

2011 HOUSE EDUCATION

HB 1465

2011 HOUSE STANDING COMMITTEE MINUTES

House Education Committee
Pioneer Room, State Capitol

HB 1465

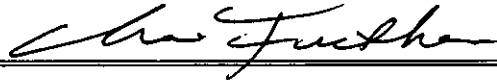
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☐ Conference Committee

Committee Clerk Signature



MINUTES:

Chairman RaeAnn Kelsch: We will be taking HB 1465, 1250, and 1147 at the same time so that people can address the all the issues at once.

Chairman RaeAnn Kelsch: Sponsor 1465. I stand in support of HB 1465. This bill is a culmination of the work done by interested parties, those that are directly affected by legislation for schools. The NDEA, school board associations, Attorney General, as well as input from other interested parties. This is brought as a result of their work. The Attorney General will be coming up to explain and walk through the bill. I think while there are some similarities in these bills but there are some differences. In the end we will probably have one bill. We are hoping by the end that we can come up with workable legislation.

Rep. Don Vigesaa: Sponsor. Support HB 1465, 1250, and 1147. Testimony attachment 1.

Chairman RaeAnn Kelsch: Questions?

Rep. Edmund Gruchalla: Sponsor 1465. This fall I met with school district officials in Fargo and a coalition was formed. At that time I was notified that Rep. Lyle Hanson had a bill on bullying. None of the bills I saw had a severe penalty for bullying of kids with intellectual disabilities and 40% of bullied kids are intellectually disabled. To cut this short I also was told at that time that the Attorney General was looking into this issue. I was looking then at a Massachusetts's law and parts of that went into this bill. I do support all these bills before us.

Sen. Joan Heckaman: Sponsor 1147. I want to offer support for this important issue in our state.

Sen. Rich Wardner: Sponsor 1465, 1250, and 1147. I want to remind you that bullying doesn't just start in schools. It goes outside of school. It can start outside during summer time and it's brought in to schools during the fall and then they have to deal with it. When looking at this law it will not solve everything. The key to making this work lies with the individual that is doing the investigation into the bullying and that person will need training on how to handle these situations. Many people get involved and as a principal and don't have the training that is needed on this issue. The one thing I did not do as principal that these bills do, is that when you sat down with the child and parents, I never brought law enforcement in. I think it would be good to have everyone on board. Every accusation of bullying will not always be bullying so faculty need help learning how to identify those things.

Rep. Kim Koppelman: Sponsor HB 1250. Support for all three bills. As I thought about this issue, I wasn't aware of all the others floating around. As you look at the issue, bullying is a serious

problem. It has risen to a serious concern. The question is how do you deal with these issues? There are troubling and often scarring bullying issues going on with our youth. One thing that came to me is how do you define bullying? HB 1250 doesn't define it because it strikes me that bullying is in the eye of the beholder. How do we deal with the definition of that kind of offense? I left the responsibility to the local school boards. Nothing in this bill would prevent the ND school to come up with sample policy or definition. HB 1250 simply takes a common sense approach. It says they have to have a policy but it is not overly intrusive. Second, it says they have to follow policy. If they do follow it, your school board and taxpayers aren't going to have a civil liability.

Sen. Tim Flakoll: Sponsor HB1465. I have a few comments. Bullying has continued to evolve throughout the years. It has expanded from physical to mental bullying. It is important that we have a uniform set of policies around this issue so everyone knows the expectations. We need to know that our kids are safe consistently across boundaries. We also have to realize that with passage of this bill, it will not permanently get rid of all the problems. It will help us understand and mediate these problems and address them.

Wayne Stenehjem - Attorney General: Support 1465. Support for all the bills. We have addressed numerous problems that have existed for a long time and this is one that needs to be addressed today. This bill includes a strong definition of bullying, taken mostly from a Wyoming statute. The bill provides locations for which bullying can occur. This specifically covers the activities that violate the law including cyber bullying. Critical components are that students need to, first of all, assured they can report bullying. HB 1465 ensures that every school will be required to have an anti-bullying policy by next year. Local school boards can decide their own policy as long as they meet the requirements set in the bill.

Chairman RaeAnn Kelsch: Questions ?

Rep. Lyle Hanson: Sponsor HB 1147. Testimony attachment 2.

Kayla Effertz – Senior Policy Advisor, Office of the Governor: Support HB 1465. I'm here on behalf of the Governor. Testimony attachment 3.

Chairman RaeAnn Kelsch: Questions? Support of the bills?

Robert Vallie – NDSU: Support HB 1465. Testimony attachment 4.

Vice Chair Lisa Meier: Can you provide the committee a copy of the policy in place at NDSU about bullying?

Robert Vallie – NDSU: Yes.

Alyssa Martin – Director of Policy Services, NDSBA: Support 1465. Address 1147 and 1250. Opposition on fiscal note. Testimony attachment 5.

Rep. Phillip Mueller: The subcommittee received an email that speaks to the numeration. I assume that lists specific bullying circumstances. Is listing them in any bill a good idea or not?

Alyssa Martin – Director of Policy Services, NDSBA: The committee that worked on HB 1465 discussed this in detail; however, if we begin to lift protective class of victims in the bill what we found was the language became exclusionary instead of inclusionary.

Chairman RaeAnn Kelsch: Questions?

Parker Hoey – Student, Devils Lake Public Schools: Support HB 1465. Testimony attachment 6.

Veranna Bauske – Student, Devils Lake Public Schools: Support HB 1465. Testimony attachment 7.

Rep. David Rust: Are you allowed to have your cell phones in class with you?

Veranna Bauske – Student, Devils Lake Public Schools: They are supposed to be in lockers during school hours but can text after that.

Rep. Bob Hunsakor: Do you think young people are afraid to report bullying?

Veranna Bauske – Student, Devils Lake Public Schools: I think some are afraid that if they do it might get worse. They could be ganged up on.

Neil Haahr – Student, Devils Lake Public Schools: Support HB 1465. Testimony attachment 8.

Chairman RaeAnn Kelsch: Questions? We appreciate your testimonies. Anyone else in support of these bills?

LeAnn Nelson – Director of Professional Development, NDEA: Support of HB 1465. Testimony attachment 9.

Rep. Brenda Heller: Does this bill protect kids who are being bullied by their teachers?

LeAnn Nelson – Director of Professional Development, NDEA: It provides the student with a route on where to go to if they feel bullied by teacher or peers.

Warren Larson – NDCEL: Support. Testimony on HB 1147, 1250, and 1645 attachment 10.

Chairman RaeAnn Kelsch: Questions? Further testimony in support?

Janelle Moos – Executive Director, ND Council on Abused Women's Services: Support HB 1465. Testimony attachment 11.

Chairman RaeAnn Kelsch: Questions?

Rep. Mike Schatz: My question is for Mr. Larson. Can a principal be charged with bullying? Where do we draw a line on what we call bullying?

Warren Larson – NDCEL: Anyone can be charged with bullying. There is no discrimination on that. I think we will have to sift through some of these things and decide how to deal with those things. It will be an interesting situation talking care of these things.

Chairman RaeAnn Kelsch: Right now it's called something else, it's not called bullying. But it's going on right now that if a student is unhappy right now they can take complaints to superintendent, they just call it something else and it's just not called bullying.

Warren Larson – NDCEL: Correct.

Rep. Karen Rohr: Can you elaborate on the parent component in this?

Warren Larson – NDCEL: The parent component is huge. From our perspective it is very important to involve parents in dealing with this.

Carlotta McCleary – Executive Director, NDFFCMH: Support HB 1465. Testimony attachment 12.

Rep. Phillip Mueller: Do you know if there are any organized efforts in other areas in which children are involved. Is anyone else doing anything on this issue besides what we are?

Carlotta McCleary – Executive Director, NDFFCMH: I'm not aware of anything right now.

Rep. Bob Hunsakor: You said education community. I know some brought in professionals to help educate on the problem. Do you have any thoughts on how we can better the procedure where you want everybody at these meetings but few show up?

Carlotta McCleary – Executive Director, NDFFCMH: One thing we saw was that parents had to be given the handbooks that state the policy. If that were to go out, I think there would have at least been an attempt. I do think some of the provision on the education piece might want to include that.

Chairman RaeAnn Kelsch: I had written that down on 1465 because I was aware of that section in the senate bill and thought it might be a good idea to make sure the policy is sent to the parents so they know it is in existence. Questions? Testimony in support on HB 1465, 1250, and 1147?

Jim Jacobson – Director of Program Services, P&A: Support HB 1465. Testimony attachment 13. 1:34:00

Rep. Karen Karls: On page 2, the middle paragraph, and the last line. Could you tell us what those alternatives would be?

Jim Jacobson – Director of Program Services, P&A: The case law I looked at involved parents placing their children in private schools when the issue happened in public schools.

Rep. Phillip Mueller: One of the potential problems would be with the reporter of bullying. How does one know when it is bullying vs. harmless horseplay? How will we know?

Jim Jacobson – Director of Program Services, P&A: One thing P&A does is receive reports of abuse and neglect. Speaking to that one of the things in our office is to provide protective services and respond to reports. When you get a report you make no assumptions but initiate an effective investigation.

Chairman RaeAnn Kelsch: Questions? Support?

Nancy Miller – Executive Director, ND NASW: Support HB 1465. Testimony attachment 14.

Chairman RaeAnn Kelsch: Questions? Support?

Valerie Fischer – DPI: Support HB 1147, 1250, and 1465. Testimony attachment 15.

Rep. Corey Mock: In your info it was reported that there were serious incidents. Can you explain why the more serious offense resulted in only two days?

Valerie Fischer – DPI: That was an incident for inciting a riot?

Rep. Corey Mock: Is there a recommendation on how many days students should be expelled or is that made by school boards?

Valerie Fischer – DPI: School boards.

Vice Chair Lisa Meier: Could you speak about the amount the calls you received and what percent of the calls are about bullying?

Valerie Fischer – DPI: The calls varied. Initially my goal is twofold. Let parents know the child is most important and they need to be helped. The second is that we advocate the parents to create a relationship with their school. It's best to educate parents on the schools and talk succinctly. A lot of times it is helping parents understand that the school is not the bad guy. A lot of times the parents want to know who the other child was that was doing the bullying but there is a certain amount of confidentiality that each child is entitled to. It is best for the parents to get involved with the school and keep a dialogue.

Rep. Karen Rohr: I heard a lot about the percentage of bullying and I heard ND is one of five that doesn't have this legislation. Has DPI checked or done comparison studies with the states that have had this in place for a while?

Valerie Fischer – DPI: The senate education committee asked for that, so we are now in the process of surveying those 45 states.

Rep. Mike Schatz: Is there any comparison between large schools and small schools as far as percent of bullying that goes on?

Valerie Fischer – DPI: We could try to dissect some of the info but bullying tends to happen in all schools. In a small school that person might stick out more. I think it varies depending on the situation.

Rep. Mike Schatz: I'm just wondering if it is an ongoing thing. I know from my experience it was handled quickly.

Rep. Bob Hunsakor: You talked about 170 calls from parents. Did you ever find that when those calls were made that some were not legitimate?

Valerie Fischer – DPI: I don't think so. I think if a parent contacts the department they have a legitimate reason. Some think we can fix problem immediately but we don't have that authority or control.

Rep. Karen Rohr: Would it be possible to stratify that between urban and rural schools?

Valerie Fischer – DPI: I'll try.

Chairman RaeAnn Kelsch: I think when you do that though, you need to take into account on where those students are. If you can do it in percentages, that would be beneficial. I have concern on the fiscal note. I think we are on the track but if you can try and quantify your fiscal note that would be great?

Valerie Fischer – DPI: In the combination of the bills there are references on responsibilities the department would take on. So if that was changed or tailored that would affect the department.

Chairman RaeAnn Kelsch: Did you do the fiscal note on each one?

Valerie Fischer – DPI: The fiscal note was requested by legislative council for SB 2167, HB 1465 and HB 1147.

Chairman RaeAnn Kelsch: It is the same fiscal note for each one?

Valerie Fischer – DPI: Yes.

Chairman RaeAnn Kelsch: Questions? Support?

Tom Freier – ND Family Alliance: Support HB 1147, 1250, 1465. Testimony attachment 16.

Chairman RaeAnn Kelsch: Questions? Support? Opposition?

John V. Emter: Opposition. I think these they are a nightmare. Once we have to drag our kids into a court room, we as parents have failed. I come here representing God. We have a constitution that protects free speech. We know that kids that tell the truth don't get rewarded and the liars do. I could go on and on. There is no link found between bullying and suicides. We have a law already and we have sued in Fargo for bullying. Your kids are going to end up in a court room somewhere and it's traumatizing. Once we have to go to a point where we have to go to a court room, that is as low as we can get. This where we are at today.

Chairman RaeAnn Kelsch: Questions? Opposition?

Sen. Oley Larsen: Opposition. Testimony attachment 16.

Rep. John Wall: You obviously advocate teaching coping skills. Do you see any way your plan could be implemented into any of the three bills?

Sen. Oley Larsen: I would like to see that but I would like to see the word bully stricken from the bills.

Chairman RaeAnn Kelsch: I guess the question is are you prohibited from doing what you are currently doing if any of the bills are passed?

Sen. Oley Larsen: Under this statute I felt like I'd be liable.

Chairman RaeAnn Kelsch: There is an exemption so you wouldn't.

Sen. Oley Larsen: I think with this law we are tampering with the Freedom of Speech.

Rep. Karen Rohr: How did you integrate your study into the curriculum at the school you are at?

Sen. Oley Larsen: I approached the school district because I was doing my master's degree. It took school time and performed this in in-services. I've implemented this into aggressive groups and if I can be successful with some of the highly aggressive kids, this can work.

Rep. Bob Hunsakor: Let us say that a boy is bullying a girl and she uses your method and doesn't let it bother her. Then he decides to bully another girl and that one can't cope with it like the first girl did. How do you get this system in order to protect the bully from moving on to others?

Sen. Oley Larsen: He won't quit unless he is educated not to be a bully or the victims are educated not to be victimized. I see it today and one needs to be educated even in our profession on how to deal with being bullied and how not to be victimized.

Rep. Bob Hunsakor: The bully is still in circulation though. I mean there has to be something that deals with the bully.

Sen. Oley Larsen: I agree with that. The problem is that I feel we are doing a very good job of addressing it already. We are working with it. The bully is always being addressed. We are falling short on not educating our victims on how to not be victimized.

Chairman RaeAnn Kelsch: Questions? Opposition? We will close on HB 1465, HB 1250, and HB 1147.

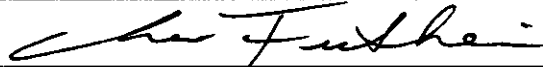
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House Education Committee
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HB 1465
02/07/11
14088

☐ Conference Committee

Committee Clerk Signature



MINUTES:

Chairman RaeAnn Kelsch: We will open the hearing on HB 1465. The essence of my amendments removes any involvement by DPI. It removes the fiscal note. If you look at what the fiscal note says. It says they have to have one FTE, a grade thirteen, they have benefits, and they have to have a new person doing this. DPI was present at all of those meetings and they were told that this would not involve another FTE or any extra money. My amendments remove the references to the department and therefore there would be a revised fiscal note that would come in at zero which would allow the subcommittee to work on the pieces of legislation. I am sure anyone of you could put together model pieces of bullying policy that could be distributed to the school districts and said to the school districts you have to have at least this. You could say that is the core and from there you can do whatever you want and not get paid 178,000 dollars a biennium.

Rep. Corey Mock: I would like to move the amendment.

Rep. Wall: Second.

Chairman RaeAnn Kelsch: Discussion? We will take a voice vote on the amendment.

Voice vote: Motion carries.

Chairman RaeAnn Kelsch: We are going to leave this bill so we can work on it and request an immediate new fiscal note. We will close on HB 1465.

2011 HOUSE STANDING COMMITTEE MINUTES

House Education Committee
Pioneer Room, State Capitol

HB 1465
02/15/11
14568

☐ Conference Committee

Committee Clerk Signature



MINUTES:

Chairman RaeAnn Kelsch: We will open the hearing on HB 1465. As you recall on 1464 we had taken out the role of DPI in the amendment. The way this was written was little confusing so Anita Thomas had rewritten it implementing in the passage of 01001. There were a couple of things we amended. It is best for me to look at the original bill. Looking at the front on line 18 on page 1, we removed a school bus stop. Our concern was that school districts would maybe have to have monitors at school bus stops and that was not what the intent was so we removed a school bus stop. By removing that it doesn't necessarily mean that if bullying occurs at a school bus stop that something can't be done. The interpretation that the school boards had was that we would potentially have to have someone monitoring each school bus stop. There was discussion on page 2 about whether or not we should remove the domestic violence and sexual assault organizations. We left them in because we felt they were an important part of this team and especially felt assured after we were told that this is an organization or group in each of our cities so it shouldn't be that difficult for them to be there. One of the questions that came to us was if we were giving the public enough notice about the bullying policy and we were told that every new policy in a school district must have two readings. The first reading is where you receive the public input. That is the time for the public to come and express their concerns or to discuss the issues. The second time the school board meets is when they have the adoption of the policy. We also added in from HB 1250, lines 6-10 and that would be section five of the amendment. Sections 5 and 6 are the immunity sections. Originally the nonpublic schools believed they were in the bill because it said at school. They wanted to be part of this bill. School districts still must develop a policy and they still need to file it with DPI but only them, being the school district, shall review and revise its policy as it determines necessary. We wanted to make it crystal clear that it would be the school district and not DPI taking on responsibility to review and revise the policy. We asked interested parties if they still felt comfortable about filing the policy with DPI and they did. They felt that it was important to have on file. We also talked about if the policies are up there and DPI gets a call from a parent concerned about bullying, they can go through and look up the policy and they can walk that individual through the policy. This way we don't need additional staff at department. The School Boards Association, as is their normal policy, will develop model policy that school districts can use as their template and will distribute that out to all the school districts. It would be the minimum they would have for a school board policy and then they can revise and go stronger into it.

Rep. Bob Hunskor: I don't find the accountability part in the amendment. Is that in the original bill? We talked about having that so there was communication between local and state. I raised the issue in subcommittee that the state receives a report from the schools dealing with bullying incidences. I believe the state representation from DPI indicated that they could work that report in with their reports so they can say there were a certain number of bullies.

Chairman RaeAnn Kelsch: They said we wouldn't need that in there because it would be something that would be worked into their supporting mechanisms.

Rep. Bob Hunskor: They will take care of that through DPI?

Chairman RaeAnn Kelsch: Yes. They said they would.

Rep. David Rust: Do I need the original bill or does this amendment have it all in it? Is it a hog house amendment?

Chairman RaeAnn Kelsch: It looks to me like it is a hog house amendment. There were some language issues in the bill that needed to be cleaned up. That is what Anita had done. Just because I am a little unclear now, when I talked to Jack McDonald he said that school meant public and nonpublic.

Anita Thomas – Legislative Council: One of the reasons we do these separate immunity provisions is so we can clarify when we are talking about a school district which would have the immunity in a public sector versus a school that would have the immunity in the nonpublic sector. It is the same language but for the public school district on one hand and for the nonpublic school on the other.

Chairman RaeAnn Kelsch: When Jack had talked to me yesterday he had say that they believed they were part of this bill and that they would be reporting/filing their bullying policy with the state which they said they didn't have any problem with. Now if it's talking about conduct that occurs in a public school, are they no longer in that first part of the bill?

Anita Thomas – Legislative Council: I talked to him as well. The impression I was left with was that they would have bullying policies that would virtually parallel what was asked of the public system but not necessarily in all of the detail.

Rep. Lyle Hanson: Are home schools listed under nonpublic schools? Are they included there?

Anita Thomas – Legislative Council: There was no discussion that involved me and home education.

Rep. Lyle Hanson: So they are not include anywhere in here?

Anita Thomas – Legislative Council: I do not believe they are statutorily thought of as a school.

Chairman RaeAnn Kelsch: I would be open for a motion.

Rep. Bob Hunsakor: My particular feelings going into this is that it be left in control of the local school. From our state level we are saying we have a policy and here are some guidelines you should follow. The two other issues was the immunity of the school personnel which is covered in sections 5 and 6 and then accountability of DPI so there is communication if a parent does call into Bismarck because they are upset about bullying with their children, Bismarck school would know what was going on. With those thoughts I would move the amendment.

Rep. Joe Heilman: Second.

Chairman RaeAnn Kelsch: Is there any discussion? We will try a voice vote. Motion carries.

Voice vote: Motion carries.

Rep. Karen Rohr: I would like to amend the amendment to include a section that protects first amendment rights.

Rep. Joe Heilman: I brought that discussion to the attorney general to see whether or not we needed some kind of language in there and he feels that first amendment rights are already protected and we don't necessarily need to restate it in the bill. So it was his opinion we didn't need any specific language.

Rep. Mike Schatz: Is there going to be a list of words that cannot be used? I think that is an issue here. We can go through a list and I'm not exactly sure what things are going to be considered bullying.

Chairman RaeAnn Kelsch: There are no words listed. Again we sort of implement the basics and leave it up to the local school districts to determine how to implement. That was the premise when the bullying legislation was introduced was that we would leave it up to the local school districts as much as possible. The legislation says this is what we determine as key components to a definition of bullying and school districts make the determination from there on. We wanted to make sure the immunity language was in there so there weren't further situations like that what happened in Fargo.

Rep. Mike Schatz: There is going to be words you can't say though. Do you agree with that? If you say certain words you are going to be accused of being a bully.

Chairman RaeAnn Kelsch: I have no idea what the school districts are going to come up with as their policies. I think there are a lot of the school districts that have a zero tolerance for any sort of off-color language. That is already in the school handbook. I couldn't tell you if there is going to be specific words.

Rep. Bob Hunsakor: Rep. Mike Schatz just a little discussion on that issue. If a teacher raises his or her voice, could that be construed as bullying? There are a hundred different

things we could address. You can't cover all the bases on the state level. What we have here has to be dealt with by those individual schools.

Rep. Mike Schatz: You would say that it wouldn't be standardized then? What might ok in West Fargo might not be ok out in Williston.

Rep. Bob Hunskor: I guess that is the way it would have to be because there are so many differences between schools.

Chairman RaeAnn Kelsch: What is in the language is for the core of the policy and that has to be the model policy that will be developed based on some of the principles and each school district can expand on that as they feel necessary. We have a motion by Rep. Karen Rohr.

Rep. Mike Schatz: I'll second.

Chairman RaeAnn Kelsch: It is on page 4 of testimony you received. We did talk to the attorney general about it and he said it wasn't necessary to put that language in the bill. Here is what Bismarck Public Schools has. They talk about harassment of students in the Bismarck Public School District. Harassment occurs when a series of intentionally cruel incidents that are deliberately hostile and aggressive are directed towards a person. A person is being harassed when he/she is being exposed to negative actions on the part of one or more persons. It also occurs when actions of one or more persons create an intimidating, hostile, or offensive learning environment for an individual or small group of individuals. The physical is action oriented harm to another person's body or property. Verbal is using words to hurt or humiliate another person such as name calling, hurtful sarcasm, persistent teasing, taunting, verbal threats, intimidation, and arousing fear in an individual by emotional tormenting, threatening gestures, ridicule, humiliation and other threatening behaviors. Intimidations by virtue of display of gang colors, gang paraphernalia, gang signing, gang gestures, and other gang related actions. Bullying is deliberate hostility, intentional cruelty, aggression toward a victim that is weaker and less powerful than the bully when an outcome is painful, distressing, or intimidating for the victim. Bullying can take the form physically injurious action as well as verbal forms of harassment. Then they have their racial, cultural and sexual discrimination policies. This addresses Rep. Brenda Heller's comments regarding a teacher or administrator harassing and it is any school district employee who observes or becomes aware of another employee or student must consult with their supervisor. Bismarck Public Schools does address the employee, teacher, or administrator. They have their policy on the use of electronic communications. They go through internet privacy and safety. Their bullying comes into their harassment policy.

Rep. Karen Rohr: For clarity can I read that paragraph?

Chairman RaeAnn Kelsch: Yes.

Rep. Karen Rohr: Individual bullying prevention policies enacted by school districts shall not be interpreted to infringe upon the first amendment rights of students and are not intended to prohibit expression of religious, moral, philosophical, or political views provided

that such expression does not cause an actual material disruption of academic work and extracurricular school activities.

Chairman RaeAnn Kelsch: We have the motion before us. We will take a roll call vote. Motion fails.

Roll call vote: 7 yeas, 8 nays, 0 absent. Motion fails.

Chairman RaeAnn Kelsch: We now have HB 1465 amended before us. What are the wishes of the committee?

Rep. Lyle Hanson: I motion to do pass as amended.

Vice Chair Lisa Meier: Second.

Chairman RaeAnn Kelsch: Discussion? We will take the roll on a do pass as amended on HB 1465. We will close on HB 1465.

10 YEAS 5 NAYS 0 ABSENT
CARRIER: Rep. Joe Heilman

DO PASS as Amended

FISCAL NOTE
Requested by Legislative Council
02/18/2011

Amendment to: HB 1465

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The amendment has removed the fiscal impact to the department.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Valerie Fischer	Agency:	Public Instruction
Phone Number:	328-4138	Date Prepared:	02/18/2011

FISCAL NOTE

Requested by Legislative Council
01/18/2011

Bill/Resolution No.: HB 1465

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$178,572	\$0	\$185,714	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill requires the ND Department of Public Instruction to develop model policy templates, provide training and professional development, collect policies, collect LEA data, provide reports to all LEAs, and actively serve on task force/commission.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

To carry out the bill provisions, it is necessary to hire one (1) FTE to conduct these requirements. There are multiple references to the role DPI will assume in this bill and the activity required with the LEAs.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

\$178,572; cost of one (1) FTE at grade 13 (Assistant Director) and benefits for biennium (\$148,572); operating and related expenses as it relates to travel, professional development, updates in the current data collection system, material development and dissemination (\$30,000). Expenditures for 2013-2015 include 4% for staff increase. This will require one (1) FTE that is not currently available in the department.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

There is currently no appropriated funds for the FTE needed to comply with the bill intent of SB 2167.

Name:	Valerie Fischer	Agency:	Public Instruction
Phone Number:	328-4138	Date Prepared:	01/19/2011

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1465

Page 2, line 6, remove "The school district"

Page 2, remove lines 7 through 9

Page 3, remove lines 7 through 14

Page 3, line 15, replace "d." with "c."

Page 3, line 19, replace "e." with "d."

Page 3, line 23, replace "f." with "e."

Page 3, line 24, remove "Upon request, the department of public instruction shall"

Page 3, remove lines 25 through 28

Renumber accordingly

Date: 02-07-11
Roll Call Vote #: VOICE VOTE

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1465

House EDUCATION

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt
Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By REP. MOCK Seconded By REP. WALL

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch			Rep. Hanson		
Vice Chairman Meier			Rep. Hunsakor		
Rep. Heilman			Rep. Mock		
Rep. Heller			Rep. Mueller		
Rep. Johnson					
Rep. Karls					
Rep. Rohr					
Rep. Rust					
Rep. Sanford					
Rep. Schatz					
Rep. Wall					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

VOICE VOTE ON AMENDMENT

MOTION CARRIES.

**REMOVES FISCAL NOTE
KEEP IN COMMITTEE**

VR
2/15/11
104

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1465

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact six new sections to chapter 15.1-19 of the North Dakota Century Code, relating to the prevention of bullying in public schools.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

Bullying - Definition.

As used in this Act:

1. "Bullying" means:

a. Conduct that occurs in a public school, on school district premises, in a district owned or leased schoolbus or school vehicle, or at any public school or school district sanctioned or sponsored activity or event and which:

(1) Is so severe, pervasive, or objectively offensive that it substantially interferes with the student's educational opportunities;

(2) Places the student in actual and reasonable fear of harm;

(3) Places the student in actual and reasonable fear of damage to property of the student; or

(4) Substantially disrupts the orderly operation of the public school;
or

b. Conduct that is received by a student while the student is in a public school, on school district premises, in a district owned or leased schoolbus or school vehicle, or at any public school or school district sanctioned or sponsored activity or event and which:

(1) Is so severe, pervasive, or objectively offensive that it substantially interferes with the student's educational opportunities;

(2) Places the student in actual and reasonable fear of harm;

(3) Places the student in actual and reasonable fear of damage to property of the student; or

(4) Substantially disrupts the orderly operation of the public school.

2. "Conduct" includes the use of technology or other electronic media.

SECTION 2. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

Bullying - Prohibition by policy.

1. Before July 1, 2012, each school district shall adopt a policy providing that while at a public school, on school district premises, in a district owned or leased schoolbus or school vehicle, or at any public school or school district sanctioned or sponsored activity or event, a student may not:
 - a. Engage in bullying; or
 - b. Engage in reprisal or retaliation against:
 - (1) A victim of bullying;
 - (2) An individual who witnesses an alleged act of bullying;
 - (3) An individual who reports an alleged act of bullying; or
 - (4) An individual who provides information about an alleged act of bullying.
2. The policy required by this section must:
 - a. Include a definition of bullying that at least encompasses the conduct described in section 1 of this Act;
 - b. Establish procedures for reporting and documenting alleged acts of bullying, reprisal, or retaliation, and include procedures for anonymous reporting of such acts;
 - c. Establish procedures, including timelines, for school district personnel to follow in investigating reports of alleged bullying, reprisal, or retaliation;
 - d. Establish a schedule for the retention of any documents generated while investigating reports of alleged bullying, reprisal, or retaliation;
 - e. Set forth the disciplinary measures applicable to an individual who engaged in bullying or who engaged in reprisal or retaliation, as set forth in subsection 1;
 - f. Require the notification of law enforcement personnel if an investigation by school district personnel results in a reasonable suspicion that a crime might have occurred;
 - g. Establish strategies to protect a victim of bullying, reprisal, or retaliation; and
 - h. Establish disciplinary measures to be imposed upon an individual who makes a false accusation, report, or complaint pertaining to bullying, reprisal, or retaliation.
3. In developing the bullying policy required by this section, a school district shall involve parents, school district employees, volunteers, students, school district administrators, law enforcement personnel, domestic

violence sexual assault organizations as defined by subsection 3 of section 14-07.1-01, and community representatives.

4. Upon completion of the policy required by this section, a school district shall:
 - a. Ensure that the policy is explained to and discussed with its students;
 - b. File a copy of the policy with the superintendent of public instruction;
and
 - c. Make the policy available in student and personnel handbooks.
5. Each school district shall review and revise its policy as it determines necessary and shall file a copy of the revised policy with the superintendent of public instruction.

SECTION 3. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

Professional development activities.

Each school district shall include, in professional development activities, information regarding the prevention of bullying and shall provide information regarding the prevention of bullying to all volunteers and nonlicensed personnel who have contact with students.

SECTION 4. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

Bullying prevention programs.

Each school district shall provide bullying prevention programs to all students from kindergarten through grade twelve.

SECTION 5. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

Causes of action - Immunity - School districts.

1. This Act does not prevent a victim from seeking redress pursuant to any other applicable civil or criminal law. This Act does not create or alter any civil cause of action for monetary damages against any person or school district, nor does this Act constitute grounds for any claim or motion raised by either the state or a defendant in any proceedings.
2. Any individual who promptly, reasonably, and in good faith reports an incident of bullying, reprisal, or retaliation to the school district employee or official designated in the school district bullying policy is immune from civil or criminal liability resulting from or relating to the report or to the individual's participation in any administrative or judicial proceeding stemming from the report.
3. A school district and its employees are immune from any liability that might otherwise be incurred as a result of a student having been the recipient of

bullying, if the school district implemented a bullying policy, as required by section 2 of this Act and substantially complied with that policy.

SECTION 6. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

Causes of action - Immunity - Nonpublic schools.

1. This Act does not prevent a victim from seeking redress pursuant to any other applicable civil or criminal law. This Act does not create or alter any civil cause of action for monetary damages against any person or nonpublic school, nor does this Act constitute grounds for any claim or motion raised by either the state or a defendant in any proceedings.
2. Any individual who promptly, reasonably, and in good faith reports an incident of bullying, reprisal, or retaliation to the nonpublic school employee or official designated in the school's bullying policy is immune from civil or criminal liability resulting from or relating to the report or to the individual's participation in any administrative or judicial proceeding stemming from the report.
3. A nonpublic school and its employees are immune from any liability that might otherwise be incurred as a result of a student having been the recipient of bullying, if the school implemented a bullying policy, similar to that required by section 2 of this Act and substantially complied with that policy."

Renumber accordingly

Date: 02-15-11
Roll Call Vote #: VOICEVOTE 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1465

House EDUCATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt
Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By REP. HUNSKOR Seconded By REP. HEILMAN

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch			Rep. Hanson		
Vice Chairman Meier			Rep. Hunsakor		
Rep. Heilman			Rep. Mock		
Rep. Heller			Rep. Mueller		
Rep. Johnson					
Rep. Karls					
Rep. Rohr					
Rep. Rust					
Rep. Sanford					
Rep. Schatz					
Rep. Wall					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

VOICE VOTE ON AMENDMENT

MOTION CARRIES

Date: 02-15-11
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1465

House EDUCATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt
Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By REP. ROHR Seconded By REP. SCHATZ

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch		X	Rep. Hanson		X
Vice Chairman Meier	X		Rep. Hunskor		X
Rep. Heilman		X	Rep. Mock		X
Rep. Heller	X		Rep. Mueller		X
Rep. Johnson		X			
Rep. Karls	X				
Rep. Rohr	X				
Rep. Rust	X				
Rep. Sanford	X				
Rep. Schatz	X				
Rep. Wall		X			

Total (Yes) 7 No 8

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

ROLL CALL ON AMENDMENT

MOTION FAILS

Date: 02-15-11
Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1965

House EDUCATION

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt
Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By REP. HANSON Seconded By VICECHAIR MEIER

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	<input checked="" type="checkbox"/>		Rep. Hanson	<input checked="" type="checkbox"/>	
Vice Chairman Meier	<input checked="" type="checkbox"/>		Rep. Hunsakor	<input checked="" type="checkbox"/>	
Rep. Heilman	<input checked="" type="checkbox"/>		Rep. Mock	<input checked="" type="checkbox"/>	
Rep. Heller		<input checked="" type="checkbox"/>	Rep. Mueller	<input checked="" type="checkbox"/>	
Rep. Johnson	<input checked="" type="checkbox"/>				
Rep. Karls		<input checked="" type="checkbox"/>			
Rep. Rohr		<input checked="" type="checkbox"/>			
Rep. Rust		<input checked="" type="checkbox"/>			
Rep. Sanford	<input checked="" type="checkbox"/>				
Rep. Schatz		<input checked="" type="checkbox"/>			
Rep. Wall	<input checked="" type="checkbox"/>				

Total (Yes) 10 No 5

Absent 0

Floor Assignment REP. HEILMAN

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1465: Education Committee (Rep. R. Kelsch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1465 was placed on the Sixth order on the calendar.

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(3) Places the student in actual and reasonable fear of damage to property of the student; or

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 - e. Set forth the disciplinary measures applicable to an individual who engaged in bullying or who engaged in reprisal or retaliation, as set forth in subsection 1;
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participation in any administrative or judicial proceeding stemming from the report.

3. A nonpublic school and its employees are immune from any liability that might otherwise be incurred as a result of a student having been the recipient of bullying, if the school implemented a bullying policy, similar to that required by section 2 of this Act and substantially complied with that policy."

Renumber accordingly

2011 SENATE EDUCATION

HB 1465

2011 SENATE STANDING COMMITTEE MINUTES

Senate Education Committee
Missouri River Room, State Capitol

HB 1465
March 2, 2011
Job #14857

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the prevention of bullying in public schools

Minutes:

Testimony Attached

Chairman Freborg opened the hearing on HB 1465.

Representative Kelsch, District 34, is the prime sponsor of the bill. The House had 3 bullying bills, but chose this one as it had been worked on by interested parties. One concern addressed was that non-public schools would be included in the bill, and the addition of the immunity which would also apply to the non-public schools. The amendments took out the oversight by the Dept. of Public Instruction. The schools need to formulate their policy; the DPI would not have that responsibility.

Senator Flakoll: Page 1, Line 19 references school buses. Does that include if you were to contract with an outside party?

Representative Kelsch: I do believe that would be included, but others may be able to address that.

Senator Flakoll: Is there a provision to notify parents on both sides of the issue?

Representative Kelsch: There is a section that involves parents in the development of the bullying policy. I do not see anything in there about notifying parents.

Senator Luick: Do any of these bullying bills go into Higher Ed or is it all for K-12?

Representative Kelsch: Just K-12

Senator Warner stood to endorse the bill; bullying impedes the learning process.

Senator Heckaman: Does this bill address adults bullying another adult or adults bullying a child or is it just student to student?

Senator Warner: My understanding is that it is just students. This bill would require a policy to be written and then my hope would be that the adults would model the behavior.

