

THE NATURE, SCOPE, AND UTILITY OF FORMAL LAWS AND REGULATIONS THAT PROHIBIT SCHOOL-BASED BULLYING AND HARASSMENT [5237]

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Abstract

This paper examines whether state anti-bullying laws—as well as pertinent state and federal civil rights laws and international human rights covenants—target the critical components of bullying and whether and how much such legal standards can enhance strategies that we know work to reduce the extent and severity of bullying.

Introduction

Systemic study of school-based bullying commenced in the late 1970s. Since then, the literature has expanded exponentially (Rigby 2002). Consensus has been reached in four critical domains: definition, effect, bystander roles, and prevention strategies (Olweus, Limber, and Mihalic 1999; Rigby 2002).

First, bullying has been delineated as a form of aggressive behavior intended to cause harm or distress in the victim. A power imbalance exists between bully and victim, with behavior repeated over time. Second, we know that bullying has serious deleterious effects on the victim and the bully, requiring sanctions for the bully and support for the victim. Third, bystanders play a crucial role in the bullying dynamic by providing social sustenance for the bully. Circumscribed strategies focusing exclusively on the bully and the victim ignore the support that bystanders provide to bullies. Fourth, evaluation research has demonstrated that schoolwide strategies at multiple levels are required to promote nonaggressive interpersonal norms and behaviors throughout the school community, usually referred to as climate or systemic change. Effective interventions to prevent and lessen the degree of bullying in schools require the coordinated, targeted, and ongoing efforts of all key stakeholders in the school community at the individual, classroom, school, and wider community levels (Olweus et al., 1999; Swearer and Doll 2001).

Extending Limber's and Small's (2003) analysis of state anti-bullying laws, we will examine how these laws can contribute to a comprehensive school-based strategy to reduce the extent and severity of bullying in schools. (A bill, HR 284, which has also been introduced into the U. S. House of Representatives, requires state education entities provide assistance schools to prevent and respond to bullying and harassment.) We will examine federal and state civil rights laws pertaining to related behaviors of student-to-student harassment. We will then examine the Universal Declaration of Human Rights and the Convention on the Rights of the Child to ascertain the applicability of these international documents to prevent school-based bullying and harassment.

State Anti-Bullying Laws

An anti-bullying law must specify that “bullying” is, at minimum, inappropriate and it must apply to student-on-student bullying committed in school. Anti-bullying laws do not criminalize bullying but do dictate that school districts take action to prevent or intervene when bullying occurs, i.e., student-on-student bullying is not, per se, against the law (Conn 2004).

As of this writing, formal anti-bullying laws have been adopted in 18 states (see citations in Table 1). Two states have adopted statewide anti-bullying education policies (MI and NC). Although policies are not state laws, they are included in our analyses below because the policies are mandated. We have analyzed these laws (and policies) along the following dimensions: conformance with the social science definition of bullying, reporting requirements, required sanctions, requirements regarding training about bullying or requirements to implement bullying prevention programs, and enforceability.

Table 1. Citations of anti-bullying laws and statewide anti-bullying policies

State	Citation	State	Citation
Arizona	Chap 155 § 15-341 (2005)	New Jersey	NJSA 18A:36-13 et seq. (2002)
Arkansas	Ark. Code §6-18-514 (2005)	North Carolina	Policy # SS-A-007 (2004)
California	CA Educ. Code § 32260 and § 35294.21 (2003)	Oklahoma	§70-24-100.3-5 (2002)
Colorado	CO. Rev. Stat. Ann. § 22-32-109.1 (2001)	Oregon	OR. Rev. Stat. § 339.351, 353,356, 359, 363,364 (2003)
Connecticut	Public Act # 02-119 and Chap. 170 § 10-222d (2002)	Rhode Island	Chap 16-21-26 (2003)
Georgia	GA Code § 20-2-751.4-6 (2002)	Tennessee	Title 49, Chap- 6, Part 10, 1-6 (2005)
Illinois	Public Act 92-0260 (2001)	Vermont	Title 16 § 11(a), § 1161a, and § 15(a).
Louisiana	R.S. 17:416.15 (2001)	Virginia	Chapter 465 § 22.1-208.01 and § 22.1-279.6 (2005)
Michigan	2001 Policy (http://www.michigan.gov/documents/bdpolicy010719_16469_7.pdf)	Washington	Chap 28A.220 and Chap 28A.600 (2002)
New Hampshire	RSA 193-F:3 (2004)	West Virginia	§18-2C (2001)

Definitions

The vast majority of state anti-bullying laws (and statewide policies) include at least one of the three components of the social science criteria: intention to harm, repetition, power imbalance. None includes all three definitional elements. A majority of state anti-bullying laws use the terms “bullying” and “harassment” interchangeably or borrow language from civil rights laws in defining bullying. However, five state laws do not include a definition of bullying (AZ, AR, CA, IL, and NC).

