

# SPECIAL EDUCATION SERVICES

## BULLYING PREVENTION

### BULLYING PREVENTION AND STUDENTS WITH DISABILITIES

The Oklahoma State Department of Education (OSDE) is committed to ensuring that all students, including students with disabilities, receive a free appropriate public education (FAPE). Part of this commitment includes providing guidance and support in order to promote excellence in education from infancy to adulthood for children with disabilities, as outlined in the Individuals with Disabilities Education Improvement Act (IDEA).

This memo will provide an overview of State and Federal laws and guidance regarding the issue of bullying in schools, with particular attention to students with disabilities. The OSDE encourages districts to become familiar with this information and disseminate to all staff. Studies have found that students with disabilities are **two to three times** more likely to be bullied than their non-disabled peers.

*(Disabilities: Insights from Across Fields and Around the World, Marshall, Kendall, Banks & Gover, Eds., 2009).* The OSDE also encourages districts to view and disseminate [Bullying and Harassment of Students with Disabilities: Top 10 Facts Parents, Educators, and Students Need to Know](#), published by PACER's National Bullying and Prevention Center. PACER is the National Parent Center on Transition and Employment.

In addition to the personal effects that bullying has, it also has a negative effect on the social environment of schools, creates a climate of fear among students, inhibits the ability

to learn, and leads to other antisocial behavior. Other detrimental effects of bullying include negative impacts on school safety, student engagement, and the overall school environment. Oklahoma state law mandates that any form, type, or level of bullying is prohibited, and every incident of behavior that may constitute bullying should be taken seriously by school administrators, school staff (including teachers), students, and parents. Although definitions of bullying vary, most agree that bullying involves:

- **Imbalance of Power:** People who bully use their power to control or harm, and the people being bullied may have a hard time defending themselves.
- **Intent to Cause Harm:** Accidents are not bullying; the person bullying has a goal to cause harm.
- **Repetition:** Incidents of bullying happen to the same the person repeatedly by the same person or group.



# SPECIAL EDUCATION SERVICES

## BULLYING PREVENTION

“Bullying” is defined in the Oklahoma School Safety and Bullying Prevention Act as:

*Any pattern of harassment, intimidation, threatening behavior, physical acts, verbal or electronic communication directed toward a student or group of students that results in or is reasonably perceived as being done with the intent to cause negative educational or physical results for the targeted individual or group and is communicated in such a way as to disrupt or interfere with the school’s educational mission or the education of any student. 70 O.S. § 70-24-100.3*

Examples of how these bullying behaviors manifest include:

- **Physical:** Hitting, kicking, spitting, pushing, stealing, and/or damaging personal belongings, sexual acts, and invasion of one’s personal space in an aggressive manner.
- **Verbal/Written:** Taunting, malicious teasing, name calling, making threats (including via phone and internet), and sexual remarks.
- **Emotional:** Spreading rumors, manipulating social relationships or environments, engaging in social exclusion, extortion, ridiculing, and intimidating.
- **Cyber/Electronic:** Intentional electronic act or series of acts that are:
  1. Directed at another student(s),
  2. Occur in the school setting,
  3. Are severe, persistent, and pervasive, **AND**
  4. Have the effect of doing at least one of the following:
    - ◆ Substantially interfering with a student’s education,
    - ◆ Creating a threatening environment, or
    - ◆ Substantially disrupting the orderly operation of the school.

Bullying has serious and lasting effects. Research has found bullying behavior causes increased mental health problems, increased thoughts of suicide, retaliation through extremely violent measures, decreased academic achievement, higher risk of abusing alcohol and other drugs, and truancy.

### CURRENT RESEARCH ON BULLYING AND STUDENTS WITH DISABILITIES

PACER’s [Bullying Statistics page](#) provides the following information:

- When assessing specific types of disabilities, prevalence rates differ: 35.3 percent of students with behavioral and emotional disorders, 33.9 percent of students with autism, 24.3 percent of students with intellectual disabilities, 20.8 percent of students with health impairments, and 19 percent of students with specific learning disabilities face high levels of bullying victimization (Rose et al., 2012).
- Students with specific learning disabilities, autism spectrum disorder, emotional and behavior disorders, other health impairments, and speech or language impairments report greater rates of victimization than their peers without disabilities, and their victimization remains consistent over time (Rose & Gage, 2017).
- Researchers discovered that students with disabilities were more worried about school safety and being injured or harassed by other peers compared to students without a disability (Saylor & Leach, 2009).
- When reporting bullying, youth in special education were told not to tattle almost twice as often as youth not in special education (Davis & Nixon, 2010).