Representative Don Vigesaa, District 23, a co-sponsor of the bill urged more awareness of the issue and how to recognize the problem and deal with it. See **Attachment #1**.

Wayne Stenehjem, Attorney General, assembled a group last year to work on the issue of bullying and to develop a statute. HB 1465 is the result of that. There have been comments that we should not take this action because bullying has always gone on. They wonder why we should intervene. We do need to address the problem. The fact that it has always existed is no reason to fail to act. The group that was assembled included representatives from the ND School Board Association, from the ND Education Association, from the governor's office, from the Office of the Attorney General, from the ND Council on Abused Women's Services, from the ND Council of Education Leaders, and from the Dept of Public Instruction. First, bullying needs a strong definition to include bussing even if it is sublet to another company and to also include school events, etc. It includes behavior that violates the law, including cyber-bullying. Students need to feel safe to report bullying and not fear reprisals but know that something will actually be done about it when they do report it. Every school will be required to have an anti-bullying policy and by the end of next year they will have to have worked with parents and students, administration and law enforcement, domestic violence organizations and others to adopt such a policy. To help schools with formulating their policy there will be a model policy developed. (He covered the provisions of the bill.)

Senator Flakoll: If a school district contracts their bussing service out, are the children on the bus covered under this bill?

Wayne Stenehjem: Yes.

Senator Flakoll: Who would be the controlling authority in the case of bullying between two children from two different districts?

Wayne Stenehjem: If the two districts have differing bullying policies, it will have to be worked out. The first thing is make sure every district has a policy.

Senator Gary Lee: I don't see bus stops in this engrossed version of the bill.

Wayne Stenehjem: We do need to include school bus stops in this bill. Maybe an amendment took that language out.

Senator Gary Lee: You mentioned a model policy to be developed. Should that be mentioned in the bill?

Wayne Stenehjem: It is important to have it in the bill. DPI developed a model policy and someone from DPI will be testifying. Maybe he can address that directly.

Senator Freborg: Do you think it is necessary to have in the bill that all parents need to be notified?

Wayne Stenehjem: I don't think so because schools already have policies about notification of parents when disciplinary issues come up.

Senator Heckaman: Is it still in the bill that the schools will be required to have a policy by the end of next year?

Wayne Stenehjem: Yes

Senator Luick: The bill has language that the parents of the victim and the parents of the bully must be notified; does it have language that the school staff members must be notified?

Wayne Stenehjem: It is important for the staff to know.

Robert Vialle, Executive Commissioner for the Governmental Relations and Inter-Collegiate Affairs at NDSU Student Government, presented written testimony in favor of HB 1465. See **Attachment #2**. All 11 institutions of higher education are working on writing policies to help prevent bullying.

William Woodworth, the current Legislative Lobbyist for the ND Student Association, presented written testimony in favor of HB 1465. See **Attachment #3**.

Josh Askvig, representing the ND Education Association, stood in support of HB 1465. See **Attachment #4**.

Parker Hoey, the Student Council president of Central Middle School in the Devils Lake presented written testimony in favor of HB 1465. See **Attachment #5**.

Veranna Bauske, a seventh grade student at Central Middle School in Devils Lake, ND presented written testimony in favor of HB 1465. See **Attachment #6**.

Senator Heckaman: Do you think it is easier for kids to bully others now that they do not have to be face to face?

Veranna Bauske: Yes, they don't see the expression of the one they are hurting and then they don't feel bad about what they did.

Senator Flakoll: Do you think that some of the students in your school sometimes block people if they don't like what they are posting?

Veranna Bauske: I think they are able to do that and I think the majority of the kids do.

Neil Haahr, an eighth grader from Central Middle School in Devils Lake, ND, presented written testimony in support of HB 1465. See **Attachment #7**.

Doug Johnson, Executive Director of ND Council of Educational Leaders, stood in support of the engrossed version of HB 1465. He worked on the bill and on the amendments. On page 3, the section on policy may need some work.

Janelle Moos, Executive Director of the ND Council on Abused Women's Services, presented written testimony in support of HB 1465. See **Attachment #8**.

Senator Heckaman: During the development of this bill was there any consideration given to unified disciplinary measures or would you recommend leaving that up to the individual schools?

Janelle Moos: After lengthy discussion we agreed it would be left up to the individual school.

Alyssa Martin, Director of Policy Services for the ND School Boards Association, presented written testimony in support of HB 1465 (see **Attachment #9**) and proposed amendments (see **Attachment #10**).

Senator Flakoll: the ND School Board Association was on the Attorney General's working group and they were involved in it on the House side. Who was involved in the Attorney General's work?

Alyssa Martin: I was involved and the bill seemed sound. A few amendments happened during crossover so we didn't see them until after crossover. In addition, as we began to look at how we would craft the model policy and looked at the specifics in the bill we realized that there were still some potential issues with it.

Senator Flakoll: It seems you like Subsection 1-A and you like the immunity from the school boards. Aside from that you don't like anything else in the bill. What else do you like in the bill?

Alyssa: We still support the establishment of a policy. We still support the majority of the components that the bill requires with some adjustment to the language.

Gary Thune, Legal Counsel for ND School Boards Association, stood in support of the engrossed HB 1465 but expressed concern about some of the aspects of the bill. His firm has been involved in litigation involving bullying in the state of ND. He perceives this to be the most significant legal issue facing public schools districts in the next ten years. We have taken a careful look at language that, with hindsight, perhaps should have been looked at earlier. The environment in schools has changed; the biggest problems used to be truancy, gum chewing and smoking whereas now they are drugs, shootings, and suicide. Parental support used to be strong; now parents are often confrontational. Many issues of bullying are not actionable, but the minor offenses of bullying may add up and have major implications such as suicide.

A few comments on the proposed changes: The change in Part B to "received on campus" creates First Amendment issues. It will be more difficult to implement. The policy adopted by the school has to be substantially implemented to give the school immunity. In order for it to be substantially implemented it has to be able to be substantially complied with. The

"received on campus" creates an issue because of First Amendment protections and because when they are created off campus we don't have any jurisdiction off campus. Off campus jurisdiction could only be obtained if bullying was a crime and law enforcement could then enforce it off the campus. Notifying law enforcement when it constitutes a crime requires that we educate our educators of what does constitute a crime. Two more things: One is the development of the policy must be done by involving 7 different groups of people. If one or more of the groups is not present for the first and/or second reading, do we have a policy? Have we met the statute to establish the policy? I am concerned with the reality that each school district would have to have about 20 people at each of two meetings in order to get through a policy development that will hold up. This has to be reduced. Keeping in mind that the law says they have to be involved. We have open meetings. Our policies are all adopted in open meetings where people come and they can be heard. So is that necessary when balanced against the risk of loss of immunity? I would like to point out a few concerns. Bullying and cyber-bullying occur off campus as well as on campus. This bill identifies public schools as the entity to solve the bullying problem. The elephant in the room is the role of the parents. Public schools cannot fix the problem by themselves and you cannot legislate responsible parenting. It is our hope that the legislation will not put schools in a position where substantial compliance is not possible and immunity will be jeopardized.

Senator Freborg: At what point would bullying be considered a crime?

Gary Thune: It would depend on the activities. If the activity separate from being bullying would be considered criminal activity, then it would be a crime. Many of the bullying activities in and of themselves are very minor, and not criminal in and of themselves.

Senator Freborg: Would continual harassment be a crime?

Gary Thune: What the nature of the harassment is would have to be considered.

Senator Gary Lee: How does this bill, if passed, improve situations today?

Gary Thune: It provides immunity defense which is essential. There are many parts of this bill which are helpful but the real key is going to be putting together a model policy and then seeing if we can figure out a way to involve parents so we get support at home.

Senator Gary Lee: So this bill speaks to your immunity issue, but beyond that it doesn't satisfy much of the need you have?

Gary Thune: What I was attempting to say is that the things that require us to set up a policy and have awareness in a prevention program, all of those things are good and I think many school districts have had them for years but they are not effective. Many parts of the bill are good. We need to protect the schools, they need a policy and it has to be a policy they are able to comply with.

Glen Felbrick, who works in Devils Lake in youth ministry, spoke in favor of the bill. He wanted to see the immunity clause deleted. He was the victim of bullying by a teacher and

feels the adults should be held liable. He feels there is not another career where a student can be abused and the abuser can still have a job.

Tom Freier with the ND Family Alliance presented written testimony. See **Attachment #11**.

Valerie Fischer, Director of School Health, Director of Adult Education with the ND Dept of Public Instruction, presented written testimony in favor of HB 1465. See **Attachment #12**.

Opposition

Senator Oley Larson, District 3, submitted a 29-page pilot study on bullies and the effect bullying bills have on school districts. He presented this in opposition to HB 1465. See **Attachment #13**. He did his practicum on victim proofing schools. He did a two year study similar to the pilot study he submitted. He found great responses to it. He also handed out **Attachment #14** written by Israel Kalman, a Nationally Certified School Psychologist. The anti bullying laws are well intentioned but they can't decrease the bullying activity. What we need is a victim proofing bill that will empower children. He presented a Construction Matrix for Bullying (see **Attachment #15**) and an abstract that revealed the results of a 12 month study (see **Attachment #16**).

Liz Larson: I am the youngest of 10 kids who grew up on a rural ND farm. I know bullying well. I have also practiced as a Masters Level Clinical Social Worker for 20 plus years in mental health, primarily working with families and children. I am somewhat confused. What was this bill meant to do? What is best for the kids or to protect the school from liability? This bill is punitive and singular against the bullies. A strength based approach to this issue is going to be much more effective. I have three issues. The issue is not getting rid of the bullies; it is empowering the one who is being bullied. You need to work with the parents, and when you take the punitive approach the parents are not going to be willing to work with you.

Senator Flakoll: Where did this abstract come from?

Liz Larson: A North Dakota school just sent that to me in the last two weeks. That was their solution to the problem.

Chairman Freborg closed the hearing on HB 1465.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Education Committee
Missouri River Room, State Capitol

HB 1465
March 8, 2011
Job #15115

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the prevention of bullying in public schools

Minutes:

Attachments

Chairman Freborg opened the discussion on HB 1465.

Senator Luick: The amendment 11.8212.02002 was not drafted the way he wanted. See Attachment #1. This amendment is a hog house of the bill, turning the bill itself into a study. He wanted to add a study onto the end of the bill, not replace the bill with a study.

Senator Marcellais presented amendment 11.8212.02001 and explained why he had these amendments drawn up. See Attachment #2.

Senator Marcellais made a Do Pass motion.

Senator Heckaman: Second.

Senator Flakoll: Could I have any feedback from the subcommittee?

Senator Gary Lee: A bill similar to this was passed in the Senate. There was a provision for a model policy and parents would be notified, etc. I can support the amendments.

Senator Flakoll: Will the additions of "the superintendant of the DPI shall develop the model....". Is that going to create a fiscal note?

Senator Heckaman: I think these are appropriate amendments especially when we get to the part with the age appropriate versions given out to students. I think that is very important. I would support the amendment.

Roll Call Vote on adopting amendment 11.8212.02001: 7-0-0

Senator Luick: Do we want to look into the immunity clauses on here? I have heard comments on both sides. I believe districts should have responsibilities in this but if it

comes down to a court case, I'm sure they do whatever they can. As this reads now, does it take the responsibility away from the districts? What immunity does it give them?

Senator Flakoll: As long as they adhere to the law they are granted immunity. Could we have the intern look at it from a legal standpoint?

Ike Ummunnah, intern: This is not a legal opinion.

Senator Flakoll: The question would be starting on page 4, lines 29, 30 and thereafter. It references the immunity for non-public schools. Also in section 5 it addresses the immunity for public schools. What are they protected from? What could they still be legally liable for?

Ike Ummunnah: This is not a legal opinion. I am a 2L and not authorized to practice law. The way I interpret this is they could still sue the school. It would be up to the courts to determine how appropriate that action is.

Senator Schaible: Where schools get in trouble is when they don't follow their own policy. The best protection is to have the schools follow their own policy that they created. The biggest problem with this bill is in the size of the committee necessary to come up with the policy. Getting them all on the same page will be difficult. The concern of the schools was that this was an undoable thing. The number of people who need to be on the policy-creating committee makes it difficult to comply.

Senator Flakoll: I visited with the Attorney General and he said you need input from everyone; you don't need them at the table to get their input. It can be in written form.

Senator Schaible: It is the wording of how the policy should be developed that is the problem.

Senator Flakoll made a Do Pass as Amended motion.

Senator Marcellais: Second

Senator Luick: At what point do you add the study? Or do you want to do that?

Senator Flakoll: I will withdraw my motion.

Senator Marcellais: I will withdraw my second.

Senator Luick: I would propose the wording "The Legislative Management shall consider studying the best practice related to the issue of bullying".

Senator Flakoll: That could be put in at the end of HB 1465 so while they are working on the model policy, they can be doing a study on it.

There was discussion about whether they would put "may study" or "shall study" or whether there was still time to put in a study resolution.

Senator Luick: I don't want to take the chance of killing the bill. I would rather leave it as it is and take a gamble that we would get something through.

Senator Flakoll made a Do Pass as Amended with the Marcellais amendments.

Senator Marcellais: Second

Roll Call Vote: 6-1-0

Carrier: Senator Marcellais

2011 SENATE STANDING COMMITTEE MINUTES

Senate Education Committee
Missouri River Room, State Capitol

HB 1465 Committee Work
March 9, 2011
15172

☐ Conference Committee

Committee Clerk Signature



Minutes:

No attached testimony.

Senator Schaible had discussed the proposed amendment change with the school board association. The addition of at school bus stops causes legal problems. If it is on school property they can monitor but if it is not they have a problem with it being outside their jurisdiction or control. The only thing that satisfied them is if "on school property" is added behind "at school bus stop". Seems redundant, but that was their concern with the amendment.

Chairman Freborg: We would have to reconsider our actions on the bill to do anything. It was passed out as amended; the motion would be to reconsider our actions by which we passed out HB 1465. **Senator Schaible** moved to reconsider HB 1465 as amended; second by **Senator Heckaman**. **Senator Schaible:** As a concern of what was discussed, adding to the amendment "on school property" behind "at school bus stop".

Senator Heckaman: Maybe we can get by without those statements even in the amendment; if your school bus stops on school property it is already covered under the bullying sections of the bill. Since Senator Marcellais brought the amendments forward, she would look for his direction on that. **Chairman Freborg:** Line 19 says on school district premises, so anything that happens on school property they have control of.

Senator Schaible: That was what they discussed; by just adding "on school property" seemed to be explained in other sections. The concern was at school bus stops that are not on school property which is outside their scope of control. Don't know what the correct answer is but as written would cause them concern. **Chairman Freborg:** We can discuss the merits of what's in there; just needed a reason for reconsideration. Once we get the bill back, Senator Marcellais? **Senator Marcellais:** Doesn't have a problem with it on school property. Motion carried 5-0-2 (Senators Flakoll & Luick absent).

Chairman Freborg: Don't forget we are not only dealing with the bill but the amendment. **Senator Schiabile:** Pertaining to the amendment—if left as is, suggests adding "on school property"; if not take out "at school bus stops". If school property it is already covered elsewhere in the bill. **Senator Heckaman:** Suggests deleting those three references to "at a school bus stop" right now. Covered elsewhere; in two years if it is a real issue that schools bring forward it can be added at that time. Policies probably won't be developed by the 2011-2012 school year anyhow. **Chairman Freborg:** Wondering—as long as the kids

are on the school bus they have authority, but if they are standing at a school bus stop he doesn't think they have any authority over those children until they board the bus. As soon as they get off, they are out of the school's hands.

Senator Gary Lee: Do remember the Attorney General saying that it was important to put in there because he included it in his testimony and it wasn't in the bill. He asked Attorney General and he said it was important to put in there; not sure why. He did indicate it should be in there. **Chairman Freborg:** Can't imagine they have authority over those children that are . . . sometimes they have a shelter at a school bus stop—do they have control over them? **Senator Gary Lee:** Thinks it clouds the issue, but-- **Senator Marcellais:** The reason he put it in is because of the testimony of the Attorney General. **Chairman Freborg:** Think it makes it real cloudy, and probably not very acceptable to some schools, maybe all schools. The North Dakota School Boards Association is wild about it when we adopted with that language.

Senator Heckaman: We could always remove it and the two bullying bills will probably go to Conference Committee anyway. Maybe at that time the Attorney General could give more information why that is necessary. Right now, as long as we know it will be reconciled later in the session it could be removed.

Senator Schaible: Would like to add that the North Dakota School Boards Association said they could accept the amendments that we added to this bill, and then kill it. Then no conference committee and that is a concern because the things that they have a problem with would not be addressed. That was the reason he suggested bringing this back; this is basically the same thing but this has issues and if they accept what we send over and reject the other bill then there is no conference committee and no way to work on these issues. **Chairman Freborg:** Did they say this was the only portion of these amendments they were opposed to? Understood they were opposed to all of them, but the bus stop was the big one. **Senator Schaible:** There were three big ones and the others were the seven person committee to assign the information for the policy; says **shall** which means they must be on the committee. This is a big problem because smaller school districts would have trouble finding those people to be able to attend meetings and write the policy. Not that schools wouldn't want input from them; it is requiring them to be involved in writing the policy that gave the school board association concern. The other one is for Section 2 page 2 (read from bill) implies that if a kid sends a derogatory statement from an e-mail or phone from home to a person at school. The way it is written, that would be part of the policy but no way to control that. **Chairman Freborg:** Are you talking about the student at home sending? **Senator Schaible:** Any person; if they were at home or off site but sent it to the school, this would entail. "Received bullying" was the word.

Chairman Freborg: Senator Schaible would you like to sit down with Council and see if you can straighten this out? Bring each item as a separate amendment so we can vote separately and it might save a lot of time. Everyone seems to agree about the school bus stop, but not sure about the rest of it. **Senator Schaible:** Will do that.


2011 SENATE STANDING COMMITTEE MINUTES

Senate Education Committee
Missouri River Room, State Capitol

Committee Work on HB 1465
March 14, 2011
15412

☐ Conference Committee

Committee Clerk Signature



Minutes:

See attached proposed amendments.

Chairman Freborg had requested that **Senator Schaible** get with Legislative Council to go over proposed amendments to the HB 1465 (bullying bill), and to present each one separately to vote on. He will give **Bev Nielson, North Dakota School Boards Association** a chance to explain their position on the bill, review the proposed amendments, and to answer questions. **Senator Flakoll** requested that the **Attorney General, Wayne Stenehjem**, be invited to address the committee to review the proposed amendments and also address questions regarding the bill.

Senator Schaible: (#1 attachment) proposed amendment 11.8212.02004 to replace on page 1, line 9 "conduct that occurs" with "conduct that is generated by a student"; page 1 line 17 replace "or" with "and"; remove lines 18-24; and page 2 replace lines 1-3 with "does not include assault, criminal coercion, criminal defamation, harassment, hazing, menacing, simple assault, stalking, terrorizing, or any other action that constitutes a crime under title 12.1". Page 2, line 4 replaces "includes" with "may involve". Biggest controversy, as suggested by Anita Thomas, Legal Council office, so much of what was being discussed is already in criminal code and is against the law—stalking, harassing; when they came to a definition of what bullying is, it was to separate between the two. Where bullying occurred and what was not already covered in criminal code or by law would be what is classified as bullying. The opinion seems to be that if it was in a law of some other version, it should be addressed that way; when it comes to bullying it should be something beyond that point and something addressable. Part of the description that was added; does not include assault, etc.

Senator Flakoll: with the change to line 9 "conduct that is generated by a student" does that mean that administrators and teachers can bully? **Senator Schaible:** No, guess the question is if somebody gets a question that you are bullying my student when actually it is harassment, which is covered in criminal code. Bullying would be everything else that is wrong that is not in criminal code. **Senator Flakoll:** If you change it from "conduct that occurs" with "conduct that is generated by a student", then it provides that teachers and administrators can do the same thing that is considered bullying by a student. **Senator Schaible:** Logic that the amendment was trying to have is conduct that was coming from outside the school; texting from somewhere else or coming from a home computer to somebody at the school. Staff to staff wasn't really addressed because they figure there

are better places to address that; staff to student should be addressed. Understand your question and don't know if this addresses that.

Senator Gary Lee: On page 2, lines 1-3 as the amendment indicates—would we be better off to just add bullying to that list of criminal activities and leave it at that rather than define a whole other section for one particular act? **Senator Schaible:** The only thing is that he doesn't disagree but these other acts are criminal and already in statute. The problem comes when you do something that is wrong, isolate another student or do things that aren't really criminal—the problem is what is bullying? That is part of the big question and if nothing is defined how you write a policy to prevent it. **Senator Gary Lee:** Seems to him that these acts noted for page 2 probably have definitions that probably aren't too far off from what we are trying to describe here. Not sure what we are trying to satisfy with this bullying definition when a lot of this stuff is already here. **Senator Schaible:** You are exactly right; the problem with bullying is—that is what it is—there is overlap between what is criminal, what is terrorizing, what is harassment. Those things are already addressed in law. That is the concern; if these are addressed in law they should be handled by law. That is the isolation of the problem with bullying, now we are trying to define—it is criminal or are we trying to address the things that are bullying that are not in law. If in law it would be covered and should already be addressed that the problem is being taken care and being referred to the right people. Concern is that there is so much overlap between what is criminal and what is bullying already that it is hard to separate and problematic to address in policy.

Senator Heckaman: Addressing Senator Flakoll's question regarding immunity for the school. Would line 18 B be where the school be involved with the staff "conduct that is received by a student"? **Senator Flakoll:** He is not talking about the receiver, but talking about who initiates the bullying. **Senator Heckaman:** Right, but to her part B that could have staff doing the bullying too. **Senator Flakoll:** Thinks if those amendments are adopted it limits the scope under Section, subsection 1 to those only generated by a student. Do we have the bill before us? Was there a vote to reconsider? **Chairman Freborg:** Yes, we have.

Senator Gary Lee: It seems that schools have policy and procedure that outlines what are appropriate and inappropriate behaviors. If they are reported and come to the level of activity where law enforcement or legal people should be involved because there is a question of whether criminal or not—it seems like we are taking care of a good share of what we are trying to describe as an act of bullying. Think we are circling the bases here more often than need to. **Senator Schaible:** That is the problem we have when we try to make something so written into law or policy that you have trouble. If it is so specific in writing, when you come to a situation, to protect staff and others, you are documenting and recording to death and also worried about immunity that you are regulating it down. Most of the staff is trained to watch the grounds, to teach the kids, not to be officials on this issue of what is law and what is bullying, and recognize and refer to the right place. When we get so specific on how to do it, that is where problems of not being a functional law or policy.

Chairman Freborg: Do you wish to move this amendment, or look at all first? **Senator Schaible:** Prefer to look at them all; self related. This is the priority he would have but could look at them all.

11.8212.02005 (#2 attachment) would provide an expiration date of June 30, 2013. Logic is, like this we have had up to four lawyers look at this bill and the changes and everyone seems to have a problem with something on it. Guess that is an expiration date will make sure it is reviewed; talked about a study before and that isn't in here, but that is a logical progression.

Senator Flakoll: He is aware of two lawyers that looked at it, including the Attorney General; who else has looked at it? **Senator Schaible:** Anita Thomas and Gary Thune, legal counsel for North Dakota School Boards Association. From their discussions understand that others have also looked at it. Not going to speak for the Attorney General and his opinion but there is certainly a different scope of law and what you are dealing with and how they view things.

11.8212.02006 (#3 attachment) removes lines 21-29 on page 2 and replaces lines 1-6 on page 3 with b – g as listed. This is language regarding the writing of policy and how to record and retain documentation. Does not set a certain punishment for every type of incident; this gives them the right to determine what is best for their own school without trying to isolate and write down every case of what happens, what is bullying and what is not.

11.8212.02007 (#4 attachment) changes who people are that write the policy. Changes from "shall involve" to "may seek suggestions and comments from" on line 7 and on line 10 after "representatives" insert "and other interested parties". The current language seems to state that these people will be making the policy. This suggests seeking aid and information from these people and anybody else the school board would feel pertinent to writing the policy that they will have to write. Public forum or some type of thing to gain information on how to develop this committee to write the policy but can just seek suggestions and comments from them. Not transferring the power of writing the policy to that committee or to these people.

Senator Flakoll: That means they may "not" seek input also; can do it without seeking input as the language would read in this proposal? **Senator Schaible:** The true nature of school boards or anybody else—think they would want to gain as much information if they are serious about writing a policy and doing it. There are a lot of small school districts that sometimes have a hard time finding law enforcement or rape crisis teams that would come there. Almost impossible to find them in certain situations; thinks delegating the team that is going to be there what to do is also timing and the ownership that is being transferred to those people by putting in that language. We are putting a lot of faith in the school board, but they are the people that are elected to make that decision and do that. **Senator Flakoll:** Just a comment that they are also the same people that have, too often, sat on the sidelines and not done anything about this. If they would have been doing everything that they probably could (and some of them have) then we probably wouldn't even have this bill before us. **Senator Schaible:** Totally agree with you; if school boards, principals, superintendents would do a good job of writing policy and absolutely following their own policies, we wouldn't have a lot of these things. But we do have it in front of us and he is just not trying to hinder the process. Could also over regulate it so that the process would be impossible to use and implement.

11.8212.02008 (#5 attachment) tells the amount of times to do these things (page 3 line 12) adds to review the policy on an annual timeline. Otherwise doesn't tell how often to do it, and does it go on forever or what.

11.8212.02011 (#6 attachment) is basically a hog house of the bill with these proposed amendments. This takes out the school bus stops off school grounds and the rest of Senator Marcellais' amendment staying in place.

Bev Nielson, North Dakota School Boards Association shared information from their organization. The school board association lawyers (full-time school law) looked at the bill as they are in court defending school boards all the time, and they know the places that school boards could be the most vulnerable. That is what prompted their presentation during the bill hearing. The amendments before you—would like to prioritize which are the most important to them.

.02004 amendment—five lines down where it says page 1 to remove lines 18-24. That is the language about receiving; if there is bullying conduct on school property, etc. then we assume that there are two parties involved and it is occurring. When they first read "received" thought there is the bully and the one being bullied so there is a giver and receiver. In looking at it more closely, cyber bullying came to mind, and this is where the problem lies jurisdictionally. If a student is at home at night on their own computer and generate something on Facebook, or e-mail, etc. and the next day the other student receives it at school—the school has no jurisdiction over what that student does at home on their own computer. Free speech issues and everything else; like any other conduct. The schools can only control and investigate those things that happen on school property or during school events and so forth. They are not law enforcement, can't confiscate the student's home computer, don't have jurisdiction over what happens off campus. That was a concern to them that they not be required to put into policy something over which they have no legal jurisdiction. Immediately they would be out of compliance with the policy. Think it is sufficient to say conduct that occurs in a public school, on school premises, etc. All of those things that are in 1, subsection A. Think B is problematic for cyber bullying purposes. That is their top priority.

.02007 amendment addresses the makeup of the policy committee members; not trying to say that they want to do these things in a vacuum. Had this objection from the very beginning about putting it in statute that the policy has to be developed in consult with . . . and then listing specific groups, including an advocacy group. Two reasons for this: the school board needs to start with something; this is going to be a very complicated difficult to craft policy because for them writing policy is the same as legislators writing a bill. Every word in it has a meaning and they have to abide by every word written in it. The association intends to, policy services director in consultation with attorneys, will draft a model policy that meets the statute and protects the boards so they can accomplish the purpose. Their attorneys will review that policy and it will be sent to every school district in the state. When you also have in code that they are going to develop their policy with all of these other people, it is counterproductive for the North Dakota School Boards Association to have modeled the policy, had it legally reviewed, and mail it to them. If they meet with all of these people and one advocacy group wants to have protected classes or something,

and if the boards make changes to that policy they've sent out, they can't guarantee that it meets the legal muster then. The school boards would have to pay to have it independently legally reviewed and a lot of them won't. Part of their job is to protect the school boards; not trying to leave the community out. If the committee is not comfortable saying "may include"; if you say "may" you are also saying "may not" and can understand where Senator Flakoll is coming from. Perhaps a compromise to that might be requiring all school boards, before adopting a bullying policy, to hold a public forum specifically on that issue to explain the problem, to discuss the policy they are considering, and to get input. In the end you will either have a model policy that is reviewed by legal counsel or a policy by committee—but very difficult to have both. North Dakota School Boards Association would prefer the public forum route where they could go through issues and get input.

.2006 amendment—in the bill where it lists out what has to be in the policy, there was concern that in wording in E and F (particularly) in the engrossed bill where it says (E) "sets forth the disciplinary measures" and then says the same thing for retaliation; one is for the bully and one is for retaliation. They believe that wording it this way authorizing the imposition of discipline allows the boards to develop a spectrum of disciplinary measures. Don't want to be required by law or current language in the bill that they have to set out in policy saying exactly what the "mandatory sentencing" will be. Want to be able to have everybody in the school understand that there is a spectrum or continuum of disciplinary action and they need to have the flexibility, and the administrators need to be able to use their discretion taking into account the totality of the circumstance of the event. They believe just authorizing the imposition of disciplinary measures that the school can then have a spectrum in policy and/or more defined things in what they call administrative regulations.

The reason for all concerns brought forward is that they appreciate and need the immunity protection that is provided in this bill, but it does require substantial compliance with their policy. In summary, the first issue they find is with how bullying is "received"; second issue is with the committee makeup for developing the policy; third issue is the list of things that have to be in the policy, the wording for discipline measures—matrix of mandatory types of punishment.

Senator Luick: Is a circumstance such as an individual sends an e-mail from home to an individual at school (received at school) you feel they cannot be held accountable for that, correct? What would happen if the person were to physically write out something and bring to school, hand to somebody—would that be handled the same way? **Bev Nielson:** If someone writes something out and hand to the student at school, it has occurred at school. If they are on school property and hand to the person at school, it has now occurred at school. **Senator Luick:** What happens if it is laid on their desk; what is the difference if it is in writing or electronic. The intent is the same? **Bev Nielson:** You are getting at the heart of the matter—why this is not as easy as it may seem. You could ask the Supreme Court; these court cases are coming up time and again, not getting a real clear message. Primarily it is a free speech issue. They have some control over what happens in school; kids don't have the same rights in school that they have at home or in neighborhood. When talking about Facebook or social media, these are now hitting the courts. She recalls that if it is something so severe and so disruptive to the person that received it, then there

could be discipline for that kind of free speech. But going to see more and more, and they are afraid not to create the issues, so don't have authority to see if it originated on their home computer. Can probably tell if it was done at school; time would tell one thing. If the middle of the night, know they are doing it off campus. Then have the issue of trying to enforce rules for off campus behavior and it is problematic. Think that conduct that occurs on school property, or all those things listed in 1A will just about keep their hands full with what they are trying to do.

Senator Luick: That is the point he's trying to get to; if someone types it out and sends it, they seem to be clear. If they write it out in school that is a bullying issue—if it happens in school. If brought from home, then not a bullying issue. The kid could just say they wrote it at home, and does that take it off campus? This can get very confusing! **Bev Nielson:** Very confusing and the cyber bullying makes it extremely confusing. Their only thing is if they try to enforce something a kid did at home, then those parents are going to sue the schools. If the kid who got it at school but it originated at home, then the one who got it is going to sue. Complying in this, assuming they COULD have any jurisdiction over what the child does at home on their computer (don't think they clearly do), puts them in a pickle and need some discretion on these things. Believes putting a separate section in for received when you take into account cyber bullying is going to be problematic.

Senator Gary Lee: The .02004 version of the amendments has words like harassment, hazing, menacing. . . do school boards have policies for those? **Bev Nielson:** They have harassment policies, not trying to be evasive—but what is the difference between menacing, hazing and those types of things—they are so similar that you can't really tell the difference. This particular part on the crimes was something that Anita Thomas had suggested because in one part of the bill it says "an administrator *must* contact law enforcement if they *reasonably* think that a crime *might have been* committed. This is where they run into a problem—at what point does bullying become harassment, menacing, stalking, hazing, etc. Had a concern about being required to report to law enforcement if they think maybe a crime might have been committed. Thinks what will happen is that they will just call the police all the time. The others are crimes; bullying is not a crime, the bill is just asking them to prevent it. Anita thought that by putting this language in it would somehow work; may be the point where she took the reporting to law enforcement out. They are educators—thinks even attorneys and judges have difficulty distinguishing between menacing, harassment, hazing. So gray in all those areas; some are crimes and bullying isn't. If you made bullying a crime and defined what it is they could just call the police.

Senator Flakoll: If law enforcement were concerned about over reporting, how come they didn't testify against it? **Bev Nielson:** Don't think it is even on law enforcements radar; bullying is not a crime. **Senator Flakoll:** You said there was worry about that so guessing they must know about it. Otherwise you wouldn't state something on their behalf? **Bev Nielson:** She wasn't speaking on behalf of law enforcement; she was speaking on behalf of administrators who are going to just call law enforcement if they are not sure that "reasonably something might have been" menacing instead of bullying. Don't know if that is what we want, but if it is going to be a case where it is so close to menacing and so forth, maybe it does need to be a crime and law enforcement involved.

Senator Flakoll: Do schools provide any kind of disciplinary things related to drinking off campus, if someone plagiarizes at home and turns in that homework? **Bev Nielson:** If it was related to an assignment that they cheated on, would imagine that was related to their school assignment they would reject the assignment. As far as drinking off campus, normally what happens with drinking and smoking it is a NDHSAA rule and they are disciplined because of that. They sign an agreement with the NDHSAA and know what the punishment is; it is voluntary to participate in those activities.

Senator Flakoll: How many bullying suits have been taken to court in the past year? **Bev Nielson:** The one she knows of is the Fargo one; settled out of court and cost a ton of money. Have a couple being investigated by Office of Civil Rights; and North Dakota Insurance Reserve Fund does not pay attorney fees for investigations. The office of civil rights; they wouldn't kick in until and if there was a court case, so a lot of billable hours being billed by Pearce & Durick right now for OCR investigations having to do with bullying.

Senator Flakoll: In the .02007 amendments you said that this was deemed a problem from the very beginning; what is the definition of very beginning. Was it 9-12 months ago when the committee worked on it? Was it from the very beginning when the house had the bill? Was it the very beginning when the Senate had the bill? Or was it the very beginning when your organization in your testimony read the bill after it passed the House? **Bev Nielson:** You have a lot of options there; can it can tell you it wasn't 10-12 months ago

when Alyssa started attending the meetings at the Attorney General office to start writing these. From the very beginning—from those meetings—when they started talking about committee being involved they expressed not being comfortable with it, specifically an advocacy group being named as one of them (a specific advocacy group) that has a place in code being named as one of the parties that has to be involved. This means if they couldn't get one of those or couldn't coordinate a time where all these people could get together, they would not be in compliance. **Senator Flakoll:** According to the Attorney General if you involve them they don't have to be at the table, they can send a letter or something else; that would be deemed in compliance with the bill as it is before the committee. If this were to go and be questioned, would we not go to the Attorney General for an Attorney General opinion? Isn't the chief law enforcement office of the state the one who decides the intent of it, and since he was involved in drafting it wouldn't we be fairly clear on this matter? **Bev Nielson:** If they have a formal Attorney General opinion at this point right now that all it means is that they have to send these people a letter and say they are going to have a meeting on Tuesday at 5 p.m., then guess it is okay. But it says "in developing the bullying policy required by this section a school district shall involve" so guess it is up to interpretation of somebody who belongs to those groups, and there is an incident they are concerned about being in compliance. If they have a formal opinion right at this time that just sending them a letter saying a meeting is going to be held on this at a certain time, it probably isn't as much of an issue. **Senator Flakoll:** Were you at the entire Senate hearing on the bill? **Bev Nielson:** No

Wayne Stenehjem, North Dakota Attorney General was asked to come to the podium to respond. Would like to explain the process that they followed in adopting the legislation that is in front of the committee today. As the issue developed and became of statewide concern, he thought it would be a good idea to assemble a number of interested individuals who might have some input, thoughts, expertise that they could bring to a group that could assemble a bill that would be the kind of "show" we are seeing here today. Called up Jon

Martinson, North Dakota School Boards Association, North Dakota Education Association, DPI, domestic violence programs in the state, the Attorney General office, the Governor's office and asked all to sit down and go through all the issues and see if they could come up with a bill that represents a *consensus* among the group of what should be done. Each of those individuals selected the person who was going to come and serve on the committee. The committee met about four times and developed the bill that was recommended for introduction; they took a great deal of time to look at court cases, to visit with people who are out in the field dealing with the issue of bullying, talked to law enforcement and as the bill progressed they said to take this bill BACK to your constituent group and make sure they are comfortable with it so you can come back to the group and they can try to work out a bill that is a consensus. That is what happened; number of discussions as that was the purpose of having everyone meet. At the end—the last meeting he went around the table and Alyssa Martin was there representing the North Dakota School Boards Association (#7 attachment); he asked if the bill was a consensus—do we all agree that this is a bill suitable for introduction into the legislature and the answer from every person was YES. That is how HB 1465 was introduced and he didn't learn until the bill came to the Senate for the hearing that one of the groups decided that they were not going to abide by the agreement that was reached, and was instead going to seek amendments of their own. They did not discuss them with the task force and did not even give advance notice to the sponsors of the bill. Was a little embarrassed because this bill was the consensus of the group, only to find out after testimony that it wasn't the case. A little unhappy that this happened; that was not the proper way to handle it. Think this is a good bill and that it is sometimes possible to over-lawyer; to worry about things that are not legitimate and realistic concerns. School boards deal with these kinds of policy decisions all the time. They are looking at too many "what ifs"; school boards and school officials are already in a position where they occasionally have to notify law enforcement because something has happened on the school grounds. They know there is a continuum of conduct that students are involved in that range from teasing to bullying to criminal activity. Most school districts already have policies like this; not completely foreign to anyone in North Dakota.

