



Focus On Bullying, But Maintain Wide Lens

New law requires districts to focus on overall school climate

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Tragic incidents such as the death of bullied student Phoebe Prince in Massachusetts have sharpened our national focus on the prevention of school bullying. Bullying is more than the media's issue du jour; it warrants our close attention, particularly as the nature of student bullying is rapidly changing in the digital age.

Many states, including Connecticut, have recently passed or revised laws to clarify the legal obligations of public schools regarding bullying. Connecticut's new legislation, Public Act 11-232, imposes stricter mandates for addressing incidents of school-based bullying, expands the public schools' obligations to intervene in circumstances of off-campus and online bullying, and imposes broad new mandates to monitor and improve school climate.

The new legislation has a dual purpose: 1) to prescribe procedures for districts to identify and respond to specific acts of bullying; and 2) to mandate broad measures for districts to cultivate a positive school-wide environment.

In terms of identifying bullying, the new legislation defines bullying as communicative and physical acts that: cause physical or emotional harm to the targeted student; damage the student's property; place the student in reasonable fear of harm, or of

damage to property; create a hostile environment at school for the student; infringe on the rights of the student at school; or substantially disrupt the education process or the orderly operation of a school. It also separately defines and requires public schools to address cyberbullying.

In addition, the new law requires that school districts develop "safe school climate plans" and sets forth extensive procedural mandates delineating specific steps to prevent bullying, investigate allegations of bullying, and respond to verified incidents of bullying. The prescriptive requirements of the new legislation may lead to an overly narrow focus on procedural compliance when responding to specific instances of bullying rather than a wider focus on the elements of a positive school climate.

In terms of fostering a positive school climate, the new legislation includes mandates that require public schools to follow general practices to promote a safe and welcoming school climate. The "safe school climate plan" must be approved by the local or regional board of education and be submitted to the state Department of Education.

Other required steps include completion of school climate assessments for each



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school, in-service training for personnel, and establishment of a committee responsible for developing and fostering a safe school climate and addressing issues related to bullying in schools. The law also focuses on suicide prevention. By including this broad focus on school climate, the legislature recognized that a narrow focus on documentation, investigation, and intervention is insufficient.

Other Obligations

When schools look at the bullying issue too narrowly, they may overlook concurrent obligations arising under other state or federal laws as well as the broader focus on a safe school climate. Student-on-student harassment, for example, may meet the definition of bullying, but it may also implicate other statutory obligations, such as those under Title VI, Title IX, Section 504, and state anti-discrimination laws that prohibit discrimination on various bases, including race, gender, sexual orientation, gender identity, and disability.

The U.S. Department of Education's Of-

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fice for Civil Rights recently issued an advisory letter to school officials that adopts an expansive view of school districts' obligations to investigate and address incidents of bullying involving protected classes of students. School officials must consider and address misconduct in all its aspects, whether it is bullying, harassment, discrimination, or even all three. Such harassment could even be the basis for constitutional claims.

When schools focus too narrowly on the procedural responses to bullying, they are likely to underemphasize the importance of an overall safe school climate. According to available research concerning bullying, effective school-wide climate initiatives include much more than the investigation procedures, compliance efforts, and reporting obligations that apply in individual cases. Efforts to create safe schools must include a collective focus on four essential elements: 1) safety, 2) relationships, 3) teaching and learning, and 4) the institutional environment.

Focus on a school's overall bullying pre-

vention strategies and combined efforts to improve and promote a safe school climate for all students is time well spent. That said, we remain concerned that the prescriptive compliance scheme mandated by the legislature for addressing specific acts will overshadow these highly effective but generalized climate initiatives that research shows are effective in creating safe school environments for all children.

These new mandates come at a challenging time. The current economic downturn has caused public school districts across the state to reduce staff, eliminate programs and otherwise create financial efficiencies, all while being expected to improve student achievement scores and enhance school climate. As U.S. Secretary of Education Arne Duncan put it during a panel discussion at the American Enterprise Institute last year, American public education is entering a "new normal" in which school districts will be asked to do more with less. School districts will truly be stretched thin to do all they must under the new law.

In response to the new law, school ad-

ministrators are likely to spend increased time and resources documenting compliance with applicable state and federal laws in specific situations in which bullying is alleged. While the new legislation provides protection from liability to school employees, boards of education, or individuals reporting allegations of bullying, it does carve out from its protections gross, reckless, willful or wanton conduct, giving rise to certain claims. Even though litigation over school district actions in particular cases is a real risk, school officials would be well-served to focus on their larger responsibilities under the new law to promote a safe school climate.

Regulating the conduct of adolescents is a difficult business, and on balance the new bullying law is an improvement over prior law. The profound, toxic effect of bullying warrants focus on investigation and intervention when bullying is verified in specific situations. But school districts must also view their responsibilities with a wider lens to avoid legal risk, protect students, and truly foster a positive school climate. ■