# SPECIAL EDUCATION SERVICES

## BULLYING PREVENTION

- Successful strategies to prevent bullying among students with disabilities include (Rose & Monda-Amaya, 2012):
  - ◆ Teachers and peers engaging in meaningful and appropriate social interactions
  - ◆ Creating opportunities to increase social competence and positive interactions
  - ◆ Schools adopting appropriate intervention strategies that encourage social awareness and provide individualized interventions for targets with disabilities

PACER's National Bullying and Prevention Center also provides current research and data on these topics:

- National Bullying statistics
- Effects of bullying
- Cyberbullying
- Statistics about bullying of students of color
- Statistics about bullying of students who identify or are perceived as LGBTQ
- Bullying and suicide
- Interventions
- Bystanders

### STATE LAW AND GUIDANCE

The [School Safety and Bullying Prevention Act \(2013\)](#) requires each district board of education to adopt a policy for the discipline of all children attending public school in that district, and for the investigation of reported incidents of bullying. Policies should provide options for the discipline of the students and define standards of conduct to which students are expected to conform. The OSDE provides a [Model School District Policy for Prevention of Bullying at School](#). The law further states that each public school site shall establish a Safe School

Committee to be composed of at least seven members, composed of teachers, parents of enrolled students, students, and a school official who participates in the investigation of reports of bullying.

### ADOPT AN EFFECTIVE BULLYING PREVENTION POLICY

Do not pass a policy to meet the law, pass an effective policy to eliminate bullying.

The purpose of a policy is to prohibit harassment, intimidation, bullying, and threatening behavior, provide options for the methods of control and discipline of the students, and shall define standards of conduct to which students are expected to conform. Effective policies prohibiting harassment, intimidation, and bullying should include:

- A statement of purpose, which includes the scope of the policy and prohibited behavior;
- Definitions clarifying prohibited behavior;
- A means to report incidents, including a process to submit information anonymously;
- The requirement that school personnel report, in a timely and responsive manner, incidents of bullying they witness or are aware of to a designated official;
- A process of notification to local law enforcement, if necessary, and parents as provided by state and federal law;
- A plan for notifying students, parents, and staff of policies related to bullying;
- A tiered discipline system of the consequences of engaging in bullying behavior;
- A procedure for maintaining records of all incidents and how the incident was resolved;
- A plan for training and educating all school personnel; and



# SPECIAL EDUCATION SERVICES

## BULLYING PREVENTION

- A provision for the district board of education to review local policies on a regular basis to ensure the goals of the state statute and policy are met.

### HOW DO WE PREVENT BULLYING IN OUR SCHOOL?

- Assess bullying in your school to determine where and when bullying occurs.
- Name an incident coordinator and review your bullying prevention policy annually.
- Determine where to increase supervision and work with all staff such as bus drivers, cafeteria staff, and playground monitors to watch for incidents both inside and outside of the classroom.
- Work with the Safe School Committee on recommendations for the site principal. The law states the committee must be composed of at least 7 members, however the more members in attendance will help the school provide a united effort in bullying prevention.
- Integrate bullying prevention into curriculum and school activities.
- Encourage and create a plan of action to educate and raise school-wide awareness.
- Involve parents and community members. Bullying is not just a school issue it is a community issue.
- Distribute this [Staff Bullying Survey](#) to your staff.
- Distribute these CDC developed [Student Surveys](#) to your students.

To assist in your practice and implementation, the OSDE provides [Bullying Prevention Resources](#) to prevent and address bullying in public schools.

### FEDERAL LAW

The following federal laws apply to entities receiving federal funds, and are intended as examples and a non-exhaustive list of laws that prohibit discrimination and harassment, including bullying.

