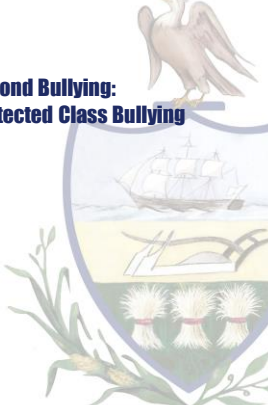



**Beyond Bullying:
Protected Class Bullying**

Michelle Gwinn Nutter
Civil Rights Outreach Specialist
Office of Public Engagement

Josh Shapiro, Attorney General

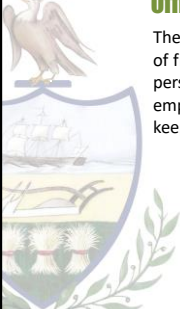





Beyond Bullying: Protected Class Bullying

Office of Public Engagement

The Office of Public Engagement offers a number of free educational programs to help school personnel, students, parents and the community empower Pennsylvanians with knowledge to keep them safe and to make good decisions.



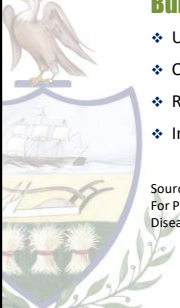



Beyond Bullying: Protected Class Bullying

Bullying

- ❖ Unwanted aggressive behavior(s)
- ❖ Observed or perceived power imbalance
- ❖ Repeated or likely to be repeated
- ❖ Inflict harm or distress

Source: Bullying Surveillance Among Youths, Uniform Definitions For Public Health and Recommended Data Elements, Centers for Disease Control and Prevention

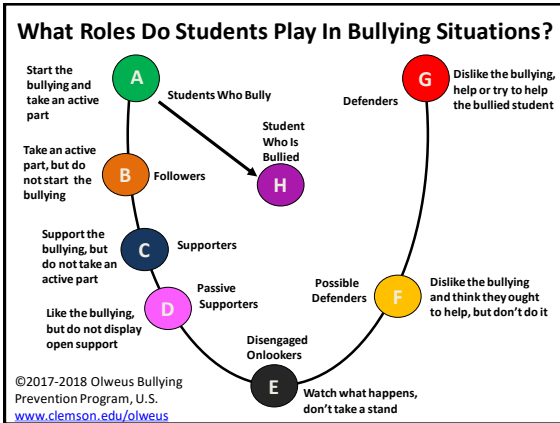




Beyond Bullying: Protected Class Bullying

Types of bullying

- ❖ Direct bullying
 - ❖ Hitting, kicking, shoving, spitting, taunting, teasing, degrading racial or sexual comments, threatening, obscene gesture.
- ❖ Indirect bullying
 - ❖ Getting another person to hurt someone, Spreading rumors, deliberate exclusion from a group or activity.
- ❖ Cyberbullying
 - ❖ Use of technology to name-call, tease and/or insult, harass, threaten, intimidate, spread rumors and gossip, exclude targets from a group, rating sites.








Beyond Bullying: Protected Class Bullying

Impacts of bullying behavior


Bullying affects children who are the *targets*, the *child who bullies* and the *bystander* who witnesses the bullying. Research indicates that impacts can follow children into adulthood.



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Bullying/Cyberbullying Outcomes

- ❖ Mental Health Consequences
- ❖ Physical Health Consequences
- ❖ Academic Consequences




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Bullying and suicide

There is no causal link between bullying and suicide. However. . .

There are direct links between:

- ❖ bullying and depression; and
- ❖ depression and suicide.




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Children who are bullied

Are more likely to:

- ❖ Want to avoid going to school.
- ❖ Have higher absenteeism rates.
- ❖ Say they dislike school; receive lower grades.
- ❖ Have health consequences, e.g. headache, sleep disturbances, depression, tension, anxiety, feeling unhappy.