Hasn't seen the amendments that were produced until just this minute so can't really comment on them. Can remind you that considerable legal research went into the definition of what is bullying, when is it permissible for school districts to get involved in bullying activities that occurred on or off the school grounds or school events, and the definition in the bill is the best that they have from Supreme Court jurisprudence and other courts to make that definition of when is permissible for a school to step in and deal with a bullying type issue at a school. They relied heavily on other states because most of the other states have a bullying policy; a lot of what is in here was borrowed from workable working legislation in other states. Will go through (with more time) the specific provisions that are in the bill, if you are thinking about adopting any of them, he would take the time to do that but he thinks the fair thing to do would be for him to go back to the group that helped work on the bill so he can make sure they are comfortable with changes, at least to the extent that he is able to speak for them.

Senator Heckaman: She has served on a number of committees addressing discipline policies in schools and bringing policies forward for boards to adopt. She doesn't see anything in any of the bills that address behavior plans for children—those that are on behavior plans (IEP) and not saying there has to be—but was that considered at all?

Wayne Stenehjelm: Yes, it was considered because every situation is unique; there are other requirements that come up, certainly IEP's are provided under other provisions of the law. That is why it is difficult to come up with a bright line test of what's good natured teasing among friends, what is bullying, and what is criminal activity. Simply a matter of judgment that school boards have to deal with, they are elected to do that very thing—and it is tough (being in the legislature is tough too). You have to make decisions and trust it will work out, and assume they are going to adopt policies that work for the students that they are there to serve—and to keep a safe environment. There is nothing unreasonable in here.

Senator Heckaman: That is her point exactly—never going to be able to write into law everything that we need. That is why we have the people—administrators and staff at school involved because there are students she can think of right now whose behavior could be the same but their consequences are going to be different because of the difference in their behavior plans at school. Never going to be able to write this the way everybody needs it but think school administrators and school boards need a little bit of credit here for going ahead and implementing a policy in this nature because it is going to be very difficult. Think it is going to be—like the previous person discussed—difficult to address every issue. **Wayne Stenehjelm:** He agrees; most school districts already have a bullying policy. This is for those that haven't taken that step and done it. Really is a bill that provides a great deal of assistance to that and proposes the possibility of a model policy if they need something like that if not sure of how to do it. Thinking specifically of the smaller school districts will want that kind of assistance. The committee decided that it was important to at least seek the involvement of the groups listed in the bill though it doesn't list a committee that must be specifically appointed. Just to make sure that you think about these things in your policy; need to think about involving these people as you go through adopting of their policies so that everybody has an opportunity to participate and come up with the best plan. School boards, too, aren't like the North Dakota legislature—they are there all the time and don't meet just every other year. If they need to tweak or change their policy, they have ample opportunity to do that.

Senator Flakoll: In the .02007 amendment (don't expect you to know what is in it since you've just received it), does every person have to be at the table to develop the policy; are there other means of gaining information from them that is the intent of the committee you had formed to develop the bill? Questions came up about getting law enforcement there, someone from Rape Abuse Crisis Center for meetings. What is your opinion on that?

Wayne Stenehjelm: Thinks it is fair to say that the group decided not to put in a specific provision that says "here's your committee and here is the list of people that must be on the committee to properly/formally adopt this policy". The reason for that is just what you said—these are people that logically ought to be involved in coming up with the policy, but there are some areas of the state that may not be served by an adult abuse crisis center. If they don't, we're not going to say their whole policy is meaningless; don't think that is a good legal claim. Certainly not going to say that the policy they adopted as a result is faulty.

Senator Heckaman: Would it hurt the bill at all if #3 is taken out of there completely—who has to be in there? **Wayne Stenehjelm:** You are talking about who should be involved? Truly think it would; think it is useful to have that information in there. Who to contact—no

one on there that he feels is unreasonable, that ought not to be involved. **Senator Heckaman:** Her point is that schools would probably involve most of those anyway, on a normal basis, without having had them delineated in law. **Wayne Stenehjem:** That is certainly possible; thinks one or two of those were added later by the committee. Just hadn't thought of certain ones at first; thinks they added law enforcement later on. They weren't initially in and then thought that they should be there so they can give input. (Just one example)

Senator Luick: If, on line 10, for example—after the word representatives if the words “as needed” were added it would give the school districts a little bit of leniency and also give them the power to bring in whoever is actually needed for a specific case. **Wayne Stenehjem:** He thinks the bill as introduced does kind of cover all that, but school boards are elected too and he thinks they like to have involvement from people who are interested. If he were on the school board and were doing this, he would have a public hearing or two for people to come in and comment. That is part of the process; thinks what is important is that everybody know there is going to be a policy—and letting students know there is going to be a policy and what is going to be in it.

Senator Flakoll: They need to have this in place before July 1, 2012; also have been asked to consider sun setting it on June 30, 2013. Do you have any comments related to that? **Wayne Stenehjem:** Just a reminder that this wasn't in the original bill and not a part of the discussion of the task force, though certainly could have been brought to their attention. If the concerns are that this has turned into such a horrible disaster over the next two years, you will be here and can tweak or repeal this legislation in 2013, so doesn't feel it needs a sunset clause.

Senator Flakoll: There has been a fair amount of discussion; if you could add your thoughts regarding page 1, starting with line 18 and thereafter basically taking all that language out of there about conduct that received by district because of cyber bullying issues, the student doesn't open it up til they get to school, those types of things. What, in your estimation, would happen if subsection B on page 1 was removed? **Wayne Stenehjem:** It would considerably weaken the bill. Tried to draft this legislation after reviewing relevant court cases to assure that they were not going further than permitted to go in regulating activities that students are engaged in. Cyber bullying is a new and serious issue; how far that reach goes is something that is very difficult to ascertain and courts are continuing to struggle. And they will continue to struggle with just that very topic. This is the best legal conclusion that he can give with the status of the law right now. **Senator Flakoll:** Cyber bullying is kind of what “got us to the dance” on the bill, for the most part. Subsection B—unfair question, but will ask—do you remember where the references might be if it was from a specific state or states, or from Supreme Court decisions, anything of that nature you could share off the top of your head? It could be a hodgepodge of all of those. **Wayne Stenehjem:** He could get that information together in a concise manner, and more than just trying to remember off the top of his head.

Senator Heckaman: The schools, through technology grants and federal funds, block social networks and block different kinds of access that students have to these places. Just don't know what your thoughts are on that when developing this and worked on this section. Is there any thought to what the schools need to block on computers that receive

state or federal funding? **Wayne Stenehjem:** No, this isn't designed to address how schools block or what they might do. Conduct that is conducted that meets the definition in this statute, regardless of how effective or not the school's blocking policy might be, would be covered by the policy.

Senator Luick: Amendment .02008 adds the word "annually" on page 3 line 12; no reason that couldn't be thrown in there could it? Just to bring it to the students' attention annually.

Wayne Stenehjem: Guess that would be up to the discretion of the committee; having brought this as a consensus from his committee, he is reluctant to agree to anything on behalf of everybody—but the bill is in your jurisdiction and you can do what you wish.

Appreciate the committee's attention to this; really is an important issue and important bill. Thinks it would be very unfortunate that this legislature adjourn without passing a bill like 1465.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Education Committee
Missouri River Room, State Capitol

Committee Work on HB 1465
March 15, 2011
15455

☐ Conference Committee

Committee Clerk Signature



Minutes:

See attachments

Chairman Freborg: We talked about that (school bus stops) once; not sure they have any jurisdiction at that particular stop. In order to do that we would have to reconsider our action on that amendment to get it before us. We adopted that on a vote of 6-1-0.

Senator Flakoll: Either way we are (maybe) dividing up the amendments, so could we further amend. **Chairman Freborg:** Think we could but we first need to get this before us before we could act on any part of it. (clerk—did vote to reconsider the bill with the amendments on it). Guess it is before us because it is a part of the bill. **Senator Flakoll:** do you have amendments that you think we should act on before discussing this. **Senator Flakoll:** No, just was trying to figure out how this would work if we were to do it. **Chairman Freborg:** We will have to further amend and remove that language; is this the only amendment adopted? That is all I show (clerk—yes).

Senator Gary Lee: You are indicating that the school bus stop should come off? Is that what you would like to see reconsidered? **Chairman Freborg:** Not necessarily opposed to it, just don't believe we can be enforcing anything that took place at a school bus stop.

Senator Heckaman: Would it do any good to put at a school bus stop on school grounds?

Chairman Freborg: Well, school grounds are included in here; if the school bus stop is on school grounds they are covered. Anything that happens on school property (he thinks) is covered in the bill.

Senator Gary Lee: If these amendments are withdrawn then it would be back to the version we had when we received it, correct? **Chairman Freborg:** It would be; personally thinks that is the way it should be passed over—just exactly like it came over and not go to a conference committee. But that is up to the rest of you.

Senator Gary Lee: Move to reconsider actions in which the amendments 11.8212.02001 were passed and adopted and remove them; second by Senator Luick. Motion carried 7-0-0 (Vote 2A).

Senator Flakoll: Move a Do Pass to Engrossed HB 1465; second by **Senator Gary Lee**. **Chairman Freborg:** Okay—everyone understands that the amendment is off the bill.

Senator Luick: Just wondering if it is worthwhile to insert "annually" where .02008 indicated or if that is necessary. If a change like that is made does it have to go to Conference Committee? **Chairman Freborg:** Not if they accept the change but you are running the risk. **Senator Luick:** Then the safe thing would be to do wait and not do anything to it. Just threw it out there in case there is a need for it. If not that big of a deal then won't worry about it.

Senator Flakoll: Just a comment on one thing; really it is going to start as an annual thing because they don't have to have it in place until 2012 so that gives us next session to look at adding that if we feel the need to put it on next session. In listening to the Attorney General conversation yesterday and others, that they know this needs to be on a regular basis.

Motion carried; 7-0-0 (Vote 2B) **Senator Marcellais** will carry the bill.

March 4, 2011

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1465

Page 1, line 9, after "premises" insert ", at a school bus stop"

Page 1, line 19, after "premises" insert ", at a school bus stop"

Page 2, line 9, after "premises" insert ", at a school bus stop"

Page 3, line 11, after "4." insert "The superintendent of public instruction shall develop a model policy based on the requirements of this section and shall make the policy available to each school district."

5."

Page 3, replace lines 12 through 14 with:

- "a. Provide copies of the policy to all employees;
- b. Provide age-appropriate versions of the policy to all students;
- c. Ensure that the policy is explained to and discussed with students in age-appropriate terms;
- d. Notify each student's parent that the policy is available in electronic form on the school district's website and in printed form upon request;
- e. File a copy of the policy with the superintendent of public instruction; and
- f. Include the policy in student and personnel handbooks."

Page 3, line 15, replace "5." with "6."

Renumber accordingly

2

Date: 3/8/11
Roll Call Vote # 1A

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1465

Senate Education Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 11. 8212. 02001

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Sen. Marcellais Seconded By Sen. Heckaman

Senators	Yes	No	Senators	Yes	No
Chairman Layton Freborg	X		Senator Joan Heckaman	X	
Vice Chair Donald Schaible	X		Senator Richard Marcellais	X	
Senator Tim Flakoll	X				
Senator Gary A. Lee	X				
Senator Larry Luick	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 3/8/11
Roll Call Vote # 13

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1465

Senate Education Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Sen. Flakoll Seconded By Sen. Marcellais

Senators	Yes	No	Senators	Yes	No
Chairman Layton Freborg	X		Senator Joan Heckaman	X	
Vice Chair Donald Schaible	X		Senator Richard Marcellais	X	
Senator Tim Flakoll	X				
Senator Gary A. Lee		X			
Senator Larry Luick	X				

Total (Yes) 6 No 1

Absent 0

Floor Assignment Sen. Marcellais

If the vote is on an amendment, briefly indicate intent:

Date: 3/9/11
Roll Call Vote # 1A

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1465

Senate Education Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☒ Reconsider

Motion Made By Sen. Schaible Seconded By Sen. Heckaman

[illegible]

Total (Yes) 5 No 0

Absent 2

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

Date: 3/15/11
Roll Call Vote # 2A

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1465

Senate Education Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 11. 8212.02001

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☒ Reconsider amendments

Motion Made By Sen G. Lee Seconded By Sen Luick

Senators	Yes	No	Senators	Yes	No
Chairman Layton Freborg	X		Senator Joan Heckaman	X	
Vice Chair Donald Schaible	X		Senator Richard Marcellais	X	
Senator Tim Flakoll	X				
Senator Gary A. Lee	X				
Senator Larry Luick	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

*remove the amendment titled
11. 8212.62001 that was previously
passed out.*

Date: 3/15/11
Roll Call Vote # 20

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1465

Senate Education Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Sen. Flakoll Seconded By Sen. Gary Lee

Senators	Yes	No	Senators	Yes	No
Chairman Layton Freborg	X		Senator Joan Heckaman	X	
Vice Chair Donald Schaible	X		Senator Richard Marcellais	X	
Senator Tim Flakoll	X				
Senator Gary A. Lee	X				
Senator Larry Luick	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen Marcellais

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1465, as engrossed: Education Committee (Sen. Freborg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1465 was placed on the Sixth order on the calendar.

Page 1, line 9, after "premises" insert ", at a school bus stop"

Page 1, line 19, after "premises" insert ", at a school bus stop"

Page 2, line 9, after "premises" insert ", at a school bus stop"

Page 3, line 11, after "4." insert "The superintendent of public instruction shall develop a model policy based on the requirements of this section and shall make the policy available to each school district."

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- d. Notify each student's parent that the policy is available in electronic form on the school district's website and in printed form upon request;
- e. File a copy of the policy with the superintendent of public instruction; and
- f. Include the policy in student and personnel handbooks."

Page 3, line 15, replace "5." with "6."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1465, as engrossed: Education Committee (Sen. Freborg, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1465 was placed on the Fourteenth order on the calendar.

2011 TESTIMONY

HB 1465

TESTIMONY ATTACHMENT 1

HB 1465

House Education Committee January 24, 2010

Good morning Madam Chair Kelsch and members of the House Education Committee. I am Rep. Don Vigasaa and I represent District 23 in eastern North Dakota. I am here this morning to voice my support for the passage of HB 1465. On November 4, 2010, my home community of Cooperstown suffered a horrible tragedy. Sixteen year old Cassidy Joy Andel took her own life that morning. During the investigation as to why Cassidy chose to end her young life, bullying was identified as a possible contributing factor. Cassidy's parents, Lyle and Amy Andel, are not able to testify this morning. But, while visiting with them this past weekend, they wished for me to convey their support as well for HB 1465. I fully understand that passing this bill will not end bullying in our state. However, the very least that we should do is require that policies and enforcement standards be in place so that hopefully, this type of behavior can be minimized.

In Cooperstown and its surrounding area, HB 1465 is referred to as "Cassidy's Law". The passage of this legislation will bring hope that, through the sad events of early November, something positive will happen. Enacting HB 1465 will ensure that our citizens will become more aware of the seriousness of bullying and parents, students, educators, and community members will be educated on how to recognize and deal with this destructive behavior.

I urge this committee to give a DO PASS recommendation on HB 1465.

TESTIMONY ATTACHMENT 2

Madam Chair and Committee Members

I am Rep. Lyle Hanson, District 12, Part of Jamestown.

HB1147 is a simple bill that would require each school district to develop a policy to prohibit bullying in its school district.

*** The policy committee will be under local control. The committee may include school board members, administrators, teachers, students, parents or any combination of members in the community.**

*** If the school district's policy needs to be changed it can be changed by the school district's board.**

*** Not all school districts need or want the same policy.**

*** If uniform state law was passed, the law could not be changed until the next legislative session**

*** I am in support of HB 1147**

*** Thank you. Are there any questions???**

**Testimony
House Bill 1465
Education Committee
Monday, January 17, 2011; 10:30 a.m.
Office of the Governor**

Good morning Madam Chair, members of the committee. For the record, I am Kayla Effertz, Sr. Policy Advisor in the Office of the Governor. I am here on behalf of the Governor to support House Bill 1465 with the removal of the fiscal note and FTE.

This bill will allow schools to address bullying in the best way they see fit to protect students and teachers. The Governor agrees that bullying must be addressed in schools and done so on a local level with a community approach involving parents, teachers, law enforcement and other interested community members.

3 quick facts about bullying that makes the word “bully” mean something more than the big kid on the playground:

1. Children and youth who are bullied are more likely than other children to be depressed, lonely, anxious, have low self-esteem, feel unwell, and think about suicide (Limber, 2002; Olweus, 1993).
2. Research shows that bullying can be a sign of other serious antisocial or violent behavior. Children and youth who frequently bully their peers are more likely than others to get into frequent fights, be injured in a fight, vandalize or steal property, drink alcohol, smoke, be truant from school, drop out of school, and carry a weapon (Nansel et al., 2003; Olweus, 1993).
3. In surveys of third through eighth graders in 14 Massachusetts schools, nearly half who had been frequently bullied reported that the bullying had lasted six months or longer (Mullin-Rindler, 2003).

A little closer to home, the North Dakota State Student Council recently held their state meeting hosting middle and high school student leaders. A roundtable session with chapter presidents were brought together to talk about issues in their schools. They selected the topic of bullying to discuss first. These student leaders provided example after example of bullying incidents that were happening in their school hallways, online and extracurricular events that were shocking. Examples of Facebook pages that would gather 100 people in one night that were titled “don’t talk to Ali” –and sure enough not one person would talk to Ali the next day and she had no idea why. Unfortunately, when they were asked what they should do if they see bullying, they struggled. Many students from both urban and rural schools said they didn’t know the “rules” or who to go to when it was happening.

Students are looking for guidance from schools to know what to do in the event they see bullying. This bill will do that by requiring schools to have a policy and protecting teachers and students who report bullying. Thank You.

TESTIMONY ATTACHMENT 4

Robert Vallie

Executive Commissioner: Governmental Relations and Inter-Collegiate Affairs

North Dakota State University Student Government

Testimony to the House Education Committee concerning House Bill 1465

January 24, 2011

Chairman Kelsch and members of the House Education Committee:


When a person is taken from this world well before they should we do not just lose a single person, we lose a world. We lose a world of possibility, of what could be of what could have been. We lose a world of uncharted potential and unknown wonders. But we also quite literally lose a world in a real sense. With the death of a person we lose a child, a parent, grandparent, sibling, friend, classmate, community member, a good person to share life with.

Since the end of the 1990's society has seen the real effects of a national epidemic that effects every community, every day, and one that has gone on for as long as any of us can remember: The epidemic known commonly as bullying. Bullying everyday effects millions of students who are tormented by their peers and others in a wide variety of ways for a wide variety of reasons. It can be for something readily noticeable such as a physical or mental disability, or as hidden as a person's sexual preference. No matter the reason a person may be bullied or the method that may be used against a person the effects to that individual who is tormented can be serious. Whether that person was attacked in the traditional forms of bullying such as physical or verbal bullying or using the internet or other electronic means to cyberbully creates the same risk for depression and other mental health concerns. But unfortunately bullying a person does not mean you will always get the same result nor is it limited to a small parameter of effects on an individual or even limited to a certain state or states. The examples of the Columbine High School Massacre in 1999 in Colorado, the suicide in 2006 of a 13 year old Missourian Megan Meier who was bullied through the use of the social networking site MySpace, the suicide in September of 2010 of a Rutgers student Tyler Clementi after his roommate filmed him in an intimate situation with another man and the most recent suicide on November 4th 2010 in Cooperstown, ND of 16 year old Cassidy Andel all point to the same conclusion: Bullying is a serious problem across America that effects all people, in all states and if left unchecked can cause serious harm to the individuals being bullied or others. For us as students of NDSU we remember our experiences with bullying and even to this day deal with bullying on our campus and in this moment see a wonderful opportunity to help protect the next generation of students from the pain that our student body, including me have felt. We believe that passage of such a piece of legislation helps to set definitively in plain language that bullying will no longer be tolerated and gives school districts the necessary guidelines in order to combat this problem and to give students the opportunity to succeed. This law if passed also gives a great opportunity for the entire education system of North Dakota of K-12 Career and Technical Education

and Higher Education to work together to help to create the first generation of policies and programs to combat bullying in our schools and to more importantly educate students on the harms of bullying. As previously mentioned we as students of NDSU know all too well the harm that bullying does to students and is still a problem that holds true within our institution. Even for a person like me as a 21 year old Social Science Education Major attempting to serve my fellow students that I have been more times than I care to remember bullied by others on my campus. However with recent events that has taken place on the campus of Rutgers in New Jersey and in the community of Cooperstown, we as students felt that enough was enough and created the Walk the Talk Campaign. Walk the Talk is a program conceived, funded, implemented and completed by students and this program over the course of a week helped to pledge 225 students on our campus to stop from bullying individuals with the use of hurtful words or actions and to actively stop others who they see bullying. Along with these actions a rally held at the end of the campaign was attended by over 200 individuals and received media attention from every major news affiliate in the Fargo-Moorhead area and has lead us to develop anti-bullying programming as well as helping schools within the Fargo area and even the student governments at BSC and UND to develop programs to combat this problem on their respective campuses.

Madam Chair and members of the committee I know what you and your fellow legislators face today in this hearing as well as the many hearings that will be done concerning anti-bullying laws will be anything but easy. To combat a epidemic such as this that has been around for as long as anyone can remember and to remove the mentality that bullying is just "The way it has always been" will be a difficult road that will take a great deal of time, effort and energy from all of us as citizens. However while the road may be difficult the solution is within reach and one that we achieve. With the help and support of this government to lay the foundation for policies concerning bullying in all forms to deter these actions and with active cooperation between our systems of education to create effective policies and educational programs we can help change the mentality of future students to look at others not based on a fault, disability or defect but on what they can achieve and what they offer to our lives.

In closing Madam Chair, members of the committee I want to leave you with one final thought. That if anything else from my testimony today I hope will stay with you when you consider such legislation. On November 4th 2010 16 year old Cassidy Andel of Cooperstown North Dakota after being bullied by others for whatever senseless reasons decided life wasn't worth living anymore and took her own life. On November 8th hundreds gathered at Trinity Lutheran Church in order to pay their final respects to Cassidy. When any person is taken before their time we do not lose a single person but lose an entire world. For the people of Cooperstown they have lost a child, sibling, classmate, teammate, community member, student, and a person to share life with, and for us as a state we lost a world of opportunity and potential of what this girl could have done with her life and the positive impact she could have made on our lives and to North Dakota. While we cannot change what has happened in the past we can change what will happen in the future and the passage of such legislation by this governing body and with the work of the good people of this state, never again will a community like Cooperstown have to



face the pain of losing someone, never again will we have to be reactive to actions that in hindsight we should have done something about long ago, never again will we regret not taking action to solve a problem, never again will a student of our state have to feel that life in all its wonder isn't worth live. That never again will we lose another world.

Testimony
House Bills 1147, 1250, and 1465
House Education Committee
January 24, 2011

TESTIMONY ATTACHMENT 5

Chairman Kelsch and members of the Committee, my name is Alyssa Martin, and I am the Director of Policy Services for the North Dakota School Boards Association. My primary responsibility is to write school operational policy for the 150 school districts that I service. I am here today in support of HB 1465, which I, in conjunction with the Attorney General's Office, NDCEL, NDEA, DPI, and the North Dakota Council on Abused Women, helped draft. I would also like to provide analysis of strengths and weaknesses of HB 1147 and HB 1250.

The three bills share a common feature. Each requires that schools adopt an anti-bullying policy, and each contains a list of mandatory policy components. HB 1147 and 1250 are much less prescriptive than HB 1465 because they require only four policy components—three of which are almost identical. HB 1147 and 1250 both require that the bullying policy contain a procedure for reporting bullying, a procedure for investigating it, and a procedure for informing parents of the bully and victim of the incident. The bills' policy mandates differ in one respect. HB 1147 requires school districts to list disciplinary measures in policy while HB 1250 requires a list of conditions under which law enforcement will be contacted regarding a bullying incident. Schools would likely struggle to fully comply with developing a comprehensive list of appropriate disciplinary responses to bullying because each case is unique. Schools would also find difficulty writing an exhaustive list of conditions under which law enforcement should be contacted regarding bullying. Again, such a decision is typically made by school administration on a case-by-case basis.

HB 1465 resolves the issues created by the policy mandates in HB 1147 and 1250 while still including the vital requirements of a bullying reporting and investigation procedure. HB 1465 requires that policy simply contain a statement that there be disciplinary consequences for violations of the anti-bullying policy, which allows administrators to consider the totality of circumstances surrounding the incident and existing district disciplinary policies. Furthermore, HB 1465 requires that policy simply provide assurance that school officials contact law enforcement whenever there is reasonable suspicion that bullying violated criminal law.

HB 1465 contains additional policy requirements not covered by HB 1147 or 1250, namely an anti-retaliation provision for those who report bullying and a section assuring that whenever bullying occurs, schools will develop a plan to insulate the victim from further harassment. These requirements are similar to provisions currently found in most school districts' harassment policies and are practices that the Office of Civil Rights Division (OCR) of the U.S. Department of Education recently advised are mandatory procedural requirements in many cases.¹ Perhaps the only issue with the policy mandate in HB 1465 is that it requires domestic violence civil assault organizations to be involved in drafting the school anti-bullying policy. While such groups would undoubtedly offer valuable insight, they may be unavailable or even nonexistent in very small, rural districts. In such cases, the mandate would derail the anti-bullying policy adoption process. We believe that requiring community and law enforcement representation during the policy drafting process is sufficient.

All three bills address when schools must prohibit bullying. HB 1250 contains a specific list of places/times when a school is responsible for taking disciplinary action, all of

¹ See "Dear Colleague Letter," October 26, 2010:
<http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>

which are well within a school district's jurisdiction to respond; however, we are concerned that the provision prohibiting bullying on school-issued electronic devices could inadvertently create a duty for a school district to monitor a student's after-hours use of a district-issued laptop. Law should direct schools to investigate bullying incidents that occur on school technology (e.g., laptops) without implying a duty to supervise student use at all times—an impossible feat. The same issue is present in HB 1465, but in a slightly different form. HB 1465 includes school bus stops in its definition of school, prohibiting bullying thereon. Again, schools may need to investigate an incident at a school bus stop, but law should not imply a duty to supervise all school bus stops since such a requirement is not only beyond the scope of a school's duty but also would be very costly from a staffing perspective.

HB 1147 does not directly state when schools must prohibit bullying, but a school district's responsibility to take disciplinary action is implied through the bill's definitions section. In this bill, schools must prohibit bullying when it has certain affects on the victim. Wherever the bill fails to establish a nexus between a student's behavior and the school environment, it likely overstretches the scope of a school's disciplinary authority. According to research conducted by the National School Boards Association, the U.S. Supreme Court has ruled that school districts have authority to take disciplinary action against a student for his/her speech only in the following instances:

1. It substantially disrupts the educational environment;
2. It collides with the rights of others to be secure and to be let alone;
3. It is sexually explicit, indecent, or lewd;
4. It promotes illegal activity;
5. It is a true threat.

Only one federal circuit court has addressed whether such authority extends to off-campus, internet speech.

HB 1465 takes into account the above Supreme Court standards, only requiring schools to take disciplinary action when it is within the scope of their disciplinary authority to do so. HB 1250 does not contain a definition of bullying, which is problematic because it provides no standard for identifying bullying. Hence, in this case, some bullying incidents could go unreported.

HB 1250 does, however, contain a unique and valuable provision. The bill offers liability protection for school districts that substantially comply with their anti-bullying policies. This provision places realistic expectations on school districts by requiring them to comply with their policies while also protecting them from factors beyond their control such as an unreported case of bullying.

We are aware that the three bills will likely be referred to subcommittee for consolidation, and we urge the subcommittee to carefully consider the strengths and weaknesses of the bills as it begins the consolidation process.

This concludes my remarks. I'm happy to answer any questions that the Committee may have.

TESTIMONY ATTACHMENT 6

TESTIMONY REGARDING SENATE BILL 1465 NORTH DAKOTA HOUSE EDUCATION COMMITTEE

January 24, 2011
By Parker Hoey, Student, Devils Lake Public Schools
701-662-7664

Chairperson Kelsch and House Education Committee Members, for the record, my name is Parker Hoey, eighth grade student at Central Middle School, Devils Lake, North Dakota. I stand in front of you today in support of SB 1465.

I am Student Council president of CMS. This year we have done many bullying activities. One example is "The Power of One." Every morning prime time class did a presentation of how it only takes one person to stop bullying. Around our school we have put "Bully Boxes" where people can write their situation of bullying down and drop it in.

You may be thinking that just those two things alone would put a huge impact on bullying, but not really. It's made a difference, but not enough to make these kids realize bullying is wrong.

Over these past couple weeks I've gotten the chance to meet with different kids around CMS. 77% of the 5th grade we have interviewed had been bullied. One of the 6th grade students we interviewed really made a difference to me. He told us that "Bullying is like being murdered from the inside." He told us that these bullies made him feel like there's "nothing good in life, so why live any longer?" and several kids in that group agreed.

Being Student Council president this year has really been an honor. This bullying stuff, especially has really opened my eyes about how serious this really is. No one in junior high should have to feel suicidal thoughts or be scared to come to school. I hope us being here today will make a difference for these kids. It is my hope you will give SB 1465 a do pass.

TESTIMONY ATTACHMENT 7

TESTIMONY REGARDING SENATE BILL 1465

NORTH DAKOTA HOUSE EDUCATION COMMITTEE

January 24, 2011

By Veranna Bauske, Student, Devils Lake Public Schools
701-662-7664

Chairperson Kelsch and House Education Committee Members, for the record, my name is Veranna Bauske, seventh grade student at Central Middle School, Devils Lake, North Dakota. I stand in front of you today to provide testimony regarding SB 1465.

I have had the chance to talk with a lot of my classmates regarding bullying. Many have shared personal stories of times when they were `bullied. They ALL said they have seen people being bullied and have often felt powerless to help. Many said they think that a bullying law could help.

But it is not only the victims that are hurt, sometimes the witnesses are too. A kid told a story about seeing a student come up to another student and start punching and kicking him for no good reason. That boy talked about that incident at least three times. He said how hard it was to see. He was still bothered by the event, even though it had happened a year ago.

I have also had my own share of bullying. When I moved to Devils Lake, I was a "new kid." I was made fun of and felt like I was left out of many groups. I was also bullied physically. I have moved on from those experiences, but still think about them sometimes. Those memories can still hurt.

Not only are physical and verbal bullying a problem, but cyber-bullying is growing. The majority of kids at CMS have cell phones and a Facebook account. Younger and younger kids are getting these privileges. Bullies can now harass kids over the phone and online. Texting can also be a problem. Just a few small words can have a big impact.

One of my best friends was bullied just last week. He reported what happened and school staff took care of it, but he was very depressed. He said he wasn't just sad about what happened...he was also scared. I am here today to represent all those students who have been bullied, those who have witnessed it and those who want it to stop.

Together I hope that we can help put a stop to bullying in North Dakota! It is my hope that you will give Senate Bill 1465 a do pass.

TESTIMONY ATTACHMENT 8

TESTIMONY REGARDING SENATE BILL 1465

NORTH DAKOTA HOUSE EDUCATION COMMITTEE

January 24, 2011

By Neil Haahr, Student, Devils Lake Public Schools
701-662-7664

Chairperson Kelsch and House Education Committee Members, for the record, my name is Neil Haahr, eighth grade student at Central Middle School, Devils Lake, North Dakota. I stand in front of you today to provide testimony regarding SB 1465. This bill seeks to address the issue of bullying, an issue which has been present for years.

Bullying should be illegal and punishable by law. Kids just don't care if they get in trouble. If all of a sudden, kids are getting into trouble with the law because they are bullying, then that would send a message to them, "hmm, maybe I shouldn't do this." I believe that would stop them.

I have been on the other side of being bullied and it's not a fun thing. I have been suicidal, but I was a strong person and came back. Some kids just don't have the motivation and will to come back, while others just feel hopeless, but if we make a law, kids will and should know that people are here for them and they should be the better person and come back from being suicidal.

Kids need the satisfaction of knowing that when they come to school or are on the bus, they don't have to worry about being bullied. If they do get bullied, they should have the satisfaction of knowing that it will be taken to a whole different

level of punishment for the bullies.

Bullying has gotten severely worse and now it has just gotten to be too much. It is almost as if it is acceptable now. Kids don't realize that there is help out there. We need to let them know there is help. By passing a law that makes bullying illegal, kids will hopefully know that there will be justice.

I stand before you today, not only to share my personal story, but to act as a representative for the students of CMS. An invitation was provided to them to sign a petition to indicate their agreement with wanting this law passed. Two hundred and sixty three students signed...I have that petition with me today.

To close, bullying has been an issue that has hit me at a very personal level, one that has been quite devastating. While I have been able to move on in a positive way with the support of my family and friends, it is an issue that impacts many other students on an ongoing basis every day.

Thank you for this opportunity to share my story with you. It is my hope you will give SB 1465 a do pass.



Testimony in Support of HB1465

LeAnn Nelson, NDEA

leann.nelson@ndea.org

January 24, 2011

Good Morning Madame Chair and Members of the House Education Committee. For the record my name is LeAnn Nelson, Director of Professional Development for the North Dakota Education Association (NDEA). I am here representing NDEA in its support of HB1465.

NDEA feels that bullying is an issue of vital importance and we support the proposed legislation that will focus on this issue. We have all heard the reports, and some of have even experienced bullying, so we know its negative effects both personally and academically. We support the efforts of such a bill as HB1465 that helps to provide safe learning environments for all students. According to Maslow's Hierarchy of Needs, academic achievement is difficult to obtain when one feels unsafe in the learning environment.

In 2001 the North Dakota PASS (Parent Assistance and Supportive Schools) conducted a study - Violence/Aggressive Behavior in North Dakota Public Schools 2001: Perspectives of Parents and Principals. Many of the findings in the study are addressed in HB1465.

- *"Bullying" and "verbal abuse" are the behaviors with which both parents and principals are most concerned. Most schools have policies addressing these behaviors, but fewer than half of them track the number of incidents that occur.*
 - o HB1465
 - Each school district shall adopt a policy
 - Policy shall include procedures for reporting and documenting acts of bullying
- *There may be considerable differences in how schools define certain behaviors that could affect accurate tracking and data collection.*
 - o HB1465
 - Each district in their policy must define bullying which includes, at a minimum, the definition as provided in this bill
- *Parents of junior high/middle school students, along with principals of junior high/middle schools, express a greater concern about violence/aggressive behavior than either elementary or high school principals/parents.*
 - o HB1465
 - School districts shall implement kindergarten through grade twelve bullying prevention programs

- According to the study, when asked 64% of the principals indicated it would be beneficial to have access to additional resource people to conduct training related to violence/aggressive behavior. Suggestions for specific topics or types of training included "bullying," "what constitutes bullying," "how do you recognize bullying," "how do you deal with bullying," "how do you prevent bullying," and "how do you avoid being a victim of bullying."

HB1465

- Upon request, the department of public instruction shall provide guidance in developing training programs

- Develop model policies applicable to teacher preparation program standards on the identification and prevention of bullying

Madame Chair and Members of the House Education Committee thank you for providing me time to testify on such an important issue. NDEA hopes that the committee will recommend a "Do Pass" on HB1465.

TESTIMONY ATTACHMENT 10

Testimony on HB1147, HB1250, and HB1465

By

Dr. M. Douglas Johnson, Executive Director—NDCEL

Madame Chair Kelsch and members of the House Education Committee, for the record my name is Doug Johnson and I am the executive director of the ND Council of Educational Leaders which represents North Dakota's school leaders. I am apologize that I am not able to be present this morning due my involvement with to the North Dakota School Administrators mid-winter conference which is currently in progress. For that reason, I have asked Warren Larson, of the NDCEL to present my written testimony in support of adopting a bill which addresses the development and implementation a school district policy with regard to bullying.

