

Bullying, Students with Disabilities, and Social Emotional Skills

Students with disabilities face an increased risk of being bullied. Some also engage in bullying behavior. To ensure the emotional well-being of its most vulnerable students, schools must take essential steps to reduce the bullying of students with disabilities and remedy the harmful effects.

This document will address the federal laws associated with bullying of and by students with disabilities, research insight related to such bullying, as well as how The Social Express® and Cool School™ can support a multi-tiered approach to assist all students in gaining more effective social relationship skills.

Federal Laws Associated with Bullying and Students with Disabilities:

Three federal laws govern situations related to bullying of or by students with disabilities: Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (Title II) and Individuals with Disabilities Education Act (IDEA).ⁱ

The importance of addressing the risks associated with bullying and students with disabilities was recently reinforced by the U.S. Department of Education (Department) in two Dear Colleague Letters. In 2013, the Department's Office for Special Education and Rehabilitation Services (OSERS) issued a Letter that called upon schools to address bullying of or by students with disabilities who are receiving services under the IDEA.ⁱⁱ In 2014, the Department's Office for Civil Rights (OCR) issued a Dear Colleague Letter reminding schools of their obligations to address the harassment of students with disabilities under Section 504 and Title II.ⁱⁱⁱ

Under Section 504 and Title II, a school's inappropriate response to harassment of a student based on disability constitutes disability-based harassment. It is the responsibility of schools under Section 504 and IDEA to ensure that students receive a free appropriate public education (FAPE). Bullying of student with a disability on any basis (whether based on the student's disability or not) can result in a denial of FAPE that must be remedied. Discriminatory harassment and denial of FAPE are two different, but related, issues.

In determining whether disability-based harassment has occurred, OCR will consider the following:

- Was a student with a disability bullied by one or more students based on the student's disability?
- Was the bullying conduct sufficiently serious to create a hostile environment?
- Did the school know or should it have known of the conduct?
- Did the school fail to take prompt and effective steps reasonably calculated to end the conduct, eliminate the hostile environment, prevent it from recurring, and, as appropriate, remedy its effects?

Schools also face the potential of financial liability if sued by a student based on discriminatory harassment. In 2012, the Second Circuit upheld a 1 Million Dollar verdict against a New York school by a student who had endured over three years of harassment.^{iv} It appeared the school was doing everything required in most anti-bullying statutes. It had a policy against bullying, held trainings, had a reporting system, and responded every time the student reported. The Court noted that the school ignored many signals that more action was needed and only engaged in "half-hearted efforts" to correct the "culture of bias" that was fueling the harassment.

When addressing discriminatory harassment, the focus is on the overall school climate, the behavior of other students towards students with disabilities, and the effectiveness of interventions in hurtful situations. If students with disabilities are regularly treated badly by their peers, a school must be engaging in diligent efforts to increase the level of respect demonstrated by all students towards those with special needs and intervene effectively.

In determining whether a student receiving IDEA FAPE or Section 504 FAPE services who was bullied or engaged in bullying was denied FAPE, OSERS or OCR will consider:

- Did the school know or should it have known that the effects of the bullying may have affected the student's receipt of IDEA FAPE or Section 504 FAPE?
- If the answer is "yes," did the school meet its ongoing obligation to ensure FAPE by promptly determining whether the student's educational needs were still being met, and if not, making changes, as necessary, to his or her IEP or Section 504 plan?

When addressing FAPE, the focus is on the educational needs of and services provided to the student. A school's investigation should determine whether that student's receipt of appropriate FAPE services has been affected by the bullying. If bullying of a student has created a hostile environment, there is reason to believe this has also interfered with FAPE. But even if the situation does not meet the level of a hostile environment, or if this is a situation where the student with disabilities has engaged in bullying, the school still has an obligation to address FAPE-related concerns.

As part of an appropriate response to a bullying situation, the school should convene the IEP or 504 team to determine whether the student's needs have changed such that the IEP or 504 FAPE services plan is no longer providing a meaningful educational benefit. The team must determine the extent to which additional or different FAPE services are needed to address the student's individualized needs and then revise and implement the IEP or 504 plan accordingly. However, efforts to address the bullying situation must also not result in a denial of FAPE. For example, schools must avoid the unilateral placement of a

student in a more restrictive environment as a way to address the bullying concerns.

Under IDEA, schools must establish objectives for both academic and functional skills. A student who is being or engaging in bullying will likely require additional or different functional skills objectives, specifically those related to improving this student's social relationship skills.

If a student with a disability is engaging in bullying, the situation must be investigated thoroughly to determine whether this student's inappropriate behavior is associated with his or her disability. For example, the symptoms associated with trauma or conduct disorder include aggressive behavior that could be considered bullying.^v It is also possible that this student's aggressive behavior is in response to being disparaged by other students.^{vi} Both of these kinds of situations, should result in an IEP or 504 meeting to determine whether additional or different FAPE services, including functional skills objectives, are required.