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Health consequences of bullying


	Bullied	Not Bullied
Headache	16%	6%
Sleep problems	42%	23%
Abdominal pain	17%	9%
Feeling tense	20%	9%
Anxiety	28%	10%
Feeling unhappy	23%	5%
Depression scale:		
moderate indication	49%	16%
strong indication	16%	2%

Buhs et al. (2006) Study of Peer Exclusion Victimization and Academic Achievement

Kindergarten → 5th Grade

- Peer rejection in K associated with peer exclusion and peer abuse, grades K-5.
- Peer exclusion leads to decrease in classroom participation, which leads to decrease in achievement.
- Peer abuse leads to increase in school avoidance (but not directly to decreases in achievement).


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Children at Higher Risk of Being Bullied:

- Children with disabilities, special needs, and health problems
- Children who are obese
- Children who are LGBTQ



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Children who bully

Children who bully are more likely to be engaged in other antisocial, violent or troubling behavior.



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Children who bully *Cont.*

Myth

Children who bully are outcasts or loners with few social skills.

Reality


Children who bully are not socially isolated. Usually they have peers who support them.



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Impacts on bystanders


- ❖ Feel afraid.
- ❖ Feel powerless to change things.
- ❖ Feel guilty.
- ❖ Feel diminished empathy for victims.



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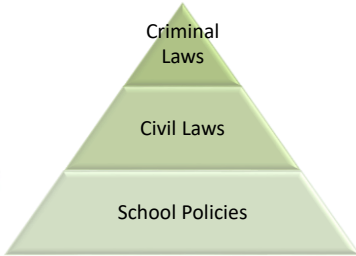
Peer attitudes toward bullying


- ❖ Most children have sympathy for bullied children.
 - ❖ 80% of middle school students "felt sorry" for victims of bullying (Unnever & Cornell, 2003)
- ❖ But, sympathy does not always translate into action.
 - ❖ 64% said that other students try to prevent bullying only "once in a while" or "never"



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Bullying may implicate:

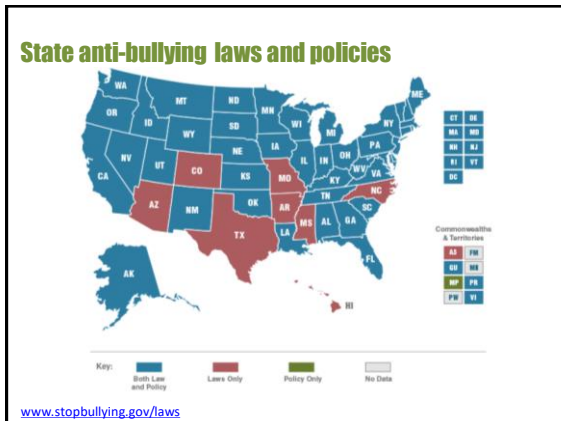





Beyond Bullying: Protected Class Bullying

School policies

- ❖ Federal and State Requirements
- ❖ Typical Policies
 - ❖ Anti-Bullying
 - ❖ Anti-Harassment
 - ❖ Anti-Discrimination
 - ❖ Acceptable Use Policies






Beyond Bullying: Protected Class Bullying

PA School Code

"Bullying" shall mean an intentional electronic, written, verbal or physical act, or a series of acts:


- 1) Directed at another student or students;
- 2) Which occurs in a school setting;
- 3) That is severe, persistent or pervasive; and
- 4) That has the effect of doing any of the following:
 - i. Substantially interfering with a student's education;
 - ii. Creating a threatening environment; or
 - iii. Substantially disrupting the orderly operation of the school; and "school setting" shall mean in the school, on school grounds, in school vehicles, at a designated bus stop or at any activity sponsored, supervise or sanctioned by the school.





Beyond Bullying: Protected Class Bullying

Off-Campus Acts of Bullying

- ❖ Do schools have an obligation to address bullying incidents which do not take place on school property or utilizing school technology?
- ❖ What if state law is silent on the subject?
- ❖ What is a nexus?