I have been involved with the bullying policy process for many years. First, as a school administrator, developing policy and procedures for investigating bullying complaints as well as working to resolve them through a mediation and disciplinary action when needed. Second, as an executive director for the NDCEL having offered our members many workshops addressing bullying and developing skills for conducting an investigation which could possibly end up as a complaint filed with the Office of Civil Rights (OCR). Since 2004 we've offered more and ten fifteen hour workshops during the past six years and have had of 250 of or members attend these workshops. Finally, I was involved with the development of **HB1465** which is one of the bullying bills that you are hearing today.

It should be noted that the NDCEL does support requiring school districts to develop, adopt, and implement sound bullying policy and that there will be a bullying policy adopted by the end of this legislative session. That said, it should be noted that there is merit found in all three bills being heard today. Rather than go through each bill, I will list the components which I believe are needed to help address bullying through the adoption of a school district policy.

First, there should be a definition of bullying such as is provided in Section 1, subsections 1 and 2 page 1, lines 1-23 of **HB1465**. Second, there should be an explanation of what a policy prohibiting bullying

should contain without being too prescriptive. Section 1, sub-sections 1(a) and 1(b) of **HB1250** lines through 22 of page 1 do this quite well but you may want to include Section 1, subsection 3(b) 1,2, and 3 found in page 2 lines 10-16 of in **HB1465**. Third, there needs to be a procedure for providing input from stake holders in the development of the policy. However, it should not be too prescriptive so that it requires all stakeholders listed in the law to be involved in the development of the policy. **HB1240** Section 1, subsection 3 on page 1, lines 23-24 may be too little but Section 1, subsection 3(a) on page 2, lines 1-9 of **HB1465** may be too prescriptive. The committee may want to consider somewhere between the two for addressing this issue. Fourth, there needs to be a criminal reporting component as a part of the bill. Section 1, subsection 3, page 2 lines 1-3 of **HB1147** and Section 1, subsection 3(b)5 page 2 lines 23-27 of **HB1465** should be reviewed closely to accomplish this. Fifth, there should be a way for reporting policy implementation compliance such as is described in **HB1465** Section 1, subsection 3(a) page 2 lines 6-9 but again should not be so prescriptive that it adds a burden to the staff of the NDDPI. Sixth, there needs to be section which does not prevent a victim from seeking redress and provides immunity for school officials who in good faith reports and investigates a bullying complaint. **HB1465** Section 1, subsection 4 page 3, lines 29-31 and page 4, lines 1-7 do that well, but I am also supportive of including **HB1250** Section 2, page 2, lines 6-10 as a part of a bill.

Finally, the bill should provide some assistance to school districts for the securing, reviewing and making available model policies such as the Olweus Bullying Prevention Program to help them develop sound policy, professional development for staff, and k-12 curriculum for students. Section 1 of **HB1465**, subsection 3(e & f) page 3, lines 19-28 provide a good foundation from which to work for this issue.

Madame Chair Kelsch and members of the House Education Committee, the NDCEL supports the adoption of a bill which requires North Dakota school districts to develop, adopt, and implement policy addressing for to bullying. Further, I would be happy to assist with the finalization of a bullying policy that may result should you decide to appoint a sub-committee to that responsibility. Madame Chair and members of the committee this concludes my written testimony.

NORTH DAKOTA COUNCIL ON ABUSED WOMEN'S SERVICES COALITION AGAINST SEXUAL ASSAULT IN NORTH DAKOTA

41 Rosser #320 • Bismarck, ND 58501 • Phone: (701) 255-6240 • Fax 255-1904 • Toll Free 1-888-255-6240 • ndcaws@ndcaws.org

Testimony on HB 1465
House Education Committee
January 24, 2011

Chair Kelsch and Members of the Committee:

My name is Janelle Moos and I am the Executive Director of the North Dakota Council on Abused Women's Services. Our Coalition is a membership based organization that consists of 21 domestic violence and rape crisis centers that provide services to victims of domestic violence, sexual assault, and stalking in all 53 counties and the reservations in North Dakota. I'm speaking this morning on their behalf in support of HB 1465.

In 2009, 830 sexual assault victims were served by crisis centers throughout North Dakota. At least 46% of the victims were under the age of 18 years old at the time of the assault/s. In addition, 4,569 domestic violence victims received services. At least 26% of the victims were under the age of 30. The 21 centers provide services such as shelter, advocacy, counseling, education, and assistance in obtaining court orders of protection. These centers range in size from small rural programs with one or two employees who do everything to larger programs in more urban areas with over 30 specialized staff members.

The majority of our programs are currently invited into schools to provide education and training specific to child witnesses of domestic violence, sexual abuse, dating violence, and harassment. In recent years, our programs have progressed toward providing more comprehensive primary prevention aimed at stopping violence before it starts. This work often involves partnering with schools to work with younger children on anti-bullying prevention programs/messaging.

Our organization was honored to be included in the working group convened by the Attorney General's office to draft legislation related to the prevention of bullying in schools. HB 1465 is the product of this collaborative work. Our focus while serving on the working group was to ensure that the voices of victims were represented and that those behaviors that are considerably more dangerous and

potentially criminal such as harassment, rape, stalking, or dating violence aren't interpreted and dismissed as bullying.

Nan Stein, a senior research scientist from the Center for Research on Women, part of the Wellesley Centers for Women at Wellesley College, reports that there is evidence of growing violence in teenage dating relationships that add to the assertion that sexual violence among teenagers is increasing.

National Youth Risk Behavior Survey (YRBS) data indicates a growing trend in both physical and sexual violence among teenagers. In 2007, 26% of students in North Dakota indicated they had been harassed or bullied on school property by other students one or more times during the past 12 months. 9% of students indicated they were hit, slapped, or physically hurt on purpose by their boyfriend or girlfriend during the past 12 months, and yet another 7% of students had indicated they had been physically forced to have sexual intercourse when they did not want to. North Dakota statistics are comparable to national trends that indicate almost 9% of girls had been intentionally physically hurt by a date and 11% experienced forced intercourse.

In order to ensure that victim's rights are protected and criminal behaviors such as rape, harassment and assault that occur in school are taken seriously, we requested certain provisions under HB 1465 be included. Section 3, subsection a, lines 2-5 indicate who the school district shall involve in the development of their policy prohibiting bullying, which must include law enforcement and a domestic violence sexual assault organizations defined by NDCC 14 - 07.1-01. In addition, Section 3, subsection b, lines 23-27, indicate that schools are required to develop a procedure to notify local law enforcement immediately if the initial school investigation creates a reasonable suspicion that a crime may have occurred. We believe both of these provisions are important and necessary steps to ensure victim's rights are protected and criminal behaviors are taken seriously.

We'd again like to thank the Attorney General's office for their leadership and inclusion of our organization in this important work. We would also like to thank the sponsors of this bill and along with them urge the committee to support the passage of HB 1465.

Thank you.

I. INTRODUCTION

This article posits that over the course of the last few decades incidents of sexual harassment in K-12 schools have been occurring at younger and younger ages and have become more sexually violent. Despite the paucity of survey data from elementary and middle school students and the general difficulty of acquiring data on sexual violence in schools, this article documents both of those assertions using ethnographic data, narratives acquired from lawsuits and reports in the media. Sexual violence in schools, which often gets named as something else, frequently is not reported to law enforcement or school officials; when it is surveyed, it is not disaggregated from incidents of physical violence, so these incidents of sexual violence are often classified as "physical violence." Moreover, data on violence and coercion in teen relationships (sometimes called "teen dating violence" or "intimate partner violence") outside of school is also considered as indicative of the increase in teen sexual violence. Despite this documented rise of sexual harassment and sexual violence in schools, the popular and more palatable term "bullying" is often used instead to describe these sexually violent incidents. Whether used innocently or as shorthand, when school officials call these sexual violent events "bullying," the violent and illegal (either under civil law or under criminal law) nature of these incidents is obscured and the school's responsibility and potential liability is deflected.

II. LISTENING TO THE SAME STORY

She was a twelve-year-old girl at the Eugene Butler Middle School in Jacksonville, Florida.¹ She was in the hall looking for an administrator to sign her tardy slip when she encountered several of her male classmates who were roaming the halls without a hall pass.² They grabbed her and pulled her down an empty corridor not far from where the school safety officer was usually located.³ The four boys threw her into a bathroom, and once they were all in there, they [*pg 34] bolted the door from the inside (it was one of those individual bathrooms that are usually not available to students and are supposed to be locked at all times unless under the supervision of an adult).⁴ For the next thirty minutes, she was raped by one boy and forced to perform oral sex on the three others.⁵ Her assailants were twelve, thirteen and fourteen years old, and her sexual assault happened during the school day.⁶

A. This Is Not an Anomaly

Sexual assaults in schools can be found all over the country. For example, in February 2004, a ten-year-old girl in a Broward County, Florida school bathroom was raped.⁷ In the past two school years, 11 sexual batteries, 113 sexual offenses and 67 cases of sexual harassment were reported in Broward County public elementary schools.⁸ Many more incidents occurred at higher grade levels, for a total of 40 sexual batteries.⁹

Additionally, in December 2004 at the Benjamin Franklin Middle School in San Francisco, a group of four twelve and thirteen-year-old boys accosted a twelve-year-old girl, dragging her into a locker room and demanding oral sex while restraining her.¹⁰ The boys tried to remove her clothing.¹¹ A tally of sexual assault incidents in the first five months of the 2003-2004 school year, conducted by the San Francisco School District, showed twenty-five incidents: two took place at elementary schools, seventeen at middle schools, and six at high schools.¹² A comparative time period from the 2002-03 school year found a total of six incidents across the School District.¹³

While the preponderance of sexual assaults victimize girls (in fact, three-fourths of victims of juvenile sexual assault are female),¹⁴ young boys are also targeted. In Louisiana, a five-year-old boy went to the bathroom in the company of three other male kindergarten students.¹⁵ While in the restroom, the three boys sexually assaulted the one child by pulling down his pants, attempted anal intercourse with him and forced him to perform sexually explicit oral behavior with them.¹⁶ In another bathroom episode, in the Minneapolis, [*pg 35] Minnesota public schools, a six-year-old boy was allegedly sexually assaulted in the bathroom by three boys ages 10-12.¹⁷

B. Limited Information from Surveys

Survey data on the prevalence of sexual violence in elementary and middle schools (children younger than twelve years old) is difficult to obtain and has not been consistently collected, disaggregated or reported. Researchers lack a complete picture of the violence that children experience including whether that violence is experienced at home, in the streets, in public spaces, or at school. The paucity and the inconsistent collection of information among students in this age group is largely due to resistance from parents who forbid researchers from gathering data from children about childhood (sexual) victimization.

Only recently has self-reported data from children younger than twelve years old been collected. Since its origin in 1929, the FBI's Uniform Crime Reporting (UCR) system and the Bureau of Justice Statistics' National Crime Victimization Survey (NCVS) did not collect information about crimes committed against persons less than twelve years of age, and thus could not provide a comprehensive picture of juvenile crime victimization.¹⁸ The new National Incident-Based Reporting System (NIBRS) is designed to replace the UCR as the national database for crimes reported to law enforcement and it now includes data about juvenile victims.¹⁹ However, participation by the states and local jurisdictions is incremental and voluntary,²⁰ and at the current time, the crime experiences of large urban areas are particularly underrepresented. In fact, only three cities with populations greater than one-half million are included thus far (Austin, Texas; Memphis, Tennessee; and Nashville, Tennessee), creating a portrait of juvenile crime that is not a nationally representative sample.²¹ The same data set (1997-1998) has been analyzed and published; one analysis published in 2000 includes twelve states²² while the other analysis published in 2004 includes seventeen states.²³

Nonetheless, the 1997 NIBRS data from twelve states revealed some key findings about juvenile crime and pre-teen victims. Although children younger than age twelve represent only a small percentage of all reported victims (3% of all crimes and 6% of crimes against persons), their crime profile is unusual.²⁴ Sexual assault accounts for almost one-third of preteen victimization, more than [*pg 36] twice the proportion for older juveniles, and family offenders make up one-third of the offenders against this group, twice the proportion for older juveniles.²⁵

In the 2004 analysis that contained data from seventeen states, family members comprise 27% of the offenders, acquaintances comprise 66% of the offenders, and strangers comprise 3% of the offenders.²⁶ Such a large percentage of crimes committed by acquaintances may indicate that some or even a majority of these incidents may be occurring at school. Unfortunately, information about the location of the

crimes is not available from this report. Once again, yet another survey provides only partial, albeit new information, in the quest to know the prevalence of sexual assaults that occur at school, during the school day, by students. The frustrating search to compose a full and accurate picture continues.

Additional data on sexual violence can be found in a report of school crime and safety from 2000 data.²⁷ This report uses a nationally representative sample of 2,270 public school principals who report information including violent deaths, crime and violence frequency, school policies, disciplinary problems and other information related to school crime.²⁸ In a category titled "serious violent incidents", which includes rape, sexual battery, physical attack or fight with a weapon, threat of physical attack with a weapon and robbery with or without a weapon, the report revealed that 20% of all schools experienced one or more serious violent incidents, with 14% of elementary schools, 29% of middle schools, and 29% of high schools reporting "serious violent incidents".²⁹

The results for the category of rape or attempted rape revealed a total of 143 incidents in 126 middle schools, representing 1% of all schools.³⁰ There were no reported rapes or attempted rapes in elementary school.³¹ A total of 650 incidents of sexual battery other than rape occurred in 520 elementary schools representing 1% of all schools.³² A total of 582 middle schools reported 1,141 incidents of sexual battery other than rape, representing 4% of all schools.³³

Clearly a self-reporting mechanism by school principals has limitations. Principals can only provide information that has come to their attention; therefore undercounting is an inevitable problem.³⁴ In addition, the survey may ask for information that the principals did not retain.³⁵ Moreover, some principals may withhold information from law enforcement for a variety of reasons, including preserving their school's reputation.

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C. Information Collected by the National Media

Daily newspapers sometimes report incidents of sexual assaults among youth that are occurring at school during the school day when the adults are supposed to be maintaining a safe learning environment. A LexusNexus search of the fifty-three largest newspapers from national and international sources from 2000-2004 found eighty-four articles about incidents of sexual violence in middle schools and twenty-seven articles about incidents of sexual violence occurring in elementary schools. The search was restricted to incidents that had happened during the school day, on the school grounds, and among children who were classmates. Two additional articles reported on three incidents among middle school students that occurred on a school bus.³⁶ In the vast majority of the cases, the victims of these attacks were girls and the assailants were their male classmates. There were only a few instances where boys were the targets and in those cases, other boys were their attackers and these sexual attacks often took place in the bathroom.³⁷ These results comport with crime surveys which show that girls are much more likely than boys to be the victims of sexual assaults,³⁸ of all juvenile sex offenses, girls are victims in 82% of all the cases, while boys are victims in 18% of the cases.³⁹

As we turn to review additional data from teenagers about their experiences with sexual harassment at school and with teen dating violence, we find that interpersonal violence is a normative feature in the lives of many youth.

III. NAMING THE REAL PROBLEM AS GENDERED OR SEXUAL VIOLENCE

The existence of peer-to-peer sexual harassment in K-12 schools has been well documented for decades.⁴⁰ Sexual harassment is now accepted as an unfortunate fact of life.⁴¹ Nearly 30 years after the passage of Title IX, a 2000 survey found rampant evidence of sexual harassment in schools.⁴² Students continue to [*pg 38] report that school personnel behave in sexually harassing ways, and/or that they do not intervene when sexual harassment occurs.⁴³

In the most recent scientific survey about sexual harassment in schools, the American Association of University Women (AAUW) along with the Harris pollsters found that among 2,064 students in grades 8-11, sexual harassment was widespread in schools, with 83% of girls and 79% of boys indicating that they had been sexually harassed.⁴⁴ Thirty percent of the girls and 24% of the boys reported that they were sexually harassed often.⁴⁵ Nearly half of all students who experienced sexual harassment felt very or somewhat upset afterwards, pointing to the negative impact that sexual harassment has on the emotional and educational lives of students.⁴⁶ As compared to the 1993 AAUW survey on sexual harassment among 8th-11th graders, the results from 2001 showed an increase both in awareness about and incidents of sexual harassment, yet students in 2001 had come to accept sexual harassment as a fact of life in schools.⁴⁷ The greatest change in the eight year period was in students' awareness of their schools' policies and materials to address sexual harassment.⁴⁸ Yet, despite this increased awareness of their schools' policies and materials, there were no more reported incidents of sexual harassment.⁴⁹

Educational personnel are also responsible for some of the sexual harassment, sometimes as perpetrators and other times as spectators.⁵⁰ According to the 2001 AAUW survey, 38% of the students reported being sexually harassed by teachers and other school employees.⁵¹ In a particularly egregious and notorious case in April 2002, at a Friday night school dance, the female assistant principal in a high school near San Diego, California required all girls to lift their skirts to prove that they were wearing underwear -- she did not want a repeat of a previous year's prank where a few girls had "mooned" their bare bottoms (meaning, they lifted their skirts and "flashed" their naked bottoms).⁵² So, with [*pg 39] out warning, and without requiring all boys to do the same, all girls had to lift their skirts, in public, if they wanted to be admitted to the dance.⁵³ Some girls refused to comply with this unusual request.⁵⁴

This is an example of administrative sanctioned sex discrimination -- only girls were required to prove they were wearing underwear, and by requiring them to lift their skirts in public, sexual harassment enters the equation. After the fact, other administrators disavowed her conduct, but nonetheless, she possessed enough authority that she could force her arbitrary and discriminatory standards on the students.⁵⁵ She claimed not to know about Title IX and its requirements for her and other school administrators, and the liability that her conduct could have imposed on the school district.⁵⁶ She is not alone -- there are plenty of other examples of administrators and teachers behaving in a harassing manner.⁵⁷

Moreover, the federal courts, including the Supreme Court,⁵⁸ have weighed in on the question of school district liability for peer-to-peer harassment, ruling that school districts have liability if they knew about the sexual harassment and did nothing to prevent it. After decades

of battling for recognition of the problem, the Supreme Court's decision in *Davis* established that peer-to-peer sexual harassment exists among our youth, that the adults are liable for damages, and the requirements and standards under Title IX have been clarified. According to Deborah Brake, formerly of the National Women's Law Center, and co-counsel for the Davis family for over five years of litigation, including the oral arguments before the Supreme Court:

Under the Supreme Court's ruling, Title IX supports an action for damages where a school responds with deliberate indifference to peer sexual harassment once it has actual notice of the harassment. As long as the underlying sexual harassment is "so severe, pervasive and objectively offensive that it denies its victims the equal access to education that Title IX is designed to protect," the school is accountable for its response (or lack thereof). The plaintiff must prove that the school acted with deliberate indifference, but need not demonstrate that the school treated the harassment complaints of students differently based on the sex of the complainant, or acted out of an impermissible discriminatory notice toward persons of one sex.⁵⁹

A. Violence in Teenage Relationships

Moreover, there is evidence of growing violence in teenage dating relationships that add to the assertion that sexual violence among teenagers is increasing overall. The evidence comes from data derived from both the national administration of the Youth Risk Behavior Survey (YRBS) with its 2003 sample size of about 15,000 students fourteen to eighteen years old, and from the state administrations of the YRBS (with varying sample sizes, depending on the state).⁶⁰ The YRBS is a comprehensive survey about general behavior of teens administered by the U.S. Department of Health and Human Services and the Centers for Disease Control and Prevention. Two of the questions on the survey ask about violence in teen dating relationships. One of those questions inquires about physical violence in a dating relationship ("during the last 12 months, did your boyfriend or girlfriend ever hit, slap or physically hurt you on purpose?"), and the second question asks about forced sexual violence in a dating relationship ("have you ever been physically forced to have sexual intercourse when you did not want to?").⁶¹ A recent analysis of the national 2001 data from 6,864 female students in grades nine through twelve found that 9.8% of all girls reported being intentionally physically hurt by a date in the previous year and 17.7% of sexually active girls reported the same abuse.⁶² By 2003, the results for the U.S. overall showed that 11.9% of females experienced forced sexual intercourse, compared to 6.1% of males.⁶³

In Massachusetts, teenage girls experience a more violent reality from their dating partners. In the 1999 survey, up to 18% of females reported experiencing either physical violence or sexual violence.⁶⁴ In a more socially and religiously conservative state such as Idaho,⁶⁵ the report shows a safer picture, but 10% of students still reported physical violence from a dating partner in 2001 (7.6% females, 11.8% boys).⁶⁶ The 2001 responses from Idaho also showed that 7.8% of students reported being forced to have sexual intercourse (10.5 % females, and 5.2% males).⁶⁷ Data from the 2003 survey, however, shows a rise in dating violence, even in Idaho where one in nine students have been physically hit by a dating partner (12.1% of the females and 10.4% for the males)⁶⁸ while one in [*pg 41] seven has experienced sexual violence (14% of the females and 6% of the male students report they have been physically forced to have sexual intercourse).⁶⁹

B. Sexually Violent Hazing Among Youth

In the late spring through the early fall of 2003, a series of hazing episodes occurred among high school students that captured the attention of the general public. These events offer some insights into the ways in which the problems are framed (and obscured), and point the way towards the need to understand these events as gendered, and as violence.

First and foremost was the deeply troubling hazing episode in early May 2003 among girls from Glenbrook North High School in the suburbs of Chicago.⁷⁰ There, a large group of senior girls soon to celebrate their graduation from high school inducted a group of junior girls into the senior class.⁷¹

Ritualistically conducted in the forest, off school grounds, this voluntary induction was carried out through violent and humiliating beatings, and the forced consumption of beer, feces, mud, paint, and fish heads, all of which was either poured down the girls' throats or over their heads.⁷² Everything was videotaped by boys whose presence was no mistake -- they were needed to carry in the kegs of beer and to serve as the video technicians and cheerleaders.⁷³ In other words, the senior girls performed violent masculinity in front of the boys by showing them that they could both out-gross and out-perform them.

In a critique of this hazing event, psychologist Lyn Mikel Brown and criminologist Meda Chesney-Lind wrote that the girl fighting is a symptom of deeper cultural problems. According to Brown and Chesney-Lind:

The senior girls used words like bitches, wimps and sluts to shame the juniors into staying on the field . . . but the fact that girls are fighting other girls in front of videotaping and beer-drinking boys is significant . . . girls used sexist and misogynistic language to control other girls during and after the event . . . Girl-fighting gets acted out horizontally on other girls because this is the safest and easiest outlet for girls' outrage and frustration. Girls are essentially accessing and mimicking the male violence they sometimes know all too well. And they are choosing victims that are societally approved -- other girls.⁷⁴

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By late August, reports of boys hazing other boys in very sexually violent ways emerged in the national press. First there were reports that three varsity football players from Mepham High School on Long Island, New York had brutally sexually assaulted younger teammates while attending a five-day football training camp.⁷⁵ They are alleged to have inserted broomsticks, pine cones and golf balls into the anuses of three younger boys.⁷⁶ The horrors came to light because two boys continued to bleed through their rectums, with one eventually needing surgery.⁷⁷

In mid-October reports of another sexually violent incident emerged. At least one boy from the high school soccer team in Friendship, New York had sexually assaulted another teammate in the locker room while other boys watched.⁷⁸ In both cases, the coaches were missing in action -- no adults intervened or claimed to have any knowledge of these unfolding horrifying events.⁷⁹

Both instances include charges of sexual assault, sexual abuse or sodomy; they cannot simply be framed as hazing or the over-used term of bullying. But, the Mepham and Friendship cases did not produce the national outrage the Glenbrook girls did; there were no heart-felt wrenching discussions about the type of normative masculinity that includes perpetrating sexual violence coupled with colluding silence and lack of intervention from the other observing teammates.⁸⁰ The older girls at Glenbrook did not tie up the younger girls as was the case at Mepham High School, where the younger boys were bound with duck tape, stripped naked against their will and sexually assaulted and sodomized. Yet relative silence surrounded these violent boy-on-boy sexual assaults compared with the media attention directed at the girls from Glenbrook North High School in the Chicago suburbs. The Glenbrook incident produced commentaries about

the supposed increasing rates of girls' criminal conduct.⁸¹ Over and over the video images of the girls hazing the other girls were shown on television, anesthetizing the nation.⁸² All perspective was lost and a context was never provided; there was never any mention of the increasing rates of rape and sexual assault of girls, particularly at the hands of boys and men they know.

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The next section looks at the possible reasons as to why sexual harassment and sexual violence may be increasing in schools and explores the convergence of several developments that have led to the erosion of attention to sexual harassment in schools: (1) new legal mandates that attempt to elevate the "bullying" prevention framework over the rights framework (sex discrimination, sexual harassment) and therefore create a distraction from the more pressing problems of sexual harassment and sexual violence; (2) zero tolerance policies that emphasize suspensions and expulsions as opposed to education, counseling, and reform; and (3) high stakes tests that take teachers' time and attention from emotional and physical safety of their students, including less time to focus on incidents of sexual harassment and sexual violence. In total, these three factors have produced schools that are icaner and meaner, and may have helped to create an atmosphere that allows sexual harassment and sexual violence to flourish.

IV. EROSION OF ATTENTION TO SEXUAL HARASSMENT

A. Bullying as a Distraction

As the national media focused on sexually violent hazing episodes of 2003, a new, all-consuming focus on bullying in schools has emerged. Since the school shootings at Columbine High School in April 1999, state legislators have been passing laws on school bullying which may serve to placate the general public. Concurrently, however, there has been an increase of incidents of sexual harassment and sexual violence in schools, along with greater frequency of violence in teen dating relationships. Unfortunately, the bullying focus may serve to both degender the problem of sexual harassment and sexual violence and to take attention away from the increasing severity of these problems.

B. Background on Bullying and Harassment.

In the United States, the discourse around bullying is a relatively new phenomenon, in large part imported from the Europeans and the research conducted there since the 1970s.⁸³ Throughout the 1990s and into the new century, bullying research studies using samples of U.S. children have emerged.⁸⁴ However original and uniquely American the research has become, a very elastic definition of bullying seems to be in vogue and is utilized by many of the U.S. researchers.⁸⁵

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Under the prevailing definition of bullying, almost anything has the potential to be called bullying, from raising one's eyebrow, giving "the evil eye," making faces (all very culturally constructed activities), to verbal expressions of preference towards particular classmates over others. There may be a tyranny of sameness that is implicitly being proposed in this pursuit to eradicate bullying behaviors. Yet, on the other hand, sometimes very egregious behaviors are named as bullying; when in fact they may constitute criminal hazing or sexual/gender harassment.⁸⁶ Thus bullying serves as a way to obscure or obfuscate these larger problems.

This loose and liberal use of the term bullying may also be part of a general trend to label children, particularly in a culture that tends to psycho-pathologize behaviors. Psychologists seem to dominate the field of bullying research and largely seem unfamiliar with nearly 30 years of research from the fields of educational research, sociology, anthropology, and feminist legal scholarship, fields that might instead frame the bullying behaviors as gendered violence or sexual harassment. While the bullying researchers may acknowledge the existence of sexual harassment in schools, they generally only cite surveys or court decisions from the Supreme Court, and largely have ignored a wealth of studies and articles from researchers who have employed widely different methodologies and who have long argued for a gendered critique of children's behaviors.

Research on peer-to-peer sexual harassment in K-12 education has been underway since the late 1970s⁸⁷ and more formally undertaken in the 1990s through survey research.⁸⁸ Sexual harassment in schools ranges from jokes, comments, graffiti, sexually degrading skits, bra snapping, pulling pants down, skirt flipping, to attempted sexual assault and rape.⁸⁹ These behaviors are often conducted in public, sometimes in front of adults and school personnel who do not intervene, or who respond with a wink and a nod.⁹⁰ Such reactions from the adults give the students, be they the witnesses, targets or the perpetrators, the [*pg 45] sense that sexual harassment conduct is considered normal and appropriate.⁹¹ If such conduct is permitted in public, with adults watching, then what is to stop the students from thinking these sorts of behaviors are appropriate in private? Permission to proceed with harassing, violent, and battering behaviors in private becomes normalized and appropriate in part because it is tolerated in public.⁹² Schools may serve as the training grounds for domestic violence and sexual assault through the public performance of sexual harassment and gendered violence.⁹³

Results from Australia about a study on sexual coercion, which is part of a six country study, has found that anti-bullying policies are not effective in reducing or eliminating sexual harassment.⁹⁴ In a study of approximately 200 fourteen-year-old students who attended four schools in Adelaide, South Australia that all had anti-bullying policies, a substantial minority said they would ignore sexual harassment if they saw it happening and a smaller minority (boys) thought they would support the boy aggressor.⁹⁵ Some 37% estimated that sexual harassment happened on a weekly basis at school with bystanders present, while somewhat higher estimates were obtained in some other countries in the study.⁹⁶ Among the Australian students, 14% indicated that they would report it to a teacher.⁹⁷

In the absence of similar studies in the U.S., this sobering data from Australia points to the ineffectiveness of anti-bullying policies in changing or challenging the culture of sexual harassment in schools.

C. Anti-Bullying Laws

Occurring nearly simultaneously as the *Davis* case and in response to the Columbine shootings in 1999 was the movement to pass anti-bullying laws at the state level. Furiously reinserting themselves into educational policy generally and into the school safety movement particularly, state legislators across the U.S. borrowed a term from the psychological literature and passed new laws against bullying.⁹⁸

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These anti-bullying laws have two broad consequences. The first is to degender school safety by the use of the gender-neutral term, bullying. While sometimes employing psychotherapeutic language (as bullying is a term that has been transplanted from thirty years in the psychological literature), anti-bullying legislation may serve instead to undermine the legal rights and protections offered by anti-harassment laws. The second consequence is to shift the discussion of school safety away from a larger civil rights framework (racial and sexual harassment) to one that focuses on, pathologizes, and in some cases, demonizes individual behavior -- a/k/a the bully.⁹⁹

Unfortunately, anti-bullying laws that were passed by state legislatures in the wake of Columbine may serve to dilute the discourse of rights by minimizing or obscuring harassment. When schools put these new anti-bullying laws and policies into practice, the policies are often overly broad and arbitrary, resulting in students being suspended or expelled from schools for a variety of minor infractions.¹⁰⁰ On the other hand, sometimes egregious behaviors are framed by school personnel as bullying, when in fact they may constitute illegal sexual or gender harassment or even criminal hazing or assault.¹⁰¹ In an era when school administrators are afraid of being sued for civil rights/harassment violations, as a consequence of the May 1999 decision of the Supreme Court in the *Davis* case, naming the illegal behaviors as "bullying" serves to deflect the school's legal responsibility for the creation of a safe and equitable learning environment onto an individual or group of individuals as the culprit(s) liable for the illegal conduct.¹⁰²

A conundrum emerges: there may be an urge by school administrators to name harassing behaviors as bullying in an attempt to exempt, deflect or diminish their legal liability. Yet, on the other hand, *Davis* plus Columbine placed sexual harassment into the zero tolerance arena by adding it to the long list of suspendable offenses.¹⁰³ Additionally, school administrators are able to self-righteously proclaim that they are taking action with the suspension of a student and thereby reduce their legal liability under *Davis*.¹⁰⁴ The common features in this emerging, contradictory, messy paradox is the ever-expanding, elastic nature of the term bullying, as well as the ever-expanding list of behaviors for which there are zero tolerance mandates, coupled with the ever-expanding powers given to school administrators by these new laws on school safety. The only feature not expanding is children's rights.

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D. Zero Tolerance Mandates

The punitive ideology of zero tolerance has become the dominant discourse on school discipline in U.S. schools.¹⁰⁵ Zero tolerance grew out of the manufacturing industry and then the drug interdiction efforts of the late 1980s, framed first by the U.S. Attorney of San Diego.¹⁰⁶ The Gun Free School Act,¹⁰⁷ passed by Congress in 1994, required states that receive federal funds to mandate expulsion, on a case-by-case basis, for at least one year, of any student who brought a weapon to school.¹⁰⁸ A weapon was defined as "guns, bombs, grenades, missile launchers, and poison gas; it did not include knives . . . though some states were permitted to use a broader definition of weapons."¹⁰⁹

However, the expulsion policies have moved from a prohibition of real hardware -- guns -- to including toy weapons and squirt guns, fingers pointed in the shape of a gun, symbolic representations of drugs (e.g. drawings of marijuana leaves) to fighting, gang activity, threats of violence, hate offenses, sexual harassment, and all sorts of misbehaviors.¹¹⁰ The framework of zero tolerance both demonizes children and removes their entitlement to free expression, association and freedom from unreasonable search and seizure.¹¹¹ More and more children have been removed from school with no place to go; only a few states have requirements to establish alternative schools for these suspended and expelled children.¹¹² More and more young people are hitting the streets, becoming exiles, being criminalized.¹¹³ This trend to expel young people may also be a manifestation of the decline of our sense of collective responsibility for children and youth. One might be able to assert that zero tolerance harms children because it is predicated on removing children, not reforming or helping children, or even viewing them as minors.

Children's right to safety is also diminished by an expanded notion of zero tolerance. School reform efforts that address school safety have focused on the prevention of physical violence, particularly related to the presence and use of weapons in school, and relied on the development and enforcement of stricter [*pg 48] regulation and policing of students to make schools safer.¹¹⁴ Development and implementation of policies within this framing of school safety tends to draw attention to the most extreme, least pervasive threat to school safety -- violent crime. This construction of school safety eclipses other more pervasive aspects of school safety, including daily threats to psychological and social safety.¹¹⁵

Such are the contours of a post-Columbine world where students are controlled in ways that shred the U.S. Constitution and the Bill of Rights. Students have been suspended retroactively for papers they have written, thoughts they have had, and pictures they have drawn.¹¹⁶ Comments made by elementary-aged students in the heat of a touch football game or when the teacher would not permit a student to use the bathroom have been characterized as death threats.¹¹⁷ In a case from Jonesboro, Arkansas, an eight-year-old boy was suspended for pointing a chicken strip toward a teacher and saying "pow, pow".¹¹⁸ And, not surprisingly, zero tolerance has racial implications: disproportionate numbers of students of color have been suspended and expelled under zero tolerance policies.¹¹⁹

Bullying has become another behavior that is now covered by the realm of zero tolerance. Schools proudly state that they will not tolerate bullies; there are bully-buster posters around school buildings and new rules to cover bullying. Eradicating bullies is all the rage with state legislators.¹²⁰ The larger unspoken trend, however, is to regulate groups of children -- to predict and manage them as sites of potential danger.¹²¹ The rights discourse has been shifted to one of "dangerousness" and risk management -- to exclude (as in zero tolerance with its suspensions and expulsions) rather than to punish appropriately.¹²²

A third and final factor that dominates the landscape of all schools is that of high stakes testing. It is THE fact of life in schools that is all consuming not just for the students, but also for all teachers and school administrators whose careers and reputations hang in the balance.

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E. High Stakes Testing

High stakes testing of students is everywhere; it is no longer optional, and in fact it would not be a stretch to say that these tests are controlling the school day for both the students and the school personnel. With the passage of the No Child Left Behind Act of 2001,¹²³ all schools are required to implement annual state assessments in math and reading or language arts to all students in grades three through eight, and beginning in 2005, in science.¹²⁴ While testing has become the norm, it still remains contested territory¹²⁵ and jokes abound about NCLB, alternatively called "no child left untested," "no school board left standing," and "no child's behind left."

Moreover, high stakes testing is influencing all parts of the instructional and curricular practices of teachers¹²⁶ both in the classroom and outside of the classroom.¹²⁷ Electives such as art, music and physical education have been eliminated from the school day, and the socio-emotional dimensions of children's lives that contribute to their learning and performance have been minimized.¹²⁸ Anecdotal information from teachers and those who work on the professional development side of teaching point to the reduction of in-service training sessions that used to attract many educators to all day conferences and summer time workshops.¹²⁹ Topics such as emotional learning/intelligence, equal educational opportunity compliance, and curriculum development on women's history and gender equity used to attract large numbers of teachers but in the past few years, the organizations that used to offer those workshops have ceased to do so because of low enrollment.¹³⁰

Furthermore, the impact of NCLB upon teachers has been revealed in the results from several research studies. Results from the Harvard Civil Rights Project's *Listening to Teachers: Classroom Realities and No Child Left Behind*¹³¹ confirm that:

NCLB is influencing the instructional and curricular practices of teachers but it is producing unintended and possibly negative consequences. They reported that, in response to NCLB accountability, they ignored important aspects of the curriculum, deemphasized or neglected untested topics and focused instruction on the tested subjects, probably excessively. Teachers rejected the idea that the [*pg 50] NCLB testing requirements would focus teacher's instruction or improve the curriculum.¹³²

One can only infer from this finding that if non-tested subjects were avoided by teachers that among those non-tested subjects would be lessons and discussions about violence prevention and interpersonal relationships, including sexual harassment and teen relationship violence.