All but three state laws (NH, OR, and TN) include in their definitions the intention to cause harm, some indirectly by referring to the legal standard in civil rights laws that a “reasonable person” would conclude that harm accrues from such behavior. Two states that exclude the intentionality element (OR and TN) state that bullying “substantially interferes with a student’s educational benefits, opportunities, or performance.” One state (NH) adopts a middle road, defining bullying by focusing on the experience of the victim: “a pupil who has been subject to insults, taunts, or challenges, whether verbal or physical in nature, that are likely to intimidate or provoke a violent or disorderly response” (NH: Title XV § 193-F:3).

Four states specifically include in their bullying definition a requirement that such behavior must be “repeated” (CT, MI, VA, and VT). The element of repetition is central to the social science definition but can be difficult to prove. Proving repetition requires maintaining accurate reporting and investigatory records, tasks that school staff often perceive as additional burdens beyond regular academic tasks.

No state anti-bullying law directly invokes the “power imbalance” criteria; however, many state laws and policies (intentionally or not) borrow directly from civil rights laws invoking these definitional elements. The power differential criterion is a particularly critical element because it distinguishes bullying from conflicts among children and youth of relatively equal prowess. “Power imbalance” is usually thought of as differences in size, strength, age, and numbers. When viewed in a psychosocial context, a power imbalance may exist between a student who has less social power because of his or her membership in a legally protected class (e.g., race, color, religion, ethnicity, gender, disability, or sexual orientation) or because of some social or personal characteristic viewed negatively by the dominant peer group (overweight/obesity, lower socioeconomic status, foster home, academic success, etc.) or simply because the student is a “good” victim of bullying (e.g., an introverted child who cries easily when taunted). Power imbalance is also a thorny concept to establish as a legal standard, other than through membership in a class legally designated as needing protection.

Although only two state anti-bullying laws specifically enumerate protected classes (NJ and WA), the designation of “harassment” as essentially equivalent to bullying in 12 state laws (AR, AZ, LA, NC, NH, NJ, OK, OR, RI, TN, WA, WV) could be interpreted as referring to the power imbalance implicit in the concept of protected classes. Ten of the 12 states also associate “intimidation” with bullying, more clearly suggesting power imbalance, and two do not (NC and NH).

The distinction among the terms bullying, harassment, and discrimination is often muddled in state law as well as in commentaries. Our view is that, behaviorally, harassment is a subset of bullying. Legally, it is subset of discrimination. “Discrimination [is behavior] which denies to individuals or groups of people equality of treatment” (Blumenfeld and Raymond 2000, p. 22). Harassment describes “unwelcome, abusive, or intimidating behavior,” which, in effect, denies equal treatment. Discrimination and harassment are illegal in specified arenas (e.g., housing, employment, and public accommodations, which include schools). Unless it rises to the level of a bias crime and/or criminal assault, peer harassment is not illegal at a school. Nevertheless, school authorities may incur civil liability if the target(s) of peer harassment are members of protected classes of persons and certain specified conditions are met (discussed below). Under federal laws, the protected classes are race, color, national origin, sex, disability, and age.

The element of repetition as a component of social scientists’ bullying definition is clearly implied in the civil rights discourse through the terms “severe, pervasive, or persistent.” Although a single incident may be “severe,” it takes multiple, or repeated, incidents to achieve the standard of pervasive or persistent. When bullying or harassment is “severe, pervasive or persistent” a “hostile environment” is created. Three state anti-bullying laws borrow from civil rights law by adopting the legal standard that the behavior must be “sufficiently severe, persistent, or pervasive” that it creates a “hostile educational environment” (RI, WA, and WV).

