

SCHOOL TRANSFER FOR VICTIMS OF BULLYING

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Introduction

The American Psychological Association defines bullying as “a form of aggressive behavior in which someone intentionally and repeatedly causes another person injury or discomfort. Bullying can take the form of physical contact, words or more subtle actions. The bullied individual typically has trouble defending him or herself and does nothing to “cause” the bullying.”

Technologically-aware students also may experience cyberbullying from other students. Cyberbullying includes sending hurtful or threatening e-mails or instant messages, spreading rumors, or posting embarrassing photos. While many students are not distressed by cyberbullying by peers, significant numbers of students report feeling upset or afraid. A majority of victims do speak to their friends, parents or other authority figures about being victimized; cyberbullying is more likely to cause distress when it involves an adult harasser (referred to as cyberstalking), or when it leads to unwanted offline contact.

Adults should be aware that bullying in any form may affect a student’s self-esteem and emotional well-being. Listen to students who approach you with concerns about bullying.

Texas School Anti-Bullying Laws

The Texas Education Code defines bullying as an expression of conduct which the school board determines:

- (1) Will physically harm a student, damage a student's property, or put a student in reasonable fear of harm to his or her person or property; or
- (2) Is sufficiently “severe, persistent, or pervasive” that the action or threat creates an “intimidating, threatening, or abusive” educational environment for a student.

The Texas legislature has enacted laws that adults may rely on when a student reports being the victim of bullying. Students should know the importance of reporting bullying or threats to a teacher or other adult as soon as possible.

Texas Education Code Section 37.001 requires every Texas public school district to have a policy that prohibits bullying and harassment and provides options for preventing, or disciplining students who engage in bullying or harassment.

Texas Education Code Section 37.25.0342 offers parents of children in public schools the opportunity to transfer their child to another campus if the school determines that the child has been bullied in school.

Texas Education Code Section 37.083 requires public schools to implement a discipline management program that includes prevention and education concerning unwanted physical or verbal aggression, sexual harassment, and other forms of bullying at school or in school vehicles.

Other important Texas laws seek to prevent or protect students from bullying and harassment that disrupts learning, interferes with permissible student movement about the campus, or involves hazing or dating abuse or intimidation.

What Can You Do?

When a student suffers harassment or bullying at a public school it is important for the student to report the conduct to responsible adults, including parents, and for parents to provide written notification to the school describing acts of bullying or harassment. In some cases, to avoid continuing harassment, the parent may wish to transfer the student to another class or school. The Texas Anti-Bullying Law gives parents of a child victim of bullying the right to petition the school's Board of Trustees or their authorized representative to transfer their child to another class at the same school, or to another school within the same school district.

How Do You Request a Transfer Because of Bullying?

A parent of a harassed student may place the transfer request. The request should be in writing and addressed to the school principal and copied to the superintendent of the school district. An effective letter provides a timeline of events and evidence supporting the severity of the bullying. The letter should include specific details about the instances of bullying the youth suffered. For example, if a child suffered wounds which required a doctor's visit, parents should enclose medical documentation to prove particular injuries. Parents should also include relevant incident reports, letters from the school, or correspondence with school teachers or administrators should also be included.

What Does the School Do with the Complaint?

Once the school receives the request, the school board may investigate the bullying allegations before granting the transfer request. The law does not require schools to follow a specific timeframe for responding to the requests, and districts have different procedures for granting requests. For instance, some school districts have offices dealing solely with district transfers. In these districts, the school may investigate and grant the transfer, but the district transfer office must sign off as well. Because of the different procedures, parents should familiarize themselves with district policies and follow-up with phone calls after the letter is sent to make certain the school is investigating the complaint and moving quickly to protect the student.

Before requesting an Intra-District transfer, it is helpful to locate a desired school with space. While a school does not have to offer a parent their first choice of schools, we recommend that parents request a school that is convenient because the school is not required to provide transportation to the transfer placement. The board's transfer decision is final and cannot be appealed.

Disability Rights Texas has included a sample letter below if you believe your child has been a victim of bullying and you would like to request a classroom or Intra-District transfer.

