

**McAndrews Law Offices, P.C.**



30 Cassatt Avenue  
Berwyn, Pa 19312  
Phone 610-648-8300  
Fax 610-648-0433  
www.mcandrewslaw.com

## Bullying 101: Know Your Rights & How to Protect Your Child

## Bullying Statistics

- American school harbor 2.1 million bullies & 2.7 million of their victims
  - 1/7 Students in Grades K-12 is either a bully or a victim of bullying
  - 90% of 4-8<sup>th</sup> graders report being victims of bullying
- 1/10 Students who drop out of school do so because of repeated bullying
- 160,000 children miss school daily due to fear of attack or intimidation by other students
  - 15% of absenteeism is directly related to fears of being bullied

U.S. Department of Justice

## Bullying Statistics

- 282,000 students are physically attacked in secondary schools each month
- 75% of school-shooting incidents have been linked to harassment and bullying
- 1/20 students has seen a student with a gun at school
- Bullying is an important contributor to youth violence, including homicide and suicide
- 71% of students report incidents of bullying as a problem at their school
- 56% of students have personally witnessed bullying at school

U.S. Department of Justice

## Definition:

- Bullying among children encompasses a variety of negative acts carried out repeatedly over time. It involves a real or perceived imbalance of power, with the more powerful child or group attacking those who are less powerful.

U.S. Department of Justice

## Type of Bullying

- Physical – hitting, kicking, pinching, punching, scratching, spitting or any other form of physical attack. Damage to or taking someone else's belongings may also constitute as physical bullying.
- Verbal – name calling, insulting, making racist, sexist or homophobic jokes, remarks or teasing, using sexually suggestive or abusive language, offensive remarks.
- Indirect – exclusion from social groups, being made the subject of malicious rumors, and sending abusive mail.

## Types of Bullying

- Cyber Bullying - any type of bullying that is carried out by electronic medium.
  - Text message bullying
  - Picture/video clip bullying via mobile phone cameras
  - Phone call bullying via mobile phones
  - E-mail bullying
  - Chat-room bullying & instant messaging (IM)
  - Bullying through Facebook
  - Bullying via websites

## Effects of Bullying

- Bullying has long-term and short-term psychological effects on both those who bully and those who are bullied, sometimes lasting into adulthood.
- Victims experienced loneliness and reported having trouble making social and emotional adjustments, difficulty making friends, and poor relationships with classmates.

National Institute of Child Health and Human Development

## Effects of Bullying

- Victims often suffer humiliation, insecurity, loss of self-esteem, and may develop a fear of going to school.
- Those who bully & are bullied appear to be at greatest risk of experiencing: loneliness, trouble making friends, lack of success in school, problem behaviors (smoking and drinking), and are at greater risk of suffering from depression and other mental health problems.

National Institute of Child Health and Human Development



## Pennsylvania Laws

- The PA Legislature has adopted legislation requiring school districts to address bullying.
  - TITLE 24 P.S. Education Article XIII-A. SAFE SCHOOLS
    - 24 P.S. § 13-1301-A, et seq.

Center for Schools and Communities



## § 13-1303.1-A.

- No later than January 1, 2009, each school entity shall adopt a policy or amend its existing policy relating to bullying and incorporate the policy into the school entity's code of student conduct required. The policy shall delineate disciplinary consequences for bullying and may provide for prevention, intervention and education programs. The policy shall identify the appropriate school staff person to receive reports of incidents of alleged bullying.

Center for Schools and Communities



## Pennsylvania Laws

- PA Human Relations Commission is responsible for the PA Fair Educational Opportunities Act which implements anti-discrimination laws.
  - 24 P.S. §§ 5001-5010

The PA Human Relations Commission



## 24 P.S. §§ 5001-5010

- It is hereby declared to be the policy of this Commonwealth that all persons shall have equal opportunities for education regardless of their race, religion, color, ancestry, national origin, sex, handicap or disability.
  - Actions are commenced by filing a complaint with the Commission

The PA Human Relations Commission



## Federal Laws

- Title IX of the Education Amendments of 1972
  - Prohibits discrimination on the basis of sex—including harassment and bullying—in schools that receive federal funding.



## Title IX

- This means that school districts may violate Title IX when sex-based harassment by classmates (or peers) is so serious that it creates a hostile environment for the victim and such harassment is encouraged, tolerated, not adequately addressed, or ignored by school employees.



## Title IX

- A school must do something about harassment that it knows about or reasonably should know about. If harassment is reported, or if it is widespread or well-known to students and staff, the school has to respond. A school is required to investigate the harassment in a prompt, thorough, and fair way.



