

Introduction

Bullying is a broad concept which carries ambiguity and sparks debate over its definition and connection to harassment and discrimination¹ (Cornell & Limber, 2015). The purpose of this document is to provide additional information in support of *Equity Express: Cyberbullying in Schools: An Educator's Equitable Choice* (Rusnak et al., 2022).

This document is organized into three sections:

- [Definitions Related to Bullying/Harassment/Discrimination](#)
- [Federal, State, and Local Laws on Bullying in Schools](#)
- [Influential Court Cases Related to Bullying/Harassment in Schools](#)

Definitions Related to Bullying/ Harassment/ Discrimination

BULLYING is defined by the Center for Disease Control and Prevention (CDC) (2021) as “any unwanted aggressive behavior(s) by another youth or group of youths, who are not siblings or current dating partners, that involves an observed or perceived power imbalance, and is repeated multiple times or is highly likely to be repeated. Bullying may inflict harm or distress on the targeted youth including physical, psychological, social, or educational harm” (Center for Disease Control and Prevention, 2021, p. 1). Some common examples of bullying are name-calling, leaving someone out on purpose, and tripping someone.

BYSTANDING is when a person or a group sees bullying or prejudice happen in person or in online forms, like social media. A bystander may choose various roles to play in bullying. They may choose to stay out of it (outsider), intervene in support of the victim (defender), support the bully (reinforcer), or assist in the bullying (assistant). (Assistant Secretary for Public Affairs (ASPA), 2021).

DISCRIMINATION is unfair treatment of one person or group of people because of the person's or group's historically marginalized group identity (e.g., race, gender, ability, religion, national origin, etc.). Discrimination is an action that can come from prejudice.

CYBERBULLYING is bullying through the use of technology, such as computers, cell phones and other electronic devices. Cyberbullying includes sending, posting, or sharing negative,

¹ See *Dear Colleague Letters* in the [Office of Civil Rights Reading Room](#) for further context regarding how the federal and local government define these terms. The following definitions have implications for how schools address and adhere to policies enforced by the Office of Civil Rights.

harmful, false, or mean content about someone else which could be embarrassing and/or humiliating.

Some common examples are posting lies/false information, sharing nude pictures, name-calling, and catfishing and/or creating sockpuppets (i.e., fake accounts to interact online with someone).

Cyberbullying most often occurs on Social Media Apps like Instagram, Snapchat, TikTok, and Twitter (Cyberbullying Research Center, 2020); on video games such as Roblox, PUBG, Overwatch, Call of Duty Black Ops, Fortnite, and God of War; on streaming sites such as YouTube, Discord, and Twitch; and on metaverses like XR (extended reality), inclusive of augmented reality (AR) and virtual reality (VR) spaces (Centers for Disease Control and Prevention, 2018; Hinduja, 2019; Shapka, 2019; Stopbullying.gov, 2022).

HARASSMENT is conduct which includes verbal acts like name-calling, harmful and humiliating visual and written statements via text messaging, social media, or face-to-face. These acts of harassment create an unsafe environment. If harassment is based on race, Color, national origin, sex or disability, it violates Civil Rights Laws (Ali, 2009). Harassment is often wielded synonymously with bullying. However, this ignores the historical context of harassment and its connection with civil rights (Cornell & Limber, 2015).

One's civil rights may be violated when harassed on the basis of race, Color, national origin, sex, or disability. The U.S. Department of Education (2011) notes, "discriminatory harassment is distinguishable from more general forms of bullying in that it must be motivated by characteristics of the targeted victim. It is generally viewed as a subset of more broadly defined bullying behavior" (p. 17).

PROTECTED CLASS as defined by Thomson Reuters (2022), "is a group of people with a common characteristic who are legally protected from discrimination on the basis of that characteristic. Protected classes are created by both federal and state law" (p.1).

Federal protected classes include:

- Race
- Color
- Religion or creed
- National origin or ancestry
- Sex (including gender, pregnancy, sexual orientation, and gender identity)
- Age
- Physical or mental disability
- Veteran status
- Genetic information
- Citizenship

Federal, State, and Local Laws on Bullying in Schools

Civil Rights Laws in the United States are the pinnacle of several advocacy movements who have fought to protect classes of individuals who have been historically, and continue to be, discriminated against (Cornell & Limber, 2015).

Federal

Currently, there are no federal laws that specifically address bullying. However, there are federal laws that address harassment based on race, national origin, sex, age, disability and religion:

- [Title VI](#) of the Civil Rights Act of 1964 (Title VI), which prohibits discrimination on the basis of race, color, or national origin (Ali, 2010)
- [Title IX](#) of the Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex (Ali, 2010)
- [Section 504 of the Rehabilitation Act of 1973 \(Section 504\); and Title II of the Americans with Disabilities Act of 1990 \(Title II\)](#). Section 504 and Title II prohibit discrimination on the basis of disability (Ali, 2010)

State and Local Laws

All states, except one, have a law, policy or regulation for schools and school agencies to address bullying by implementing a policy for investigating and reporting bullying incidents (Cornell & Limber, 2015). Some states require disciplinary actions for students involved in bullying, and bullying prevention programs to be required in teacher professional development (U.S. Department of Education, 2011).

State law characterizes harassment as behavior that is degrading, threatening, and/or offensive and creates an aggressive and unfriendly environment for victims.

Influential Court Cases Related to Bullying and Harassment in Schools

Davis v. Monroe County Board of Education (1999)

This case set the precedent for school liability under Title IX. According to Cornell and Limber (2015), this case established four conditions for holding schools liable for harassment:

1. A victim of harassment must belong to a protected class/category.
2. The harassment must be severe.
3. School administrators and educators are aware of the harassment.
4. Schools must show they made a reasonable effort to intervene in the harassment.

Doe v. Anoka-Hennepin School District No. 11 and E.R. v. Anoka-Hennepin School District No. 11 (2011)

This Minnesota lawsuit found that the school district's policies failed to protect LGBTQIA+ students from harassment, and thus violated the students' rights under the United States Constitution, Title IX, and the Minnesota Human Rights Act.

Shore Regional High School Board of Education v. P.S. Forty-one (2004)

This New Jersey case found a school district liable for violating a student's right to a free appropriate public education (FAPE) under IDEA law. The victim, after years of being bullied, was identified as needing emotional services and qualified for special education services. This case allowed the victim to transfer schools (Cornell & Limber, 2015).

Scruggs v. Meriden Board of Education (2005)

This Connecticut case found Meridian School District in Connecticut liable for a student's suicide. This lawsuit prompted schools to develop and enforce anti-bullying guidelines.

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