

5 Tips for Responding to Reports of Bullying

October 29, 2018

As National Bullying Prevention Month draws to a close, it is important to reflect on the legal requirements and best practices for addressing reports of bullying and harassment. Effectively responding to reports of bullying and harassment is critical, not only for protecting the safety and wellbeing of the students, but also for protecting the school district from liability. If a school does not effectively address reported bullying and harassment, potential bases for liability could include Title IX, Section 504, and negligent supervision, for example.

Here are some quick tips to keep in mind when responding to complaints of bullying or harassment from a student or parent:

1. **Know when to implement the policies and procedures related to bullying and harassment.** Reports of bullying or harassment trigger the school district's policies and procedures related to bullying and harassment – it's that simple! The purpose of bullying and harassment complaint procedures is to provide a process for investigating the complaint and determining, based upon the findings of the investigation, whether prohibited bullying or harassment occurred. A common mistake is to predetermine whether the reported conduct likely constitutes bullying or harassment without going through the steps of the complaint procedures. When asked whether you followed the bullying policy after receiving a bullying complaint, your answer should never be, "No, because it wasn't really bullying."

2. **Follow the applicable policies and procedures step by step.** For example, the applicable complaint procedures may require: interviewing certain individuals; providing a response within a certain timeline; providing a written response or report that includes specific information; and an opportunity for an appeal of the decision.

3. **Be mindful of confidentiality obligations in responding to complaints from students and parents, while still responding in a meaningful way.** Be careful not to improperly disclose confidential student or personnel information in responding to a complaint. That said, parents who file complaints about a staff member's or other student's treatment of their child should be given the following information, within the confines of Wis. Stat. § 118.125 (Pupil Records), FERPA, Wis. Stat. § 19.36(10) (employee personnel records), and other laws related to the confidentiality of student and personnel records:
 - a. The steps the District has taken or will be taking to investigate the complaint;
 - b. The basis for the District's findings and conclusions; and,
 - c. The action that has been or will be taken by the District, if any.

The amount of detail given should be determined on a case-by-case basis. General statements such as, "We can't discuss personnel matters/other students with you, but rest assured, we took care of it," without giving any additional information, is not sufficient.

4. **Consider taking remedial action during the course of the investigation to ensure that the affected students are safe.** Often, a thorough investigation may take up to two weeks to complete. During this time period, it is important to consider adopting interim measures to prevent additional bullying or harassment from occurring while the investigation is pending. This is important even though the district may ultimately find that the reported conduct did not meet the definition of bullying or harassment in board policy. A school district is more likely to avoid litigation when such interim measures are adopted.

5. **If the investigation determines that prohibited bullying or harassment occurred, take appropriate remedial action to prevent the bullying or harassment from continuing.** Taking action (e.g., disciplining the perpetrator) is not sufficient to avoid liability if the action is

clearly unreasonable in light of the known circumstances. For example, under Title IX, a school district may be held liable for student-on-student harassment if it has knowledge that its remedial action is ineffective, yet it continues to use those same methods to no avail.

If you need [assistance responding to a bullying or harassment complaint](#) or reviewing applicable policies and procedures, or if you have any questions about this Legal Update, please contact Alana Leffler at aleffler@buelowvetter.com or 262-364-0267, Gary Ruesch at gruesch@buelowvetter.com or 262-364-0263, or your Buelow Vetter attorney.

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