

# Louisiana Believes

## Reporting and Investigating Incidences of Bullying

### **DEFINITION OF BULLYING: (AS PROVIDED IN ACT 861 OF 2012)**

A **pattern** of one or more of the following:

- gestures, including but not limited to obscene gestures and making faces;
- written, electronic, or verbal communications, including but not limited to calling names, threatening harm, taunting, malicious teasing, or spreading untrue rumor;
- electronic communication including but not limited to a communication or image transmitted by email, instant message, text message, blog, or social networking website through the use of a telephone, mobile phone, pager, computer, or other electronic device;
- physical acts, including but not limited to hitting, kicking, pushing, tripping, choking, damaging personal property, or unauthorized use of personal property;
- repeatedly and purposefully shunning or excluding from activities;

where the pattern of behavior is exhibited toward a student, more than once, by another student or group of students and occurs, or is received by, a student while on school property, at a school-sponsored or school-related function or activity, in any school bus or van, at any designated school bus stop, in any other school or private vehicle used to transport students to and from schools, or any school sponsored activity or event.

The pattern of behavior must have the effect of physically harming a student, placing the student in reasonable fear of physical harm, damaging a student's property, placing the student in reasonable fear of damage to the student's property, or must be sufficiently severe, persistent, and pervasive enough to either create an intimidating or threatening educational environment, have the effect of substantially interfering with a student's performance in school, or have the effect of substantially disrupting the orderly operation of the school.

### **POLICY NOTIFICATION REQUIREMENTS**

The LEA must review the student code of conduct and amend it as may be necessary to assure that the policy prohibits bullying to include (1) the definition of bullying; (2) specifically address behaviors constituting bullying; (3) the effect the behavior has on others, including bystanders; and; (4) the disciplinary and criminal consequences of bullying.

Each LEA must provide notice to students and parents of the policy prohibiting bullying of a student by another student, including the definition of bullying. The policy must be included in the student code of conduct.

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Each LEA must inform students orally and in writing at the orientation required under R.S. 17:416.20 of the prohibition against bullying, the nature and consequences of such action; including potential criminal consequences and loss of driver's license, and the proper process and procedure for reporting any incidents involving bullying. A written copy of the notice must also be delivered to each student's parent/legal guardian.

## REPORTING AN ACT OF BULLYING

The principal/designee of each school in the LEA must establish and prominently publicize to students, staff, volunteers, and parents/legal guardians, how a report of bullying may be filed and how this report will be acted upon. The form developed by the LDE must be accepted as a report of bullying. The form may also be used to record a verbal report. All reports shall remain confidential.

The principal/designee is responsible for receiving complaints alleging violations of the bullying policy. All school employees and parents chaperoning or supervising school-sponsored functions and events are required to report alleged violations of this policy to the principal or the principal's designee. A verbal report must be reported on the same day as the employee or parents witnessed or otherwise learned of the incident and a written report must be filed no later than two days thereafter.

The victim of bullying, anyone who witnessed the bullying, and anyone who has credible information that an act of bullying has taken place may file a report of bullying.

## Retaliation and False Reports

**Retaliation** against any person who reports bullying in good faith, who is thought to have reported bullying, who files a complaint, or who otherwise participates in an investigation or inquiry concerning an allegation of bullying is prohibited conduct and is subject to disciplinary measures. Intentionally making false reports about bullying to school officials is prohibited and will result in appropriate disciplinary measures.

## INVESTIGATING AN ACT OF BULLYING

- The principal/designee of the school must initiate the investigation the next business day during which school is in session after the report is received by a school official. The investigation must be completed no later than ten school days after the date the written report was submitted.
- The investigation must include an interview of the reporter, victim, the alleged bully, and any witnesses, and include obtaining copies or photographs of any audio-visual evidence.
- The principal/designee must notify the parent or legal guardian of a student under the age of eighteen of the allegation of bullying before the student can be interviewed and inform them of the right to attend the interview with the student.
- Documented interviews of the victim, alleged offender, and witnesses must be conducted privately, separately, and confidentially. At no time will the alleged offender and victim be interviewed together.
- The investigator will collect and evaluate the facts using the form developed by the LDE.
- The principal/designee may (in accordance with Act 861 of 2012) file a complaint with the court of juvenile jurisdiction pursuant to Children's Code Article 730(8) and 731(1), or Children's Code Article 730(1), if the parent or legal guardian refuses to attend a conference or meeting regarding the student's behavior.