Results from other studies actually confirm this inference -- that high stakes testing is narrowing the curriculum. In a study of Florida teachers, "*Voices from the Frontlines: Teachers' Perceptions of High-Stakes Testing*,"¹³³ the researchers found that teachers felt forced "to teach only the subjects that were tested to the exclusion of the non-tested subjects such as science, social studies, and health."¹³⁴

As we are still in the midst of the high stakes testing wave, the extent to which it is controlling all other learning is still unclear but these two studies seem to indicate that most of the focus is on teaching to the test, by limiting instruction to only those tested subjects.

To summarize this section on the convergence of factors that may be contributing to the increase of sexual harassment and sexual violence in schools, in no short measure can we dismiss the decisions made by social and educational policymakers. Their choices and emphases have a controlling influence on the lives of teachers, administrators and students.

V. CONCLUSION: FUTURE ACTIONS NEEDED AT BOTH THE SCHOOL AND SOCIAL POLICY LEVELS

There is an enormous sexual violence problem in our country; some of it is enacted as rape and sexual assault, and some of it manifests as sexually violent hazing.¹³⁵ Immediate and vast corrective actions on both the school and social policy level are needed to curb and eliminate these injustices.¹³⁶

A. Measures at the School Level¹³⁷

It is critical that we reconfigure the school violence prevention movement and discourse to acknowledge the presence of gendered violence in our schools among our youth. By using the momentum from the child abuse scandal perpetrated by Catholic priests and hidden by the church hierarchy; as well as the sexual assault scandal at the Air Force Academy and at other academic institutions, we need to also bring attention to the increasing incidents of sexual assault [*pg 51] of girls even among elementary and middle school children by their classmates during the school day. High quality, age-appropriate and evaluated curricula and lessons about sexual violence as it is experienced by both boys and girls need to be added into the school curriculum over the course of whole year, throughout all the grades. We can no longer rest on the original approach of "stranger-danger", which factually isn't the case for sexual assault, rape, hazing or child sexual abuse. We must acquire data from elementary and middle school-aged children on their experiences (as witness/bystander, victim and perpetrator) of sexual harassment and sexual violence in schools.

In addition, we need to equip witnesses and bystanders with strategies for intervention, ways to get help and to disrupt the assaults that are taking place in front of their eyes. The deleterious effects of being on the sidelines of these violent episodes or fearing that you might be next should not be minimized; though it cannot be compared to the terror experienced by those who were violently sexually assaulted.

Equally important is to add quality mental health services to our schools including counseling groups for adolescents who find themselves in abusive relationships either as the abuser or as the target of the abuse. Professionally trained staff from sexual assault and domestic violence agencies as well as a few gender violence prevention groups comprised of both men and women are available to work in schools leading counseling groups or classroom discussions in partnership with school staff.

Moreover, it is not enough to suspend the alleged perpetrators, ban them from graduation exercises or the prom, cancel the football or soccer season, or even to criminally charge the attackers. Rather, we must engage in deep and hard conversations both in school and in the larger community about the meanings of masculinity and the ways in which it is expressed: boys-on-boys, and boys-on-girls, and even girls-on-girls, some of who seem to yearn to be as tough as the guys.

B. Social Policy Level¹³⁸

While the larger social policy challenge is to dismantle zero tolerance laws, we also need to work to halt the passage of additional anti-bullying laws that may simply be a kinder, gentler and more seductive version of zero tolerance laws. At the very least, anti-bullying laws take attention away from a larger discourse of collective civil rights by focusing on individual peoples' feelings, on interpersonal relations and on the individual bully and victim. The scope and impact of anti-bullying laws diminish children's rights as well as dilute the larger discourse of rights. The ideology of these anti-bullying laws punishes and excludes the bully; no one is reformed, only demonized. Researchers, lawyers and activists need to link anti-bullying laws to their older, bigger (and more dangerous) cousin, zero tolerance laws. Rather than wake up one day to notice that our civil rights and anti-harassment laws have been eroded in the name of [*pg 52] controlling meanness, we need to work toward restoring a discourse and framework of rights.¹³⁹

FOOTNOTES

- * Nan Stein is a senior research scientist at the Center for Research on Women, part of the Wellesley Centers for Women at Wellesley College. She would like to thank Janet Meghan Ditzer and Hao M. Nguyen for their help with footnotes and research.
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 23. MCCURLEY & SNYDER, *supra* note 14, at 4.
 24. FINKELHOR & ORMROD, *supra* note 18, at 10.
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 27. See AMANDA K. MILLER & KATHRYN CHANDLER, U.S. DEPT OF EDUC., VIOLENCE IN U.S. PUBLIC SCHOOLS: 2000 SCHOOL SURVEY ON CRIME AND SAFETY (Oct. 2003), available at <http://nces.ed.gov/pubs2004/2004314.pdf>.
 28. *Id.* at 2.
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40. See AMERICAN ASS'N OF UNIV. WOMEN EDUC. FOUND., *HOSTILE HALLWAYS: THE AAUW SURVEY ON SEXUAL HARASSMENT IN AMERICA'S SCHOOLS* (1993) [hereinafter AAUW, *HOSTILE HALLWAYS I*]; AMERICAN ASS'N OF UNIV. WOMEN EDUC. FOUND., *HOSTILE HALLWAYS II: BULLYING, TEASING AND SEXUAL HARASSMENT IN SCHOOL* (2001) [hereinafter AAUW, *HOSTILE HALLWAYS II*]; NAN STEIN, ET AL., *SECRETS IN PUBLIC: SEXUAL HARASSMENT IN OUR SCHOOLS* (1993) [hereinafter STEIN, *SECRETS*]; Susan Strauss, *Sexual Harassment in the School: Legal Implications for Principals*, NASSP BULL., Mar. 1988, at 93-97; Nan Stein, *Sexual Harassment of High School Students: Preliminary Research Results* (1981) (unpublished manuscript, Mass. Dept. of Education, on file with author) [hereinafter Stein, *Preliminary Research Results*].
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42. *Id.*
43. See *Id.* at 14 (noting that although fewer students today report sexual harassment by teachers, sexual harassment by teachers and other school employees remains significant). See also *id.* at 17 (noting that students have complained that adults do not provide sufficient enforcement or take the issue seriously).
44. AAUW, *HOSTILE HALLWAYS II*, *supra* note 40, at 4.
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46. *Id.*
47. *Id.* at 4 ("Because of the widespread nature of sexual harassment in school life, some students report that it's not a big deal and many accept it as part of every day life."). See also *id.* at 32.
48. *Id.* at 15.
49. *Id.* at 4-5, 8.
50. *Id.* at 5.
51. *Id.*
52. See generally Darcia Harris Bowman, *Calif. Vice Principal on Leave for Student Underwear Check*, EDUC. WEEK, May 8, 2002, at 4; Chris Moran, *Assistant Principals are Enforcers*, SAN DIEGO UNION-TRIBUNE, May 5, 2002, at B1; Barbara Whitaker, *National Briefing West: California: Uproar Over Underwear Check*, N.Y. TIMES, May 1, 2002, at A20; Eleanor Yang, *School Dance Incident Sparks Furor*, SAN DIEGO UNION-TRIBUNE, May 1, 2002, at NC-1; Eleanor Yang, *Incident at High School Dance Creates Furor*, SAN DIEGO UNION-TRIBUNE, May 1, 2002, at B1 [hereinafter *Incident*]; Eleanor Yang, *Assistant Principal on Leave; Underwear-check Investigation Could Take up to 2 Weeks*, SAN DIEGO UNION-TRIBUNE, May 2, 2002, at NC-1; Eleanor Yang, *Freak-dance Fever has Schools Freaking Out*, SAN DIEGO UNION-TRIBUNE, May 12, 2002, at B1.
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TESTIMONY ATTACHMENT 12

**Testimony
Senate Bill 1465
House Education Committee
Representative RayAnn Kelsch, Chairman
January 24, 2011**

Chairman Kelsch and members of the Committee: my name is Carlotta McCleary. I am the Executive Director of ND Federation of Families for Children's Mental Health (NDFFCMH). NDFFCMH is a parent run advocacy organization that focuses on the needs of children and youth with emotional, behavioral and mental disorders and their families, from birth through transition to adulthood.

According to the Substance Abuse and Mental Health Services Administration (SAMHSA), the effects of bullying extend beyond the school years. Bullying may lead to criminal behavior for those who bully and future health and mental health problems for both the bully and the victims:

- Six out of 10 kids identified as bullies in middle school are convicted of a crime by the time they reach age 24.
- Years after experiencing bullying, adults who were bullied as teens have higher levels of depression and poorer self-esteem than other adults.
- Children exposed to violence either at home or at school often suffer long-term problems such as anxiety, depression, post-traumatic stress, low self-esteem, anger, and self-destructive behaviors.

Yet, despite its prevalence, bullying often is overlooked or downplayed as a problem among parents and educators. Most bullying takes place out of the view of adults. But even when bullying occurs within plain sight it is frequently ignored:

- As many as one-fourth of elementary and middle school teachers don't understand the seriousness of bullying or putdowns and, therefore, intervene in only 4 percent of bullying incidents.
- More than two-thirds of middle school students believe that schools respond poorly to bullying.

Most school bullying doesn't lead to headline-grabbing incidents of students brandishing guns in mass attacks against their perceived enemies. The consequences of bullying are often less obvious, yet nonetheless damaging and lasting. Left unchecked, bullying creates an atmosphere of intimidation and fear that can send a message to students that aggressive and violent behavior is accepted.

Children with disabilities and special needs are at higher risk being bullied by peers. Some research has been done and found out that there is a growing number of bullying cases.

The NDFFCMH is seeing more children dealing with bullying issues. In one situation a middle school girl with mental health needs was being bullied by who she thought was her friend. Her friend claimed that she had stolen items from her school locker. The friend then posted the false accusation on facebook. Not only were kids leaving negative messages on facebook they were shunning her at school. This girl was so distraught she had difficulty focusing on her schoolwork and would leave the classroom in tears. She became very depressed. When the family brought their concerns to the school the school did not want to get involved because it was dealing with the internet. Like many families the parents and child were left to deal with it on their own.

The NDFFCMH supports HB1465. However, we would like to see some effort toward educating the community about the impact of bullying, providing parents with information about bullying and school policy, and a program educating children with disabilities on how to cope with bullying.

Thank you for your time.

Carlotta McCleary, Executive Director
ND Federation of Families for Children's Mental Health
PO Box 3061
Bismarck, ND 58502

TESTIMONY ATTACHMENT 13

House Bill 1465

House Education Committee

January 24, 2011

Testimony of Jim Jacobson
ND Protection and Advocacy Project

Chairn Kelsch and members of the House Education Committee, I am Jim Jacobson, Director of Program Services for the ND Protection and Advocacy Project (P&A). P&A is Federal and State funded disability rights protection agency. I am here today to testify in support of House Bill 1465.

I would like to quote the Secretary of Education, Arne Duncan in his opening remarks at the first National Bullying Summit on August 11, 2010; "The fact is that no school can be a great school until it is a safe school first. A positive school climate is foundational to start academic achievement." North Dakota State Law mandates school attendance. There should be equally powerful mandates to ensure student safety.

Several states have passed laws to respond to and prevent bullying. In fact North Dakota is one of only 5 or 6 states that has not. Florida law specifically defines prohibited conduct, and Kansas law clearly covers "cyberbullying." Washington state regulations require school officials and employees to tell certain personnel about any bullying they are aware of, and Georgia prohibits retaliation against those who report incidents. And in Massachusetts, the state policy includes a provision to provide training to an extensive list of staff members to help them prevent, identify and respond to bullying. House Bill 1465 addresses each of these concerns.

Studies show that between 15 to 25 percent of U.S. students are bullied with some frequency ("sometimes or more often") while

15 to 20 percent report that they bully others with some frequency (Melton et al., 1998; Nansel et al., 2001). Rates of bullying are higher among younger students; almost 43 percent of 6th graders report having been bullied, compared to about 24 percent of 12th graders (U.S. Department of Justice, 2007).

Research indicates that children with disabilities or special needs are at a higher risk of being bullied than other children (Rigby, 2002). Parents of many of the students with disabilities that P&A has provided advocacy for have identified bullying of their son or daughter as a concern in sending them to school. There is also a potential legal liability for the School District, with regard to children eligible for disability related services under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act. Under both Federal Acts the School District is obligated to provide a Free Appropriate Public Education (FAPE). Case law has established that a failure by a School District to effectively address harassment or bullying has deprived the student of FAPE and parents have received tuition reimbursement after placing their child in alternative "safe" environments.

Although House Bill 1465 delineates specifics of school policy and practice there are many resources to address all areas identified. There is no need for ND School Districts to re-invent the wheel. The U. S. Departments of Education, Health and Human Services, Agriculture, the Interior and Justice are working together to develop programs and model policies to address bullying. Bullying is not a new problem but the internet, texting, facebook, etc. have added a new dimension to this problem. House Bill 1465 provides the direction that school boards and school districts need to ensure that the issue of bullying receives an appropriate response. Therefore P&A strongly supports House Bill 1465. P&A would propose one amendment to Section 1 on page 1 regarding. This amendment would borrow language from

House Bill 1147. P&A recommends that Subsection 1.a.(3) of Section 1 be amended at line 16 to add "...or has a detrimental effect on the student's mental or physical health."

Chair Kelsch and members of the House Education Committee, thank you for the opportunity to testify in support of House Bill 1465 and I would be happy attempt to answer any questions.

PROPOSED AMENDMENTS TO HOUSE BILL 1465

Page 1, line 16, after "property." strike out the period and insert;

or has a detrimental effect on the student's mental or physical health.

House Education Committee
January 24, 2011
HB 1465

Good morning, Chair Kelsch and members of the House Education Committee.

My name is Nancy Miller and I am the Executive Director of the North Dakota Chapter of the National Association of Social Workers (NASW). NASW is the largest membership organization of professional social workers in the world, with 145,000 members. **In our effort to ensure the school culture is free of intimidation or behaviors that can be viewed as harassing to students, we offer support of HB1465, relating to prevention of bullying in schools.**

As others have testified today, we also applaud your effort to actively address the issue of bullying. We trust that you will be able to meld the 4 different proposed bullying bills into one robust piece of legislation that will benefit today's youth, as well as those in the future.

The term "bullying" is making national (and unfortunately, local) headlines. Bullying is the intentional and repeated use of actions and words designed to intimidate or hurt another person. As others have stated, bullying can be verbal, physical, or mental in nature. Since many bullying incidents occur through personal cell phones and computers, and often after school hours, up to this point, many school professionals have had a difficult time in addressing this behavior. Reluctant to assert an authority they are not sure they have, educators can appear indifferent to parents' frantic worry and alarm by recent adolescent suicides linked to bullying.

Some believe that "being picked on" is a normal part of child development or a challenge for children to overcome on their own. However, bullying is not, and should not be, considered a normal part of growing up. **Bullying differs from normal conflict in that it is repetitious, has the intent to harm, and invokes terror and an imbalance of power much like an abusive relationship.**

With the progression of technology, bullying often occurs online or through mobile phones. Due to this shift in communication, bullying no longer ends when the school day ends. It can continue through the night, on weekends and during summer breaks.

Historically, bullying itself has not been directly addressed through discipline policies within the school system. However, as times have changed, and bullying has intensified from what past generations endured, a concerted effort has been made to implement 'anti-bullying' laws across the country. There are currently 45 states who have enacted legislation (from 1999 to 2004, 15 states did so, and from 2005 - 2010, another 30 have done so).

While enacting anti-bullying legislation will not be the cure-all, it is an important first-step. It will provide a framework for those at the local level to ensure that students can live and learn in environments free from the negative impact of harassment and bullying.

Again, we support HB1465, and we thank you for the opportunity to be here today.

TESTIMONY ATTACHMENT 15

TESTIMONY ON HB 1147, HB 1250 & HB 1465

House Education Committee

January 24, 2011

Valerie Fischer, Director of School Health / Director of Adult Education

328.4138

Department of Public Instruction

Madam Chair and members of the House Education Committee – I'm Valerie Fischer, Director of School Health and Director of Adult Education for the Department of Public Instruction. On behalf of the Department, I am here to provide testimony for HB 1147, HB 1250 and HB 1465, all which relate to bullying.

According to the **2009 Youth Risk Behavior Survey** ...

	Grades 7-8	Grades 9-12	TOTAL
Students who have been bullied on school property by another student.	50%	22%	72%
Students who have been bullied away from school property during the past 12 months.	27%	18%	45%
Students who have been electronically bullied (e-mail, chat rooms, instant messaging, Web sites or text messaging) during the past 12 months.	19%	14%	33%
Percentage of students who have been harassed during the past 12 months because someone thought they were gay, lesbian, or bisexual.	14%	8%	23%

The recent media attention across the country and across North Dakota has brought light to a social issue needing immediate reaction. Bullying needs to end; we have no place for such behavior in our schools, homes or communities. We must become intolerant of bullies and provide the structure for schools to take an aggressive stance against this negative conduct. By doing so, we can also stop the pain of literally thousands of ND students who don't want to go to school, who feel worthless and humiliated at the expense of others. This bill, or any law, will not stop bullying entirely; but a well written and well implemented law will put into place a comprehensive system which includes policy, programs/curriculum, sanctions, interventions, and professional development – for administration, staff, students, parents and the community – specific to the needs of elementary, middle and high school students. The remaining critical

component to stop bullying in schools is the time it will take to create and engage a culture and climate in every school buildings where civility and respect is paramount.

There are currently four (4) bullying bills this legislative session; all have similar components and yet, are different. Attorney General Stenehjem convened a work group of stakeholders which included DPI, Council of Educational Leaders, School Boards Association, NDEA, ND Council on Abused Women, and the Governor's Office. By consensus, we all contributed to the bill language and intent of HB 1465. SB 2167 was heard last week by the Senate Education Committee, with no action taken to date.

Legislative Council has asked for a fiscal note on three of the four bills; the Department is willing to accept the role and responsibilities identified in the bills. One FTE is warranted to perform and coordinate the bill responsibilities. This is a valuable service to the schools and students across the state and is a reasonable conservative fiscal note.

This concludes my testimony. I am available to take any questions the Committee may have. If not, thank you.

BULLYING

What is bullying?

Bullying is repeated exposure over time to deliberate, negative actions on the part of one person or more than one person that is unprovoked, resulting in a physical and/or psychological power imbalance.

When and where does bullying occur?

In school, bullying generally occurs in 'hot spots' where adult supervision is minimal – playground, bathrooms, hallways, bus, and locker rooms. Bullying also occurs via electronic means – internet, cell phone, texting, are all means via which to bully.

Who is most likely to be bullied?

There is no typical stereotype for the bully, but generally the student who is small, weak, different, or academically challenged becomes the victim of bullying.

Why does someone bully?

Bullying is a learned behavior; usually learned at home through observation from parent, sibling, or friend. The bully generally continues to bully because, simply, it works, he/she got away with it, they got the attention they were seeking at the expense of someone else and assume, falsely so, that they are in control.

How do bullies bully?

Bullies bully in the following ways – physical, emotional, sexual, verbal, cyber-bullying and even exclusion.

Who bullies more - boys or girls?

Historically, boys used to be bullies, but now it's an equal opportunity – both tend to bully via physical means; cyber-bullying and exclusion are generally done more often by girls.

What about the role of the bystander?

The role of the bystander is a critical role – the bystander actually has more power than the bully. The bystander/s has the power to end the behavior and if done so as a 'pact', has control over the bully who typically can't physically or emotionally continue without the support of the bystanders.

**North Dakota Department of Public Instruction
School Health
Safe and Drug Free Schools
Suspension/Expulsion Report 2009-2010**

**Quick Stats
North Dakota School Violence and Drug Statistics**

1807 — Total number of violent and drug-related incidents in North Dakota schools that resulted in suspension or expulsion:

	<u>Removal days</u>
• 800 reported fighting/mutual altercation incidents	2361.9
• 310 reported tobacco incidents	687.5
• 119 reported simple assault incidents	287.5
• 177 reported drug incidents	1459.0
• 82 reported alcohol incidents	280.0
• 89 reported terrorizing incidents	314.5
• 38 reported knife (blade 2.5" or greater) incidents	639.0
• 53 reported assault incidents	234.0
• 19 reported other object incidents	170.2
• 29 reported reckless endangerment incidents	37.0
• 30 reported hazing incidents	64.2
• 31 reported robbery incidents	68.5
• 11 reported other offenses resulting in 10 days out of school suspension or expulsion	190.0
• 0 reported handgun incidents	0
• 1 reported serious bodily injury incidents	10.0
• 12 reported sexual imposition incidents	22.0
• 1 reported rifle/shotgun incidents	1.0
• 3 reported other firearm incident	37.5
• 1 reported aggravated assault incident	3.0
• 1 reported murder, manslaughter, negligent homicide, kidnapping, felonious restraint, inciting a riot, or gross sexual imposition/rape incidents	2.0
	<u>total days: 6868.8</u>
• 149 reported vandalism/criminal mischief	514.75 removal days

Bold indicates increase from previous year

Total Public/Nonpublic K-12 enrollment 2009-2010: 101,319

Truancy Incidents reported in 2009-2010:

- 7810 days ND students were truant
- 1922 students truant
- State truancy rate: 4.06 days

Comparison of 2011 Legislative Introduced Bullying Bills

	SB 2167	HB 1465	HB 1147	HB 1250
<i>Definitions</i>	Defamation (page 1); Harassment (page 2); Electronic (page 3, 5); Stalking (page 3); Disorderly conduct (page 5); Bullying (page 7); Cyber-bullying (page 7); Hostile environment (page 8); Perpetrator (page 8); School (page 8); Victim (page 8)	Bullying (page 1); School (page 1)	Bullying (page 1)	
<i>Prohibition & Reporting</i>	Bullying (page 8); Retaliation (page 9); Duty and process to report (page 11)	Bullying (page 1); Retaliation (page 1); Protection for reporting (page 2, 4)	Student, parents or school may report to law enforcement (page 2)	Immunity from liability (page 2)
<i>Policy</i>	*DPI + team – develop plan for LEAs (page 6); LEAs develop plan (page 9); Plan content (page 9) File plan with *DPI (page 9)	*State ed partners create policy template by 12.31.11 (page 3); LEAs must have policy by 6.30.12 (page 2); policy provisions (page 2); *DPI review and approve (page 2); LEA school board approval (page 3)	LEA to develop policy (page 1); Policy provisions (page 1)	LEA enact policy (page 1); Policy provisions (page 1)
<i>Resources</i>	*DPI – prevention and intervention resources and curriculum for LEAs	*DPI – prevention and intervention resources and curriculum for LEAs		

<i>Professional Development</i>	*DPI – create PD topics and methods and report to LEAs (page 6); LEAs – ongoing PD to staff (page 6)	Policy incorporated into LEA PD (page 3)		
<i>Students</i>	LEAs provide plan to students (page 10)	LEAs provide policy to students via handbook (page 3)	LEAs provide policy to students via handbook (page 2)	
<i>Parents</i>	Informed of plan (page 10); Informed of internet policy (page 12)	Involve in policy development (page 2); Informed of policy (page 3)	Informed of policy (page 2)	
<i>School staff</i>	Provided plan annually (page 11); Incorporate K-12 bully prevention instruction into curriculum (page 13)	Develop K-12 bully prevention programs by 6.13.13 and reported to *DPI (page 3); *DPI to assist as indicted (page 3)	Informed of policy (page 2)	
<i>Enforcement / LEA Sanctions</i>	NONE IDENTIFIED	NONE IDENTIFIED	NONE IDENTIFIED	NONE IDENTIFIED
<i>Additional Information & requirements</i>	Creates ND Commission on bullying (page 12-13); *DPI include bullying into all content standards (page 13); *DPI to create curriculum for K-12 (page 13); IEP address bullying (page 14)			Public comment required before policy development and implementation (page 1)

* DPI responsibility

North Dakota Family Alliance

A Trusted Voice Impacting Our Legacy

Tom D. Freier, EXECUTIVE DIRECTOR

House Education Committee

January 24, 2011

HB 1147, HB 1250, and HB 1465

TESTIMONY
ATTACHMENT
15

Madam Chair and members of the House Education Committee, my name is Tom Freier, with the North Dakota Family Alliance.

What has become known as 'bullying' has been around, in some form, really---forever.

But especially in today's culture, with unprecedented access to the Web and social networking tools, there is no question that bullying can be far-reaching and especially cruel—and too many times has tragic outcomes. That is why the North Dakota Family Alliance believes that bullying should be recognized as a serious problem and should be strongly addressed.

We believe a good way for schools to address this issue is with a strong prohibition against any form of bullying, for any reason, against any child, in all cases. The emphasis should be on the wrong *actions* of the bullies, not on their *perceived thoughts or perceived motivations*. A good policy will be objective and applied fairly and equally.

It should include provisions:

- To guarantee parental involvement and protection of parental rights
- To task the local school board with the responsibility to develop the policy and be accountable for it
- That each local policy would include processes to communicate the policy, to investigate alleged incidents, provide for reporting and notification, and contain the disciplinary action.
- It should include a public comment process
- It should include an immunity clause, as well as First Amendment protection clause.

For your benefit, I have attached a copy of draft legislation including the features just mentioned. As you assimilate the best features of all the bills, I would strongly encourage the committee to consider those in this draft.

The North Dakota Family Alliance favors passage of a bill reflecting the provisions found in this draft.

Dedicated To Strengthening Families

North Dakota Family Alliance

HOUSE/SENATE BILL NO. ____

Sixty-second
Legislative Assembly
of North Dakota

Introduced by

Senators . . .

Representatives . . .

A BILL for an Act to create and enact a new section to chapter 15.1-19 of the North Dakota Century Code, relating to public school district bullying prevention policies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

Bullying – Required policy.

1. Each public school district shall enact a policy to prohibit bullying by any student:
 - a. While on school district premises;
 - b. During any school-sponsored event or activity, regardless of location;
 - c. While being transported by any means of transportation provided or supported by the school district; and
 - d. While using any electronic or technological device, provided or supported by the school district, while on school district premises or during any school-sponsored event or activity, regardless of location.

2. The policy required by this section must include:
 - a. The procedure to be followed by a student in reporting an alleged act of bullying to designated employees at the student's school;
 - b. The procedure to be followed by school personnel in investigating a report of alleged bullying;
 - c. A procedure for notifying the parents of each student involved in an incident determined by school personnel to constitute bullying; and
 - d. Disciplinary measures to be imposed by the student's school if a student is found to have engaged in bullying.
3. For purposes of this section, "bullying" means systematic, recurrent or repeated conduct that is directed toward a student by another student or a group of students which causes measurable physical harm or emotional distress and which school officials reasonably believe will:
 - a. Interfere substantially with the student's academic performance; or
 - b. Interfere substantially with the student's ability to participate in academic and extracurricular activities provided by a school district.
4. "Bullying" includes verbal expression, whether oral, written, or electronic, to the extent that:
 - a. Such expression is lewd, indecent, obscene, advocates illegal conduct, is intended to incite an immediate breach of the peace, or is the severe and pervasive use of threatening words intended to inflict injury; or

- b. District administrators or officials reasonably believe such expression will cause actual, material disruption of academic work and extracurricular school activities.
- 5. No policy enacted pursuant to this section may contain a definition of “bullying” that differs substantially from the definition provided in subsections (3) and (4) of this Act.
- 6. Retaliation against any person who reports, is thought to have reported, files a complaint, or otherwise participates in an investigation or inquiry concerning allegations of bullying is prohibited.
 - a. Suspected retaliation must be reported in the same manner as bullying.
 - b. Retaliation may result in appropriate disciplinary action.
- 7. Knowingly making false reports of bullying is prohibited.
 - a. Suspected false reports must be reported in the same manner as bullying.
 - b. Knowingly making false reports may result in appropriate disciplinary action.
- 8. A policy developed under this section may not impede or preclude a student, the student’s parents, or school officials from directly reporting to law enforcement officials any behavior that constitutes a violation of criminal law under title 12.1.
- 9. Each school district shall provide copies of its bullying prevention policy to all employees and to students in age-appropriate terms, and shall notify students’ parents that the plan is available electronically on the school district website and in printed form upon request.

10. Each school district shall provide an opportunity for public comment before the development and implementation of the policy.

SECTION 2. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

School District – Immunity from liability.

A school district and its employees are immune from any liability that might otherwise be incurred as a result of a student having been the recipient of bullying, if the school district implemented a bullying prevention policy as required by section 1 of this Act and substantially complied with that policy.

SECTION 3. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

Interpretation – Protection of First Amendment rights.

Individual bullying prevention policies enacted by school districts shall not be interpreted to infringe upon the First Amendment rights of students, and are not intended to prohibit expression of religious, moral, philosophical or political views, provided that such expression does not cause an actual, material disruption of academic work and extracurricular school activities.

TESTIMONY ATTACHMENT 16

Bullies to Buddies
p. 1

A Pilot Study of the Bullies to Buddies Training Program

Running Head: Bullies to Buddies

A Pilot Study of the Bullies to Buddies Training Program

In a national study of bullying, Nansel, Overpeck, Pilla, Ruan, Simons-Morton, & Scheidt (2001) found that 29.9% of sixth through tenth grade students in the United States report moderate to frequent involvement in bullying: 13% as bullies, 10.6% as victims, and 6.3% as both bullies and victims. Even if they are not chronically involved with bullying, research indicates that the majority of students will experience some form of victimization at least once during their school careers (Felix & McMahon, 2007).

Research has shown that students involved in bullying are at increased risk for negative outcomes throughout childhood and adulthood. Children who are the targets of bullying are more likely to experience loneliness and school avoidance than non-bullied students (Kochenderfer & Ladd, 1996; Nansel et al., 2001), have poor academic outcomes, and are at increased risk for mental health problems such as anxiety and suicidal ideation, which can persist into adulthood (Kaltiala-Heino, Rimpela, Rantanen, & Rimpela, 2000; Kochenderfer & Ladd, 1996; Kumpulainen et al., 1998; Olweus, 1995; Rigby, 2000; Schwartz, Gorman, Nakamoto, & Tobin, 2005). Bullies also experience more negative outcomes than their peers; they are more likely to exhibit externalizing behaviors, conduct problems, and delinquency (Haynie et al., 2001; Nansel et al., 2001), are more likely to sexually harass peers, be physically aggressive with their dating partners, and be convicted of crimes in adulthood (Olweus, 1993; Pepler et al., 2006). Children who both bully and have been victimized experience the greatest risk for psychosocial and behavioral problems (Haynie et al., 2001). Even students who are not directly involved with bullying incidents as bullies, victims, or bully-victims can

experience negative outcomes, as chronic bullying within a school creates a negative school environment for all students (Jacobs, 2008).

The alarming prevalence of bullying in schools and the harmful consequences for all involved clearly signal the need for effective intervention. Many states have enacted bullying legislation and most schools have implemented some sort of program to address this growing problem (Limber & Small, 2003). Programs that address bullying in schools typically incorporate targeted and/or universal intervention components. Targeted interventions focus on changing the behaviors of specific groups of students, such as bullies or students who are at risk for becoming bullies. Universal interventions focus on training all members of the school community to react more effectively to bullying incidents as well as altering the school culture to be less accepting of bullying (Orpinas, Horne, & Staniszewski, 2003; Salmivalli, Kaukiainen, & Voeten, 2005). Many programs are modeled on the work of Norwegian researcher Dan Olweus, whose anti-bullying program incorporates both targeted and universal elements (Jacobs, 2008).

Despite the large-scale dissemination of these programs, their effectiveness has not been demonstrated on a consistent basis. For example, although the original report of outcomes of the Olweus program demonstrated a 50% reduction in student bullying behavior two years after implementation (Olweus, 1994), other studies using interventions replicating or modeled after the Olweus program have yielded mixed results (e.g. Bauer, Lozano, & Rivara, 2007). A meta-analysis by Smith, Schneider, Smith, & Ananiadou (2004) concluded that the majority of whole-school programs yielded non-significant outcomes on measures of self-reported victimization and bullying. A second meta-analysis, conducted by Merrell, Gueldner, Ross, and Isava (2008), also included

targeted interventions, and found that the majority of intervention outcomes evidenced no meaningful change in a positive or negative direction.

A less frequently utilized approach to bullying intervention is to empower victims to react more effectively to the bully. Research has revealed a number of characteristics and behaviors that put children at risk for victimization. Victims of bullying are more likely than non-victims to exhibit behavioral vulnerability (e.g. looking scared/weak), withdrawn and solitary behavior (e.g., talking very quietly), submissiveness, (e.g., giving up easily), and signs of distress (e.g., crying easily) (Fox and Boulton, 2005). In addition, they often lack friendships and positive relationships with classmates (Andreou, Vlachou, & Didaskalou, 2005; Nansel et al., 2001). Externalizing behaviors also may serve as antecedents for victimization. Research has demonstrated an association between relational aggression and peer rejection, such that engagement in relationally aggressive behavior (including retaliation) may lead to peer rejection, and rejected children may be more likely to engage in aggressive behavior (Kuppens, Grietens, Onghena, Michiels, & Subramanian, 2008). Not surprisingly, victims are likely to have low self-esteem and poor perceptions of their social competence (Andreou et al., 2005; Jankauskiene et al., 2008; Rodkins & Hodge, 2003). Gini, Pozzoli, Borghi, & Franzoni (2008) report that victims become less well-liked by peers with increasing age; that is, positive attitudes toward victims decrease over time, while negative attitudes toward victims (i.e., dislike for being “weak”) increase. Ideally, intervention with victims should target both their behavior (submission, anger, distress, retaliation) and their perceptions of themselves as helpless victims, before attitudes and behavior become well-established.

Children who are victims of bullying typically believe that teacher intervention will be effective in countering bullying behavior, and such intervention is a component of most bullying prevention programs. However, research suggests that teachers under-identify bullying behavior, and that, when students report bullying events to teachers, bullying may increase (Smith & Shu, 2000). Although teacher intervention has been shown to reduce bullying in some studies, such intervention must be timely and consistent, and requires close supervision of students. Moreover, teachers' attitudes about bullying have been shown to influence their willingness to intervene, as well as the skill with which they do so (Kochendorfer-Ladd, & Pelletier, 2008). Thus, it is not always possible – and, in some instances, may not be advisable – to rely on teacher intervention as a means of managing the problem of bullying.

Additional support for targeting victims of bullying comes from research showing that anti-bullying programs, in general, have been more successful in reducing the proportion of children being bullied than the proportion of children bullying others. This may be because victimized children are more motivated to learn behaviors and coping strategies that will help prevent continued victimization than bullies who are likely enjoying their current status (Rigby, 2004). Change in bullying behavior may follow change in the behavior of victims, as bullying students with more adaptive coping skills may lose its appeal.

Little research has been conducted to evaluate the effectiveness of interventions designed specifically to target victims, rather than bullies or the school environment as a whole (Fox & Boulton, 2003). The few programs targeting victims that have been evaluated incorporate assertiveness training and/or social skills training to address the

risk factors of chronic victimization (Felix & Furlong, 2008; Rigby, 2004). *Assertiveness training* teaches victims to react less passively to bullies (Smith, Ananiadou, & Cowie, 2003). An example of an assertiveness program designed specifically for victims of bullying is the "Assertiveness Training Program" which was developed for the Sheffield Anti-Bullying Project. An evaluation of this program by Tonge (1992) revealed a statistically significant increase in victims' self-esteem as well as other positive outcomes including an increase in self-confidence and assertive behaviors and a decrease in reports of being bullied (as cited in Fox & Boulton, 2003, p. 233).

Social skills training programs teach victims skills that will make them less obvious targets for bullies (Felix & Furlong, 2008). An example of a social skills program for victimized and at-risk children is the "Social Skills Group Intervention" developed by DeRosier and Marcus (2005). This program teaches students basic social skills and coping strategies, and resulted in increased social acceptance and self-esteem and lowered depression and anxiety for a group of third grade students (although several treatment effects were present for girls but not boys). Another social skills training program for victims of bullying is the "Social Skills Training Program" developed by Fox and Boulton (2003) which teaches victims to use social problem solving skills, relaxation skills, positive thinking, nonverbal behavior, and specific verbal strategies. An evaluation of this program revealed less positive results. The students participating in the program evidenced an increase in "global self-worth." However, there were no changes in victimization status or social skills problems.

The limited research that has been conducted to date on programs that specifically target victims has yielded promising but mixed results. A comparison of research on

outcomes of the assertiveness training versus social skills training approaches suggests that interventions should focus on strategies for coping with bullying incidents, rather than on the development of overall social skills. There is a clear need for additional outcome studies that examine the effectiveness of victim-focused intervention, so that schools can determine whether this component should be included in anti-bullying efforts (Pepler, Smith, & Rigby, 2004).