- **Title VI of the Civil Rights Act of 1964** (Title VI): Prohibits discrimination on the basis of race, color, or national origin.
- **Title IX of the Education Amendments of 1972** (Title IX): Prohibits discrimination on the basis of sex.
- **Section 504 of the Rehabilitation Act of 1973** (Section 504) and **Title II of the Americans with Disabilities Act of 1990** (Title II): Prohibit discrimination on the basis of disability.

School districts may be in violation of these civil rights laws and the U.S. Department of Education's implementing regulations when peer harassment based on race, color, national origin, sex, or disability is sufficiently serious that it creates a hostile environment and such harassment is encouraged, tolerated, not adequately addressed, or ignored by school employees.

### FEDERAL GUIDANCE REGARDING STUDENTS WITH DISABILITIES AND BULLYING

The Office of Special Education and Rehabilitative Services (OSERS) within the U.S. Department of Education issued a [Dear Colleague Letter](#) and accompanying [Enclosure](#) on Aug. 20, 2013, to provide an overview of school districts' responsibilities under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400, et seq., to address bullying of students with disabilities.



# SPECIAL EDUCATION SERVICES

## BULLYING PREVENTION

Additionally, the OSERS letter provides guidance on a school district's responsibilities under the IDEA when addressing the bullying of students with disabilities.

States and school districts have a responsibility under the IDEA to ensure that FAPE in the least restrictive environment (LRE) is made available to eligible students with disabilities. In order for a student to receive FAPE, the student's individualized education program (IEP) must be reasonably calculated to provide meaningful educational benefit.

### DEAR COLLEAGUE LETTER SUMMARY

In summary, OSERS reiterates its longstanding guidance that bullying of a student with a disability that results in the student not receiving meaningful educational benefit constitutes a denial of a free appropriate public education under IDEA that must be remedied. It notes that students with disabilities are disproportionately affected by bullying and provides guidance for Individualized Education Program teams in addressing bullying concerns. The enclosure accompanying the letter addresses effective evidence-based practices for preventing and addressing bullying.

Schools have an obligation to ensure that a student with a disability who is the target of bullying behavior continues to receive FAPE in accordance with his or her IEP. The school should, as part of its appropriate response to the bullying:

- Convene the IEP team to determine whether, as a result of the effects of the bullying, the student's needs have changed such that the IEP is no longer designed to provide meaningful educational benefit.

- If the IEP is no longer designed to provide a meaningful educational benefit to the student, the IEP team must then determine to what extent additional or different special education or related services are needed to address the student's individual needs and revise the IEP accordingly.
- Additionally, parents have the right to request an IEP team meeting at any time, and public agencies generally must grant a parental request for an IEP team meeting where a student's needs may have changed as a result of bullying.
- The IEP team should exercise caution when considering a change in the placement or the location of services provided to the student with a disability who was the target of the bullying behavior and should keep the student in the original placement unless the student can no longer receive FAPE in the current LRE placement. While it may be appropriate to consider whether to change the placement of the child who was the target of the bullying behavior, IEP teams should be aware that certain changes to the education program of a student with a disability (e.g., placement in a more restrictive "protected" setting to avoid bullying behavior) may constitute a denial of the IDEA's requirement that the school provide FAPE in the LRE.
- Schools may not attempt to resolve the bullying situation by unilaterally changing the frequency, duration, intensity, placement, or location of the student's special education and related services. These decisions must be made by the IEP team and consistent with the IDEA provisions that address parental participation.



# SPECIAL EDUCATION SERVICES BULLYING PREVENTION

If the student who engaged in the bullying behavior is a student with a disability, the IEP team should review the student's IEP to determine if additional supports and services are needed to address the inappropriate behavior. IEP teams should also consider conducting a Functional Behavior Assessment (FBA) to determine the function of these behaviors if the environment affects the onset of the behaviors or if there are other setting events contributing to the behavior. By completing an FBA, IEP teams can develop antecedent interventions and/or determine if changes to the environment are warranted.

The accompanying enclosure for the August 20, 2013, OSERS Dear Colleague Letter outlines *Effective Evidence-based Practices for Preventing and Addressing Bullying*:

- Use a comprehensive multi-tiered behavioral framework.
- Teach appropriate behaviors and how to respond.
- Provide active adult supervision.
- Train and provide ongoing support for staff and students.
- Develop and implement clear policies to address bullying.
- Monitor and track bullying behaviors.
- Notify parents when bullying occurs.
- Address ongoing concerns.
- Sustain bullying prevention efforts over time.

