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The High Cost of Bullying and Liability in Schools

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The Anchorage School District and its insurance company paid \$4.5 million to settle a lawsuit filed by the family of a middle-school student who attempted suicide and suffered extensive, irreversible brain damage after repeated bullying at school. The district settled the case because its insurer, First Specialty Insurance, required the district to do so. (Anchorage Daily News)

A jury ordered another Washington State public school district to pay a wheelchair-bound student who was bullied at school \$300,000 for infliction of emotional distress. Her parents were awarded \$10,000 for the impact on their relationship with their daughter. The lawsuit claimed that teachers and other officials did not do enough to stop the bullying, which took place over a 4-year period. (Seattle Press-Ledger)

A mother filed suit against a Maine public school district over bullying, assault and battery that her son allegedly experienced while riding a school bus, saying that the bus driver should have intervened before her son's head was pushed through a glass window, breaking the glass and injuring the child. (Sanford News)

Criminal authorities in Michigan began an investigation into the failure of public school administrators to protect a 12-year-old girl who was raped in a middle school building during class time. Implicated in the crime is a 15-year-old girl who allegedly harassed the victim for many months prior to the incident. She and another girl then assisted in the sexual attack, holding the victim down while a 14-year-old boy raped her. (Detroit Free Press)

Awareness of the harm caused by bullying and the liability imposed on school districts is becoming an increasingly worrisome issue across the United States. Parents are suing in civil court seeking to hold schools responsible for investigating and intervening in incidents of bullying and the courts are backing them up. Some courts are holding both schools districts and individual employees liable for failing to stop the bullying through education, intervention and investigation.

Anti-Bullying Legislation

Bullying which takes the form of assault or battery is prohibited by state criminal laws. A 16-year-old high school student was sentenced to 60 days in juvenile detention and 225 hours of community service for extorting lunch money at the bus stop with both threats and acts of violence. Over a 6-month period, the teen threatened to beat two younger victims with a metal bar if they failed to pay, increasing his demand for money over time from \$3 to \$5 a day. It was only when one of the victims sustained an injury requiring

hospital treatment that the parents found out. (Associated Press)

Additional legislation that goes much further in protecting students from harm is on the rise. All but a handful of states have statutes prohibiting hate crimes. In addition, many states have either enacted statutes or have pending legislation to prohibit bullying before it gets to the criminal stage.

What is Bullying?

Definitions commonly include the concept of willful repeated acts intended to harm a victim. Bullying is not merely horseplay or teasing. The intent is to harm. Such intent is often the social norm, for example, "jocks" picking on "nerds" or cliques targeting a student for ridicule, isolation and exclusion. Usually, power is distributed unequally between the victim and the perpetrator(s). A survey by the U.S. Centers for Disease Control and Prevention showed that 10,000 children stayed home from school at least once a month because they feared bullies. Half the children surveyed said they were bullied once a week.

Be Proactive: Minimize the Risk

What can school districts do to minimize the risk of liability? School officials have a duty to protect students from harm. This duty to protect students includes the following responsibilities:

A duty to train: Many states have now passed legislation directing schools to adopt policies which authorize or require character education and/or violence prevention activities, peer mediation programs, and conflict resolution procedures in schools. All of these efforts fall under the umbrella of "safe schools" and are designed to help schools prevent harm. Even if your state has not yet passed such legislation, you would be wise to adopt a policy and implement a program of student training in your district. Student training should include clear steps to take if you or someone you know is being bullied.

There are many good resources out there. [McGrath Training offers The Early Faces of Violence](#), a comprehensive seven-part video training system for pre-kindergarten through sixth grade students, parents, educators, staff and administrators.

Training students will make little difference unless the whole school community is on board. To create an environment of safety and respect, all school staff must be thoroughly trained to recognize bullying behavior and to intervene when incidents occur. The average bullying incident lasts 17 seconds. Given the enormous pressure to continue a lesson and ignore disruptive behavior once it stops, implementing such an intervention program will take both will and skill.

In addition to our video series, McGrath provides a live training curriculum for staff and administrators insuring that all are prepared to identify bullying behavior and deal effectively with incidents and complaints. Our bullying curriculum, [Altering the Culture of Cruelty](#), is both legally based and educationally sound.

A duty to remedy: Adopt a policy prohibiting bullying and distribute it widely - to administrators, faculty, staff, students, and parents. Providing appropriate and adequate remedial steps and follow-through to stop bullying when it occurs is essential to a well-crafted policy. Procedures should be in place at the district and school site levels that spell out when and how to notify criminal authorities if necessary. [Request a copy of](#)

[the McGrath Model Bullying Policy.](#)

A duty to monitor: In the Michigan case referenced above, the school site was without a security guard due to illness. You must provide adequate supervision, continual monitoring and correcting of inappropriate behaviors. You must also make it safe for students to report incidents.

A duty to investigate: Train school site administrators, counselors, and other key personnel in how to thoroughly investigate and document bullying complaints. Establish and implement complaint and investigation procedures that ensure each complaint receives an immediate, appropriate, adequate and comprehensive response. Should you end up in court, your best protection is documentation that demonstrates you took prompt, thorough action to investigate and remediate bullying behavior.

McGrath training provides live workshops as well as the distance learning program on this topic. [Preview McGrath Cyberschool Complaint Intake, Management and Investigation Training](#) for school personnel from Pre-K through Higher Education.

Devastating Consequences

The actions that protect you and your district from liability do much more than that. They prevent and intervene in behavior that unchecked can lead to extreme acts of violence and even loss of life. Media attention has made us all too aware of the devastating consequences of repeated, systematic bullying behavior. Violence has erupted from mild-mannered, unassuming students in deceptively placid suburban and rural communities. When asked about the cause of these shooting sprees, the perpetrators have responded almost universally that they were fed up with the bullying tactics of others.

Take action now. We owe it to our students, our staff, and our communities to protect them from harm.

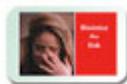
"Editors' note: This article is general in nature and is not intended to replace professional, legal advice."

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