Since harassment is covered under some state and federal civil rights laws, mixing bullying and harassment in anti-bullying laws may create some potential confusion when legal remedies are sought. Stein (2003) argues that classifying as bullying specific violations (harassment and discrimination) protected under state or federal civil rights laws dilutes the meanings and sanctions of such behavior. Further, she argues that separating these actions from the civil rights framework potentially weakens the legislative and judicial progress made in addressing them. We argue that state bullying laws can be used to significantly further anti-bullying efforts within schools, but that the language of these laws must be very clear in defining bullying and harassment and in citing applicable statutes for specific forms of bullying and harassment (Ross, in press).

Reporting Requirements and Sanctions

Within the social science literature on bullying, there is near unanimity that all bullying incidents should be reported and investigated. In addition, annual, anonymous, self-report student surveys are recommended to reveal the extent and nature of the bullying in each school building and whether the problem is worsening or improving year to year (Olweus et al. 1999). Eight state laws require school employees to report witnessed or suspected acts of bullying, usually to the principal or his or her designate and to provide for written parent/guardian reports as well as anonymous reports from students (AZ, AR, CN, NH, NC, NJ, VT, and WV). Four states encourage school personnel to report instances of bullying (OR, RI, TN, and WA). Four states require notification to the parents of a student with verified bullying behavior and the parents of bullying victim(s) (CN, IL, VT, and WV). Only two states require that policies and procedures include some form of assistance for the victim(s) of bullying (WA and WV).

All states except California require, either directly or indirectly (via policies or procedures prohibiting bullying), that local school districts establish sanctions for verified acts of bullying. Only one state law designates a specific sanction (GA): assignment to an alternative school after the third violation (GA Code § 20-2-751.4-6).

Training and Program Development

Seven state laws (or policies) refer specifically to training programs or prevention programs to help remediate bullying (AR, CO, GA, IL, MI, NJ, and RI). Most simply require or recommend that school employees receive training on their district's bullying policies or in bullying prevention generally. Transcending simple encouragement, Georgia requires that schools include "methods of discouraging bullying" in character education programs. Similarly, Michigan's statewide policy requires public schools to "institute an anti-bullying program . . . to promote a positive school atmosphere that fosters learning, and to create a safe and fear-free school environment in the classroom, playground, and at school-sponsored activities" (see Table 1 for citation).

Enforcement

Several states explicitly provide immunity to schools and school personnel if, after following designated procedures, the bullying is not reduced. Only Georgia's anti-bullying law imposes any penalty for noncompliance with its anti-bullying law (withholding state funding).

Summary of Anti-bullying Laws and Policies

State anti-bullying laws and statewide anti-bullying policies vary enormously. Virtually every state anti-bullying law requires or strongly encourages school districts to establish anti-bullying policies. The vast majority of laws specify that bullying involves either the intent to harm another student or has the effect of harming a student. Only a handful of states specifically use the repetition standard for behavior to be considered bullying. Some states invoke the "severe, pervasive, or persistent" standard to classify such behavior as bullying, implicitly invoking the criterion of repetition. Although no state law specifically states that a power imbalance is required as a criterion of bullying, the fact that 10 states laws include the term "intimidation" as essentially equivalent to bullying could be interpreted as implying that power imbalance exists. Most state laws either require or recommend that school personnel report to a school administrator witnessed accounts of bullying behavior. These states require formal investigations once a report is submitted. Only one state law specifies sanctions for school districts that are noncompliant with its state anti-bullying law.

Despite the weaknesses of most anti-bullying laws, particularly regarding enforcement, these laws force school administrations (and community leaders) to pay attention to bullying by requiring anti-bullying policies. Still, a requirement's existence does not guarantee enforcement. Our experience is that without advocacy in and out of schools, requirements are easily ignored. Frequently, the publicity surrounding adoption of bullying laws, in combination with advocacy work (especially by parents) and school personnel's concerns, results in heightened recognition that bullying is a highly prevalent and potent form of aggressive behavior. This acknowledgment that bullying behavior is unacceptable, interfering with orderly, effective provision of educational opportunities for all, moves us toward the tipping point at which bullying is taken seriously by all. Finally, state anti-bullying laws expand protections of civil rights laws to victims who are not members of protected classes.

Education, the Civil Rights Act of 1964, and Title IX

The Civil Rights Act of 1964 emerged from the sacrifices and deaths of myriad civil rights workers and the courageous lobbying of thousands of men and women in the civil rights movement. Titles IV and VI of the Civil Rights Act redress segregation (Title IV) and discrimination (Title VI) in education (Civil Rights Act 1964).