## Title IX

- If a school determines that sexual harassment has occurred, it must take effective steps to end the harassment and prevent it from happening again. 20 U.S.C. § 1681(a).
  - Enforced by the U.S. Department of Education's Office for Civil Rights (OCR)



## Title IX

- This prohibition prohibits educational entities from permitting a sexually hostile educational environment to be created by employees and/or fellow students, and permits money damages to be awarded for non-compliance. Franklin v. Gwinnett County, 503 U.S. 60 (1992).



## Title IX

- The Supreme Court has recognized that Title IX liability may also be imposed under certain circumstances where a school district is deliberately indifferent to student-on-student sexual harassment. Davis v. Monroe County Bd. of Educ., 526 U.S. 629 (1999).



### Federal Laws

- Individuals with Disabilities Education Act (IDEA-2004)
  - IDEA requires that each child covered by the statute be provided with a Free Appropriate Public Education (FAPE) in the least restrictive environment (LRE).



### IDEA

- Available remedies under IDEA for bullying and harassment due to denial of FAPE:
  - Compensatory education equivalent to the denial of FAPE;



### IDEA

- An order for development and implementation of an appropriate IEP, with needed services and placement;
- Tuition reimbursement for parents' unilateral placement at an appropriate private school.



### IDEA

- Hearing Officer Dr. Valentini considered a history of severe bullying a factor in evaluating the claim of denial of FAPE.
  - Z. N. v Wallingford-Swarthmore, ODR #00390/09-10 KE (2010)



### IDEA

- Considered a Student's multiple physical, learning, neurological, and emotional disabilities, and past experiences of severe bullying at a District school, and determined that returning Student to an inappropriate program in an inappropriate setting would deny the Student FAPE to which Student is entitled and create an unacceptable risk for regression in all areas.

### Possible Services to Include In An IEP to Combat Bullying

- Classroom Aide to Monitor Bullying
- Social Skills Training
- Self Advocacy Training
- Daily Home School Notebook Where Child Discusses the School Day With A Trusted Adult At End of School Day
- Class-Wide Training to Foster Proper Culture of Respect

## Possible Services to Include In An IEP to Combat Bullying

- Create Circle of Friends with Peers
- Counseling By School Psychologist, Guidance Counselor or Social Worker
- Physical Separation From the Bully
- Teacher Training
- Offer Services to the Bully's family, such as counseling, family training, social skills program, evaluation for specialized services



## Federal Laws

- Section 504 of the Rehabilitation Act (Section 504)
- Title II, Americans with Disabilities Act (ADA)
  - Civil rights laws that prohibit discrimination against individuals with disabilities, ensures that the child with a disability has equal access to an education.
- Money damages may be awarded for violations



## Section 504

- To plead a violation, Plaintiff must demonstrate:
  - Has a disability, is "otherwise qualified" for the benefit denied, been denied the benefits solely by reason of the disability, and the benefit is part of a program/activity receiving Federal financial assistance



## ADA

- To plead a violation, Plaintiff must demonstrate:
  - Has a disability, is a qualified individual, and had suffered an adverse action because of that disability.

**"We are all either bullies, bullied or bystanders."**

Richard L. Gross, M.D.

American Academy of Child and Adolescent Psychiatrist

## Addressing the Problems

- No one deserves to be bullied. All people should be treated with dignity and respect, no matter what.
- Everyone has a responsibility — and a role to play — as schools, parents, students, and the community work together for positive change.

PACER's National Bullying Prevention Center

## Addressing the Problems

- The Power of the Bystander:
  - Most students don't like to see bullying but they may not know what to do when it happens. Peer advocacy — students speaking out on behalf of others — is a unique approach that empowers students to protect those targeted by bullying.

## Addressing the Problems

- Peer advocacy works for two reasons:
  - First, students are more likely than adults to see what is happening with their peers and peer influence is powerful.
  - Second, a student telling someone to stop bullying has much more impact than an adult giving the same advice.

## Addressing the Problems

- The importance of self-advocacy
  - Self-advocacy means the student is responsible for telling people what they want and need in a straightforward way. Students need to be involved in the steps taken to address a bullying situation.

## Addressing the Problems

- Self-advocacy is knowing how to:
  - Speak up for yourself
  - Describe your strengths, disability, needs, and wishes
  - Take responsibility for yourself
  - Learn about your rights
  - Obtain help, or know who to ask, if you have a question

## Addressing the Problem

- School Policy
  - Have clear roles for school personnel to play
  - Establish committee that determine the specific needs of the school
  - Purpose of policy is to protect students, staff, and educational environment of school and that bullying is clearly prohibited.