Although difficult to achieve in school settings, there is a particular need for experimental studies in which random assignment to treatment and control groups is employed. The meta-analysis reported by Smith, et al. (2004) featured fourteen studies, of which eight employed control groups and only four utilized random assignment. Merrell, et. al (2008) noted that, of the sixteen studies included in their meta-analysis, only three employed true experimental designs. The remainder used quasi-experimental or mixed designs. Methodological limitations of studies included in these meta-analyses clearly indicate the need for outcome studies that employ stronger experimental designs.

Methodological limitations are particularly apparent in studies evaluating programs designed specifically to target victims. Findings of research on the "Assertiveness Training Program" (Tonge, 1992), and the assertiveness training program evaluated by Arora (1992) cannot be attributed to program effects, nor can they be generalized to other settings, due to methodological limitations including small sample size and the absence of control groups (Fox & Boulton, 2003). The "Social Skills Training Program" developed by Fox and Boulton (2003) did employ a waitlist control group, but there was no random assignment of subjects to groups. Of the studies found in

a review of the literature on victim-focused programs, only one (DeRosier & Marcus, 2005) employed random assignment of children to treatment and control groups.

The present study was conducted to evaluate the impact of student training using an abbreviated version of the Bullies to Buddies program, developed by Israel Kalman (2005). The Bullies to Buddies Program (B2B) is a training intervention that teaches victims specific techniques that can be used to respond to bullying. These coping strategies help students avoid behaviors that are believed to contribute to continued victimization (retaliation, anger, reporting, resistance) and replace them with more socially adaptive responses. Through role plays consisting of examples and non-examples of appropriate strategies, students are taught to react to bullying calmly and with honesty (and even with humor and playfulness, if possible), instead of anger, defensiveness, and fear. The B2B program discourages victims from reporting bullying events to teachers, citing the need for them to develop a more effective repertoire of behaviors. It also discourages retaliation, which may precipitate the peer rejection that is associated with higher rates of victimization.

The study was designed to overcome the methodological problems associated with earlier studies through the use of a waitlist comparison group, as well as random assignment of classes to training or comparison groups. In addition, the training intervention did not target only so-called "victims" of bullying, but intact classrooms of children. According to Espelage and Swearer (2003), children may function at various times as bullies, victims, and bystanders, suggesting that many would benefit from a bullying intervention program focusing on victim responses. Moreover, research has shown that classwide implementation of interventions may lead to increased

generalization of newly-learned skills, and positively affect peer attitudes, two factors shown to be critical in bullying prevention (Fox & Bolton, 2003).

The fourth- and fifth-grade levels were selected because, by this age, students were assumed to have developed social competencies (such as perspective-taking) that would support their use of skills taught in the program; at the same time, because students had not yet reached pre-adolescence, the trajectory leading to peer disliking and rejection of victims might not yet have been established. In addition, based on reports of a peak in bullying at the sixth- through eighth-grade levels, intervention with fourth- and fifth-grade students was thought to be desirable as a preventive measure.

Method

Procedure

This study examined the effects of the Bullies to Buddies (B2B) bullying prevention program on 142 fourth- and fifth-grade students attending eleven schools in the Greater Cleveland, Ohio, area. Participating schools received professional services from PSI, a community-based educational service agency, including a series of optional prevention programs. Principals of thirteen schools receiving a prevention series (Dinero & Rosenberg, 2004) were asked to participate in a study examining the effectiveness of a specific approach to bullying prevention. Eleven principals agreed, and letters requesting parental consent and student assent were distributed. Students for whom either was denied or missing were not included in the study. PSI personnel were responsible for (1) enlisting schools to participate in the study; (2) distributing and collecting consent and assent forms; (3) training facilitators to deliver the B2B student training; (4) conducting the B2B training with students; and (5) coding, distributing, and then collecting, in an

envelope sealed by the teacher, completed survey materials at pretest and posttest. Completed materials were hand-delivered in the original sealed envelopes to the research team (headed by the first author) at Cleveland State University.

The entire B2B program includes teacher training in responding to student reports of bullying (Kalman, 2007), as well as student training in responding to threats of violence, stolen possessions, social exclusion, coercion to choose between friends, and sibling rivalry (Kalman, 2005). For the present pilot study, only the student training was conducted, and it consisted of three 45-minute lessons addressing common bullying behaviors of spreading rumors, insults, and physical attacks. Facilitators received initial training from Israel Kalman, the author of the B2B program, in two sessions, the first of which focused on the overall philosophy and goals of the program, as well as skills that would be taught to students. In a second training, lessons that would be taught to students were modeled, including role plays that are a major feature of the training. In subsequent sessions, the second author presented and modeled for facilitators the three lessons that were to be taught to students. She observed facilitators presenting each lesson in practice sessions, and provided feedback to ensure that lessons were delivered as designed. Facilitators received detailed scripts for each lesson, and met periodically to review the B2B sessions to monitor implementation integrity. (Manuals containing detailed scripts for teacher and student training were made available by the author of the program.)

An alphabetically-ordered list of participating schools was created, and each school (i.e., its fourth- or fifth-grade classroom) was assigned on an alternating basis to either the participant or comparison group. (In three schools, two classrooms existed in the same building at the fourth- or fifth-grade level, so both were designated to

participate, with one randomly assigned to the participation group, and one to the comparison group.) Pretests were administered to all students three weeks prior to the delivery of the B2B lessons to the participating classes. Posttests were administered to both participating and comparison classes within a one-week period following the delivery of the B2B lessons to the participating classes. The B2B lessons were presented to the comparison group classes at various times subsequent to the posttest; consequently, it was not possible to assess longer-term outcomes of the B2B training.

Participants

A total of 267 students participated in the study. The proportion of students receiving free and reduced lunches was not made available by schools, but three schools were located in urban areas; three in first-ring suburbs; four in suburbs; and one in a rural area. Forty-nine percent ($n = 132$) of the total sample were boys, and 51% ($n = 135$) were girls; 88% of students ($n = 233$) were of White/Caucasian ethnicity; 5% ($n = 12$), African-American; 4% ($n = 10$), Asian/Pacific Islanders; and 3% ($n = 9$), Hispanic. Because White/Caucasian students were over-represented in the sample as a whole, results may not be generalizable to non-White populations.

With respect to demographic characteristics, the participant ($n = 142$) and comparison groups ($n = 125$) were very similar (see Table 1); however, the participant group had a higher proportion of students of White/Caucasian ethnicity (90.8%, v. 83.2% in comparison group), coupled with a lower proportion of African-American students (1.4%, v. 8% in comparison group). Therefore, on this demographic dimension, the participant and comparison groups were not equivalent.

Instruments

Measures employed in this study included a teacher rating of victimization for each student ("On a scale from 1 to 9 [with a rating of "1" corresponding to low victimization, and "9" corresponding to high victimization], how would you rate this student in terms of the extent to which he or she has been a victim of bullying in recent months?") Ratings were later reversed for purposes of data analysis, resulting in a rating of "1" corresponding to high victimization, and "9" corresponding to low victimization.

Prior to the initiation of the B2B training with the participant group, students in both groups completed a survey in which they rated the frequency with which they had experienced bullying-related events; employed certain responses to bullying (if they had in fact experienced bullying); the degree to which they believed certain responses to be appropriate; and the frequency with which their teachers displayed certain behaviors in response to bullying events. The survey defined bullying as "called names, teased, excluded, threatened, gossiped about, etc." Items were designed to assess events and behaviors that are the focus of the B2B training (i.e., victim responses to bullying: "...in the past month, when kids called you names, threatened you, or made fun of you, about how often did you tell a teacher or other adult?; call them names back?; not care?").

A Principal Component Analysis employing Varimax rotation with Kaiser Normalization was conducted to estimate construct validity of the student survey (see Table 2). The analysis yielded a three-factor solution (eigenvalues greater than 2.0) at pretest (accounting for 35% of variance in responses) that was replicated at post-test (accounting for 38% of the variance in responses); this served as evidence of the stability of the survey's factor structure. The first factor, entitled "Victimization", with an initial eigenvalue of 5.36 at pretest and 6.28 at post-test (accounting for 16.2% and 19% of the

variance, respectively), was defined by items reporting experiences as a victim of bullying, accompanied by a tendency to report incidents to the teacher or another adult. The second factor, "Aggressive Response," with an initial eigenvalue of 3.96 at pretest and 3.03 at post-test (accounting for 12% and 10.5% of the variance, respectively), describes a tendency to respond to bullying with retaliation, and to engage in bullying-related fights. The third factor was defined by items describing teacher reactions to reports of bullying, which was not a focus of this study; therefore, data for this factor (which explained an additional 7% and 9% of the variance at pretest and post-test, respectively) are not included in Table 2. Survey factors were not employed as variables in this study; instead, specific survey items representing phenomena of interest were selected and employed as predictor (pretest) and dependent (posttest) variables.

Results

Participant and comparison group characteristics. An independent samples *t*-test was conducted to determine whether there were differences between participant and comparison groups at the time of pretest on teacher ratings of victimization. There were no significant differences in teacher ratings of victimization between the participant group ($M = 2.10$, $S.D. = 1.40$) and the comparison group ($M = 2.07$, $S.D. = 1.50$) ($df = 298$; $t = .41$). However, in both groups, ratings were negatively skewed; that is, teachers assigned generally high ratings of victimization (see Table 1). It is possible that principals who agreed to participate in the study were motivated by a perception of bullying as a significant problem in their schools. The results of an independent samples *t*-test revealed no differences between the participant and comparison groups at pretest in their reports of bullying-related coping responses and beliefs about appropriate coping responses.

However, a significant difference between participant and comparison groups was found in pretest reports of having been threatened by peers, with students in the participant group reporting fewer instances ($df = 274, t = -2.68, p < .01$). Consequently, results of analyses employing this variable must be interpreted conservatively.

Gender Differences in Bullying-Related Phenomena

Preliminary analyses of pretest findings across both participant and comparison groups revealed some differences in variables as a function of gender. Boys were more likely to be rated as victims of bullying than were girls (relationship between gender and teacher victimization rating of $r = -.15, p < .01$). Girls were more likely than boys to report victimization in the form of "rumors spread" ($r = .15, p < .05$), while boys were more likely than girls to report that they "called names back" ($r = -.15, p < .05$) and "threatened to hit" ($r = -.22, p < .05$) in response to teasing or provocation by others.

Changes in reported bullying events, responses, and beliefs from pre- to post-test.

Table 3 presents results of paired-samples *t*-tests of the significance of differences between pretest and posttest reports of bullying-related events, responses, and beliefs about appropriate responses among students in the participant and comparison groups. Within the comparison group, no changes from pretest to posttest were reported in bullying-related phenomena of any kind. In contrast, students who participated in the B2B training reported a significant decrease in having had rumors spread about oneself, with a pretest mean score of 7.45 ($SD = 2.13$) and a posttest mean score of 7.75 ($SD = 2.08$); ($df = 142, t = -2.15, p < .05$). (A rating of 1 corresponded with "very often;" a rating of 9 corresponded with "never.") This finding was further explored through the more rigorous method of hierarchical regression analysis, where posttest reports of

rumors spread were predicted by pretest scores (entered into the equation first, due to their strong correlation with posttest scores), and by participation in the B2B training. Results indicated that participation in the training improved prediction of the frequency of "rumors spread" from pretest scores ($df = 1, 250$; $R^2 = .44$; R^2 change = .012, $p < .05$).

No change in other bullying-related events (threats, name-calling, fighting) was reported by participants, nor were there any changes in their reported behavioral responses to bullying. However, they did report changes in beliefs about appropriate responses to bullying. Specifically, beliefs about whether victims should tell adults about bullying events declined from pretest ($M = 2.65$, $SD = 2.16$) to posttest ($M = 3.89$, $SD = 2.66$); ($df = 141$, $t = -4.86$, $p < .001$). (A rating of 1 corresponded with "strongly agree;" a rating of 9 corresponded with "strongly disagree.") In addition, beliefs about whether victims should attempt to stop the bully's behavior decreased from a pretest mean rating of 2.42 ($SD = 2.13$) to a posttest mean of 3.65 ($df = 141$, $t = -4.99$, $p < .001$).

Difference in Changes in Beliefs about Appropriate Responses from Pretest to Posttest between Participant and Control Groups.

Further analysis was deemed necessary to link changes in student beliefs about appropriate coping responses to the B2B training. To control for strong pretest-posttest item correlation as well as item variance, hierarchical regression analyses were conducted to determine whether changes in beliefs were attributable to participation in the B2B training. In all analyses, pretest scores on survey items were entered into the equation first, followed by group membership (participant v. comparison).

Results are reported in Table 4. With respect to posttest beliefs about the appropriateness of telling an adult, telling the bully to stop, and "not being bothered" by

the bullying, participation in the B2B training explained an additional 3%, 3.4%, and 1.5% of the variance, respectively; all represented statistically significant improvements in prediction over that afforded by pretest-posttest prediction only. The combination of pretest-posttest and training participation explained 13.7%, 12.1%, and 7.8% of the total variance in responses for each of these beliefs, respectively. However, participation in the B2B training did not improve the prediction of posttest scores on the appropriateness of retaliation, where only pretest scores served as significant predictors of posttest scores.

Relationship between changes in reports of bullying events, responses, and beliefs and teacher-rated victimization among B2B-trained students. Because of its focus on bullying victims, the B2B training might be expected to have a more significant impact on victims than on bullies or bystanders. Pearson product-moment correlations were calculated to determine whether teacher-rated victimization was related to change from pre-test to post-test in student-reported bullying-related events, responses, and beliefs about appropriate responses to bullying. Results are presented in Table 5. Among trained students, teacher-rated victimization was related to changes in students' *reports of bullying-related events*. That is, students who were rated by teachers as more frequent victims reported a significant decrease in reports of being "called names" ($r = -.22, p < .01$) and being "in trouble for fighting" ($r = -.26, p < .01$). Victimization ratings were not related to changes in trained students' reports of threats or rumors.

With respect to changes in trained students' *reports of their responses to incidents of bullying*, teacher-rated victimization was related only to changes in reports of "calling names back" as a form of retaliation ($r = -.26, p < .01$); students rated by teachers as more frequent victims reported an increase in this response. Victimization ratings were

unrelated to changes in trained students' reports of bullying responses of telling an adult, telling the bully to stop, or not being bothered by the bullying event.

However, changes in trained students' *reports of their beliefs about appropriate responses to bullying* were related to teacher-rated victimization for "should call names back" and "shouldn't bother me." Following training, students rated as more frequent victims of bullying were less likely to endorse the appropriateness of calling names back ($r = -.26, p < .01$), despite self-reported increases in this response, and more likely to endorse the belief that they shouldn't be bothered or upset when bullied ($r = .19, p < .05$). However, teacher-rated victimization was not related to changes in trained students' endorsement of "telling an adult" and "telling the bully to stop".

Results of the hierarchical regression analyses presented in Table 4 demonstrate that, while participation in the B2B training predicted various outcomes at posttest, teacher-rated victimization did not improve prediction. Thus, bullying victims did not differ from non-victims in the extent to which they changed beliefs about the appropriateness of various coping responses as a result of the B2B training.

Discussion

The Bullies to Buddies (B2B) bullying prevention program seeks to alter the behavior of bullying victims by teaching them to refrain from actions that reinforce the bullying behavior – such as getting angry, retaliating, and reporting to adults. In B2B, victims learn that, while they do not invite or cause bullies to behave as they do (i.e., bullying is not their fault), their reactions can perpetuate, and even exacerbate, bullying behavior. Victims are taught to respond to bullying calmly, and to avoid getting angry, retaliating, or reporting the bully to a teacher or other adult (unless the bullying is

physically injurious or extreme; this, and other exceptions to recommended non-resistance, are explored in detail in the student and teacher trainings). The overriding theme of recommended bullying responses is to avoid treating the bully as an enemy, and instead employ a calm and even friendly response when bullying is initiated. Students assume roles of both bully and victim in repeated role plays, so they can observe how a calm response to a bullying episode when it is first initiated can interrupt the typical sequence of escalation, leading many bullies to stop the bullying behavior.

Because it promotes behavior change, the B2B program is vulnerable to the same problems that have long been associated with social skills training, especially generalization of newly-learned behaviors. Although the profile of victims as socially unskilled, displaying inadequate and sometimes inappropriate behavior (Andreou, Vlachou, & Didaskalou, 2005; Fox and Boulton, 2005; Nansel et al., 2001), suggests that they may not easily learn to do so, victims are encouraged to respond playfully and paradoxically to bullying – including, in some instances, agreeing with and even exaggerating the bully's derogatory comments .

Several important findings emerged in this study. With respect to bullying *events*, fourth- and fifth-grade students who participated in the B2B training reported significant decreases in having had rumors spread about them, and this outcome was a result of participation in the B2B training (i.e., no decrease was reported by the comparison group). Fox and Boulton (2003) suggested that reductions in bullying following whole-class interventions were a result of increased awareness and disapproval of bullying behavior. In any event, in view of the limited dosage of the B2B training employed in this study, any change in the frequency or severity of bullying behavior is noteworthy.

Results showing no change in reported coping *behaviors* among trained students were consistent with the findings of a meta-analysis conducted by Merrell, et. al (2008), where the authors noted that successful bullying prevention programs more often result in changes in knowledge, attitudes, and self-perceptions about bullying than in documented changes in behavior. A central premise of the B2B program is that common responses to bullying, such as reporting to adults, telling the bully to stop, and retaliation serve only to exacerbate the problem, and these responses should be curtailed. In this study, the B2B training was successful in changing student *beliefs* about the appropriateness of these responses; in comparison to the waitlist group, at posttest, trained students reported that victims should not report to adults or tell the bully to stop, and they more strongly endorsed the notion that victims should not be bothered by bullying. Changing beliefs about appropriate responses, and even engaging in recommended responses, has not been demonstrated to result in an actual reduction of bullying behavior, however, and research to establish this relationship is essential.

It is possible that, in a more extensive version of the B2B training which includes additional opportunities for skill practice, monitoring (and prompting) of skill use, and followup evaluation, corresponding changes in behavior might occur. However, evidence that the behavior change recommended by the B2B program is itself responsible for a reduction in bullying will be required in order to fully establish the program's effectiveness.

Outcomes reported by students rated by teachers as more frequent victims of bullying are of particular interest, since B2B is designed to foster more effective responses among victims. Analysis of the degree of change in events, coping behaviors, and outcomes

reported by victims at posttest revealed that, among students who participated in the B2B training, children who are more frequent victims reported greater change (reduction) than non-victims in being called names and being involved in fights. In addition, victims reported greater change in beliefs that they should retaliate (reduction), and that they shouldn't be bothered by bullying (increase).

Findings of this study are noteworthy for several reasons, including the fact that a significant change in one especially problematic form of bullying – spreading rumors – was reported by students, and this change was explained by participation in the B2B training. Thus, although the program is targeted to bullying victims, exposing an entire class to the B2B training (as occurred in this study), at minimum, might be expected to raise awareness about, and discourage, at least some forms of bullying. However, because of methodological limitations, it is not known whether studies of other classwide bullying prevention programs demonstrate a similar effect – that is, whether exposure to *any* classwide program might have the same impact. A second noteworthy aspect of this study was its use of an experimental design in which classes of students were randomly assigned to either participant or comparison (wait-list) conditions; as noted earlier, few studies of bullying prevention programs have employed experimental methodology.

Several limitations of the study should be noted, especially the abbreviated nature and minimal dosage of the B2B intervention. As designed by the author, the B2B program includes both a teacher training component (encouraging teachers to adopt different responses to reports of bullying incidents) and a student training component. In this study, only the student training component was employed, and it was of limited duration (three 45-minute sessions). A second limitation was the self-report measurement of

bullying events and student use of the coping behaviors recommended in the B2B training; direct measurement of both phenomena (as well as monitoring of the integrity of coping behaviors) would provide a more objective and useful index of program effects. Because actual use of coping behavior was not measured, it is not possible to determine whether outcomes were the result of students' simply having experienced a(ny) bullying prevention training, the philosophy and knowledge imparted to all children by the B2B program, or the impact of the B2B training on the attitudes and behavior of victims.

Methodological limitations of the study included a sample in which children of color were under-represented, and the fact that classes – not children – were randomly assigned to participant v. comparison groups (although there is no reason to believe there was a systematic difference between classes in the characteristics or behavior of students). A final methodological concern is related to the tendency of teachers to assign relatively high ratings of victimization to most students. This may have occurred because it is an accurate depiction of the school populations included in this study, or because of inordinately broad definitions of "bullying." In any case, it created a restricted range of victimization ratings, which may have affected statistical analyses and their results.

Future research on the B2B program should employ objective measures of bullying and coping responses, and designs should provide for more extensive training and followup, as well as a method to monitor the use of recommended behavioral strategies by students. Thus, the use of B2B strategies by students, rather than their participation in a training (as was the case in this pilot study), would serve as an independent variable whose effectiveness can be more accurately assessed.

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Table 1. Comparison of participant and comparison groups on demographic characteristics.

Demographic Characteristic	Group	
	Participant (n = 142)	Comparison (n = 125)
Gender		
Male	52.1% (74)	53.6% (67)
Female	47.9% (68)	46.4% (67)
Race/Ethnicity		
White/Caucasian	90.8% (68)	83.2% (104)
African-American	1.4% (2)	8.0% (10)
Asian/Pacific Islander	4.2% (6)	3.2% (4)
Hispanic/Non-White	3.5% (5)	3.2% (4)
Teacher-Rated Victimization ^a	<u>M</u> = 2.10 (S.D. = 1.40)	<u>M</u> = 2.07 (S.D. = 1.50)

^aNote: Rating scale range of 1 (very frequently a bully victim) – 9 (never a bully victim).

Table 2. Item loadings on student survey factors 1 and 2.

Item	Factor 1	Factor 1	Factor 2	Factor 2
	Pretest	Posttest	Pretest	Posttest
I get bullied.	.85	.87		
Others see me as bullying victim.	.78	.84		
I am called names.	.78	.80		
I am threatened.	.74	.68		
Rumors are spread about me.	.73	.75		
Bullying is a real problem here.	.58	.60		
When bullied, I tell the teacher.	.43	.55		
When bullied, I tell the bully to stop.	.37	.41		
Victims should call names back.			.75	.39
When bullied, I call names back.			.75	.53
When bullied, I threaten to hit.			.74	.80
I'm a bully.			.71	.68
I get in trouble for fighting, threatening, calling names, or spreading rumors.			.71	.76
Victims should threaten to hit bullies.			.66	.60
Others see me as a bully.			.50	.68

bullying is not the issue. Learning to deal with bullying is.



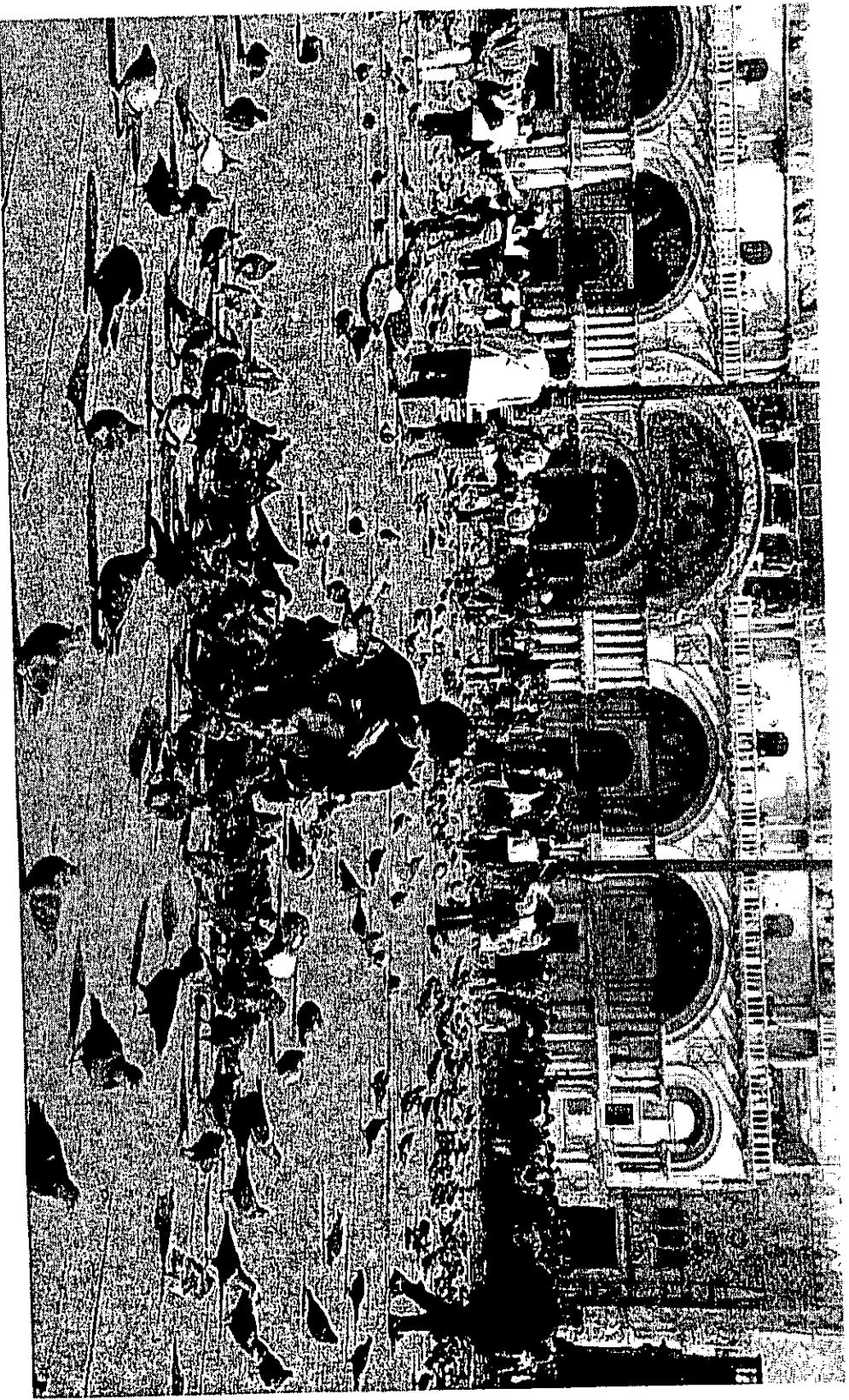
Those we call "bullies" are just like you and me.

When we are accused of wrongdoing, we naturally react by defending ourselves and blaming our opponents. We present ourselves as the true victim..

*It is almost impossible to reform someone by treating him as a bully. We need to recognize that **they** experience themselves as victims and that **they** need to be treated as victims*

Excellence and Enjoyment: social and emotional aspects of learning

Stop feeding the pigeons



Improving behaviour: improving learning

Aggression is a normal, genetically programmed behavior.

Aggression is here to stay. It has been a part of life for the billions of years that our genetic program has been developing, and there is no evidence that human beings have suddenly, mysteriously, become the only animal on the planet that is born without genetic programming for aggression.

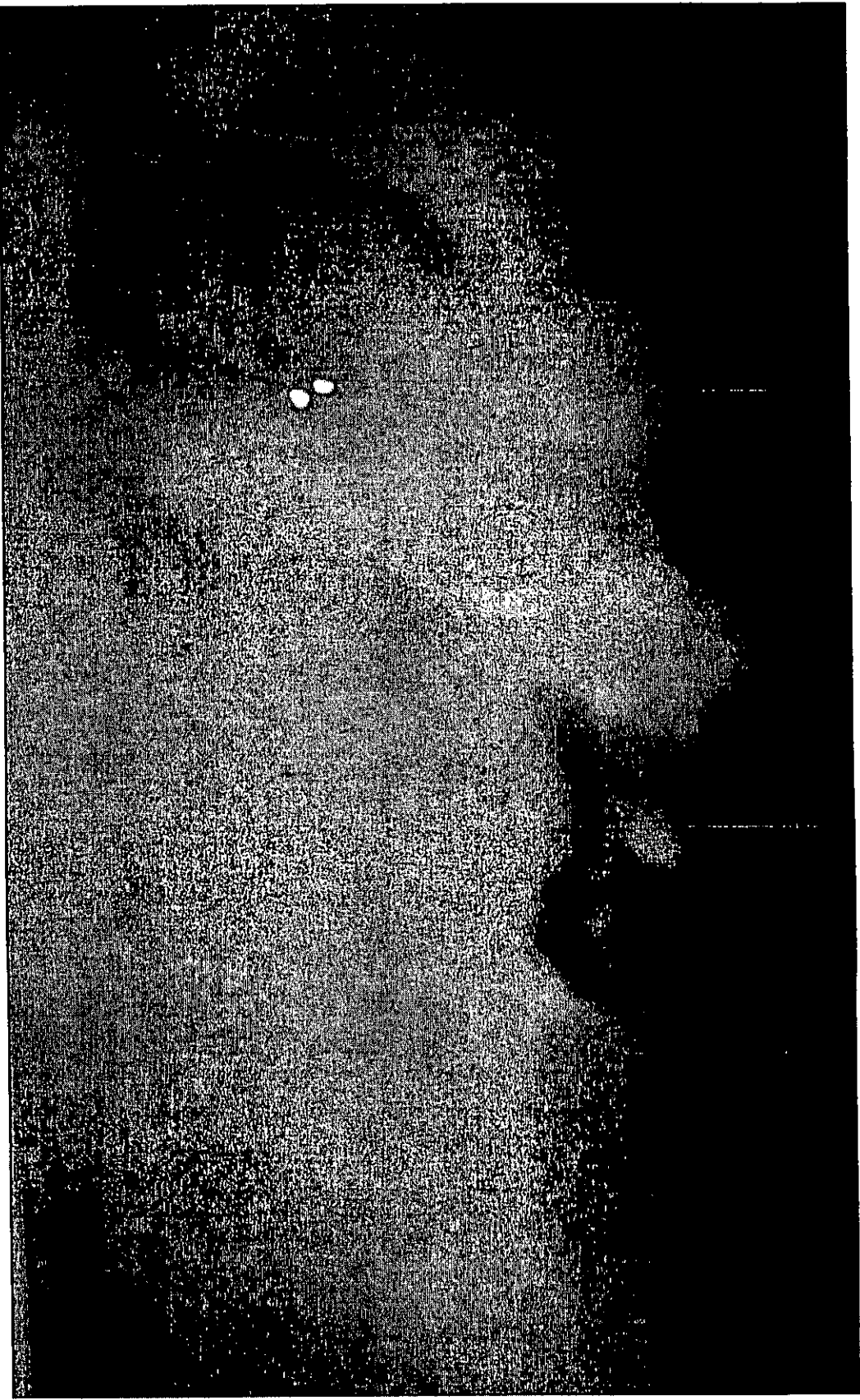
If aggression were a learned behavior, we wouldn't have to spend so much time and effort into teaching children not to be aggressive.

When children display aggression, we should understand that they are expressing genetically programmed behavior patterns.

Rather than being judgmental towards aggressive children and their parents, we need to learn how to understand aggression and deal with it – our own and others' – in a manner that is conducive to civilized living.

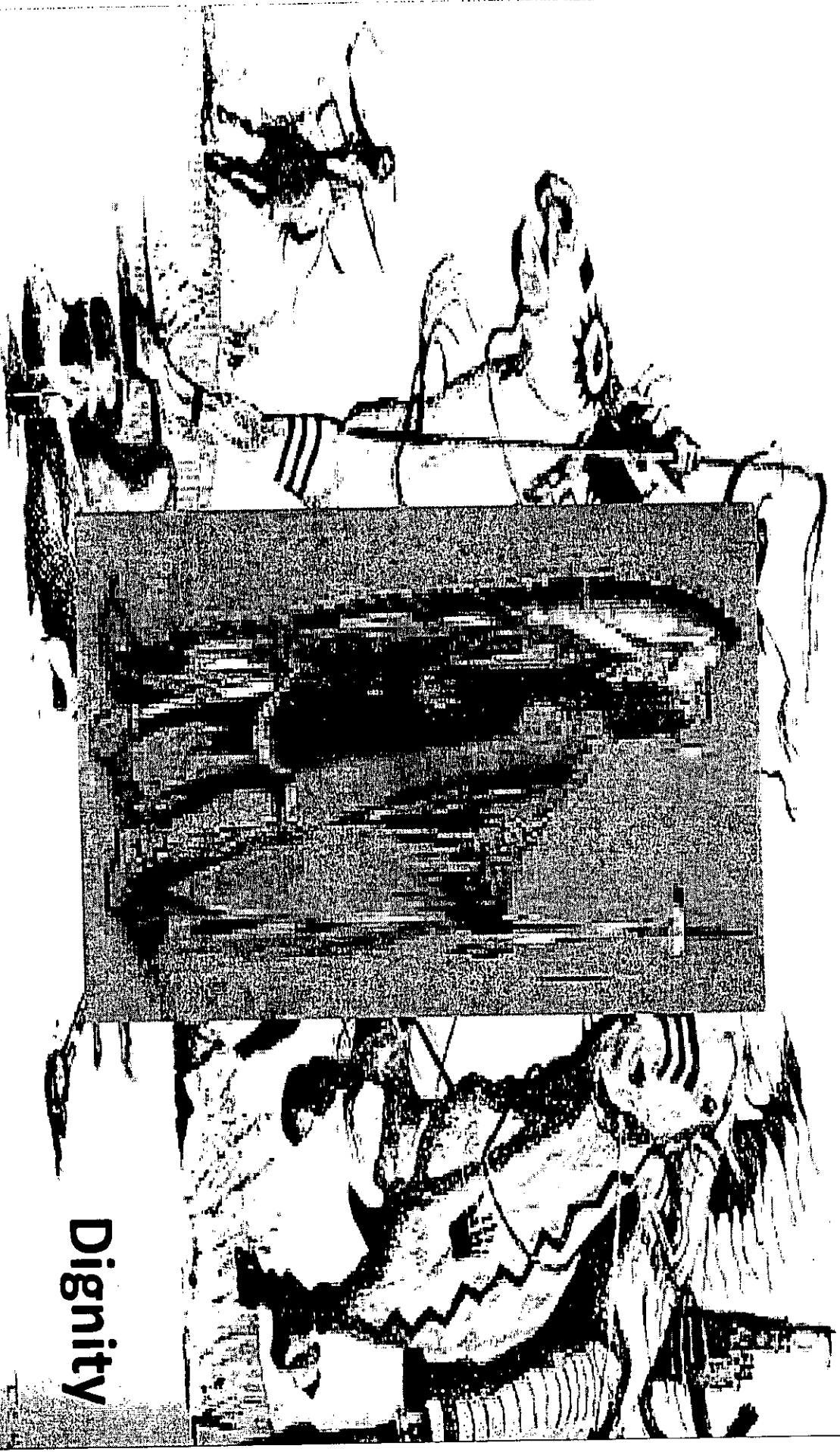
Excellence and Enjoyment: social and emotional aspects of learning

Where do the origins of bullying come from?



Improving behaviour: Improving learning

The first people to perfect bullying



Dignity

Excellence and Enjoyment: social and emotional aspects of learning

Experiencing difficulty and pain is essential for emotional growth.

All truly resilient people have had experience with harsh life situations and learned how to overcome them.

If we actually succeeded in raising children who never experience any abuse or neglect, they would grow up to be emotional marshmallows, frustrated when they don't get what they want, and unable to handle people being mean or inconsiderate towards them.

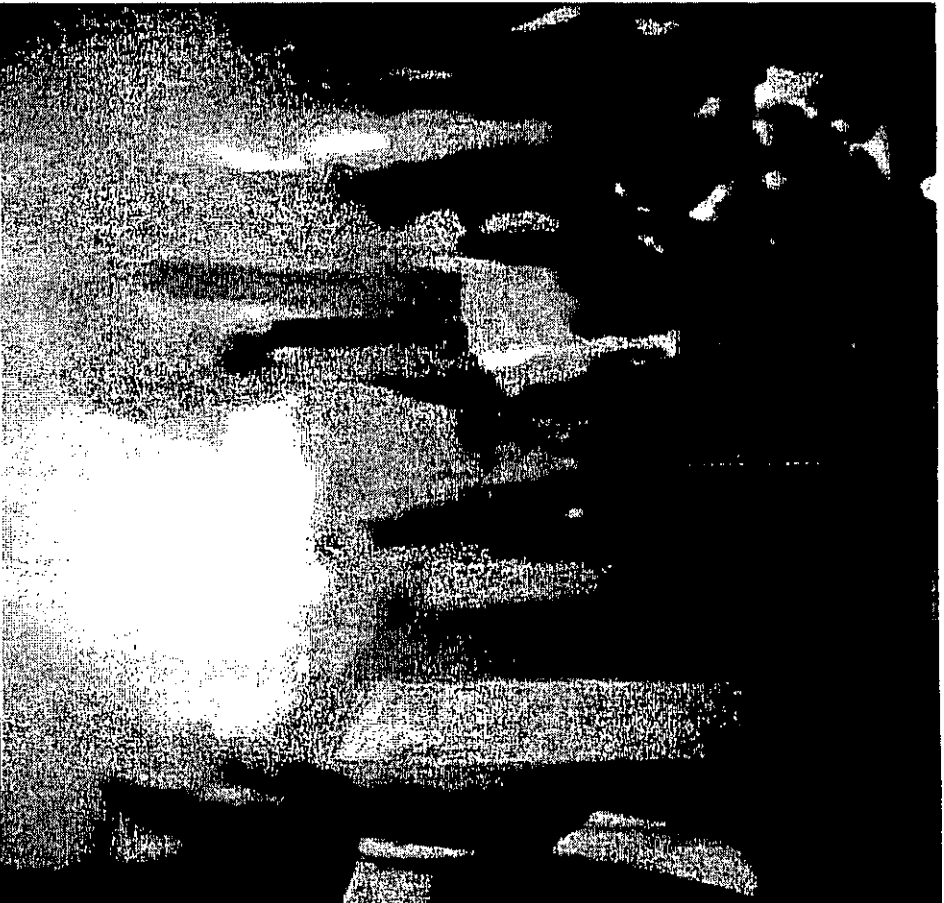
Therapy that's primarily concerned with delving into sources of abuse and neglect can make a person's life worse by increasing his anger towards the people who have been close to him and by legitimizing feelings of self-pity for being treated badly.