 CENTER FOR SAFE SCHOOLS




Beyond Bullying: Protected Class Bullying

PA School Code, continued

- ❖ ABC School District defines bullying to encompass acts that occur outside a school setting if those acts are:
 - ❖ directed at another student or students;
 - ❖ are severe, persistent and pervasive; or
 - ❖ have the effect of:
 - ❖ substantially interfering with a student's education;
 - ❖ creating a threatening environment; or
 - ❖ substantially disrupting the orderly operation of the school.







Beyond Bullying: Protected Class Bullying

Acceptable Use Policy for Digital Devices

- ❖ Restrictions against inappropriate language apply to public messages, private messages, and material posted on web pages. Students will not:
 - ❖ Use obscene, profane, lewd, vulgar, rude, inflammatory, threatening or disrespectful language.
 - ❖ Post information that could cause damage or a danger of disruption.





Beyond Bullying: Protected Class Bullying

Acceptable Use Policy for Digital Devices (continued)

❖ Students will not:

- ❖ Engage in personal attacks, including prejudicial or discriminatory attacks.
- ❖ Harass another person. Harassment is persistently acting in a manner that distresses or annoys another person. If a you are told by a person to stop sending them messages, you must stop.
- ❖ Knowingly or recklessly post false or defamatory information about a person or organization.




Beyond Bullying: Protected Class Bullying

Law violations

Civil



Criminal



Beyond Bullying: Protected Class Bullying

Civil law

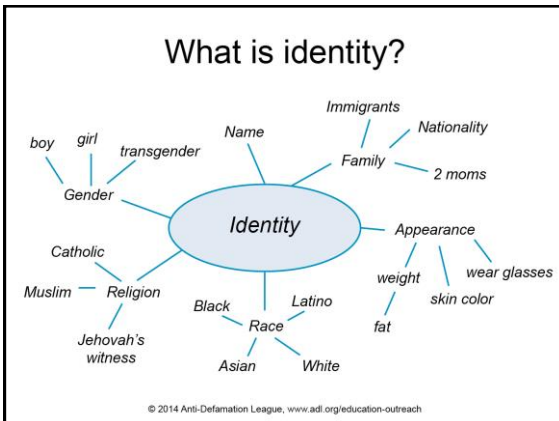
- ❖ Slander
- ❖ Libel
- ❖ Defamation of Character
- ❖ Discrimination
- ❖ Harassment/Sexual Harassment



Beyond Bullying: Protected Class Bullying

Civil Litigation

- ❖ Torts
 - ❖ Battery, Assault, Intentional Inflection of Emotional Distress
- ❖ Duty to Protect from 3rd Party Harms
- ❖ "Knew or Should Have Known"
- ❖ Hostile Environment
- ❖ Deliberate Indifference



Ethnicity
Sex/Gender
Color

Ancestry
Religion
Race

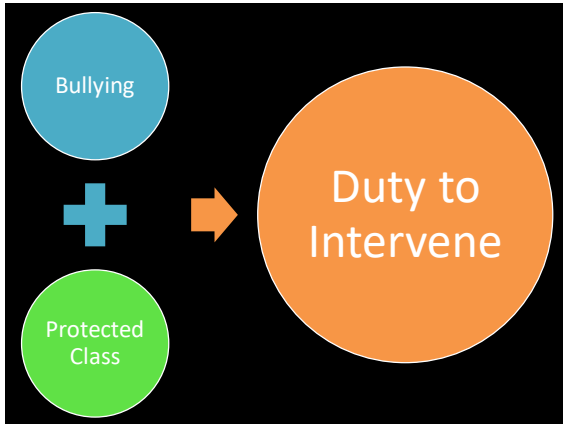
Familial Status
Veteran Status


Protected Classes
Pregnancy

Disability
Gender Identity
Age

Handicap
Gender Expression

Sexual Orientation
Citizenship





Beyond Bullying: Protected Class Bullying

Duty to Protect from Harassment


- ❖ Severe, pervasive and offensive
- ❖ Denial of educational benefits
- ❖ Actual knowledge/ notice
- ❖ Deliberate indifference:
 - ❖ Failure to respond
 - ❖ Unreasonable response




