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Apply these 7 practices to address on-, off-campus bullying

LAS VEGAS -- A derogatory nickname for an eighth-grader with a speech-language disability makes it into a school yearbook. After the yearbooks are distributed, the student's parent complains. The school's assistant principal promises to look into the matter but does not follow up with the parents or the student.

OCR found the district in *The Philadelphia (PA) Sch. Dist.*, [46 IDELR 169](#) (OCRIII, Philadelphia (PA) 2006), created a hostile environment under Section 504 and the ADA when it failed to adequately address bullying concerns. Once the district in this case learned that the yearbook nickname mocked the student's disability, it had an obligation to investigate the incident, notify the student's parents of its findings, and address the impact on the student.

Don't take communication with parents about your investigation findings lightly, said [Darcy Kriha](#), a school attorney at [Franczek Radelet & Rose P.C.](#) in Chicago. Most bullying-related cases are decided based on the thoroughness of a district's investigation and its communication with parents.

"You have got to close that door," Kriha said. "And, ideally, you're doing that in writing."

Here are some more tips:

- **Make sure everyone knows signs of bullying:** A student may not feel comfortable reporting he has been bullied. Make sure your colleagues can detect signs, such as frequent absences, declining grades and discipline referrals, Kriha said. A hospitalization because of a suicide attempt should be a major red flag. Also ensure everyone supports a culture that is safe for reporting harassment.
- **Ensure staffers communicate:** If a student reports being harassed, avoid liability by letting staff members know to take action if they see harassment take place, Kriha said. It will not be enough of a defense to say a social worker was the only person who knew about the harassment if a complaint reaches the courts.
- **Train all staff on appropriate responses to bullying:** Consider developing a one-page form to ease the process of investigating a report of bullying and solidify timelines for gathering information and conducting interviews about the reported harassment, Kriha said. "Make sure all staff, from teachers and social workers to lunch room supervisors and bus drivers, know to take action," she said. "If a complaint comes in, you'll be in a better position to say, 'We've done all this nice training.'" At the same time, beware of not taking enough action, as occurred in *Patterson v. Hudson Area Schs.*, [109 LRP 351](#) (6th Cir., 01/06/09), Kriha said. In this case, district personnel ineffectively reprimanded students who teased a boy about his sexual orientation for years. The district's response was found to be deliberately indifferent under Title IX.
- **Set districtwide policies:** Make sure your school board has in writing how you will address off-campus bullying, Kriha said. In any case, you will want to consider the nexus of the off-campus misconduct and the disruption to the school. For example, if a student sexually assaults another student on a Saturday and they attend the same school, do you have the leeway in your policy to move the purported harasser to another school or to expel him?

- **Beware of uneven discipline:** Make sure everyone knows where the line is drawn with discipline for off-campus incidents, Kriha said. It might not appear to be equal protection of the law if you expel a student for selling drugs to another student off campus but don't expel a student after a report of a possible sexual assault.

- **Protect confidentiality:** Parents of suspected victims of bullying may express frustration, but you must protect the privacy of a student you investigate for bullying, Kriha said. Don't disclose the student's placement or the types of services he receives.

- **Look for 'teachable moments':** Don't ask your colleagues to only reprimand students for bullying. Also encourage them to use incidents of harassment as springboards for learning. For example, in one case, elementary school students threatened to expose two brothers with severe allergies to peanut butter. The district in *Greenport (NY) Union Free Sch. Dist.*, [50 IDELR 290](#) (OCR 2008), avoided violating Section 504 and Title II in part because the principal met with all fifth- and sixth-grade classes to explain why teasing and threats about peanut exposure were unacceptable. "The district used this as a teaching moment," Kriha said. "That was wonderful. OCR loved that."

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