## ADDITIONAL DEAR COLLEAGUE LETTERS

- [Office of Civil Rights \(2014\)](#)
  - ◆ This letter clarifies that the bullying of a student with a disability on any basis can similarly result in a denial of FAPE under Section 504 that must be remedied, reiterates

schools' obligations to address conduct that may constitute a disability-based harassment violation, and explains that a school must also remedy the denial of FAPE resulting from disability-based harassment.

- ◆ This letter also provides a helpful overview of how OCR generally analyzes complaints involving bullying of students with disabilities.
- [Office of Civils Rights and Office of Special Education and Rehabilitative Services \(2000\)](#)
  - ◆ This letter defines the term "disability harassment" as intimidation or abusive behavior toward a student based on disability that creates a hostile environment by interfering with or denying a student's participation in or receipt of benefits, services, or opportunities in the institution's program. Harassing conduct may take many forms, including verbal acts and name-calling, as well as nonverbal behavior such as graphic and written statements or conduct that is physically threatening, harmful, or humiliating.
  - ◆ This letter also discusses how bullying based on disability may violate civil rights laws and interfere with a student's receipt of special education services under the IDEA.



# SPECIAL EDUCATION SERVICES

## BULLYING PREVENTION

### RESOURCES

- [Bullying and Harassment of Students with Disabilities: Top 10 Facts Parents, Educators, and Students Need to Know](http://www.pacer.org/bullying/resources/students-with-disabilities) – <http://www.pacer.org/bullying/resources/students-with-disabilities>
- [Bullying Statistics](http://www.pacer.org/bullying/resources/stats.asp) – <http://www.pacer.org/bullying/resources/stats.asp>
- [School Safety and Bullying Prevention Act \(2013\)](http://sde.ok.gov/sde/sites/ok.gov.sde/files/HB1661%20School%20Bullying.pdf) – <http://sde.ok.gov/sde/sites/ok.gov.sde/files/HB1661%20School%20Bullying.pdf>
- [Model School District Policy for Prevention of Bullying at School](http://sde.ok.gov/sde/sites/ok.gov.sde/files/OSDE%20Model%20Bullying%20Policy%20Final.pdf) – <http://sde.ok.gov/sde/sites/ok.gov.sde/files/OSDE%20Model%20Bullying%20Policy%20Final.pdf>
- [Staff Bullying Survey](https://sde.ok.gov/sde/sites/ok.gov.sde/files/BullyingSurvey-SchoolStaff.doc) – <https://sde.ok.gov/sde/sites/ok.gov.sde/files/BullyingSurvey-SchoolStaff.doc>
- [Student Surveys](https://sde.ok.gov/sde/sites/ok.gov.sde/files/BullyCompendium.pdf) – <https://sde.ok.gov/sde/sites/ok.gov.sde/files/BullyCompendium.pdf>
- [Bullying Prevention Resources](http://sde.ok.gov/sde/bullying-prevention) – <http://sde.ok.gov/sde/bullying-prevention>
- [Dear Colleague Letter](http://www2.ed.gov/policy/spced/guid/idea/memosdcltrs/bullyingdcl-8-20-13.pdf) – <http://www2.ed.gov/policy/spced/guid/idea/memosdcltrs/bullyingdcl-8-20-13.pdf>
- [Enclosure](http://www2.ed.gov/policy/spced/guid/idea/memosdcltrs/bullyingdcl-enclosure-8-20-13.pdf) – <http://www2.ed.gov/policy/spced/guid/idea/memosdcltrs/bullyingdcl-enclosure-8-20-13.pdf>
- [Office of Civil Rights \(2014\)](https://www2.ed.gov/about/offices/list/ocr/letters/colleague-bullying-201410.pdf) – <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-bullying-201410.pdf>
- [Office of Civils Rights and Office of Special Education and Rehabilitative Services \(2000\)](https://www2.ed.gov/about/offices/list/ocr/docs/disabharassltr.html) – <https://www2.ed.gov/about/offices/list/ocr/docs/disabharassltr.html>

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