COLLEAGUE

<https://www.youtube.com/watch?v=a1tdJPHz2I>

DEAR




Beyond Bullying: Protected Class Bullying



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Federal Civil Rights Statutes

- ❖ Titles IV and VI of the Civil Rights Act of 1964
- ❖ Title IX of the Education Amendments of 1972
- ❖ Section 504 of the Rehabilitation Act of 1973
- ❖ Titles II and III of the Americans with Disabilities Act of 1990
- ❖ Individuals with Disabilities Education Act (IDEA)






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State Civil Rights Statutes

- ❖ Pennsylvania Human Relations Act
- ❖ Pennsylvania Fair Educational Opportunities Act




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Pennsylvania Human Relations Act


- ❖ Employment
 - ❖ Unions
 - ❖ Employment
- ❖ Housing
 - ❖ Real estate practices
 - ❖ Lending practices
- ❖ Public Accommodations
 - ❖ Public K-12 schools
 - ❖ Movie theaters
 - ❖ Stores
 - ❖ Etc.
- ❖ Education
 - ❖ Pre-school
 - ❖ Private K-12 schools*
 - ❖ Post-secondary



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PHRA protected classes

- ❖ Race
- ❖ Color
- ❖ Religion
- ❖ National Origin
- ❖ Ancestry
- ❖ Age (40 and over)
- ❖ Gender
- ❖ Handicap/Disability
- ❖ Use of a Guide or Service Animal
- ❖ G.E.D. versus High School Diploma
- ❖ Being Known to be Related to a Handicapped or Disabled Person
- ❖ Being Retaliated Against



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A Complaint is Filed – What Do We Do?


- ❖ Appoint a compliance coordinator
- ❖ Investigate all reports
- ❖ Talk with students separately



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Complaint is Founded – Now What?

- ❖ End harassment
- ❖ Eliminate hostile environment
- ❖ Prevent additional harassment
- ❖ Prevent retaliation




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Bullied

- ❖ Movie kit available through Teaching Tolerance
- ❖ <http://www.tolerance.org/kit/bullied-student-school-and-case-made-history>

“Mrs. Podlesny (school administrator) said that ‘boys will be boys,’ and that if Jamie was going to act so openly gay he had to expect this stuff to happen to him.”
– Carol Rosin, Jamie’s mother




Beyond Bullying: Protected Class Bullying



Beyond Bullying: Protected Class Bullying

Reasonable Response


- ❖ Policies/procedures
- ❖ Training
- ❖ Monitor
- ❖ Discipline
- ❖ Counseling
- ❖ Limit interactions
- ❖ Provide benefits and services



Beyond Bullying: Protected Class Bullying

Crimes code offenses

- ❖ State Statutes
 - ❖ Disorderly Conduct
 - ❖ Terroristic Threats
 - ❖ Harassment
 - ❖ Stalking
 - ❖ Assault (Simple and Aggravated)
 - ❖ Possession/Distribution of Child Pornography
 - ❖ Hate Crimes




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Hate crimes in PA

- ❖ Criminal Act Against
 - ❖ A Person or Group of Persons
 - ❖ Property
 - ❖ Society
- ❖ Motivated by Hostility or Bias Towards a Person's:


*Race	*Color
*Religion	*National Origin



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Additional considerations

- ❖ Persons convicted of crimes may be ordered to any or all of the following:
 - ❖ Pay appropriate fines.
 - ❖ Serve a prison sentence.
 - ❖ Pay restitution to victim(s) for damage to persons and/or property.
 - ❖ Pay the cost of any reward paid for their apprehension and conviction.



Beyond Bullying: Protected Class Bullying

Juveniles and hate crimes


- ❖ Most hate crime offenders are male
 - ❖ 50.6% male
 - ❖ 40.7% unknown
 - ❖ 8.6% female
- ❖ Most hate crime offenders are 18 or over
 - ❖ 83% nationally
- ❖ But... Schools/Colleges are the third most likely location for hate crimes in PA and nationally
 - ❖ 11.4% in PA
 - ❖ 10.5% nationally



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What about the girls?