To develop emotional resilience, children need to be exposed to aggression and learn to deal with it effectively. (In civilization, learning to deal with aggression requires learning to control one's anger.)

Educate Students to stop being Bullies. Educate Students to stop being victims.

1. The following is generally what happens when teachers try to make students stop fighting. Let's say you are my classmate and you hit me. I **Tell** the instructor and **You** get punished for being a bully. Does that make you like me? No! Does it make you like the teacher? Of course not! It makes **You hate both of us**. You want to get even. So you will look for the next opportunity to hit me again, and you'll want to do it even harder than before. Or you'll try to get *me* in trouble with the teacher. Meanwhile, the teacher thinks he/she's making us *stop* fighting. The teacher doesn't realize that **by trying to make us stop fighting, the teacher is actually making us continue fighting.**

Sticks and stones may break my bones, but words hurt my soul.



This variation of the age-old slogan has become the new way of thinking, especially after Columbine.

Since it has become obvious that the children who are killing children are victims of teasing, it is no longer correct that “words can never harm me.” In fact, words can hurt so badly that victims have been driven to commit mass murder as revenge.

Sticks and stones may break my bones, but words can never harm me.

- This slogan was never intended as a statement of fact, since it is obvious that children often feel hurt by words. It is meant to be a remedy to being hurt by words.
- This provides students with the secret weapon for easily defeating those who taunt them.
- “*Sticks and stones may break my bones, but words can never harm me*” is a wonderful encapsulation of the fundamental difference between verbal and physical aggression.
- When a baseball bat hits me over the head, my attitude towards the bat is irrelevant – no matter what I think about the bat, it’s going to hurt me.

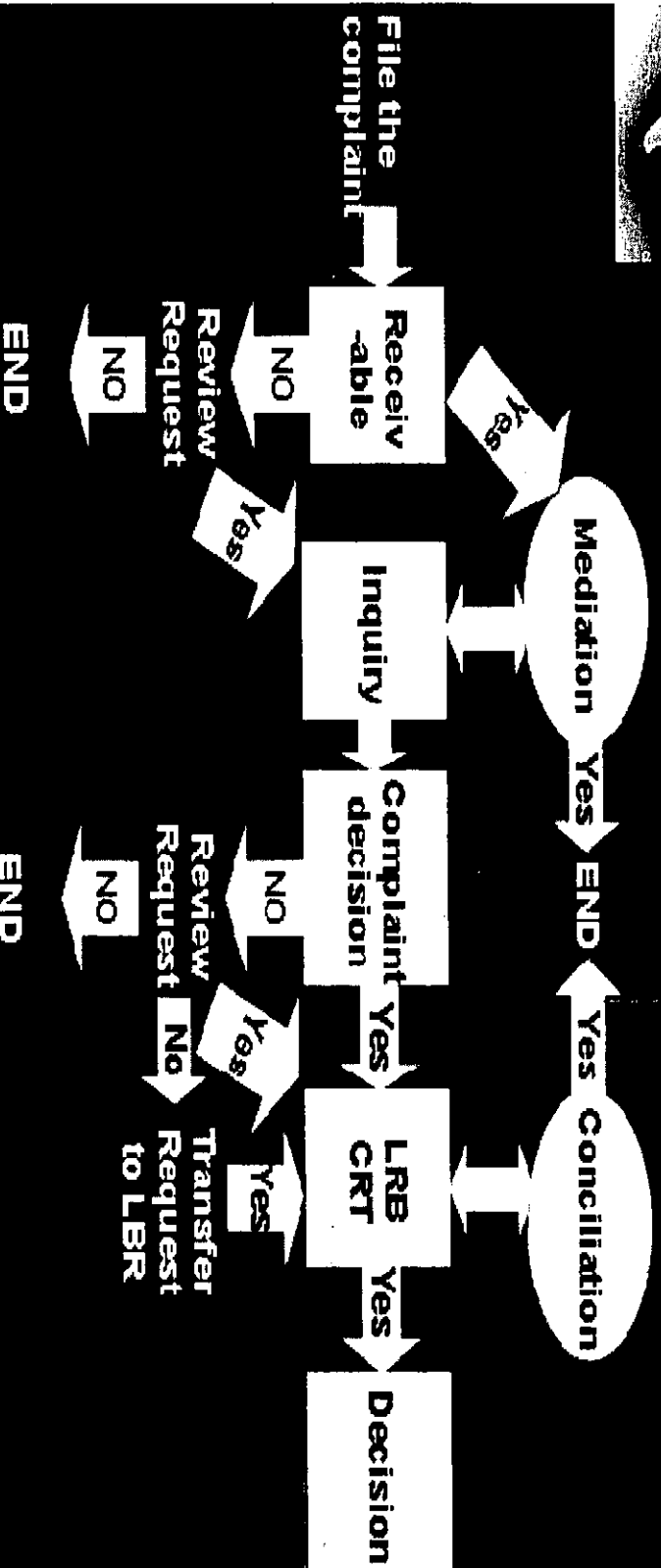
Excellence and Enjoyment: social and emotional aspects of learning

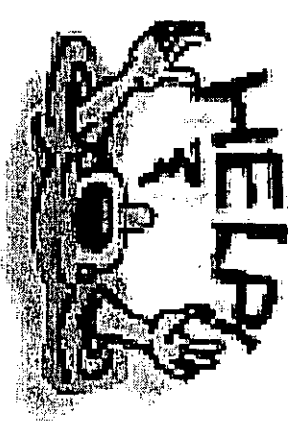
Sticks and stones may break my bones, but words can never harm me.

Words are another matter. The damage they do is entirely dependent upon my attitude towards them.

They can only hurt me if I let them. If you insult me and I get hurt, it is not really you who hurt me. I hurt *myself*! So why should you get punished?

Are you as confused as Me?





How can we help?

The wrong way

1. **TELL** the teacher if you are being bullied or you know of someone that is being bullied. This is NOT tattling!
2. If your teacher does not listen, keep telling until someone hears you and helps.
3. The bully needs to know that what is being done is wrong.

How Can we help ? The effective way

- Whenever a student comes complaining to you that their classmates called them an idiot (or some other insult), ask “Do you believe it?” The student will say “No.” Then say, “Good! I don’t either.” And you will see that the matter is over. Do this consistently, and before long you should discover that your students have stopped getting upset by insults.

How about physical attacks?

- How do you teach students to stop being upset by physical attacks?
- Most acts of hitting or pushing do not cause any injury or pain. But students learn that we think it is terrible when they hit or push each other, and that we conduct investigations and punish the wrongdoer.
- They can get us to punish their opponent and they don't even have to be hurt! **Stop doing this.**

How about physical attacks?

- When a student says to you, “He/she hit me!” ask, “Are you hurt?” Students don’t expect this question, and they always answer honestly. If there is no pain, the student will answer “No.” Then say, “Good!” You will discover that the student stands there confused for a couple of seconds, then goes right back to interacting with their classmates. Your students will have realized that if they are not hurt, there is nothing to get upset about!

How about physical attacks?

- The rule should be that students are not allowed to *HURT* each other. If a student is hurt, then the attacker should be disciplined. But if no one is hurt, why do you need to do anything? You will be saving yourself endless headaches by taking this approach, and the students will become more resilient as they stop being upset by things that don't even hurt.

Excellence and Enjoyment: social and emotional aspects of learning

Intolerance of aggression causes aggression to escalate.

Fights develop when one person cannot tolerate the aggressive acts of another person, and then tries to use his own power to stop the aggressor. The Columbine killers and all the other students who committed massacres do so because they had zero-tolerance for the verbal aggression of their peers. Had they known how to tolerate aggression, the aggression would have fizzled out, and they and their victims would still be alive today. A policy of "zero-tolerance for aggression" is a logical absurdity, because it ultimately requires readiness to use aggression to stop aggressors. Most sports involve physical aggression and cause injuries. Does a zero-tolerance policy require the banning of sports? And do we ban humor, since it consists of verbal and/or physical aggression?

Excellence and Enjoyment: social and emotional aspects of learning

Children should be disciplined for hurting others.

Hitting and name-calling are normal childhood activities that kids often do to each other, and they do not necessarily injure anyone. If there was no injury, there was no crime, and no one needs to be punished.

When adults are willing to punish children for name-calling and hitting even when no one is hurt, it becomes a cinch for children to sucker adults into serving as heavy artillery in their petty squabbles. The rule that should guide us is not "*hitting and name-calling are not allowed*," but rather, "*hurting is not allowed*." Only when there has been real damage should one consider if disciplinary action is in order.

Students learn how to get along all by themselves.

- Human beings are social creatures and can only survive by caring for each other.
- Our ancestors have been doing it for millions of years, and it has become part of our genetic programming.
- Mother Nature guides us towards good relations by making us feel pleasure when we get along and misery when we don't.
- Modern civilization is governed by millions of man-made rules that essentially require us to control our natural, inborn instincts.

Excellence and Enjoyment: social and emotional aspects of learning

Adults should never judge between Students.

- When we rush in to judge our students disputes, we are actually preventing them from solving their problems on their own.
- The moment we enter the scene to restore peace, they turn into screaming prosecuting attorneys against each other and become distinctly less peaceful.
- But even worse, whenever we judge between two people, one of them -- the loser -- ends up hating not only the winner, but us as well.
- "Leveling the playing field" does not lead to peace. It causes battles to go on indefinitely because there is never a winner and loser.

Adults should never judge between Students.

- Instructing students to come to adults for help rather than deal with disputes on their own is absolutely the worst thing we can do. It turns them into informers against one another, guaranteeing that they will be hate-filled enemies.
- Adults should refuse to get involved in students disputes, and send them to work it out with each other instead.



Home

How to Handle Cyberbullying

In recent years, kids have found another way to pick on each other: the Internet. This is being called “cyberbullying.”

It is natural to get upset when other kids write terrible things about you, either *to* you or *about* you, in emails, IMs (Instant Messages) and websites or blogs. Your parents may also get upset if they discover you are a victim of cyberbullying. Parents often want the school to handle the problem. Sometimes parents even get the police or the FBI involved.

There is a good chance that if you are being bullied over the Internet, it is also happening to you in school. Kids torment you during school hours and continue to do it at home over the computer. If so, it is a good idea to read the free online manual, **How to Stop Being Teased and Bullied Without Really Trying at www.Bullies2Buddies.com**, or the book, **Bullies to Buddies: How to turn your enemies into friends**.

It is really not hard to handle cyberbullying by yourself if you wish. All you need is change your attitude. Use the following rules, and it shouldn't be a problem.

1. It would be really fantastic if you could live a life in which everyone is always nice to you. Unfortunately, no one is so lucky. You may have heard of a place in which everyone is always nice to each other. It is called Heaven, and you first have to die to get in. But as long as you are alive, you are going to have to deal with people being mean. In fact, there is a good chance that the people who are meanest to you are your own family members! And a very easy place for people to be mean to you is the Internet. So, the sooner you learn how to deal with people being mean to you, the better the rest of your life will be.

2. There is an old saying, “If you play with fire, you can get burned.” Most things in life have both good sides and bad sides. It is fun to play with fire, but it stops being fun if you get burned. So, if you are not

willing to risk getting burned, you shouldn't play with fire. Basketball is fun, but you can fall, scrape your knees, and even break your bones. The great thing about the Internet is that it has made communication possible like never before in the history of the world. The bad side is that it is easier to spread nasty things about people than ever before. If you are not willing to face the possibility that kids will use the Internet against you, you shouldn't get on it. Of course kids can spread nasty things about you even if you never get on the Internet, but it is much more likely to happen if you *do* use it. So remember – if you insist on using the Internet, be prepared that kids will use it against you, and don't get upset when it happens.

3. The real fun of spreading nasty things about you is to see you getting upset. If you respond by writing angry emails, the kids who wrote them will have a great time and want to do it even more. However, if it doesn't bother you, then the kids will not have as much fun and are more likely to leave you alone.

4. Dealing with cyberbullying is similar to dealing with rumors. The "Magic Response" to rumors is, "Do you believe it?" (See the chapter on rumors in **How to Stop Being Teased and Bullied Without Really Trying.**)

You can't stop people from believing what they want to believe. People know that not everything that is written in emails and IMs are true. Don't you recognize nonsense when you read it? Well, so do other kids. So you don't have to worry that they will believe the nasty things written about you. However, if you try to convince them not to believe the stuff that's going around about you, you look foolish and automatically lose. And you can be sure the nastiness will continue.

The solution is to give people "Freedom of Speech". Take the attitude: "*Kids can say or write whatever they want about me and it's perfectly okay.*" If kids tell you about the mean things they read about you, ask them, "Do you believe it?" If they say, "No", you can answer, "Good", and you win. If they say, "Yes," answer, "You can believe it if you want," and you also win. The kids will admire you for not letting anything bother you. It will be no fun to pick on you so they will eventually leave you alone. [Note for adults: If you object that Freedom of Speech does not cover slander and libel, read #8 below.]

5. Don't try to get kids in trouble for cyberbullying. If you tell the school or the police on them, they will hate you and want to be even meaner to you. Furthermore, getting them in trouble would be against the Golden Rule – "Treat others the way you want to be treated." What would you rather have someone do to you: 1) Write something mean about you to other kids, or 2) Get you in trouble with the school or the police? Of course you'd prefer the first. One of the meanest things you can do to people is to get them in trouble with the authorities. Therefore, if you get kids in trouble for cyberbullying, what you are doing to them is much worse than what they did to you. Just because they did something mean to you, it doesn't make it right to be even meaner to them. When people are mean to you, talk to them directly, without anger. They will like and respect you much more than if you go to the authorities.

If people are making serious threats against you, and you think they are actually planning to harm you, that is a different matter. Then you *should* tell your parents or the school, or go to the police if necessary. But if you are reasonably sure they don't intend to carry out their threats, it's best not to pay attention to them.

6. There's an old saying, "Bad publicity is better than no publicity." Have you ever stood in line at a supermarket? Have you noticed the magazines at the checkout counter? They are full of nasty stuff about famous people, or "celebrities." And these things are often true! How can celebrities stand it when their pictures, along with nasty stories about them and their families, are in every supermarket in the country? And you know who gets made fun of the most? The President! Newspapers, magazines and TV shows are always criticizing him. How does the President handle it?

The simple truth is that the more famous and powerful you are the more people are going to want to make fun of you. So if other kids are spreading mean things about you, tell yourself they are giving you free publicity and helping to make you famous. Remember, when kids read mean things about you on the Internet, it's not like they're reading it in a newspaper. They know that a lot of the nasty stuff is nonsense. So don't worry that they'll all believe it.

7. There's always a chance that kids are bullying you over the Internet because they are mad at you. It's a good idea to ask the kids writing the nasty stuff, "Are you mad at me?" If they answer, "Yes," ask them why. If they tell you, discuss the matter with them – without anger - and apologize if it seems right to do so. If they are not mad at you, they may realize they have no good reason to be so mean and will stop. If they continue to do it, you might then ask them why they are doing it if they are not mad at you. If they still don't stop, let them do it all they want and show them it is perfectly okay with you.

8. You may be really upset because they are "destroying your reputation." Destroying the reputation of adults can cause serious, real-life harm to them. For instance, it can hurt their ability to get a job or a marriage partner. The crimes of slander and libel are not protected by Freedom of Speech, and adults can take people to court for doing it to them. You may feel like doing so, too. However, if you're a kid, it's usually not the same as with adults. You don't have much of a "reputation" to be destroyed and the cyberbullying isn't going to affect your life in a real way, other than hurting your feelings and getting kids to laugh about you. If you take the opportunity to show that it doesn't bother you because you know it's nonsense, people will respect you and you will even come out a winner in the situation. It's different, though, if, for instance, your school principal wants to expel you because she believes the mean things that are being written about you. Then you do have a good reason to fight the cyberbullying.

9. Respond with humor. This is possibly the best way to win and get people to like you and respect you.

Most people, including adults, aren't aware of what humor is about. Humor is not nice. Humor involves making people look bad. If you are not sure about this, pay attention to the comedy shows you like. You will discover that it's only funny when people look stupid, clumsy or miserable. Do other kids laugh about the nasty things written about you over the Internet? It's because they are making you look bad. You can choose to get upset about it. This will make you look like an even bigger fool and they will laugh even more at you. Or you can take it as a joke and add your own jokes about it. Then people will see that they can't upset you, and that you don't take yourself so seriously that you can't laugh about yourself.

For instance, if kids write that you wet your bed at night, you can say, "No I don't. I sleep in the bathtub so that I won't have to change any sheets!" If they say that you slept with the football team, you can say that your dog did, too. If they pass around a doctored-up picture of you, you can respond, "I just got plastic surgery. Isn't it great!"

10. The last rule is to be nice to others over the Internet. Can you expect others to write only nice things about you if you write nasty things about others? Even if they are nasty first, it doesn't make it right to be nasty back. Being nice to others is the best guarantee that people will be nice to you.

[Added 7.15.08] Another good resource on cyberbullying is The Center for Safe and Responsible Internet Use created by Nancy Willard. The website has a lot of good and detailed information for schools, parents and kids. The articles for kids contain excellent advice to help you decide what to do when you believe the cyberbullying is truly serious and can't be handled by yourself. Here is a link to an article on cyberbullying. Here is a link to an article on cyberthreats

Bully and Victim Psychology : School and Parenting Resources



Feedback Analytics

First goal

Bully testimony

I'm a teacher so I need to teach. Research shows that if I just stand up hear you will only get about 5% of what I have to say.

Close eyes

Pigeon feeding

History:

- Herd animal mentality (show pic)
- Caveman (fight makes right)
- Perfection of bullying I'm from the Kluane First Nations. (Plains Indian tribes they were the first American super-power Four Bears) the facts for this is that the Plains Indians wanted to take dignity. Story of four bears
- With the advances in civilization and law the herd mentality is being depressed.
- Freedom of speech/ marsh mellow state Fargo plan of no cussing worthless.
bullies (world leaders, China's leader, Iran, Korea, Venezuela, any dictatorship
example of this are the talk show host who spoke rudely to the girls basket ball game.
Or more recently Sara Palin -local bullies, mean teacher, bosses, kids at school, someone who has been divorced, even legislators

We have people with glasses, big noses, fat and even good looking (blonde Jokes, Oley and Lena)

What's the fix

Sticks and stones may break my bones but Words will never hurt me

We need to move away from what we are currently embracing of feeding the pigeons which are sticks and stones may break my bones and word can hurt so bad that it can drive be to kill others or myself.

<http://www.bullies2buddies.com/>

There is a fundamental difference between the legal profession and the psychological profession. In the legal view, when a crime has been committed, one side is the victim and the other side is the perpetrator. But psychology is supposed to be scientific. Science is not about who is the good guy and who is the bad guy. Science is about understanding objective reality, figuring out how things work, and making changes if possible.

If I am a psychotherapist and you are my client, my job is to help you figure out how you are causing or contributing to your problems and to lead you to a solution. If I am holding someone

else responsible for your problems, how can I help you? I have to work with the other person and make them change.

On the other hand, if I am a lawyer and you are my client, my job is to hold someone else responsible for your problem and sue them and make them pay. If I am holding you responsible for your problem, I am not helping you. I am working against you. You should fire me and get yourself a good lawyer.

The legal and the psychological roles are therefore diametrically opposed. The legal profession needs clients to see themselves as victims so that someone else can be held responsible; that is how lawyers make their money. Psychology is supposed to get clients to stop seeing themselves as victims and to solve their own problems.

~~Bullies have never killed anybody Victims did.~~

Johnny is visiting a new town. In front of a big, magnificent old house, he sees another boy, surrounded by hundreds of pigeons, throwing bread crumbs on the sidewalk. Wanting to start up a conversation, he asks the boy, "What's your name?"

"Billy," says the boy.

"And what are you doing?" Johnny asks Billy.

"I'm making the pigeons go away," Billy answers.

"What do you mean, you're making them go away?" the astounded Johnny asks.

"Yes. I'm making them go away. Every day, day after day, for many generations, these birds have been coming to our house at the same time every morning. They are a terrible nuisance. The noise they make is unbearable and it's almost impossible to walk on the sidewalk. And the slippery, yucky mess they leave all over the place is the worst thing of all."

"So why are you throwing them bread," the impatient Johnny asks.

"My ancestors tried everything, and discovered that the only thing that makes them go away is bread crumbs. As soon as the last crumb is finished, they suddenly can't stand being here. Then they all fly away and we don't see them again for a whole day!"

I hope this story made you laugh, or at least chuckle. That Billy sure was stupid. He thought he was chasing the birds away, but he was really making them come. "So, what," you may be wondering, "does this story have to do with teasing victims?"

You Are Blaming the Victim!

This is probably the most frequent criticism I get. I state unequivocally that I don't blame victims of teasing and bullying for what is happening to them because they can't possibly see how they are causing their problems. Nevertheless, some participants become enraged by my views and attack me for "blaming the victim."

How do I help victims? By holding them responsible for their problem. I reveal to them the "optical illusion" that is causing them to attract their tormentors. But I don't stop there. I give them the solution to their problem. I show them how to defeat their bullies without anyone else's help and without getting anyone in trouble. However, the taboo against "blaming the victim" is so strong that some people cannot tolerate the idea that the victim is in anyway responsible for what happens to them, even unintentionally.

In our topsy-turvy social climate, there actually is one instance when you can get away with blaming the victim. How do you do this? By calling your victim a "bully." The same mentality that forbids "blaming the victim" is actually responsible for one of the most widespread instances of "victim-blaming" in modern history.

Many recent articles about school violence state that bullies are responsible for most of the violence in schools. Because nearly all of the kids who perpetrated these massacres were victims of bullying, bullies are to blame.

But are "bullies" shooting up their schools? Are bullies going on violent rampages at their workplaces? No! Bullies may not be saints, but the heinous acts of violence are all committed by people acting as victims! A victim believes he is totally innocent and blames his "bullies" for his misery and unfair lot in life. The "innocent" victim believes that his evil bullies deserve to die an agonizing death. Of course, most victims don't carry out their revenge fantasies. They are greater dangers to themselves than to anyone else. But the horrible acts of violence that make the news are all actions of victims trying to pay back their bullies. Yet society is blaming bullies for these actions and not victims! Which, by the way, means you have to be very careful how you treat people. If you develop an image of a bully, someone can kill you and society will declare it was your fault! Now, we no longer blame rape victims for the acts of rapists. Why are we blaming bullies for the violence that victims commit against them? I think it may have to do with confusion caused by the word "victim." This word implies innocence. Once a kid is known as a "victim" of teasing and bullying, he is deemed innocent regardless of what he does, especially since it is now taboo to "blame the victim." Likewise, once a kid is labeled a bully, he continues to be considered guilty even when he is the victim of the victim.

The scary thing is that society is now unwittingly encouraging these revenge fantasies. How? By teaching that we must have no tolerance for bullies - in other words, that bullies have no right to exist! Many "victims" will be more than happy to help us end the existence of bullies. Literally.



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Frequently Asked Questions

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[Do you offer counseling services?](#)

Yes, I offer counseling services. They can be obtained either face-to-face in my Staten Island, NY office, or over the phone. I can help people with many types of relationship problems, though I would like to emphasize help for victims of bullying and for sibling rivalry in this website. My fees are reasonable and I give money back guarantees if you are not completely satisfied with the results. For more information, visit the Counseling and Counseling by Phone pages.

[Can you come to our school?](#)

Yes, I can come to your school or organization to speak. Unfortunately, I probably won't be able to do it for free. I get no outside funding for what I do, and I will probably have to take time off from my job to come. Therefore my time and expenses will have to be paid for. There are many professional speakers who charge \$5,000 or more per day. I am a cheaper, even though I will probably be of more benefit to you than most of those high-priced guys/gals ever will. To get more information, go to the pages on Workshops and School Violence Prevention Programs.

[How can I buy your books and manuals?](#)

You can buy my materials through this website. Go to the Wisdom Pages Bookstore. If you would

like large quantities, you can arrange for special rates by emailing us at Miriam@Bullies2Buddies.com or calling me or my wife, Miriam, at (718) 983-1333.

May I download your material from the website?

Yes, you may download the material in my website. In case you haven't noticed, most pages have the following statement below the title: "This material is copyrighted. You may copy it and pass it on to others as long as the author is acknowledged." Though I have already produced my instructions for victims in audio CD for sale (How to Stop Being Teased and Bullied Without Really Trying), and have a book on the subject for sale, I am providing this manual for free on the website. My friends think I am crazy for doing this. However, I feel the information in this site is too important to deny it to anyone who needs it for the sake of making a few bucks. That is why I will continue to have the material free on the website even while it is also available for sale. However, I obviously prefer that people buy the materials if they can afford it. I am not a non-profit organization, and don't have the luxury of being supported by other people's money, so all the time and expense of creating and maintaining this website are entirely my own. My family is tired of being poor. So please buy my materials before my wife leaves me for some rich guy.

Have you done any research to prove that your methods work?

Cleveland State University, in conjunction with PSI Solutions, Inc., is currently undertaking a multi-year research study on the Bullies to Buddies program, and results thus far are promising.

Furthermore, I have been keeping records of my work. This is what is called a retroactive study. My success with individual victims of teasing and bullying is about 89%, and the great majority experience improvement within one week, which is why I can offer a money-back guarantee for my treatment of victims fo bullying.

If you happen to be on the staff of a university, child study center, or foundation (preferably in the New York metropolitan area) that has the resources to support me in conducting and publishing serious journal-level research in my method (which I believe to be the best way that exists for ending teasing and bullying), please get in touch with me.

Do bullies have a moral defect that makes them cruel to others?

Adults almost always judge bullies as "bad," meaning that there is something morally wrong with them. Based on years of work with aggression, I strongly reject this view. The truth is that we are all bullies. I have shown this hundreds of times, even with the most gentle and ethical of people. You can check this out with the following experiment. Tell someone (it doesn't matter who, because it is universal) that you want to play a game. Their job is to call you names, and your job is to make them stop. If you can stop them, you win and they lose. When they call you names, start becoming upset and angry. Warn them and threaten them that they better show you respect or they'll be sorry. You will discover that they smile, laugh, become really cool and confident, and just keep on going. Eventually, give up. Then say you will play the game one more time. This time, just let them do it all they want and stay perfectly calm. You will see them becoming increasingly frustrated and they will stop before long, even though it means they have to accept defeat. Notice that they never enjoy it when you are calm. They only enjoy it when you are upset. Do this experiment with enough people, and you will come to the inevitable conclusion that everyone enjoys driving other people crazy. We are all that way. Hard as it may be to accept, we are all bullies at the core. The "bullies" are really no different from us, and unless we are willing

to condemn ourselves as immoral, we shouldn't condemn them either.

Does low self-confidence cause kids to become victims?

On the rare occasion that psychology textbooks mention teasing, they usually say that it is the result of low self-confidence or self-esteem. This, though, is not accurate. It is true that kids with poor opinions of themselves are more likely to become victims of relentless teasing than kids who are confident. That is because they are more likely to get upset when others call attention to their faults. But even the brightest, most confident of kids will become the victims of ongoing teasing if they make the simple mistake of trying stop the teasing. It is much more correct to say that teasing causes low self-esteem rather than the other way around. There is nothing that makes a person feel lousy about himself like being the brunt of constant ridicule by peers.

But don't the bullies also have emotional problems that require treatment?

First of all, it is important to understand that both victims and bullies can be completely normal kids, with no social/emotional problem other than the one they are having with each other. It happens because one child makes the simple mistake of getting upset at being teased (see Know Why You are Teased), and is made worse by the adults' attempts to make them get along (see How We Teach Our Children to be Hurt By Words). A vicious cycle is created that doesn't end until the victim learns how to make the bullying stop.

Certainly bullies may have problems that require treatment, and I always offer help to whoever complains of suffering. Since it is the victim who suffers the most in the bully/victim relationship, the victim is usually the one who is calling out for help. Therefore, I spend much more time helping victims than bullies. Many bullies, though, actually are victims as well. They may feel picked on by parents and siblings at home, and they try to regain a sense of power by picking on other kids. I help these bullies exactly the same way that I help any other victims.

The truth is that the distinction between victim and bully is largely an artificial one, resulting from the external appearance of the bully being more aggressive than the victim. This makes us think of the bullies as the "bad guys" and the victims as the "good guys." But then we become surprised when we find that the worst acts of violence are caused not by the "bad" bullies but by the "good" victims, as was the case in all the school massacres. Bullies usually feel they are the real victims, because the "victims" get mad at them, call them names, threaten them, and get them in trouble with adults. Thus they are double victims -- of the victims, and of the adults who punish them. The instructions for adults (A Revolutionary Guide to Reducing Aggression between Children) minimize the creation of bullies, and the instructions for victims (How to Stop Being Teased and Bullied Without Really Trying) are about as useful for bullies as they are for victims.

I can understand not doing anything when it's only mild teasing, but what if the teasing is really cruel and repetitive

Adults feel that it is morally imperative to intervene when the teasing is really cruel and ongoing. However, the only reason teasing escalates to such a degree is that the victims (and the adults who

try to help them) are getting upset at the bullies and trying to make them stop. When the victims follow the simple advice in this website, even the harshest, most relentless teasing quickly stops.

Izzy, why don't you treat the bullies? Why do you only focus on the victims?

The way I see it, the term "teasing" refers to actions that are intended to make the victim feel ridiculed and foolish. Mostly this happens through name-calling, spreading stupid rumors, or things like pasting funny signs on the unwitting back of the victim. As long as this upsets the victim, the teasers are the winners and will keep on doing it.

"Bullying" should refer to actions that make the victim scared of physical harm. The victim is afraid that the bully will beat him up or in some way cause damage to body or property. This gives the bully the satisfaction of having power and dominance over the victim. It may be used by the bully to extort money, food, or other possessions, though these are not necessary for it to still be bullying. As long as the victim is afraid of the bully, the bully is the winner and will continue to terrorize the victim.

It is commonly perceived that bullying (physical) is worse than teasing (verbal). I don't believe this is the case. Being ridiculed by peers day after day for years, is as devastating to the victim as being afraid of physical harm. Many victims have done away with themselves because of the misery caused by teasing, and they are just as vengeance-filled towards their tormentors as are those victims that are threatened with physical harm.

I do, in fact, treat the bullies. I do it in the quickest, easiest, and best way possible, even though it doesn't involve doing anything directly with the bullies. I do it by teaching victims how to effortlessly defeat their bullies and stop being victims (see section How to Stop Being Teased and Bullied Without Really Trying). There are no bullies without victims. When the victims are no longer victims, the bullies are no longer bullies. This is accomplished without getting anyone angry at anyone else, and without the punishment that actually entrenches the bullies and victims in their roles as bullies and victims (see A Revolutionary Guide to Reducing Aggression between Children). Very often, the bully becomes the victim's friend once the victim begins following the advice in this website.

Those who focus on bullies as the problem are acting as moral crusaders, trying to rid the world of evil. Their intentions are good, but, unfortunately, the road to hell is paved with good intentions. Moral crusaders often cause more harm than good, which is why bullying is said to be going up during the same period that anti-bullying efforts have been increasing.

I am not a moral crusader. I am a mental health professional—a scientist—and my goal is not to stamp out evil but to help people by teaching them how to solve their problems on their own. This is not to say that I am not concerned with morality. But the way to make society more moral is not by punishing bullies but by teaching them how to treat their bullies like friends. This is the

essence of the Golden Rule.

1 If I am a moral crusader, the crusade is not against bullying but against hypocrisy, for hypocrisy is the greatest danger to society. And the anti-bully movement represents the height of hypocrisy.

See:

2 Bullying Survey Results Or The Hypocrisy of the Anti-Bully Movement Chapter One: Power
Bullying Survey Results Or The Hypocrisy of the Anti-Bully Movement Chapter Two: The Unfair Assault Against Schools

What is the difference between teasing and bullying?

3 Different bullying experts have different ideas about the difference between teasing and bullying. Most of them think that difference is in the intention of the person doing it. According to this, the teasing is intended to make the victim laugh, while bullying is meant to hurt the victim. This distinction is used by adult authority to determine whether a kid should be punished. If the insulter was just "teasing," then the behavior is not so bad and perhaps doesn't deserve punishment. But if the teaser was intending to upset the victim, then that is bullying and needs to be responded to more harshly.

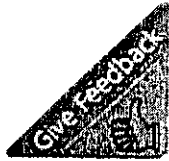
4 While I think this makes sense, it does not describe well what goes on in the life of the victim and is not useful for our purposes. You can make fun of someone with the intention of making them laugh, but they will become angry with you, and you will get angry in return. What began as something playful was turned by the victim into a hostile situation. On the other hand, you can make fun of someone because you are angry with them and want to upset them. But they can respond in a way that defuses the situation, takes your anger away, and turns your attitude toward them into a friendly one. So ultimately, what's really important for helping people deal with insults is not the intention of the insulter but the response of the victim.

5 As far as using this distinction for deciding whether to punish the insulter, it is irrelevant. We are fortunate to have Freedom of Speech in democracies, and people should not be punished for insults regardless of their intention. Speech should only be punished if it resulted in tangible damage to people's bodies, property or freedom. Insults that only hurt people's feelings are not to be punished regardless of the intentions of the insulter.

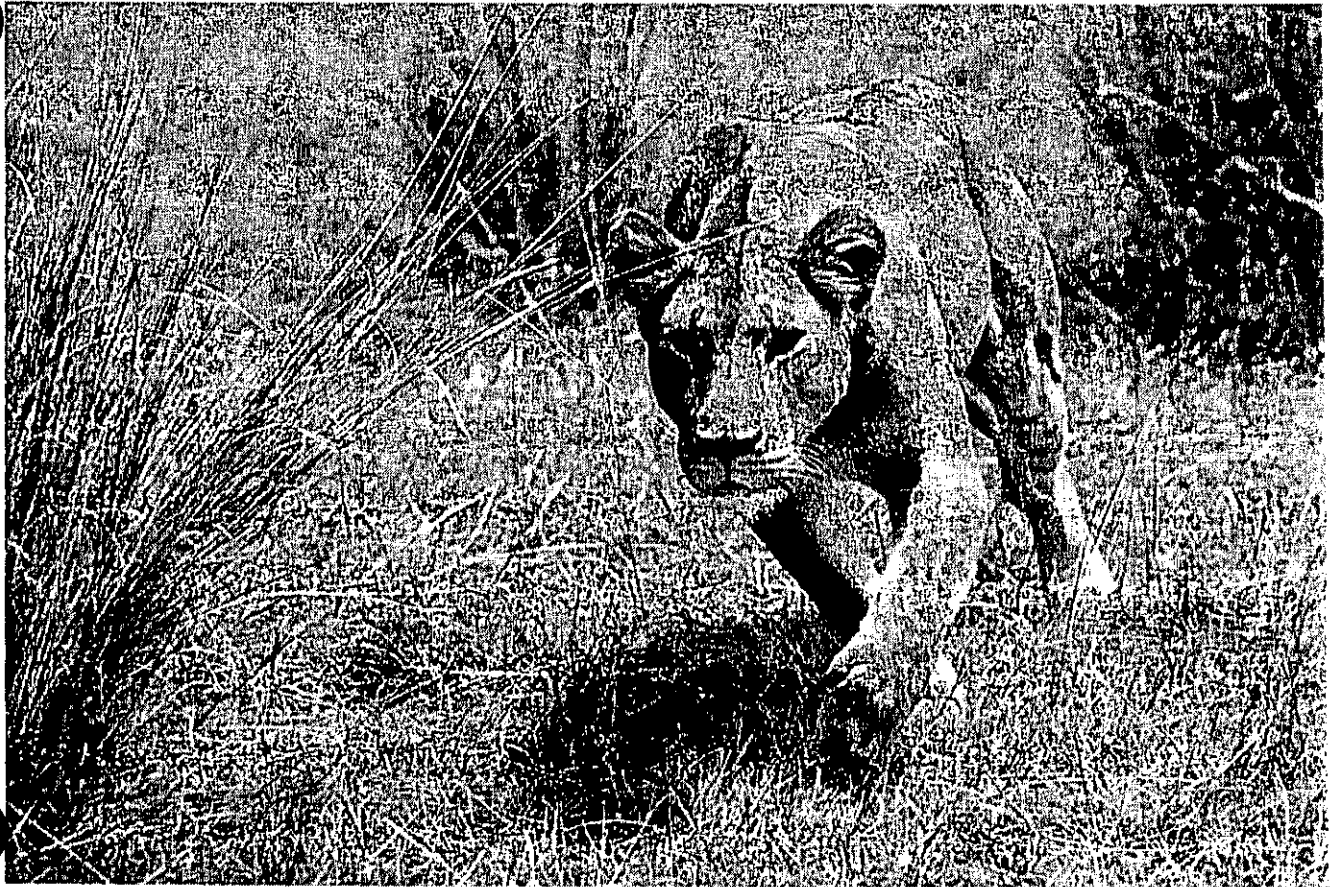
6 The way I see it, the term "teasing" refers to actions that are intended to make the victim feel ridiculed and foolish. Mostly this happens through name-calling, spreading stupid rumors, or things like pasting funny signs on the unwitting back of the victim. As long as this upsets the victim, the teasers are the winners and will keep on doing it.

