

Model Statute and Advocacy Toolkit

Adapted from the ADL's Bullying / Cyberbullying Prevention Law, Model Statute and Advocacy Toolkit for downloadable PDF

Bullying and harassment in elementary and secondary educational settings is a continuing problem for school districts, parents, and students. The impact of bullying has been well documented -- studies have shown that difficulty making friends, loneliness, low self-esteem, depression, poor academic achievement, truancy and suicide are all associated with being bullied.

Bullying, whether offline or online, is often motivated by prejudice and hate, and some of the most serious cases are the result of bias based on the victim's personal characteristics, such as race, religion, national origin, gender identity, or sexual orientation. Whether bullying is related to identity-based group membership, or more universal characteristics such as appearance or social status, this form of social cruelty can produce devastating consequences for the targets – and the perpetrators of bullying – and may be a precursor to more destructive behavior.

For years, governments, schools and courts have been wrestling with how to deal with the issue of bullying and harassment in schools. A school's duty to maintain a safe learning environment for students must be balanced with a student's right to privacy and free speech. Particularly with the rise in cyberbullying, schools are seeking ways to create a safe environment, and communities and legislatures are creating guidelines on the issue.

This toolkit contains general talking points in support of anti-bullying legislation, a specific section-by-section description of our model policy, a compilation of the existing anti-bullying statutes, and examples of school Internet Acceptable Use Policies.

o Why Support a Model Statute? Some Talking Points

o Elements of a Comprehensive Anti-Bullying Law

o VIEW THE ADL'S Model Anti-Bullying Statute

The
BULLY
Project

Why Support a Model Statute? Some Talking Points

- Throughout the country, many school administrators now are dealing with the issue of bullying, and particularly cyberbullying, in their schools.
- All students have the right to participate fully in the educational process, free from harassment and bullying. Anti-bullying policies should be in place before an incident occurs.
- Some schools may have policies, but parents and students may not even know they exist, they may not be consistently enforced, or they may be over-broad and unconstitutional. To be effective, statutes should be comprehensive and create accountability.
- Students learn by example, and so administrators should set a tone of civility and respect, and demonstrate their refusal to tolerate bullying and harassment.
- A law gives schools the power to do something about a bullying problem.
- Without a law, school districts may choose not to create anti-bullying policies, or may not actually enforce policies.

Elements of a Comprehensive Anti-Bullying Law

Require each school district adopt an anti-bullying policy.

- A requirement will let the parents, students, and concerned community members know that the issue is being taken seriously.
- The bill should require that school districts work with parents, teachers, students, law enforcement and other community stakeholders in the creation and implementation of the policy. The issue of bullying is a community issue and any response needs the support and buy-in of the entire community.

A strong definition of intimidation, harassment, and bullying is necessary.

- The definition will notify school administrators, students, and teachers exactly what is unacceptable.
- The definition should not be overbroad, or vague – it must not punish constitutionally-protected speech. The definition should be limited to areas in which the school administration has the authority to act.

Enumerated characteristics must be included in any definition of bullying.

- Naming certain categories provides clear guidance to those who must apply the standard.
- Naming the categories (particularly sexual orientation) will remove all doubt that Lesbian, Gay, Bisexual, and Transgender (LGBT) youth are included in the protections from bullying.
- Inclusion of enumerated characteristics does not affect protection for all other students.

“Electronic communications” must be included in any definition of bullying.

- With increasing access to online technology, the Internet has become yet another vehicle to harass and bully. Cyberbullying may be more harmful than traditional bullying because of the invasive and pervasive nature of the communication: Messages are circulated far and wide and there is no refuge -- it is ubiquitous.

Off-campus cyberbullying which affects and interferes with a school’s educational mission must be covered by the Act.

- As a significant amount of cyberbullying is created on computers, cell phones and other devices that are not owned by the school, or are not located on school property, but still affect the school environment and the welfare of the students, it is important to ensure that schools are given adequate legal framework to address the issue.
- Most courts agree that schools may discipline speech which results in a substantial disruption of the operation of the school.

In-school reporting: a process within the school for reporting and investigating bullying must be established.

- Students and witnesses should know a safe place to come to report incidents.
- There should be a point person in the school who is responsible for receiving reports of bullying and communicating with appropriate personnel for investigation.

District reporting: A systematic process by which the school reports to the school district, and the school district reports to the State, must be established.

- The bill should create process for schools to report incidents to the superintendents, who must then report to the designated state repository agency.
- State authorities must set an example that this is an important issue that is being monitored and examined.

Establish consequences for unacceptable activity.

- Establishing consequences is important to put students, and staff, on notice that inappropriate behavior will not be tolerated and will be taken seriously.

Mandate training for faculty and students.

- Thorough training of school administrators, teachers and counseling staff is essential to ensure that the Model Policy is properly implemented and enforced.
- A section such as this may have clear resource implications. It may be necessary for supporters to advocate for funds to accompany the enactment of this statute.

Include counseling for victims and perpetrators.

- The bill should include a section on counseling for both targets and perpetrators, and for appropriate family members, affected by bullying. As described in the introduction above, severe bullying can have long-lasting and dangerous effects on students.

Give notice to parents and guardians.

- This bill should ensure there is a procedure for broadly publicizing the policy (in conduct codes, handbooks, bulletin boards, school Web sites, and other appropriate places.)
- The notice will also serve to instruct students, parents, and school staff how to identify, respond to and report incidents of bullying.

The State Board of Education should play a significant role.

- The bill should require the Board of Education to create a Model Policy. School Districts will take their lead from the Superintendents, and the State Department of Education. The State should lead by example and provide inclusive sample policies so that schools districts have guidance in creating comprehensive policies.