Title VI states that “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” (Civil Rights Act 1964, 42 U.S.C. § 2000 c, d). The Department of Education's Office for Civil Rights (OCR) was established to enforce this provision in all educational institutions receiving federal funds.

OCR is also responsible for enforcing regulations protecting students from discrimination based on sex (enforcing Title IX of the Education Amendments of 1972) and protecting students with disabilities (Rehabilitation Act 1973) and Title II of the Americans with Disabilities Act (1990). Title IX has been misunderstood, popularly seen only as promoting athletic equity for girls. Title IX plays a powerful role in preventing sexual harassment. Almost two-thirds of complaints to OCR under Title IX involved sexual harassment (AAUW 2000).

Federal laws do not criminalize student-to-student harassment. Applicable federal laws and OCR guidance on enforcement hold school districts or their representatives liable under certain conditions: officials must have notice or knowledge of the harassment, and have the opportunity to correct it, yet still fail to effectively respond (Cole 2005).

The U.S. Supreme Court ruled in a landmark student-to-student sexual harassment case—*Davis v. Monroe County Board of Education*—that schools are liable if harassment is “so severe, pervasive, and objectively offensive that it undermines the victims' educational experience and effectively denies the equal access to the school district's resources and opportunities” (Conn 2004, p. 64). Under such circumstances, the Court ruled, student-to-student sexual harassment violates Title IX, creating an “intimidating, hostile, offensive, and abusive school environment” that is discriminatory. OCR has adopted the Supreme Court's definition of hostile environment based on sexual harassment:

“Hostile environment harassment occurs when unwelcome conduct of a sexual nature is so severe, persistent, or pervasive that it affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, or abusive educational environment. A hostile environment can be created by a school employee, another student, or even someone visiting the school, such as a student or employee from

another school.” (U.S Department of Education, Office of Civil Rights (USDOE) undated, p. 2).

OCR defines a racially hostile environment in similar terms (USDOE 1994). In a case involving accusations of racial harassment, where the school permitted racial graffiti and Confederate flag shirts (despite the school dress code), the Tenth Circuit Court suggested “that the school’s failure to deal with racist issues created a hostile environment for black students and may have constituted intentional racial discrimination” (Conn 2004, p. 86).

OCR provides a set of factors useful in evaluating hostile environments, whether for sexual, racial, or another form of harassment. These include, among others: “The degree to which the conduct affected one or more students’ education. . . . The type, frequency, and duration of the conduct. . . . The number of individuals involved. . . . The size of the school, location of the incidents, and context in which they occurred. . . . [and] Other incidents at the school. . . .” (USDOE 2000, p. 66102-66104).

The first and last of this list are particularly important. “The degree to which the conduct affected one or more students’ education” goes directly to the question of why educators must be concerned about harassment, and about bullying as well. OCR and the U.S. Supreme Court have determined that a hostile environment can seriously impact students’ ability to learn or even to attend a school. OCR writes:

“a student’s grades may go down or the student may be forced to withdraw from school because of the harassing behavior. A student may also suffer physical injuries or mental or emotional distress. . . . A hostile environment can occur even if the harassment is not targeted specifically at the individual complainant . . . if a student . . . regularly directs sexual comments toward a particular student, a hostile environment may be created not only for the targeted student, but also for others who witness the conduct.” (USDOE 2000, p. 66102).

This last point in this quotation is critical—bystanders or those not directly involved in the incident—may experience harassment occurring around them as a hostile environment.

The last factor in the OCR list—“Other incidents at the school”—considers that a hostile environment can result from a sum total of incidents, not all of which are directed at the complainant. “A series of incidents at the school, not involving the same students, could—taken together—create a hostile environment, even if each itself would not be sufficient” (USDOE 2000, p. 66103). Further, “incidents of racial or national origin harassment directed at a particular individual may also be aggregated with incidents of sexual or gender harassment directed at that individual in determining the existence of a hostile environment” (USDOE 2000, p. 66110).

