



Bullying: Investigating Complaints - 3 part NL series

**By Mary Jo McGrath
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Part ONE: Intake of Complaints - Dealing with Details

This three part series provided to you in our McGrath Newsletter is based on information contained in Mary Jo McGrath, Attorney at Law's new book [School Bullying: Tools for Avoiding Harm and Liability](#). The series will cover important facets of investigating bullying complaints.

Get it in Writing

In this article, we are going to start at the point where a bullying or harassment complaint has come to the attention of the school's complaint manager. A complaint manager is the person at the school site designated and publicized as the person to receive bullying and harassment complaints. The complaint should come to his or her attention in the form of an incident report from an employee who observed the behavior or to whom the alleged victim and/or witnesses communicated about the incident.

When the complaint manager receives the written referral detailing the incident, check to see if the information is complete. If not, give the form back to the person and ask that it be completed fully. The next step is to bring in the bullied student and get his or her statement on a complaint form. It is important that you take the complaint directly from the student, not just from a third party.

The complaint form should elicit the following information:

- When did the incident happen?
- Where did it happen?
- Who was involved?
- Describe what happened in as specific, objective and concrete terms as possible.
- How many times did it happen?
- Who saw it happen?
- What are you requesting happen?

If the Complainant Cannot Read and/or Write English Proficiently

Individuals who are not proficient in English or have a disability that limits their ability to read or write must be accommodated. You may provide a translator who can read each question to the person in his or her first language, then give the person time to write the answers. Be sure that your documentation includes the name of any secretary or translator who participates in the complaint process. Alternatively, arrange for a secretary to take dictation or record what the person says and then have it transcribed. Ask the questions exactly as they are written on the form and have the responses written down *word for word*.

When the Complaint Form is complete, have the person read it and sign it, or read it back to them and then have them sign it. Read it in short paragraphs and ask after each section: "Would you like to make any changes to that section?" Have them initial each paragraph as you proceed.

Complaint Intake with Very Young Students

When is a child too young to fill out their own Complaint Form? Children aged ten and less are probably too young. With these students, the complaint manager should ask the questions and fill out the form, then read it back to the student as described above and have the Complaint Form signed. Avoid using leading questions. (Leading questions are those that require a yes or no answer and suggest what the answer should be within the question itself.)

Informing the Parents

The most prudent practice is to inform the parents before interviewing a student. Parents often are angered when their child has been questioned without their knowledge, especially if it is by someone with whom they are unfamiliar - a central office employee or someone from another school site, for example.

Should You Audiotape the Child's Answers?

It is a good idea to audiotape the conversation, as it provides a record of the interview. Ask the child's permission, and be sure to record his/her response authorizing the audiotape on the tape itself. It is doubly important to be cautious about your questioning techniques when an audio (or video) record is made of the session. At this stage, ask only the questions set out on the Complaint Form. In subsequent lawsuits it is often claimed that the way in which the complaint was investigated was faulty. An audiotape provides more information to validate what was said, but also more information with which to criticize the process used.

Completing the Conversation with the Complainant

Give the complainant an information packet. The packet should include:

- A 1-page sheet detailing timelines and procedures used to process complaints taken from your policies.
- A copy of the complaint procedures from your student bullying and harassment policies.

Don't Be Afraid of Documentation

The written nature of a complaint does not make it formal. Formal and informal procedures are a matter of individual school board policy. Understand the school district policy regarding the processing of complaints and follow it as it is written.

From a legal standpoint, it is highly problematic to have "oral" complaints for which you have never recorded the substance of the complaint and its disposition in writing. If your policy does not allow for documenting all complaints, consider changing it.

Deciding Who Investigates

Deciding who should investigate the situation is a critical step in the management of the incident. One of the key concerns is whether a conflict of interest exists. A conflict exists when a person has a duty to more than one person or organization and therefore cannot do justice to the potentially conflicting interests of both parties.

An impartial, unbiased investigation must occur. Even the appearance of a conflict of interest must be avoided. Is the accused a best friend of the daughter of the investigator? Does the investigator play golf with the complainant's father? Situations like these lend themselves to someone saying there is a conflict of interest.

To avoid the appearance or likelihood of a conflict of interest, another local site administrator or someone from another school site should assume responsibility for the investigation. Otherwise, the complaint manager may proceed with the investigation.

Next in our series... First Things First: Four Preliminary Considerations

This article is an excerpt from [School Bullying: Tools for Avoiding Harm and Liability](#)

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