## Addressing the Problem

- School Policy
  - Need specific definition of bullying and harassment
  - Graduated consequences and remedial actions
  - Procedures for investigating
  - Clear statement that students will be disciplined if behavior results in considerable disruption of educational environment
  - Procedures for educating students, teachers, staff, and parents about bullying

### Addressing the Problem

- School Policy
  - Policy needs to address use of school's internet system as well as use of personal cell phones and computers while on campus.
    - Policy needs to address bullying off-campus
    - Be aware of legal standards when crafting off-campus policy

### Addressing the Problem

- Institute a general Internet Safety/Bullying curriculum
  - A perpetrator's bullying behavior does not exist in isolation. Rather, it may indicate the beginning of a generally antisocial and rule-breaking behavior pattern that can extend into adulthood. Programs to address the problem, therefore, must reduce opportunities and rewards for bullying behavior.
    - Olweus Bullying Prevention Program

### Addressing the Problem

- Teach basic internet protection strategies
  - Block the sender of IM or text messaging
  - Log off the computer and spend time letting situation cool down
  - Not responding to hurtful messages

### Addressing the Problem

- Establish mentoring program – pair older students with younger students
- Build a Safe Environment – establish a school culture of acceptance, tolerance and respect.
- Assess Bullying in Your School
- Educate Students and School Staff

### Addressing the Problem

- Monitor at-risk students for being bullied
  - Kids who are higher risk have poor social skills and other noteworthy attributes such as learning disabilities, obesity, ADHD, anxiety, depression, and Aspergers/Autism

### Addressing the Problem- Identify Bullies

- Children who bully come in a variety of packages, and they can come from any background, race, income level, family situation, gender, or religion. Research has shown that despite their differences children who bully typically have one or more of the following traits.

### **Addressing the Problem- Identify Bullies**

- They may:
  - be quick to blame others and unwilling to accept responsibility for their actions;
  - lack empathy, compassion, and understanding for others' feelings;
  - be bullied themselves;
  - have immature social and interpersonal skills;
  - want to be in control;

### **Addressing the Problem- Identify Bullies**

- They may:
  - be frustrated and anxious;
  - come from families where parents or siblings bully;
  - find themselves trying to fit in with a peer group that encourages bullying;
  - have parents who are unable to set limits, are inconsistent with discipline, do not provide supervision, or do not take an interest in their child's life.

### **Addressing the Problem- Help Children who Bully**

- There's a lot you can do to help correct the problem. Remember, bullying is a learned behavior—and it can be “unlearned.” By talking with the child and seeking help, you can teach your child more appropriate ways of handling feelings, peer pressure, and conflicts.
- Bullying hurts everyone. Parents can play a significant role in stopping the behavior, and the rewards will be immeasurable for all.

### **Addressing the Problem- Help My Child is the Bully**

- Help your child to stop bullying:
  - Talk with the child;
  - Confirm that your child's behavior is bullying and not the result of a disability;
  - Teach empathy, respect, and compassion;
  - Make your expectations clear;
  - Provide clear, consistent consequences for bullying;

### **Addressing the Problem- Help My Child is the Bully**

- Help your child to stop bullying:
  - Teach by example;
  - Role play;
  - Provide positive feedback;
  - Be realistic as it takes time to change behavior;
  - Seek help
    - Your child's doctor, teacher, school principal, school social worker, or a psychologist can help you and your child learn how to understand and deal with bullying behavior. Ask if your school offers a bullying prevention program.

### **Signs a Child is Being Bullied**

- Unexplainable injuries
- Lost or destroyed clothing, books, electronics, or jewelry
- Frequent headaches or stomach aches, feeling sick or faking illness
- Changes in eating habits, like suddenly skipping meals or binge eating. Kids may come home from school hungry because they did not eat lunch.



### Signs a Child is Being Bullied

- Difficulty sleeping or frequent nightmares
- Declining grades, loss of interest in schoolwork, or not wanting to go to school
- Sudden loss of friends or avoidance of social situations
- Feelings of helplessness or decreased self esteem
- Self-destructive behaviors such as running away from home, harming themselves, or talking about suicide

### Why don't kids ask for help?

- Statistics from the 2008–2009 School Crime Supplement show that an adult was notified in only about a third of bullying cases.
- Reasons for secrecy tend to fall into one of seven categories, according to a 2005 review of research by University of Toronto social workers. The categories, reported in the journal *Children & Schools*, were:

### Why don't kids ask for help?

- The cloak of secrecy: Bullying often happens out of adults' sight, in settings such as hallways and school lunchrooms. Thus, bullying stays between the victim, the bully and peer bystanders.
- Power: Bullying is marked by one participant — the bully — possessing more power than the other, whether that power is real or perceived. Children learn to gain power by aggression and to accept when others wield aggressive power. So a "weak" victim is not likely to tattle.

### Why don't kids ask for help?

- Self-blame: Victims may feel shame and blame themselves for their situation.
- Retaliation: To some kids, the logic is simple: Tell an adult and make the bully madder.
- Vulnerability: Kids who are bullied are often less accepted by their peers and may struggle with social skills. They may yearn for acceptance from the very people who torment them.