State Civil Rights Laws

Most state civil rights laws cover the same protected classes as federal civil rights laws—race, color, sex, age, and disability. In 16 states plus the District of Columbia, sexual orientation is covered in civil rights law along with these other groups (CA, CT, DC, HI, IL, IA, MD, MA, MN, NV, NH, NJ, NM, NY, RI, VT, and WI). Despite the lack of coverage in many state civil rights laws, 14 additional states cover sexual orientation in their hate crime laws (AR, DE, FL, KS, KY, LA, ME, MO, NE, OR, PA, TN, TX, and WA) (GLSEN 2004). Since student-to-student harassment may also be a hate crime, just as bullying may be individually punishable under a criminal assault charge, the existence of such laws covering sexual minority youth is critical.

One concern that parents of bullied students raise is whether their children are covered under harassment laws if the bullying motivation is obesity, academic success or failure, foster child status, etc. These serious and

widespread motivations for bullying are unlikely to fall under civil rights harassment. The term “bias-based bullying,” used widely in New Jersey (Ross 2005), describes these forms, although it is unlikely to extend the legal protections of civil rights laws to these children suffering from peer abuse. Again, the vast majority of state anti-bullying laws do apply to these cases.

School Climate and Hostile Environment

School climate is the sum of many specific elements, which, cited in the literature, include place, policies, programs, processes, partners (Hansen, J.M. and Childs, J. 1998); and attitudes, interactions, cohesiveness, trust, respect, control, violence, physical infrastructure (Scherman 2002). School climate is of central concern to experts in school discipline (Sugai and Horner 2002), educational equity (Nieto 1992; Szalacha 2003), and bullying prevention (Olweus et al. 1999). Effective bullying prevention programs are designed to create positive change in the social climate of a school from one conducive to bullying to one where bullying is seen as unacceptable and unjust.

Policies, violence, respect, equity concerns, and bullying experiences are school climate elements particularly relevant to harassment and hostile environment. As a legal concept, hostile environment focuses more narrowly than school climate on how individuals from one or more of the protected classes experience the school climate. Students’ perceptions of climate arise from the totality of their experiences of harassment, whether directed at them individually or at others who may be members of the same (or a different) protected class.

For example, an African American 16-year-old male who experiences racial harassment from other students through taunting, racial graffiti, Confederate flag shirts, etc., more likely experiences the school climate as negative than is a white student of a similar age and sex. School climate surveys, therefore, should include questions that ask not only about bullying and harassment, but also about responders’ race, ethnicity, gender, and, if possible, sexual orientation. Perceptions of a hostile school climate by students partitioned according to these categories can easily be missed if the perceptions of all students are averaged together.

Szalacha (2003) focuses attention on school climate impacting sexually diverse (gay, lesbian, bisexual, and transgender) students. Szalacha’s research on the impact of Massachusetts’ law protecting sexual minority youth in schools reveals the positive impact of three factors in improving their school climate: school support for gay-straight alliances (GSAs), strong and explicit anti-harassment policies, and staff training.

Although policies themselves do not prevent bullying and harassment, they are the starting place for intervention and prevention. The Massachusetts Office of the Attorney General (2005) has developed a comprehensive “Sample Policy for School Districts Promoting Civil Rights and Prohibiting Bullying, Discrimination and Hate Crimes.” The American Association of University Women’s (AAUW) Sexual Harassment Task Force provides examples of simplified, user-friendly sexual harassment policies (AAUW 2004). These can serve as policy models for other forms of harassment or, as in Massachusetts, all forms of harassment can be covered in a single policy.

International Human Rights

Dan Olweus, considered the pioneer of the modern-day systemic approach to bullying, has stated that “it is a fundamental democratic or human right for a child to feel safe in school and to be spared the oppression and repeated, intentional humiliation implied in peer victimization or bullying” (Olweus 2001, p. 11-12). The first modern international statement of human rights is contained in the Charter of the United Nations as the Universal Declaration of Human Rights (Morsink 1999). Ratified in June 1948, Article 26:2 states: “Education shall be directed to the full development of the human personality and to the strengthening of

respect for human rights and fundamental freedoms.” This article dictates that “provisions ought to be made to ensure that schools promote and enforce human rights for all students.” Although the Declaration does not specify the rights to which children are entitled, the Convention on the Rights of the Child does (U.N. General Assembly 1989). The convention includes protections against:

Article 2(2): “all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs”

Article 16(1): “arbitrary or unlawful interference with his or her privacy, family, home or correspondence, [and] to unlawful attacks on his or her honour and reputation”

Article 19(1): “all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.”

