

State Anti-Bullying Laws: Responsibilities and Liabilities

Note: This presentation is for information purposes only
and is not intended as legal advice.

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From a legal perspective, what is the primary issue for districts?

The 3 elements of Negligence;

1. A standard of care exists (a duty).
 - * A state law creates a standard of care, but a state law is NOT necessary to create a duty.
2. Your district fails to meet that standard.
3. A harm results from that failure.

Overview or "Action Steps"

1. Find your law
2. Find your policy
3. Match state law vs. district policy. Does your district meet the standard of care (duty) required by the state law? If not, what revisions are necessary?
4. Educate your district leadership on legal responsibilities.

Overview or "Action Steps"

5. If your district has a policy, is it being implemented properly?
6. Contact local legislators on pending legislation or revisions to current legislation. Feel comfortable educating legislators on key issues from district perspective.

1. Find your law

Your law



Find your law

States that currently do NOT have a state law;

Michigan (referred to Committee on Judiciary), Montana, North Dakota (not school specific), South Dakota, and Hawaii (bill proposed in 2010).

Where do the other 45 states find your state laws?

California - <http://www.legislature.ca.gov/>

New York - <http://assembly.state.ny.us/>

Indiana -

<http://www.in.gov/legislative/index.htm>

Mississippi - <http://billstatus.ls.state.ms.us/>

Wisconsin - <http://legis.wisconsin.gov/>

Where to find your bully prevention specific state law?

<http://www.anonymoustips.com/state-bullying-laws.php>

<http://www.bullypolice.org/>

Does your district have a bullying policy?

2. Find your policy

Your policy



Find your policy

Does your district have a policy on bullying?

If yes, compare state law against your district policy.

Are all requirements of your state law met by your district policy? Does your policy meet the mandated "duty" of the state law.

3. Match state law vs.
district policy.

Does your district meet the
standard of care (duty)
required by the state law?
If not, what revisions are
necessary?

State law vs. district policy



"Action Steps", continued.

4. Educate your district leadership on legal responsibilities.
5. If your district has a policy, is it being implemented properly?

"Action Steps", continued.

6. Contact local legislators on pending legislation or revisions to current legislation.

**What are the
KEY elements
of a good
state law?**

Definitions

Bullying (some laws require the district to define in policy)?

Illinois – “‘Bullying’ means any severe or pervasive physical or verbal act or conduct, including communications made in writing or electronically, directed toward a student”

Definitions

Kansas - "'Cyberbullying' means bullying by use of any electronic communication device through means including, but not limited to, e-mail, instant messaging, text messages, blogs, mobile phones, pagers, online games and websites."

Requirements for district policy

Is there a specific requirement for what is included in policy or a guiding document (Massachusetts)?

Is there a specific requirement for programming (does this include "Evidence-Based" programming) and/or staff development and training?

Requirements for district policy

Is there a specific requirement for reporting bullying (Georgia - "Such ...policy shall include: ... (5) A procedure for a teacher or other school employee, student, parent, or other person who has control or charge of a student, either anonymously or in such person's name ..."?)

Requirements for district policy

Is there a requirement for responding and investigating an allegation?

Protections

Protection for students against reprisal, retaliation, or false accusations.

Protection for school districts against lawsuits when complying with state laws and policies.

Student Supports

For the victim AND the student identified as the bully (victim support, counseling, etc.)

**What are common
components and trends
in existing state laws?**

Common Components

Policy development and due date for active policy.

Reporting standards.

Trends

Current and pending lawsuits;

Massachusetts policy development and monitoring of policy submission.

Repetitive behaviors and social exclusion are beginning to be included in state law definitions of "bullying".

Trends

Bystander held responsible for NOT becoming involved? In any existing state laws or proposed laws?

Mandated reporting?

Any states put money behind this initiative?

**What are
recommended
“Next Steps”?**

"Next Steps"

1. Find your law
2. Find your policy
3. Match state law vs. district policy. Does your district meet the standard of care (duty) required by the state law? If not, what revisions are necessary?
4. Educate your district leadership on legal responsibilities.

"Next Steps"

5. If your district has a policy, is it being implemented properly?
6. Contact local legislators on pending legislation or revisions to current legislation? Feel comfortable educating legislators on key issues from district perspective.

Final Questions Evaluation Reminder

Thank you for participating!