

My Child Is Being Bullied At School; What Do I Do?

October 31, 2013 | by Matheu Nunn

Dear Ask the Attorney:

My daughter is being bullied in school and online. She is a middle schooler and comes home crying every single day since school started this year. We have gone through the “proper” channels at school but are finding out that nothing is being done to the children who are terrorizing our child because they say there is a lack of evidence that it is even occurring. What can we do? I don’t want my child to harm herself like the one in Florida they are talking about on the news.

S.P

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Dear S.P.

I am very sorry to hear that your daughter is suffering; sadly, her situation is like that of so many young students. If you watch any of the various major media outlets, you know the tragic results that sometimes follow. The good news is that neither your daughter nor you have to remain victims. Indeed, there is more than one way to approach this problem.

As you may or may not know, New Jersey has one of the strongest Anti-Bullying measures in the United States. It applies to both in-school and out-of-school bullying. The statute applies to harassment, intimidation, and bullying (referred to as “HIB”). HIB is defined as any gesture, written, verbal or physical act or any electronic communication (that is, transmitted by an electronic device)

whether it be a single incident or a series of incidents that:

Is reasonably perceived as being motivated by either any actual or perceived characteristic such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression, or a mental, physical or sensory disability or by any other distinguishing characteristic; and Takes place on school property, at any school-sponsored function, on a school bus, or off school grounds that substantially disrupts or interferes with the orderly operation of the school or the rights of other students; and that either

A reasonable person should know, under the circumstances, that the act will have the effect of physically or emotionally harming a student or damaging the student's property, or placing a student in reasonable fear of physical or emotional harm to person or damage to property; or

Has the effect of insulting or demeaning any student or group of students, or

Creates a hostile educational environment for the student by interfering with a student's education or by severely or pervasively causing physical or emotional harm to the student.

Under the Anti-Bullying Act, if a student reports an act of bullying, harassment, or intimidation, to, for example, a teacher, the school must undertake a very detailed set of procedures, which includes: (1) reporting to the principal; (2) an investigation, which must be completed within 10 days of the incident; (3) a report of the investigation to the Superintendent; (4) a report to the School Board from the Superintendent; and (5) supplying information regarding the investigation to the students involved (this includes you).

From there, a parent is entitled to a hearing with the School Board to address the investigation. At its next session, the School Board must issue a written decision, which either affirms, rejects, or modifies the Superintendent's findings. If you believe that the School Board has not properly addressed the victimization of your daughter, you have the right to appeal to the Commissioner of Education. If you are not satisfied with the proceedings with the Commissioner of Education, you may file a complaint with the Division of Civil Rights under the New Jersey Law Against Discrimination.

What I have just described for you is just one of the methods to attack this situation. In addition to what I just described, depending on the form of bullying, there may be rights under New Jersey's Criminal Code. For example, if the bullying has taken on a physical form, the individuals bullying your daughter

may be guilty of assault or harassment (in the form of offensive touching). If the threats are verbal, the persons responsible may be guilty of verbal harassment or terroristic threats. Still further, the antagonists may be prosecuted under New Jersey's Bias Intimidation statute.

Unfortunately, approaching this problem from either of the two avenues discussed above can be time consuming and procedurally challenging. Moreover, depending on the severity of the bullying, you may find yourself in administrative or civil proceedings as well as criminal proceedings. Although you may attempt to address this situation on your own, it may be helpful to consult with an attorney that specializes in all of these areas or a Law Firm that has a team of attorneys that can coordinate a strategy to end the bullying by approaching it on all fronts