Article 19(2) of the convention further states that “such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and as appropriate, for judicial involvement” (U.N. General Assembly 1989). While international conventions, treaties, and declarations specifically target nation states and generally exclude enforcement mechanisms, they do provide a widely accepted framework for adaptation and interpretation for local organizational structures, such as schools.

Given the definitions of bullying and harassment—in law or social science—there is little doubt that the victim’s safety and well-being are clearly threatened, violating protections delineated in the convention. Bullying and harassment, therefore, are violations of human rights. Furthermore, the convention dictates that programs to remedy such injustices must be established. From a human rights perspective, it is clearly incumbent upon schools to provide social programs to remedy such human rights violations.

A human rights approach, inherently child-centered, applies to all forms of abuse and victimization of children. This approach buttresses bullying and harassment prevention strategies in four critically important ways by—

- Clearly simplifying and contextualizing the nature of bullying and harassment;
- Providing a central mobilizing theme in organizing against such behavior and in adopting effective prevention programs;
- Guiding the preparation and selection of curricular content and activities; and
- Focusing efforts to create an ethos of caring.

Because a human rights approach encompasses all forms of bullying and harassment, while simultaneously dictating specific attention to motivational bases for bullying infractions, forms of bullying typically overlooked and under-appreciated can be directly addressed. These forms include spreading nasty rumors, exclusionary tactics, hateful language based on sexual orientation, and cyberbullying. Given the complexity of anti-bullying and anti-harassment laws, the human rights approach provides a straightforward though less formal definition and a compelling organizing strategy for schools (Greene, in press).

This approach focuses on the “exercise of power to deny others their humanity” (Henry 2000, p. 21). The litmus test becomes the actual and potential harm to students resulting from actions that violate their human rights. This test obviates the need to establish whether the behavior was repeated, whether the perpetrator intended to harm the victim, whether the harm was severe, or the behavior pervasive. The human rights

approach, while focusing on individual behavior, directs attention to actions and circumstances that create hostile environments or unwelcoming school climates.

Discussion

Following the revelation that Eric Harris and Dylan Klebold were chronically bullied prior to their execution of what has become known simply as “Columbine,” many states introduced and passed anti-bullying legislation. Whether these laws and related policies have reduced the extent and severity of bullying remains to be seen. These laws do not criminalize bullying, but do bring to the forefront schools’ responsibilities to define bullying, establish policies, report witnessed instances of bullying, investigate, and sanction students who bully; and, ideally, provide support and protection for the victims of bullying. Of course, complete implementation of anti-bullying laws, like many education laws and policies, is slow to occur.

Despite variations in state anti-bullying laws and the fact that none are altogether consistent with research on the nature and dynamics of bullying, consciousness of the deleterious effects of bullying is increasing. This is due to the existence of anti-bullying laws and to increasingly targeted research, public anti-bullying campaigns, parent outrage, and media coverage. At this stage in the evolution of this consciousness-raising process, we believe that anti-bullying laws are contributing to the changing norms and behavioral expectations that are ultimately needed to effectively prevent and reduce the incidence of the diverse array of bullying behaviors in our schools.

Similarly, much progress has been made in the application of civil rights laws to peer harassment in schools. The landmark *Davis v. Monroe County Board of Education* has established standards regarding the responsibility and liability for peer sexual harassment by school authorities. The Office of Civil Rights has the authority to monitor and sanction schools with respect to peer harassment motivated by an intent to harm based on membership, or perceived membership, in certain protected classes, and has established criteria to define a “hostile educational environment” created by such behavior. State laws have also been established, in many cases broadening the classes that are protected under federal laws.

International human rights standards, particularly the Convention on the Rights of the Child, provide another avenue to organize efforts and programs to prevent bullying and harassment. These standards can incorporate curricular content to promote respect and apply a human rights perspective to the everyday life of children and youth. Although the convention provides no enforcement mechanisms and only provides standards against which nations can assess their progress, it provides a powerful moral framework. In this framework, bullying and harassment are considered antithetical to the human right to a safe educational environment in which diversity is honored.

Ultimately, state and federal laws and international covenants will remain empty standards unless all members of the school community are committed to the underlying principles that frame these standards. Law and advocacy go hand in hand; both are necessary in the march toward equity, human rights, and schools free from bullying and harassment. Social injustice flourishes only when we abdicate our responsibilities to fight for our inalienable human rights.

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