

Bullying and the Child with Special Needs

All children are entitled to an education free of bullying and harassment. Under certain circumstances, bullying may trigger legal responsibilities for schools under the civil rights laws enforced by the Office of Civil Rights and the Department of Justice that prohibit discrimination and harassment based on race, color, national origin, sex, disability, and religion¹. Schools must protect students from bullying and harassment on these bases, in addition to any obligations under state and local law².

Definition of Bullying in Texas Schools – The definition of bullying is found in *Texas Education Code (TEC) 37.0832*, “Bullying Prevention Policies and Procedures.” Conduct is considered bullying if it “has the effect or will have the effect of physically harming a student, damaging a student’s property, or placing a student in reasonable fear of harm to the student’s person or of damage to the student’s property.” It is important to note that the conduct must contain all three of these elements: “severe, persistent and pervasive,” not just one of them. The definition further states that bullying can occur through written, verbal or physical expression, is an imbalance of power between the student perpetrator and the target, and is conduct that interferes with a student’s education or substantially disrupts the operation of a school.

The Most Common Places Bullying Occurs – A child who bullies others is looking for targets who are usually alone and isolated, vulnerable and unable to defend themselves. Bullying usually occurs when there is the least amount of adult supervision, such as:

- On the School Bus
- During Recess
- Lunchtime
- In the Restroom

How Do I Know if My Child Has Been Bullied? – Sometimes children are willing and able to talk with their parents about bullying, but other times children may be reluctant to talk about it to anyone for fear that if they do, the bullying may become worse or that nothing will change. Bring up the conversation even if you don’t suspect your child has been bullied. Assure them they can come to you if anything happens at school that leaves them feeling afraid. Your local library and online resources offer many ways to start this conversation.

Parents whose children who are not willing to communicate about being bullied, or whose children do not have the skills to effectively communicate, need to watch for changes in their child’s behavior, because they may be indicators that their child is being bullied. Some of these indicators might include: the child wants to stay home from school, the child withdraws, a change in sleep routine, or a change in temperament.

What To Do – If you suspect or know your child has been the target of bullying, do not contact the parents of the student perpetrator! Although you may have good intentions about resolving the situation as one parent to another, bullying is an emotionally-charged situation that is best left to the authorities to resolve. Instead, report the incident to the school principal and provide as many details as you can – date, time, place, your child’s story of what happened, witness information and photos of any bullying evidence.

Students who witness and report bullying are protected from retaliation under TEC, and if a bullying situation is reported to any member of the school staff, *TEC 37.0832(c)(3)* “establishes a procedure for providing notice of an incident of bullying to a parent or guardian of the victim and a parent or guardian of the bully within a reasonable amount of time after the incident.”

TEC requires that all school staff, including bus drivers, custodians, secretaries, counselors, etc., be trained in how to respond to bullying. It also requires that counseling options be made available for a student who is a victim of, or a witness to bullying, or who engages in bullying.

Finally, each school district shall establish a procedure for reporting an incident of bullying, investigating a reported incident of bullying, and determining whether the reported incident of bullying occurred. If an incident of bullying has been established following the investigation, the student who was the victim cannot be disciplined for the use of reasonable self-defense used in response to the bullying.

Including Preventative Bullying Measures in IEPs – If a child with a disability is receiving Special Education services and has been the target of bullying, the Individualized Education Program (IEP) can be a valuable tool for preventing further bullying incidents. The Individuals with Disabilities Education Act (IDEA) ensures a child with a disability receives a Free Appropriate Public Education (FAPE) in the Least Restrictive Environment (LRE). For example, when bullying of a student with a disability results in a student being transferred into a self-contained classroom or a special education school serving only students with disabilities as opposed to receiving an education in a general classroom setting, a student's IDEA LRE rights may have been violated regardless of the type of bullying that precipitated the change in placement. The IEP may include written agreements such as:

- Engaging the child in peer group activities during recess to prevent them from being isolated
- Closer teacher supervision during lunch
- Requesting an aide, peer or teacher accompany the child to the restroom
- Providing educational opportunities to the class or school on disabilities
- Letting the child sit closer to the front of the bus
- Arranging for the child to be in a Buddy Program with another student
- Getting the child involved in extra-curricular activities that allow them to build friendships and a support network

1 - *The Federal civil rights laws enforced by the Department include Title VI of the Civil Rights Act of 1964.*

2 - *Key Policy Letters from the Education Secretary and Deputy Secretary, Arne Duncan, December 16, 2010.*



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