Increased Risk of Bullying Associated with Disabilities:

Students with disabilities are more likely to be involved in bullying situations than their peers.^{vii} This includes being bullied or engaging in bullying--or both. These students may have physical characteristics or engage in behaviors that place them at greater risk of being targeted. They may be perceived to be "different" because they leave the general classroom environment to receive more specialized services. Their disability itself may play a role in limiting their ability to accurately interpret social cues and respond in an effective manner. Also their disability may make it more difficult for them to recognize the concerns and gain adult assistance.^{viii}

The aggressive behavior of students with disabilities, especially those who are classified as having emotional and behavioral disorders (EBD), may be a component of their disability. Alternatively, such aggressive behavior may be a reaction to the frustration of constantly being the target of aggressive behavior by others. It is important these situations are distinguished.

A consistent finding in the literature is that students with disabilities often lack the social relationship skills necessary to avoid involvement in bullying situations. One recent study found that students with disabilities engaged in fewer prosocial behaviors and were more socially isolated than students without disabilities.^{ix} The authors outlined the necessary steps to address these concerns:

Effective interventions that target bullying behaviors in schools are designed to restructure the school climate so that it is positive and inclusive. These interventions underscore the complex ecology that foster and maintain a bullying climate suggested that by increasing awareness, understanding and acceptance among all students and teachers may decrease the risk of involvement in bullying for students in special education.

Bullying prevention and intervention should be implemented for students, regardless of disability status and should emphasize the teaching of prosocial skills. Students in general education may participate in this process by serving as the prosocial role models for students with disabilities. Additionally, programming should be consistently implemented across general and special education, should occur in each grade, and should be part of the inclusive curriculum. Social and emotional learning initiatives can create a culture of inclusion for all individuals. A culture of respect, tolerance, and acceptance is our only hope for reducing bullying among all school-aged youth.

The Social Express® & Cool School™ Can Support Prosocial Behavior:

Addressing the challenges associated with bullying of and by students with disabilities will require a multi-tiered social-ecological approach. Schools must focus on increasing the tolerance and acceptance of students with disabilities by their peers and assisting those with disabilities in gaining the prosocial skills necessary to more effectively interact with peers. Social Express & Cool School™ can provide essential support for the necessary multi-tiered social-ecological approach.

Tier 1. Universal Instruction

The objective for universal instruction is focused on increasing the awareness, understanding, acceptance and compassion of all students, especially towards those who are "different," including those who have disabilities. This instruction should also reinforce how students can reach out to be kind to others and step in to stop hurtful situations. The Social Express® and Cool School™ support effective universal instruction especially at the elementary school level.

Tier II. Individualized Targeted Supports.

Because students who have disabilities face greater social relationship challenges, it is recommended that schools proactively address this concern by providing social skills instruction in the Learning Center.

Students with social learning challenges require direct instruction, with each facet of every skill broken down into small pieces. The Social Express® addresses these areas of need by providing a highly interactive and visual presentation which allows for the generalization of skills outside of the teaching environment. Cool School™ utilizes the same individualized approach to address the specific challenges associated with those who are hurtful. For both of these programs, additional face-to-face role-playing activities can provide the opportunity for students to practice essential social skills in a protected environment.

Intensive Interventions:

The Social Express® and Cool School™ can also be incorporated into the more comprehensive intensive

interventions required by the minority of students who face even greater social relationship and behavioral challenges.

i Section 504 of the Rehabilitation Act of 1973. 29 U.S.C § 79; The Americans with Disabilities Act of 1990. 42 U.S.C. §§ 12131-12134; and Individuals with Disabilities Act. 20 U.S.C. § 1400 et seq.

ii U.S. Department of Education, Office of Special Education and Rehabilitation Services (August 20, 2013) Dear Colleague Letter Keeping Students with Disabilities Safe from Bullying.

iii U.S. Department of Education Office for Civil Rights, (2014) Dear Colleague Letter on bullying of students under Section 504.

iv *Zeno v. Pine Plains Central School District*, 702 F3d 655 (2d Cir. 2012).

v Rose, C. A., Swearer, S. M., & Espelage, D. L. (2012). Bullying and students with disabilities: The untold narrative. *Focus on Exceptional Children*, 45(2), 1–10.

vi Rose, C. A., Espelage, D. L., & Monda-Amaya, L. E. (2009). Bullying and victimization rates among students in general and special education: A comparative analysis. *Educational Psychology*, 29, 761–776,

vii Rose, C. A. (2011). Bullying among students with disabilities: Impact and implications. In D. L. Espelage, & S. M. Swearer (Eds.), *Bullying in North American schools* (pp. 34–44). (2nd ed.). New York, NY: Routledge.

viii Rose, C. A., Espelage, D. L., & Monda-Amaya, L. E. (2009). Bullying and victimization rates among students in general and special education: A comparative analysis. *Educational Psychology*, 29, 761–776,

ix Swearer, S. M., Wang, C., Maag, J. W., Siebecker, A. B., & Frerichs, L. J. (2012). Understanding the bullying dynamic among students in special and general education. *Journal of School Psychology*, 50, 503–520.