What If I Do Not Want to Transfer Schools?

Other laws provide protections against harassment based on disability, sex, race or other protected classes. Title IX prohibits discrimination in any educational program based on sex, while Title II of the ADA and Section 504 can offer some protections to students with disabilities who face harassment based on their disabilities. Generally, schools may be liable for harassment performed by third parties if the student reported harassment, the school responded with "deliberate indifference," and the harassment was so severe that it "effectively bars victims' access to educational opportunities or benefits." *Davis v. Monroe County Bd. of Educ.*, 119 S.Ct. 1661 (1999).

It is important to call a school's attention to harassment or bullying of any type, even if you do not want to request a move to another school or class. By putting the details of bullying and request for action in writing, parents are taking the first important step to making the school take appropriate action.

Bullying of Students in Special Education

Special Education ARD committee meetings can be an appropriate place to address bullying of students who are eligible for special education services. A student who is a victim of bullying may need a change of placement, counseling as a related service, or other intervention. Keep in mind that if a ARD Committee moves a student to another school because of educational need, special transportation as a related service can be provided, which can be an important reason to try to address the issue of bullying in ARD when possible.

Sample Letter

Date

Parent's Name
Parent's Address
Principal's Name
School Address

Dear Principal _____:

I am writing to request (an Intra-District or Classroom) transfer for *victim's name* under the Texas Anti-Bullying Law, TEX. EDUC.CODE. § 25.0341. **(Next, describe the child's name, age, address and school campus.)** My son/daughter, *name of your child*, is *age* and attends *name of school*.

Name is a victim of constant bullying from fellow student, *name*, whose conduct has created an intimidating, threatening and abusive educational environment. **(Describe the actual problem with details of verbal expressions and physical conduct the victim suffered. Make sure to include names of witnesses, details of injuries, the effect of the conduct on the student's school work, and the fear the victim suffers).**

[Example: On *date*, *name of your child* sustained severe injuries after being assaulted by fellow student, *name*. Their teacher, *name*, had his back turned to the class when the student attempted to staple my child's finger to the desk. Because the staple was rusty and dirty, we had to take our son/daughter to the doctor and have medical documentation of the injury and the necessary tetanus shots. The teacher also wrote an incident report after learning of the assault. **(Remember to include any documents which show the threats or harm suffered).** Since the incident, *name of bully* continues to intimidate *name of child* and has threatened to attack him/her again. Last Thursday, during Science class, *name of bully* told my son/daughter, "I'm going to beat you up after school." My child feels so endangered that he cannot concentrate in school and has lost focus on homework at home. He failed three subjects last semester and cries every day when I drop him off at Hogwarts.]

I understand that the school board may investigate these bullying allegations before granting the request for **(specify whether you request a transfer to another school or just another class)** transfer. With the facts and evidence I listed above and enclosed for your convenience, it is my hope that your investigation will be discreet and not put my son in further danger.

I request that the school do all it can to place *name of child* at **(explain whether you request transfer to another school or just another class)**. *Name of school* is nearby and allows me to ensure transportation will not be difficult to secure. I called Springfield on **(list the date you called and the person you contacted)** *date*, and spoke with *name of person*, who confirmed that *name of school* has space available for *name of child*.

Thank you for your prompt assistance in this matter. Please contact me at **(include phone number)** to discuss how to proceed.

Sincerely,

Parent name

CC: Assistant Principal

Superintendent

Disability Rights Texas' goal is to make each handout understandable by and useful to the general public. If you have suggestions on how this handout can be improved, please contact our agency at the address and telephone number shown above or e-mail us at info@DisabilityRightsTx.org. Thank you for your assistance. This handout is available in Braille and/or on audio tape upon request. Disability Rights Texas strives to update its materials on an annual basis, and this handout is based upon the law at the time it was written. The law changes frequently and is subject to various interpretations by different courts. Future changes in the law may make some information in this handout inaccurate. The handout is not intended to and does not replace an attorney's advice or assistance based on your particular situation.