



Bullying in Texas Public Schools: Under Current Law

Texas school districts address bullying through a variety of policies and procedures, which were developed in compliance with federal case law, guidance from the U.S. Department of Education's Office for Civil Rights, and the definition of bullying contained in section §25.0342 of the Texas Education Code.

Bullying is defined as conduct intended to intimidate or demean an individual or group. Bullying may include physical, written or verbal expression, such as hazing, threats, taunting, confinement, assault and ostracism. Bullies may even use electronic communications, a practice referred to as cyberbullying. To meet most legal standards for bullying, the conduct must be severe, persistent or pervasive enough to create an intimidating, hostile or abusive educational environment for the student.

School board members are a direct link to the communities they serve on all education issues, including bullying. As such, trustees should be prepared to explain to students, parents and others how the district handles reports of bullying and the types of activities for which students are disciplined. Texas school boards are advised to adopt a district policy prohibiting "harassment," which typically addresses many of the behaviors that also constitute bullying. The district's harassment policy is policy FFH (LOCAL) in the district's policy manual, which is usually accessible on the district's website.

While school boards are currently not required to adopt bullying policies, the majority of boards have, as demonstrated through board policy FFI(LOCAL). These policies are unique to each district and thus, districts' disciplinary procedures may vary. Some examples of best practices to address bullying include:

- Adopting an anti-bullying policy;
- Establishing district practices for assessing bullying on campus;
- Implementing a bullying prevention program;
- Training district staff to identify and implement strategies to prevent bullying;
- Monitoring places where bullying may occur;
- Investigating all complaints and suspicious conduct;
- Developing effective responses for both the victim and bully; and
- Coordinating bullying prevention efforts with parents.

Explaining to parents and the community how your district disciplines for on-line bullying, also called cyberbullying, is not easy. Each situation varies, and district administrators must consider First Amendment implications when attempting to regulate off-campus speech.

- If bullying occurs via a Web site the student created or accessed on campus or while using the school's computer resources, the student would likely be subject to (and disciplined under) the district's "acceptable use policy," CQ (LOCAL). When there is a clear connection between the Web site and the school, the district's student code of conduct also prohibits this type of bullying.
- If an offensive Web site is developed and maintained *wholly off-campus* it becomes a much more complex situation. Districts may have jurisdiction to discipline for Web sites developed and maintained wholly off-campus that cause a *material or substantial disruption to the educational process*. Districts do not, however, have jurisdiction to discipline for such Web sites if they do not cause such a disruption.
- There is no bright-line rule governing when school discipline for cyberbullying is appropriate. Administrators can always govern student speech when it appears to be sponsored by the school, such as when it is on the district's official Web site. If there is an obvious connection between a student's internet activity and the school, such as a Web site created and maintained by the school/district, the school district will most likely have jurisdiction to discipline the student for cyberbullying.
- When the on-line speech takes place off-campus, district administrators must consider the First Amendment. For discipline of off-campus speech, there must be a *substantial and material disruption on campus*. If a district seeks to punish a student for off-campus internet activity, it is recommended that administrators investigate and document any evidence of a connection between the student's on-line behavior and the school. Before disciplining the student, the administrator should contact an attorney to ensure that the student's First Amendment rights will not be violated.

To effectively address bullying and cyberbullying, parents and students must be partners with district administrators. Only by working together will we be able to reduce the incidents of bullying in our schools