The highest level of confidentiality possible must be upheld regarding the submission of a complaint or a report of bullying and the investigative procedures that follow.

## **MEETINGS WITH PARENT OR LEGAL GUARDIAN OF THE VICTIM AND ALLEGED OFFENDER**

- Meetings with the parents or legal guardians of the victim and meetings with the parents or legal guardians of the alleged offender must be separate.
- Parents or legal guardians of the victim and alleged offender must be informed of all of the available potential consequences, penalties, and counseling options at the initial meeting with school officials.

## **Notification to Parents/Legal Guardians of an Act of Bullying**

The principal/designee will promptly notify the parents/legal guardians of all students involved of any incident of bullying as defined by this policy. Notification of the parent/legal guardian of all students involved must be made on the same day an investigation of the incident(s) has been initiated. Notification must be consistent with the student privacy rights under the applicable provisions of the Family Educational Rights and Privacy Act of 1974 (FERPA).

## **RESOLUTION OF INVESTIGATION**

The principal/designee shall compose a written document containing the findings of the bullying investigation, including input from the students' parents/legal guardians, and the decision of the school or school system official. The document will be placed in the record of both students.

The principal/designee shall promptly notify the complainant of the finding of the investigation and the remedial action taken, if the release of the information does not violate the law.

If the school has determined that the discipline code has been violated, the school official should take prompt and appropriate disciplinary action pursuant to LA R.S. 17:416 and 17:416.1 and report criminal conduct to law enforcement, if appropriate.

The LEA may establish a procedure for referring a victim and perpetrator for counseling when bullying is suspected or when a bullying incident is reported. The procedure may include, but not limited to:

- Counseling and support to address the needs of the victim(s) of bullying
- Research-based counseling/interventions to address the behavior of the students who bully or harass others (e.g., empathy training, anger management, social skills training, etc.)
- Research-based counseling/interventions which includes assistance and support for parents/legal guardians, if deemed necessary or appropriate

## **PROCEDURE FOR APPEAL**

### **Failure to Act**

A student, parent/legal guardian, or school employee may report a bullying incident to the LEA (city, parish, or local school board or local school governing authority) if the school official does not take timely and effective action to address the incident.

The LEA or governing authority must begin an investigation of any complaint of bullying that is properly reported the next business day in which school is in session.

If the governing authority does not take timely and effective action, the student, parent, or other school employee may report the bullying incident to the Louisiana Department of Education.

## **Parental Relief (Parents/Legal Guardians of a Victim of Bullying)**

The parent/legal guardian of a bullied student may request a transfer to another school if a parent, legal guardian, teacher, or other school official has made four or more reports of separate instances of bullying and no investigation has occurred.

The LEA must make space available for the student at another public elementary or secondary school under its jurisdiction within ten school days of the transfer request.

If no other school that serves the bullied student's grade level is available within fifteen days of the transfer request, the superintendent or head of the LEA must facilitate the student's enrollment in a statewide virtual school or offer the student placement in a full-time virtual program or virtual school.

The LEA may enter into a memorandum of understanding with another LEA to secure placement and transfer for the bullied student.

If none of the options above are made available to the student within thirty days after the transfer request is made; the parent or legal guardian may request a hearing with the school's governing authority. The hearing must be granted for the next scheduled meeting or, within sixty calendar days, whichever is sooner.

The parent/legal guardian may request at the end of any school year that the student be transferred back to the school in which the student was enrolled when at least three of the bullying reports were made.

The district must make space available for the student at the school where the student was originally enrolled. No other school will qualify for the transfer back.