

March 2011

Contacts

Cheryl M. Nicolson

nicolson@nicolsonassoc.com

Madeline S. Baio

baio@nicolsonassoc.com

Leanne A. Waldie

waldie@nicolsonassoc.com

Barbara C. Morrow

morrow@nicolsonassoc.com

Melissa L. Yemma

yemma@nicolsonassoc.com

Rose Tree Corporate Center II
1400 N. Providence Road
Suite 6050
Media, PA 19063
610.891.0300
www.nicolsonassoc.com

Tackling the Problem of School and Cyber Bullying: The Importance of a Written Policy

While efforts to address and curb school violence continue to be a priority for educators and legislators, bullying at school and off-campus continues to be a pervasive problem that affects millions of students every year. The importance of the issue of bullying has reached the highest levels of government, including the White House. In the aftermath of a series of suicides by students believed to have been bullied, President Obama recently stated, "We have an obligation to ensure that our schools are safe for all of our kids. Every single young person deserves the opportunity to learn and grow and achieve their potential, without having to worry about the constant threat of harassment." U.S. Education Secretary Arne Duncan, who called bullying "a silent epidemic", held the first-ever U.S. Department of Education Bullying Summit to convey the message that children cannot learn when they feel threatened. In October 2010, The Department of Education issued a letter to schools that reiterates the importance of efforts to reduce bullying in schools, and explains to educators their legal obligations to protect students from racial, nationality, sexual, gender and disability harassments. The Centers for Disease Control and Prevention dubbed "Electronic Aggression" as an "emerging adolescent health issue."

Educators agree that for children to be successful in school, they need to feel safe and be safe. However, student bullying is one of the most frequently reported discipline problems at school: 21% of elementary schools, 43% of middle schools, and 22% of high schools reported problems with bullying in 2005-06.ⁱ In 2007, 32% of public and private school students ages 12-18 reported that they had been bullied at school within the preceding six months.ⁱⁱ Twenty-one percent of students said that they had experienced bullying that consisted of being made fun of; 18% reported being the subject of rumors;

11% said that they were pushed, shoved, tripped, or spit on; 6% said they were threatened with harm; 5% said they were excluded from activities on purpose; and 4% said that someone tried to make them do things they did not want to do or that their property was destroyed on purpose.ⁱⁱⁱ A subgroup also reported being physically injured (bruise, cut, bloody nose, etc.) by the bullying.^{iv} Seventy-nine percent of the students who reported being bullied had been bullied in school.^v

Additionally, in 2007, about 4% of students reported having been cyber-bullied^{vi} either on or off school property during the school year. Two percent of students said that they had experienced cyber-bullying that consisted of another student posting hurtful information about them on the Internet; and 2% of students reported unwanted contact, including being threatened or insulted, via instant messaging by another student during the school year. Of the students who reported cyber-bullying during the school year, 73% said it had occurred once or twice during that period, 21% said it had occurred once or twice a month, and 5% said it had occurred once or twice a week. Thirty percent of students who were cyber-bullied notified a teacher or another adult at school about the event(s).^{vii} A greater percentage of females reported being bullied and cyber-bullied than males.^{viii}

In recent years, many state departments of education and local school districts have taken steps to reduce bullying in schools. Governor Edward Rendell signed Act 61 on July 9, 2008 which sets forth the school bullying laws in Pennsylvania. The law requires individual public schools to develop and implement anti-bullying policies that facilitate reporting bullying and taking disciplinary action. The Act requires every Pennsylvania public school to have an anti-

bullying policy incorporated into its code of student conduct. The policy must delineate disciplinary consequences for bullying and identify a school staff person to receive reports of incidents of bullying. The policy must be published on the school's website and in every classroom. Each school is required to review the policy with its students within ninety days after the adoption of the policy and at least once each school year. Each school is required to provide a copy of its anti-bullying policy to the Office for Safe Schools every year, and is required to review its policy every three years.

Act 61 includes cyber-bullying by defining bullying as an intentional electronic, written, verbal or physical act directed at another student in a school setting that is severe, persistent or pervasive, and has the effect of substantially interfering with education, creating a threatening environment or disrupting the orderly operation of the school. School setting for purposes of the law is defined broadly to include not just the school grounds, but school buses, designated bus stops, and any school-sponsored and supervised activity. The Act allows schools to define bullying in such a way as to encompass acts that occur outside a school setting if the acts cause the same impact on student learning and disruption of school operations as on-campus bullying, a tool particularly useful in addressing the pervasive problem of cyber-bullying.

While Act 61 does not mandate that independent schools adopt anti-bullying policies, it is important for independent schools to be proactive in their anti-bullying efforts. Act 61 provides a concise framework for independent schools to utilize in developing their own anti-bullying policies. The adoption of an anti-bullying policy reflects a school's appreciation of its important responsibility to maintain a safe learning environment for all students. The prudent independent school will review its policy to ensure a program consistent with the school's

own philosophy and with the policies of Act 61. The implementation of a comprehensive written anti-bullying policy will go a long way to create a safer school environment.

Please contact Nicolson Associates LLC for further information about this Update and other related topics.

-
- i National Center for Education Statistics, U.S. Department of Education (<http://nces.ed.gov/>) . U.S. Department of Education, National Center for Education Statistics, 2005–06 School Survey on Crime and Safety (SSOCS), 2006
 - ii National Center for Education Statistics, U.S. Department of Education (<http://bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=984>).
 - iii National Center for Education Statistics, U.S. Department of Education (http://nces.ed.gov/programs/crimeindicators/crimeindicators2010/ind_11.asp).
 - iv National Center for Education Statistics, U.S. Department of Education (<http://nces.ed.gov/>).
 - v National Center for Education Statistics, U.S. Department of Education (http://nces.ed.gov/programs/crimeindicators/crimeindicators2010/ind_11.asp).
 - vi The National Center for Education Statistics defines cyber-bullying to include students who responded that another student posted hurtful information about the respondent on the Internet; made unwanted contact by threatening or insulting the respondent via instant messaging; or made unwanted contact by threatening or insulting the respondent via Short Message Service (SMS) text messaging. The latter category did not meet statistical standards to be reported separately.
 - vii National Center for Education Statistics, U.S. Department of Education (http://nces.ed.gov/programs/crimeindicators/crimeindicators2010/ind_11.asp).
 - viii National Center for Education Statistics, U.S. Department of Education (http://nces.ed.gov/programs/crimeindicators/crimeindicators2010/ind_11.asp).

Disclaimer

The contents of this article are for informational purposes only. The information provided may not reflect the most current legal developments. The contents of this article do not constitute legal advice and readers of this article should not act or refrain from acting based on information contained in this article. Receipt of this article does not create an attorney-client relationship.