### Why don't kids ask for help?

- Fear of losing a friendship: Sometimes the relationship between bullies and victims isn't so straightforward. If the victim counts the bully as a friend (or wants to be his or her friend), telling may not seem like an option
- Fear adults will do nothing: Kids may be skeptical that adults can, or will, take steps to stop a bully.

### They are not Alone

- When students have been bullied, they often believe they are the only one this is happening to, and that no one else cares. In fact, they are not alone.
- There are individuals, communities, and organizations that do care. It is not up to one person to end the bullying and it is never the responsibility of the child to change what is happening to them.

### When your Child Has been Victimized

- Contact your school - school administrators have an obligation to intervene
- Request an evaluation/re-evaluation from your School District under IDEA/ Section 504
- If your child is already receiving special education services, request an Individualized Education Program (IEP) Meeting

### When your Child Has been Victimized

- Contact police if bullying involves acts of:
  - Threats of violence, Extortion, Obscene or harassing phone calls or text messages, Harassment, stalking, or hate crimes, Child pornography
- Consider contacting an attorney in cases of serious bullying
  - Potential claims under IDEA/Section 504

### When your Child Has been Victimized

- If your child is suffering from racial or sexual harassment, call the U.S. Department of Education's Office for Civil rights (OCR) at 800-421-3481 and/or the Pa Human Relations Commission (PHRC) at 412-255-2600 (Pittsburg Office) or at 215-560-2496 (Philadelphia Office)

### When your Child Has been Victimized

- If your child is being harassed based on his or her sexual orientation, contact the Pa Human Relations Commission (PHRC) at 412-255-2600 (Pittsburg Office) or at 215-560-2496 (Philadelphia Office).

### When your Child Has been Victimized

- If your child is suffering from disability harassment, call the OCR, PHRC, and/or the Office of Special Education Programs through 1-800-USA-LEARN or by calling 202-205-5507.

### Find Help

- If you are worried that you or someone you know may be at risk for suicide, please call your local authorities (911), contact a mental health professional, or call and talk to someone at 1-800-SUICIDE
- Locate Teen Support and Advice
- Find Treatment or Counseling
  - [http://www.makebeatsnotbeatdowns.org/findhelp\\_new.html](http://www.makebeatsnotbeatdowns.org/findhelp_new.html)

## Find Help

- Locate Teen Support and Advice
- Find Treatment or Counseling
  - [http://www.makebeatsnotbeatdowns.org/findhelp\\_new.html](http://www.makebeatsnotbeatdowns.org/findhelp_new.html)

## Helpful Links

- Pennsylvania Department of Education, Bureau of Community and Student Services
  - 717-783-3755
  - [www.pde.pa.us](http://www.pde.pa.us)
- Center for Safe Schools
  - 717-763-1661
  - [www.center-school.org/bullyingprevention](http://www.center-school.org/bullyingprevention)
- Bullying Prevention Institute
  - [www.bullyingpreventioninstitute.org](http://www.bullyingpreventioninstitute.org)

## Helpful Links

- PACER's National Bullying Prevention Center
  - <http://www.pacer.org/bullying/nbpm/>
- Violence Prevention Works
  - <http://www.violencepreventionworks.org/public/index.page>
- Pennsylvania State Police, Bureau of Community and Student Services
  - (717) 783-5599
  - [www.psp.state.pa.us](http://www.psp.state.pa.us)

## McAndrews Law Offices, P.C.



### Contact Information

#### Berwyn, PA - Main Office:

30 Cassatt Avenue  
Berwyn, PA 19312  
Phone: 610.648.9300  
Fax: 610.648.0433  
[www.mcandrewslaw.com](http://www.mcandrewslaw.com)

## McAndrews Law Offices, P.C.



### Contact Information

■ **Wyomissing, PA:**  
2240 Ridgewood Rd., Suite 101  
Wyomissing, PA 19610  
Phone: 610.374.9900  
Fax: 610.374.4650

■ **Scranton, PA:**  
400 Spruce St., Suite 300  
Scranton, PA 18503  
Phone: 570.969.1817  
Fax: 570.969.0955

■ **Wilmington, DE:**  
Foulk & Wilson Professional Centre  
910 Foulk Road, Suite 200  
Wilmington, DE 19803  
Phone: 302.380.4975  
Fax: 302.888.2118

■ **Washington, DC:**  
1350 Connecticut Ave., NW, Suite 850  
Washington, D.C. 20036  
Phone: 202.735.2300  
Fax: 202.296.3190

■ **Philadelphia, Pa**  
123 South Broad Street, Suite 2500  
Philadelphia, PA 19109  
Phones: 215-344-1476