Yes, such a law was passed in 2008. It requires each school district to have a policy on bullying. Many other states have also passed bullying legislation over the past several years.

How is bullying defined in Nebraska Law?

Bullying is defined as “any ongoing pattern of physical, verbal, or electronic abuse on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose by a school employee or his or her designee, or at school-sponsored activities or school-sponsored athletic events.” (Neb. Rev. Stat. §79-2,137(2), 2008).

How is bullying different from harassment under the law?

Bullying is unwanted, aggressive behavior that involves a real or perceived power imbalance. It can include physical strength, popularity, or access to embarrassing information, among other factors. To be considered bullying, the behavior needs to reoccur over time.

(https://www.tn.gov/education/safe_schls/safety_cntr/bullying.shtml, 2014).

Therefore, bullying is also differentiated from other forms of inappropriate or aggressive student behavior that are isolated incidents or don't involve a power imbalance.

Harassment is defined as any unwelcome conduct against a protected class under the federal civil rights laws, which is severe, persistent, and creates a hostile environment. In order to meet the criteria for harassment, the conduct needs to interfere with or limit a student's ability to participate in or benefit from activities, opportunities, or services at school. (https://www.tn.gov/education/safe_schls/safety_cntr/bullying.shtml, 2014).

Why did Nebraska pass a bullying law?

The Nebraska Legislature has declared that bullying disrupts a school's ability to educate students, which means that it constitutes a substantial interference with school purposes by statute. Also, bullying is declared to threaten “public safety by creating an atmosphere in which such behavior can escalate into violence.” As a result Nebraska passed a statute in 2008, which provided guidance to Nebraska Schools on bullying ([Neb. Rev. Stat. §79-2,137\(1\)\(b\), 2008](#)). Nebraska also has State Board of Education policies on bullying (http://www.education.ne.gov/safety/Docs/Bully_Policy.pdf) and an implementation plan

(<http://www.education.ne.gov/safety/Docs/BullyingImplementationPlan.pdf>).

What should be in a school's code of conduct as a result of the Bullying law?

By July 1, 2009, every school district in Nebraska was required to have a policy concerning bullying prevention and education for every student, which is required to be reviewed every year (Neb. Rev. Stat. §79-2,137(3)-(4), 2008). Good practice would suggest that a code of conduct could include the definition of bullying reflecting the Nebraska Statute. It might also be a good practice to identify the school's policy on bully prevention and intervention so students and parents are aware how the school will handle bullying. There are no legal requirements for putting the consequences of bullying in the code of conduct so this would be left up to the discretion of the school district. The Nebraska Department of Education website provides some guidance for developing district policies on bullying, as well as, links to other states' advice and bullying policies:

http://www.education.ne.gov/safety/Bullying_Prevention/Bullying_Prevention_Policy_Dev.html

Do schools have to address bullying that is conducted off campus?

Generally, no. For example, some parents may call the school because one student had bullied another student over the weekend and they wanted the school to do something about it and make sure it did not happen on school grounds. This situation is legally beyond the authority of the schools given in the statute. Schools have no obligation, under Nebraska law, to try to prevent bullying off school grounds. If this bullying continued on school grounds though, the school would be obligated to address the situation. Since the parents did call and inform school officials of the potential for bullying, they would need to monitor the situation carefully to make sure it was not occurring in school.

Would sending bullying text messages while at school constitute bullying?

Another issue that could arise is if a student off school grounds sends a text to someone on school grounds. Does this create a discipline issue that the school must address? There is not clear guidance on this in the statute. Similar laws in other locations have been interpreted both ways- some that this is bullying in school, and others that it is not. As a result school officials should monitor this carefully and perhaps develop a specific policy on this issue.

If a student is caught bullying, what are the penalties under Nebraska law?

There are currently no required penalties in Nebraska law for a student who is bullying another student or students. The consequences of bullying are left to each school

district to determine through their required policy on bullying prevention and education. Good practice would suggest that school policies should identify the range of any penalties or education intervention programs which would be required of students found to engage in bullying behaviors.

Is one incident enough to constitute bullying?

No. Isolated incidents do not constitute bullying because bullying behaviors must be repetitive. Nevertheless, school officials should respond appropriately to first incidents, even if they do not technically meet the definition of bullying, in order to prevent further incidents. One incident does not mean someone is being bullied, though parents and students might think it does. The school needs to define bullying in the code of conduct so parents know what the school views as bullying as opposed to an isolated misconduct issue. Therefore, good communication and a clearly defined definition of bullying are important in helping parents, students and school personnel to understand bullying.

What does a school have to do when a child with a disability is being bullied?

“School staff, parents, and other caring adults have a role to play in preventing and responding to all forms of bullying. If a student with a disability is being bullied, federal law requires schools to take immediate and appropriate action to investigate the issue and, as necessary, take steps to stop the bullying and prevent it from recurring.

Regardless of whether the student is being bullied based on his or her disability, schools must remedy the effects of bullying on the services that the student with a disability receives (special education or other disability-related services) to ensure the student continues to receive a free appropriate public education (FAPE). Any remedy should not burden the student who has been bullied.”

See [Parent Fact Sheet: What are Schools Required to do When Students with Disabilities are Bullied?](#)

Does it matter if a child has an Individualized Education Program (IEP) or 504 plan?

“No. Some students with disabilities receive FAPE through an IEP developed under the Individuals with Disabilities Education Act (IDEA) and other receive a plan developed under Section 504. If changes in a student’s behavior or academic performance indicate that a student may not be receiving FAPE, the IEP

or Section 504 team should meet to determine whether the student’s educational needs have changed and the school must provide any needed additional services promptly to ensure the student’s ongoing receipt of FAPE.”

See [Parent Fact Sheet: What are Schools Required to do When Students with Disabilities are Bullied?](#)

Where is more information available?

For more information on bullying see the Strategy Briefs on *Bullying Prevention and Intervention*, and *Interventions for Bullying Behaviors*. See also the Resource Brief *Resources for Bullying*.

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