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Response


The lack of a strong, immediate response by a teacher or administrator who is aware of the bullying or harassment may be perceived as approval of the activity or as an indication that the victim deserved it.



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Messages of Support are Critical






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The Effects of Silence

- ❖ Silence gives tacit approval and permission.
- ❖ Silence allows hatred to grow into violence.
- ❖ Silence encourages the aggressor and further victimizes the target.
- ❖ Remember, everything we PERMIT we PROMOTE.




I swore never to be silent whenever and wherever human beings endure suffering and humiliation.

We must always take sides.

Neutrality helps the oppressor, never the victim. Silence encourages the tormentor, never the tormented.


Elie Wiesel



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Effective Response Mechanisms


- ❖ Immediate investigation of all reported incidents.
- ❖ Immediate referral to law enforcement authorities.
- ❖ Fortright announcements condemning act(s).
- ❖ Disciplinary action against all offenders.
- ❖ Ongoing remedial actions to prevent recurrence.
- ❖ Emotional and psychological support, as needed.
- ❖ Informal procedures for resolution.
- ❖ Teaching more acceptable behavior.



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After an Incident

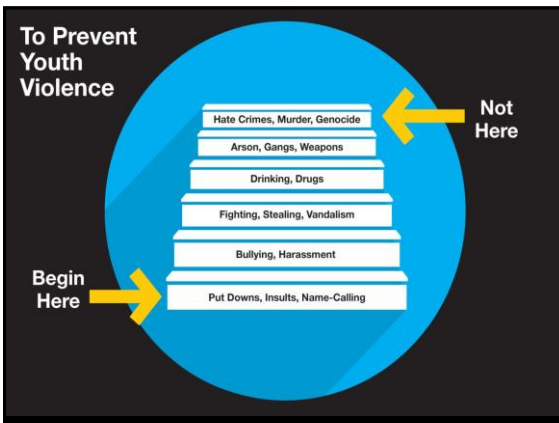
Why?




Beyond Bullying: Protected Class Bullying

Create a Supportive Climate

- ❖ Set clear expectations
- ❖ Monitor climate
- ❖ Identify concerns
- ❖ Train staff
- ❖ Utilize culturally responsive curriculum
- ❖ Create opportunities for student leadership
- ❖ Appoint a compliance coordinator

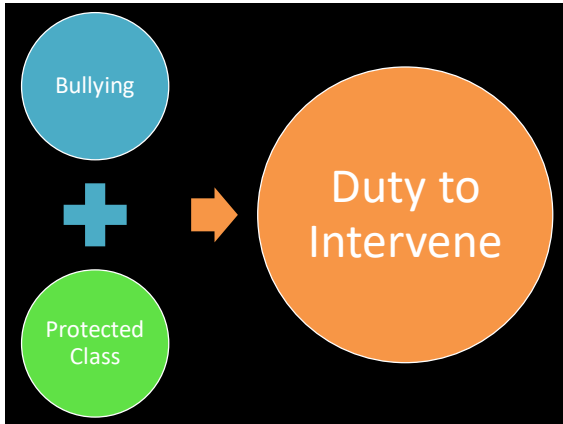




Beyond Bullying: Protected Class Bullying

What Would You Do?

- ❖ I initiate prevention programs.
- ❖ I support victims & encourage others working towards change.
- ❖ I educate myself & others.
- ❖ I see the problem and do something about it.
- ❖ I see the problem, but do nothing about it.
- ❖ I deny and/or ignore the problem.
- ❖ I actively participate in the harassment/ bullying of others.





Beyond Bullying: Protected Class Bullying

Resources

- ❖ www.stopbullying.gov
- ❖ www.teachingtolerance.org
- ❖ www.safeschools.info/bullying-prevention



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