



BULLYING LEGISLATION

Although it's well known that bullying is a widespread problem that can have serious implications on students' academic and non-academic well-being, the anti-bullying and cyberbullying legislative mandates districts must follow are complex and can be hard to navigate. This Q&A with PublicSchoolWORKS' manager of research and development provides a general look at a district's bullying prevention responsibilities.

Who is responsible for making bullying legislation—the federal government or individual states?

There is not a federal law that specifically addresses bullying. However, if a bullying or cyberbullying incident concerns a student's race, color, national origin, sex, disability, or religion, it may overlap with discriminatory harassment and federal civil rights laws such as Title II, Title VI, Title IX, or Section 504. In these cases, federally funded districts—so pretty much every public school district in the country—are legally obligated to address the incident.

Additionally, districts are required to submit a vast range of information, including enrollment, demographics, academic offerings, and bullying data to the U.S. Department of Education to include in its Civil Rights Data Collection (CRDC) survey it conducts every other year. For the CRDC's School Climate and Safety Issue Brief, they collect data on allegations of harassment or bullying on the basis of sex; race, color, or national origin; disability; sexual orientation; and religion. In addition, the CRDC includes data on students reported as harassed or bullied and students disciplined for harassment or bullying on the basis of sex, race, and disability. The most recent School Climate and Safety Issue Brief can be viewed [here](#).

Since the federal government has not passed a national piece of bullying prevention legislation, each state is responsible for writing and enacting its own.

How does legislation and requirements differ across state lines?

All states have bullying legislation in place, but this was not always the case; Montana was the last state to pass bullying legislation in April 2015. Just as legislation varies across state lines, so do requirements for school districts.

Some states have more stringent requirements. For example, New York's Dignity for All Students Act (DASA) became effective in July 2012, and was amended in July 2013 to include cyberbullying. DASA's principles are that no student shall be subject to harassment or bullying by employees or students on school property or at a school function; nor shall any student be subjected to discrimination based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious



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practice, disability, sexual orientation, gender (including gender identity or expression), or sex. Under DASA, districts must have the following in place: harassment, bullying, and discrimination policies and procedures; reporting mechanisms; employee training; and a DASA coordinator who works with staff, students, and parents to address any issues. Most recently, a regulation proposed an amendment to include incidents such as denial of restroom or locker room access due to a person's actual or perceived race, color, weight, national origin, sexual orientation, and more, as reportable offenses.

Ohio's cyberbullying legislation, called the Jessica Logan Act, is also quite extensive. Logan committed suicide in 2008 after a nude picture of her was circulated at her high school, leading to bullying and intimidation by her peers. Passed in 2012, the law requires school districts to expand their existing student anti-bullying policies to cover incidents of harassment, intimidation, or bullying that occur on school buses and online. It also specifies that district's anti-bullying policies must indicate that students may be suspended for engaging in bullying or cyberbullying, as well as include anonymous reporting mechanisms, disciplinary consequences for students who make false reports, and strategies for protecting the victim and/or individual who reported an incident from harassment or retaliation. Districts must also develop age-appropriate ways to educate students about the anti-bullying policy and the consequences for violating the policy; train all teachers, administrators, counselors, nurses, and school psychologists on the anti-bullying policies; and submit written summaries of all reported incidents and post them on its website for the public to read.

How does a district meet the requirements of its state legislation?

Many state agencies or state Department of Education offices have developed "model" policies districts can adopt. Districts can also work with content providers who specialize in bullying- and cyberbullying-prevention programs. These providers can help create a comprehensive program complete with staff training, reporting mechanisms, recurring reminders to complete state-mandated tasks such as creating an annual report, and communication materials to promote the policy internally.

Do states enforce their bullying/cyberbullying mandates? If so, how?

School districts are required to respond to bullying incidents, but they are not subject to so-called "inspections" or "audits" such as with occupational safety and health requirements. However, some states do require districts to submit their policies and procedures to the state Department of Education.

The bottom line is it is a district's responsibility to keep their students safe. Many districts will go above and beyond state law to help keep their students safe from bullying and harassment because they know the short- and long-term effects of bullying. At the end of the day, districts want their students to be safe and, if that does not happen, they will be held accountable.



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Let's say bullying or cyberbullying occurs off campus. Can districts still enforce their policy regarding the consequences for such behavior?

There have been many court cases that show schools do have the authority to reasonably discipline students for any behavior at school or away from school if it results in, or has a high likelihood of resulting in, a substantial or material disruption at school or if the behavior infringes on the rights of other students.

However, administration can only do this if an incident is reported. It is extremely important that students, families, and staff report bullying incidents—even when they take place off of schools grounds or outside of school hours—so that administration can intervene.

Is there any new legislation in the works?

There is always new legislation being written or amendments to existing laws being proposed. Most recently, I've noticed more and more states are including cyberbullying in their amendments. Social media is such a big part of today's society so it makes sense that cyberbullying is being specifically addressed. For example, Texas added the term "cyberbullying" to the Texas Education Code under the bullying section in 2011. However, this did not create any legal punishment for cyberbullying. Instead, it just required districts to develop policies to prevent it. Enacted in 2017, Texas' David's Law amended the Texas Education Code to include cyberbullying as a criminal offense.

In general, bullying laws are now including cyberbullying, as well as requirements around training and reporting mechanisms, sometimes even anonymous reporting mechanisms.

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