"Bullying" should refer to actions that make the victim scared of physical harm. The victim is afraid that the bully will beat him up or in some way cause damage to body or property. This gives the bully the satisfaction of having power and dominance over the victim. It may be used by the bully to extort money, food, or other possessions, though these are not necessary for it to still be bullying. As long as the victim is afraid of the bully, the bully is the winner and will continue to terrorize the victim.

It is commonly perceived that bullying (physical) is worse than teasing (verbal). I don't believe this is the case. Being ridiculed by peers day after day for years, is as devastating to the victim as being afraid of physical harm. Many victims have done away with themselves because of the misery caused by teasing, and they are just as vengeance-filled towards their tormentors as are those victims that are threatened with physical harm.



Feedback Analytics



HB 1465

Senate Education Committee March 2, 2011

Good morning Chairman Freborg and members of the Senate Education Committee. I am Rep. Don Vigesaa and I represent District 23 in eastern North Dakota. I am here this morning to voice my support for the passage of HB 1465. On November 4, 2010, my home community of Cooperstown suffered a horrible tragedy. Sixteen year old Cassidy Joy Andel took her own life that morning. During the investigation as to why Cassidy chose to end her young life, bullying was identified as a possible contributing factor. Cassidy's parents, Lyle and Amy Andel, are not able to testify this morning. But, while visiting with them this past weekend, they wished for me to convey their support for HB 1465. I fully understand that passing this bill will not end bullying in our state. However, the very least that we should do is require that policies and enforcement standards be in place so that hopefully, this type of behavior can be minimized.

In Cooperstown and its surrounding area, HB 1465 is referred to as "Cassidy's Law". The passage of this legislation will bring hope that, through the sad events of early November, something positive will happen. Enacting HB 1465 will ensure that our citizens will become more aware of the seriousness of bullying and parents, students, educators, and community members will be educated on how to recognize and deal with this destructive behavior.

I urge this committee to give a DO PASS recommendation on HB 1465.

Robert Vallie

Executive Commissioner: Governmental Relations and Inter-Collegiate Affairs

North Dakota State University Student Government

Testimony to the Senate Education Committee concerning House Bill 1465

March 2, 2011

Chairman Freborg and members of the Senate Education Committee:

When a person is taken from this world well before they should we do not just lose a single person, we lose a world. We lose a world of possibility, of what could be of what could have been. We lose a world of uncharted potential and unknown wonders. But we also quite literally lose a world in a real sense. With the death of a person we lose a child, a parent, grandparent, sibling, friend, classmate, community member, a good person to share life with.

Since the end of the 1990's society has seen the real effects of a national epidemic that effects every community, every day, and one that has gone on for as long as any of us can remember: The epidemic known commonly as bullying. Bullying everyday effects millions of students who are tormented by their peers and others in a wide variety of ways for a wide variety of reasons. It can be for something readily noticeable such as a physical or mental disability, or as hidden as a person's sexual preference. No matter the reason a person may be bullied or the method that may be used against a person the effects to that individual who is tormented can be serious. Whether that person was attacked in the traditional forms of bullying such as physical or verbal bullying or using the internet or other electronic means to cyberbully creates the same risk for depression and other mental health concerns. But unfortunately bullying a person does not mean you will always get the same result nor is it limited to a small parameter of effects on an individual or even limited to a certain state or states. The examples of the Columbine High School Massacre in 1999 in Colorado, the suicide in 2006 of a 13 year old Missourian Megan Meier who was bullied through the use of the social networking site MySpace, the suicide in September of 2010 of a Rutgers student Tyler Clementi after his roommate filmed him in an intimate situation with another man and the most recent suicide on November 4th 2010 in Cooperstown, ND of 16 year old Cassidy Andel all point to the same conclusion: Bullying is a serious problem across America that effects all people, in all states and if left unchecked can cause serious harm to the individuals being bullied or others. For us as students of NDSU we remember our experiences with bullying and even to this day deal with bullying on our campus and in this moment see a wonderful opportunity to help protect the next generation of students from the pain that our student body, including me have felt. We believe that passage of such a piece of legislation helps to set definitively in plain language that bullying will no longer be tolerated and gives school districts the necessary guidelines in order to combat this problem and to give students the opportunity to succeed. This law if passed also gives a great opportunity for the entire education system of North Dakota both K-12 and Higher Education to work together to help to create the first generation of policies and programs to combat bullying in our schools and to more importantly educate students on the harms of bullying. As previously mentioned we as

#2 HB 1465

students of NDSU know all too well the harm that bullying does to students and is still a problem that holds true within our institution. Even for a person like me as a 21 year old Social Science Education Major attempting to serve my fellow students that I have been more times than I care to remember bullied by others on my campus. However with recent events that has taken place on the campus of Rutgers in New Jersey and in the community of Cooperstown, we as students felt that enough was enough and created the Walk the Talk Campaign. Walk the Talk is a program conceived, funded, implemented and completed by students and this program over the course of a week helped to pledge 225 students on our campus to stop from bullying individuals with the use of hurtful words or actions and to actively stop others who they see bullying. Along with these actions a rally held at the end of the campaign was attended by over 200 individuals and received media attention from every major news affiliate in the Fargo-Moorhead area and has lead us to develop anti-bullying programming as well as helping schools within the Fargo area and even the student governments at BSC and UND to develop programs to combat this problem on their respective campuses.

Mr. Chairman and members of the committee I know what you and your fellow legislators face today in this hearing as well as the many hearings that will be done concerning anti-bullying laws will be anything but easy. To combat a epidemic such as this that has been around for as long as anyone can remember and to remove the mentality that bullying is just "The way it has always been" will be a difficult road that will take a great deal of time, effort and energy from all of us as citizens. However while the road may be difficult the solution is within reach and one that we achieve. With the help and support of this government to lay the foundation for policies concerning bullying in all forms to deter these actions and with active cooperation between our systems of education to create effective policies and educational programs we can help change the mentality of future students to look at others not based on a fault, disability or defect but on what they can achieve and what they offer to our lives.

In closing Mr. Chairman, members of the committee I want to leave you with one final thought. That if anything else from my testimony today I hope will stay with you when you consider such legislation. On November 4th 2010 16 year old Cassidy Andel of Cooperstown North Dakota after being bullied by others for whatever senseless reasons decided life wasn't worth living anymore and took her own life. On November 8th hundreds gathered at Trinity Lutheran Church in order to pay their final respects to Cassidy. When any person is taken before their time we do not lose a single person but lose an entire world. For the people of Cooperstown they have lost a child, sibling, classmate, teammate, community member, student, and a person to share life with, and for us as a state we lost a world of opportunity and potential of what this girl could have done with her life and the positive impact she could have made on our lives and to North Dakota. While we cannot change what has happened in the past we can change what will happen in the future and the passage of such legislation by this governing body and with the work of the good people of this state, never again will a community like Cooperstown have to face the pain of losing someone, never again will we have to be reactive to actions that in hindsight we should have done something about long ago, never again will we regret not taking action to solve a problem, never again will a student of our state have to feel that life in all its wonder isn't worth live. That never again will we lose another world.

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Chairman Freborg, and members of the committee, I am William Woodworth, the current Legislative Lobbyist for the North Dakota Student Association. We are here to testify in support of HB 1465. We are proud that the Legislative Assembly of North Dakota is taking the time to find solutions to the serious problem of bullying that is affecting our younger students. HB 1465 will not fix the problem overnight, but it is a step to ensure the schools of North Dakota will be addressing this problem adequately in the future. NDSA is supporting this bill because it will benefit the future students of higher education; it will make the future better for North Dakota's K-12 students and future college students. As Dr. Jorge Srabstein, Medical Director of the Clinic for Health Problems Related to Bullying, testified before the United States House Education and Labor Committee Subcommittee on Healthy Families and Communities, "All those involved in bullying have now been shown to be at significantly increased risk for multiple problems when compared to their uninvolved peers." Dr. Srabstein further testified, "[these students] are especially at risk in attempting or completing suicide before age 25, as well as to committing repeated criminal offenses between ages 16 and twenty-five". It is not often that a committee can claim to save the lives of North Dakota students, but this committee has that opportunity before it. Today this committee can begin the process of eliminating bullying from schools, and in the process save lives. For these reasons, the North Dakota Student Association supports HB 1465. Thank you for your time.

William Woodworth

North Dakota Student Association, Legislative Lobbyist

#3 HB 1465



March 2, 2011

**Testimony in support of HB1465
Senate Education Committee**

Josh Askvig

701-223-0450 – josh.askvig@ndea.org

Chairman Freborg, members of the Senate Education Committee, for the record my name is Josh Askvig and I represent the North Dakota Education Association. On behalf of our over 8,800 members across ND we rise in support of HB1465.

HB1465 is the culmination of the efforts of a working group headed by Attorney General Wayne Stenehjem, which we were privy to be a part. This legislation will ensure that school districts have the proper procedures to handle instances of bullying so we do not continue to see the all too unfortunate outcomes of recent memory.

HB1465 will require school districts to set-up, explain, and carry out common sense procedures to handle bullying. It also will ensure that schools are providing bullying prevention programs as a resource for teachers, administrators and most importantly students. As National Education Association (NEA) President Dennis VanRoekel says "...when kids are bullied, they can't learn. They're more likely to miss school, eventually drop out, and also suffer 'scars that last a lifetime.'"

Educators are continually looking for research and best practices to find ways to provide environments conducive to student learning. That's why the NDEA started the Ready Child Initiative. The Ready Child mission is to ensure students come to school ready to learn and ready for life. The NDEA, through its Ready Child Initiative, will be hosting a summit on bullying prevention in cooperation with the 3rd annual drop out prevention summit in June 2011.

We all know and research consistently shows that bullying has a profound impact on student learning. This is especially true in vulnerable populations such as students with disabilities. We think HB1465 is a common sense approach to helping schools and educators deal with a rising problem.

We appreciate the time to testify, we hope you give this bill a Do Pass Recommendation and I would be happy to try to answer any questions.

#4 SB1465

TESTIMONY REGARDING HOUSE BILL 1465
NORTH DAKOTA SENATE EDUCATION COMMITTEE

March 2, 2011
By Parker Hoey, Student, Devils Lake Public Schools
701-662-7664

Chairperson Freborg and Senate Education Committee Members, for the record, my name is Parker Hoey, eighth grade student at Central Middle School, Devils Lake, North Dakota. I stand in front of you today in support of House Bill 1465.

I am Student Council president of CMS. This year we have done many bullying activities. One example is "The Power of One." Every morning prime time class did a presentation of how it only takes one person to stop bullying.

Around our school we have put "Bully Boxes" where people can write their situation of bullying down and drop it in.

You may be thinking that just those two things alone would put a huge impact on bullying, but not really. It's made a difference, but not enough to make these kids realize bullying is wrong.

Over these past couple weeks I've gotten the chance to meet with different kids around CMS. 77% of the 5th grade we have interviewed had been bullied. One of the 6th grade students we interviewed really made a difference to me. He told us that "Bullying is like being murdered from the inside." He told us that these bullies made him feel like there's "nothing good in life, so why live any longer?" and several kids in that group agreed.

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Being Student Council president this year has really been an honor. This bullying stuff, especially has really opened my eyes about how serious this really is. No one in junior high should have to feel suicidal thoughts or be scared to come to school. I hope us being here today will make a difference for these kids. It is my hope you will give House Bill 1465 a do pass.

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TESTIMONY REGARDING HOUSE BILL 1465
NORTH DAKOTA SENATE EDUCATION COMMITTEE

March 2, 2011
By Veranna Bauske, Student, Devils Lake Public Schools
701-662-7664

Chairperson Freborg and Senate Education Committee Members, for the record, my name is Veranna Bauske, seventh grade student at Central Middle School, Devils Lake, North Dakota. I stand in front of you today to provide testimony regarding House Bill 1465.

I have had the chance to talk with a lot of my classmates regarding bullying. Many have shared personal stories of times when they were `bullied. They ALL said they have seen people being bullied and have often felt powerless to help. Many said they think that a bullying law could help.

But it is not only the victims that are hurt, sometimes the witnesses are too. A kid told a story about seeing a student come up to another student and start punching and kicking him for no good reason. That boy talked about that incident at least three times. He said how hard it was to see. He was still bothered by the event, even though it had happened a year ago.

I have also had my own share of bullying. When I moved to Devils Lake, I was a "new kid." I was made fun of and felt like I was left out of many groups. I was also bullied physically. I have moved on from those experiences, but still think about them sometimes. Those memories can still hurt.

#6 HB 1465

Not only are physical and verbal bullying a problem, but cyber-bullying is growing. The majority of kids at CMS have cell phones and a Facebook account. Younger and younger kids are getting these privileges. Bullies can now harass kids over the phone and online. Texting can also be a problem. Just a few small words can have a big impact.

One of my best friends was bullied just last week. He reported what happened and school staff took care of it, but he was very depressed. He said he wasn't just sad about what happened...he was also scared. I am here today to represent all those students who have been bullied, those who have witnessed it and those who want it to stop.

Together I hope that we can help put a stop to bullying in North Dakota! It is my hope that you will give House Bill 1465 a do pass.

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TESTIMONY REGARDING HOUSE BILL 1465
NORTH DAKOTA SENATE EDUCATION COMMITTEE

March 2, 2011
By Neil Haahr, Student, Devils Lake Public Schools
701-662-7664

Chairperson Freborg and Senate Education Committee Members, for the record, my name is Neil Haahr, eighth grade student at Central Middle School, Devils Lake, North Dakota. I stand in front of you today to provide testimony regarding House Bill 1465. This bill seeks to address the issue of bullying, an issue which has been present for years.

Bullying should be illegal and punishable by law. Kids just don't care if they get in trouble. If all of a sudden, kids are getting into trouble with the law because they are bullying, then that would send a message to them, "hmm, maybe I shouldn't do this." I believe that would stop them.

I have been on the other side of being bullied and it's not a fun thing. I have been suicidal, but I was a strong person and came back. Some kids just don't have the motivation and will to come back, while others just feel hopeless, but if we make a law, kids will and should know that people are here for them and they should be the better person and come back from being suicidal.

Kids need the satisfaction of knowing that when they come to school or are on the bus, they don't have to worry about being bullied. If they do get bullied, they should have the satisfaction of knowing that it will be taken to a whole different

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level of punishment for the bullies.

Bullying has gotten severely worse and now it has just gotten to be too much. It is almost as if it is acceptable now. Kids don't realize that there is help out there. We need to let them know there is help. By passing a law that makes bullying illegal, kids will hopefully know that there will be justice.

I stand before you today, not only to share my personal story, but to act as a representative for the students of CMS. An invitation was provided to them to sign a petition to indicate their agreement with wanting this law passed. Two hundred and sixty three students signed...I have that petition with me today.

To close, bullying has been an issue that has hit me at a very personal level, one that has been quite devastating. While I have been able to move on in a positive way with the support of my family and friends, it is an issue that impacts many other students on an ongoing basis every day.

Thank you for this opportunity to share my story with you. It is my hope you will give House Bill 1465 a do pass.

#7 HB1465

**NORTH DAKOTA COUNCIL ON ABUSED WOMEN'S SERVICES
COALITION AGAINST SEXUAL ASSAULT IN NORTH DAKOTA**

4 st Rosser #320 • Bismarck, ND 58501 • Phone: (701) 255-6240 • Fax 255-1904 • Toll Free 1-888-255-6240 • ndcaws@ndcaws.org

Testimony on HB 1465
Senate Education Committee
March 2, 2011

Chair Freborg and Members of the Committee:

My name is Janelle Moos and I am the Executive Director of the North Dakota Council on Abused Women's Services. Our Coalition is a membership based organization that consists of 21 domestic violence and rape crisis centers that provide services to victims of domestic violence, sexual assault, and stalking in all 53 counties and the reservations in North Dakota. I'm speaking this morning on their behalf in support of HB 1465.

In 2009, **830 sexual assault victims** were served by crisis centers throughout North Dakota. At least **46%** of the victims were under the age of 18 years old at the time of the assault/s. In addition, **4,569** domestic violence victims received services. At least **26%** of the victims were **under the age of 30**. The 21 centers provide services such as shelter, advocacy, counseling, education, and assistance in obtaining court orders of protection. These centers range in size from small rural programs with one or two employees who do everything to larger programs in more urban areas with over 30 specialized staff members.

The majority of our programs are currently invited into schools to provide education and training specific to child witnesses of domestic violence, sexual abuse, dating violence, and harassment. In recent years, our programs have progressed toward providing more comprehensive primary prevention aimed at stopping violence before it starts. This work often involves partnering with schools to work with younger children on anti-bullying prevention programs/messaging.

Our organization was honored to be included in the working group convened by the Attorney General's office to draft legislation related to the prevention of bullying in schools. HB 1465 is the product of this collaborative work. Our focus while serving on the working group was to ensure that the voices of victims were represented and that those behaviors that are considerably more dangerous and

#8 HB 1465

potentially criminal such as harassment, rape, stalking, or dating violence aren't interpreted and dismissed as bullying.

Nan Stein, a senior research scientist from the Center for Research on Women, part of the Wellesley Centers for Women at Wellesley College, reports that there is evidence of growing violence in teenage dating relationships that add to the assertion that sexual violence among teenagers is increasing. National Youth Risk Behavior Survey (YRBS) data indicates a growing trend in both physical and sexual violence among teenagers. In 2007, 26% of students in North Dakota indicated they had been harassed or bullied on school property by other students one or more times during the past 12 months. 9% of students indicated they were hit, slapped, or physically hurt on purpose by their boyfriend or girlfriend during the past 12 months, and yet another 7% of students had indicated they had been physically forced to have sexual intercourse when they did not want to. North Dakota statistics are comparable to national trends that indicate almost 9% of girls had been intentionally physically hurt by a date and 11% experienced forced intercourse.

In order to ensure that victim's rights are protected and criminal behaviors such as rape, harassment and assault that occur in school are taken seriously, we requested certain provisions under ^{Engrossed} HB 1465 be included. Section 3, subsection a, lines ⁸⁻¹⁰ ~~2-5~~ indicate who the school district shall involve in the development of their policy prohibiting bullying, which must include law enforcement and a domestic violence sexual assault organizations defined by NDCC 14 - 07.1-01. In addition, ^{Section 2, subsection f, lines 1-3} ~~Section 3, subsection b,~~ ~~lines 23-27,~~ indicate that schools are required to develop a procedure to notify local law enforcement immediately if the initial school investigation creates a reasonable suspicion that a crime may have occurred. We believe both of these provisions are important and necessary steps to ensure victim's rights are protected and criminal behaviors are taken seriously.

It's important to note that the North Dakota School Board Association voiced numerous concerns during the House Education committee and subcommittee meetings on HB 1465 regarding inclusion of our domestic violence sexual assault programs in the development of the policies. The first concern was that a program isn't in every community. Although that is true, all 53 counties have a program that provides services to them. A staff member or a volunteer would be available from one of the programs to attend the sessions with schools in their counties as they begin to develop policies. The other concern is that the other groups listed in section 3, subsection a, are generic in nature and by requiring schools to invite specific groups like our programs it might lead to a school missing a step and therefore

#8 HB 1465

creating liability. This concern is also invalid as it would be just as easy to miss inviting a law enforcement agency to the table.

We'd again like to thank the Attorney General's office for their leadership and inclusion of our organization in this important work. We would also like to thank the sponsors of this bill and along with them urge the committee to support the passage of HB 1465.

Thank you.

#8 HB1465

Testimony
House Bill 1465
Senate Education Committee
March 2, 2011

Chairman Freborg and members of the Committee, my name is Alyssa Martin, and I am the Director of Policy Services for the North Dakota School Boards Association. As you may be aware, NDSBA initially testified in support of HB 1465. Since cross over, the NDSBA staff, including our legal counsel, has carefully analyzed the engrossed bill. This version of the bill grants liability protection to school districts if they substantially comply with their anti-bullying policies. We believe this protection is essential; therefore, our recent analysis of HB 1465 centered on identifying requirements in the bill that might hinder school districts' ability to develop and implement enforceable policies. Approaching the bill from this perspective, we have identified portions of it in need of amendment. Some of the amendments we are proposing today were contained in our initial testimony to the House Education Committee. Others are new proposals brought to our attention by NDSBA legal counsel as we began brainstorming how we would develop a model anti-bullying policy—a commitment we recently made to the House Education Committee.

Section one of the bill contains a definition of bullying. Part 1b of the definition is problematic because of the word "received." While this word was in the original bill, we had not considered its implications if applied to incidents of cyberbullying. While at school, students could easily receive electronic communication that falls under the bill's definition of bullying. If such electronic communication was generated off-campus, schools would have little jurisdiction to respond. According to the National School Boards Association, only one federal circuit court has addressed whether school disciplinary authority extends to off-campus, internet speech, and this court ruled that such speech must substantially disrupt the educational environment in order for a school to take disciplinary action. Because of the lack of established precedent on this matter and because schools have limited authority to respond to off-campus cyberbullying, we recommend removing Section 1 part 1b. In other words, we recommend the removal of a mandate that schools may not have jurisdiction to enforce.

Section 2 of HB 1465 lists components that each school district must include in its anti-bullying policy. The engrossed version of the bill requires districts to:

1. Set forth the disciplinary measures applicable to an individual who engaged in bullying, reprisal, or retaliation;
2. Establish strategies to protect a victim of bullying, reprisal, or retaliation.
3. Establish disciplinary measures to be imposed upon an individual who makes a false accusation, report, or complaint pertaining to bullying, reprisal, or retaliation.

This language may imply that schools must develop a prescriptive laundry list of disciplinary measures and victim-protection strategies. Such lists do not always contain the best responses to bullying incidents or best victim-protection solutions in light of the circumstances. In addition, developing a comprehensive list of disciplinary responses and victim-protection strategies is a nearly impossible feat from a policy development perspective.

In its original form, HB 1465 simply required that the anti-bullying policy contain:

1. A provision that there be disciplinary consequences for violations of the anti-bullying policy and for persons found to have made false accusation, report, or complaint;
2. A provision prohibiting retaliation or reprisal against a person reporting bullying;
3. A provision stating that the school will develop strategies to protect a victim upon receiving a report.

The above language would have allowed administrators flexibility to consider the totality of circumstances, existing disciplinary policies, and develop victim-protection strategies on a case-by-case basis. We recommend that section two of HB 1465 be amended to reflect this original language.

Section 2, part 3 of the HB 1465 requires the involvement of 7 different groups in the development of local anti-bullying policies. We are concerned that schools will be unable to coordinate the involvement of these groups in the policy development process or will overlook some of the many requirements in this part, potentially hindering schools' ability to secure the liability protection under the bill. Since the public is already permitted to attend school board meetings, including meetings where policy is discussed, we recommend removal of Section 2, part 3.

The language on page 2, lines 24 and 25 requires schools to develop an investigation procedure that contains timelines to be used in response to reports of alleged bullying and retaliation. We are unsure of the meaning of the word "reports." In other words, we are unsure of what triggers an investigation under this legislation. Schools can only investigate incidents of bullying and retaliation when school officials have knowledge of such incidents. The word "reports" may imply this, but for clarification purposes, we recommend replacing the word "reports" with the phrase "actual notice."

Our second concern with page 2, lines 24 and 25 is that it seems to require schools to investigate every bullying incident. Some bullying incidents (e.g., a one-time poke or push) may warrant a verbal warning from a teacher but not investigatory procedures. We believe that schools should have authority to determine when an investigation is necessary and to what extent. One solution may be to require schools to establish criteria in policy to guide this decision-making process. In other words, in order to secure liability protection under law, schools would not have to investigate every known incident of bullying. Instead, districts would simply have to apply policy criteria to determine if an investigation was necessary.

Finally, HB 1465 requires anti-bullying policies to contain assurance that school officials contact law enforcement whenever there is reasonable suspicion that bullying violated criminal law (page 3, lines 1-3). As NDSBA legal counsel recently pointed out, this places a heavy burden on school officials to have knowledge of criminal code. Bullying itself is not a crime under state law. Therefore, administrators would need knowledge of when bullying has risen to the level of a criminal offense (e.g., assault or harassment). While law enforcement officials have such knowledge, educators may or may not. Yet, under this current language, educators would be responsible for reporting any reasonable suspicion of criminal conduct. Failure to do so could be deemed noncompliance with the anti-bullying policy, causing a district to lose its liability protection. We recommend removal of the language on page three, lines one through three.

Our recommendations are centered on our goal to ensure that school districts are able to secure the liability protection offered by HB 1465. In other words, our proposals aim to remove or revise language that could prevent school districts from adopting practical and enforceable anti-bullying policies. NDSBA legal counsel, Gary Thune, is here today to provide legal insight on the proposals I have described in my testimony. This concludes my remarks. I'm happy to answer any questions that the Committee may have.

3/2/11: NDSBA PROPOSED AMENDMENTS

11.8212.02000

FIRST ENGROSSMENT

Sixty-second
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1465

Introduced by

Representatives R. Kelsch, Vigoesaa, Gruchalla

Senators Flakoll, Wardner, Warner

Summary of Comments on nd1.lc_bd_34

Page: 1

Author: alyssa Subject: Typewritten Text Date: 3/2/2011 9:21:08 AM
3/2/11: NDSBA PROPOSED AMENDMENTS

Author: alyssa Subject: Cross-Out Date: 3/2/2011 1:42:37 AM

1 A BILL for an Act to create and enact six new sections to chapter 15.1-19 of the North Dakota
2 Century Code, relating to the prevention of bullying in public schools.

3 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

4 SECTION 1. A new section to chapter 15.1-19 of the North Dakota Century Code is

5 created and enacted as follows:

6 **Bullying - Definition.**

7 As used in this Act:

8 1. "Bullying" means:

9 a. Conduct that occurs in a public school, on school district premises, in a district
10 owned or leased schoolbus or school vehicle, or at any public school or school
11 district sanctioned or sponsored activity or event and which:

12 (1) is so severe, pervasive, or objectively offensive that it substantially
13 interferes with the student's educational opportunities;

14 (2) Places the student in actual and reasonable fear of harm;

15 (3) Places the student in actual and reasonable fear of damage to property of
16 the student; or

17 (4) Substantially disrupts the orderly operation of the public school; or

18 b. ~~Conduct that is received by a student while the student is in a public school on~~
19 ~~school district premises, in a district-owned or leased schoolbus or school~~
20 ~~vehicle, or at any public school or school district sanctioned or sponsored activity~~
21 ~~or event and which:~~

22 (1) is so severe, pervasive, or objectively offensive that it substantially
23 interferes with the student's educational opportunities;

24 (2) Places the student in actual and reasonable fear of harm;

Page No. 1

11.8212.02000

#10

(3) ~~Place the student in actual and reasonable fear of damage to property of the student or~~

(4) ~~Substantially disrupt the orderly operation of the public school.~~

2. "Conduct" includes the use of technology or other electronic media.

SECTION 2. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

Bullying - Prohibition by policy.

1. Before July 1, 2012, each school district shall adopt a policy providing that while at a public school, on school district premises, in a district owned or leased schoolbus or school vehicle, or at any public school or school district sanctioned or sponsored activity or event, a student may not:

- a. Enrage in bullying, or
- b. Enrage in reprisal or retaliation against:

- (1) A victim of bullying;
- (2) An individual who witnesses an alleged act of bullying;
- (3) An individual who reports an alleged act of bullying; or
- (4) An individual who provides information about an alleged act of bullying.

2. The policy required by this section must:

- a. Include a definition of bullying that at least encompasses the conduct described in section 1 of this Act;
- b. Establish procedures for reporting and documenting alleged acts of bullying, reprisal or retaliation, and include procedures for anonymous reporting of such acts;
- c. Establish procedures, including timelines, for school district personnel to follow in investigating reports of alleged bullying, reprisal or retaliation;
- d. Establish a schedule for the retention of any documents generated while investigating reports of alleged bullying, reprisal or retaliation;
- e. Set forth the disciplinary measures applicable to an individual who engages in bullying or who engages in reprisal or retaliation, as set forth in subsection 1;

Author: alyssa	Subject: Cross-Out	Date: 3/2/2011 1:42:53 AM
Author: alyssa	Subject: Cross-Out	Date: 3/2/2011 1:43:26 AM
Author: alyssa	Subject: Sticky Note	Date: 3/2/2011 9:41:18 AM
Amendment: Establish criteria to assist in determining if an investigation is necessary when school officials receive actual notice of alleged bullying, reprisal, or retaliation.		
Author: alyssa	Subject: Cross-Out	Date: 3/2/2011 1:43:41 AM
Author: alyssa	Subject: Sticky Note	Date: 3/2/2011 9:05:49 AM
Amendment: A provision that there will be consequences and appropriate remedial actions for persons committing acts of bullying, or engaging in reprisal or retaliation.		

1	<u>1. Require the notification of law enforcement personnel if an investigation by</u>	<u>Author: alyssa</u>	<u>Subject: Cross-Out</u>	<u>Date: 3/2/2011 1:43:55 AM</u>
2	<u>school district personnel results in a reasonable suspicion that a crime might</u>			
3	<u>have occurred;</u>	<u>Author: alyssa</u>	<u>Subject: Cross-Out</u>	<u>Date: 3/2/2011 1:44:10 AM</u>
4	<u>by subsection 2 of section 14.07, 14.01, and community representatives;</u>	<u>Author: alyssa</u>	<u>Subject: Sickly Note</u>	<u>Date: 3/2/2011 9:09:59 AM</u>
5	<u>by subsection 2 of section 14.07, 14.01, and community representatives;</u>	<u>Amendment: A provision that the school will develop a strategy for protecting a victim from additional bullying, and from retaliation following a report.</u>		
6	<u>by subsection 2 of section 14.07, 14.01, and community representatives;</u>	<u>Author: alyssa</u>	<u>Subject: Sickly Note</u>	<u>Date: 3/2/2011 9:09:49 AM</u>
7	<u>by subsection 2 of section 14.07, 14.01, and community representatives;</u>	<u>Amendment: A provision that there will be consequences and appropriate remedial action for a person who is found to have made a false accusation, report, or complaint.</u>		
8	<u>by subsection 2 of section 14.07, 14.01, and community representatives;</u>	<u>Author: alyssa</u>	<u>Subject: Cross-Out</u>	<u>Date: 3/2/2011 1:44:23 AM</u>
9	<u>by subsection 2 of section 14.07, 14.01, and community representatives;</u>			

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#10

Sixty-second
Legislative Assembly

This page contains no comments

1 Causes of action - Immunity - School districts.

2 1. This Act does not prevent a victim from seeking redress pursuant to any other
3 applicable civil or criminal law. This Act does not create or alter any civil cause of
4 action for monetary damages against any person or school district, nor does this Act
5 constitute grounds for any claim or motion raised by either the state or a defendant in
6 any proceedings.

7 2. Any individual who promptly, reasonably, and in good faith reports an incident of
8 bullying, reprisal, or retaliation to the school district employee or official designated in
9 the school district bullying policy is immune from civil or criminal liability resulting from
10 or relating to the report or to the individual's participation in any administrative or
11 judicial proceeding stemming from the report.

12 3. A school district and its employees are immune from any liability that might otherwise
13 be incurred as a result of a student having been the recipient of bullying, if the school
14 district implemented a bullying policy, as required by section 2 of this Act and
15 substantially complied with that policy.

16 SECTION 6. A new section to chapter 15, 1-19 of the North Dakota Century Code is created
17 and enacted as follows:

18 Causes of action - Immunity - Nonpublic schools.

19 1. This Act does not prevent a victim from seeking redress pursuant to any other
20 applicable civil or criminal law. This Act does not create or alter any civil cause of
21 action for monetary damages against any person or nonpublic school, nor does this
22 Act constitute grounds for any claim or motion raised by either the state or a defendant
23 in any proceedings.

24 2. Any individual who promptly, reasonably, and in good faith reports an incident of
25 bullying, reprisal, or retaliation to the nonpublic school employee or official designated
26 in the school's bullying policy is immune from civil or criminal liability resulting from or
27 relating to the report or to the individual's participation in any administrative or judicial
28 proceeding stemming from the report.

29 3. A nonpublic school and its employees are immune from any liability that might
30 otherwise be incurred as a result of a student having been the recipient of bullying, if

- 1 the school implemented a bullying policy, similar to that required by section 2 of this
- 2 Act and substantially complied with that policy.

This page contains no comments

#10

North Dakota Family Alliance

A Trusted Voice Impacting Our Legacy

Tom D. Freier, EXECUTIVE DIRECTOR

Senate Education Committee

March 2, 2011

HB 1465

Mr. Chairman and members of the Senate Education Committee, my name is Tom Freier, with the North Dakota Family Alliance.

What has become known as 'bullying' has been around, in some form, really---forever.

But especially in today's culture, with unprecedented access to the Web and social networking tools, there is no question that bullying can be far-reaching and especially cruel—and too many times has tragic outcomes. That is why the North Dakota Family Alliance believes that bullying should be recognized as a serious problem and should be strongly addressed.

We believe a good way for schools to address this issue is with a strong prohibition against any form of bullying, for any reason, against any child, in all cases. The emphasis should be on the wrong *actions* of the bullies, not on their *perceived thoughts or perceived motivations*. A good policy will be objective and applied fairly and equally.

It should include provisions:

- To guarantee parental involvement and protection of parental rights
- To task the local school board with the responsibility to develop the policy and be accountable for it
- That each local policy would include processes to communicate the policy, to investigate alleged incidents, provide for reporting and notification, and contain the disciplinary action.
- It should include a public comment process
- It should include an immunity clause, as well as First Amendment protection clause.

In regard to the First Amendment Rights protection clause, the Attorney General has stated this protection is provided in the NDCC.

We do have a concern in regard to the 'Bullying prevention programs' provided for in Section 4; the content of those programs, where developed, and the sharing with those as young as kindergarteners. NDFA would like greater clarity as to the purpose of Section 4.

For your benefit, I have attached a copy of draft legislation to use in considering any improvements to HB 1465.

The North Dakota Family Alliance favors passage of a bill reflecting the sound provisions found in this draft.

#11 HB1465

Dedicated To Strengthening Families

2720 10th Street South Ste 9 - Fargo, ND 58104 - Phone: 701-264-0676



HOUSE/SENATE BILL NO. ____

Sixty-second
Legislative Assembly
of North Dakota

Introduced by

Senators . . .

Representatives . . .

A BILL for an Act to create and enact a new section to chapter 15.1-19 of the North Dakota Century Code, relating to public school district bullying prevention policies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

Bullying – Required policy.

1. Each public school district shall enact a policy to prohibit bullying by any student:
 - a. While on school district premises;
 - b. During any school-sponsored event or activity, regardless of location;
 - c. While being transported by any means of transportation provided or supported by the school district; and
 - d. While using any electronic or technological device, provided or supported by the school district, while on school district premises or during any school-sponsored event or activity, regardless of location.

2. The policy required by this section must include:
 - a. The procedure to be followed by a student in reporting an alleged act of bullying to designated employees at the student's school;
 - b. The procedure to be followed by school personnel in investigating a report of alleged bullying;
 - c. A procedure for notifying the parents of each student involved in an incident determined by school personnel to constitute bullying; and
 - d. Disciplinary measures to be imposed by the student's school if a student is found to have engaged in bullying.
3. For purposes of this section, "bullying" means systematic, recurrent or repeated conduct that is directed toward a student by another student or a group of students which causes measurable physical harm or emotional distress and which school officials reasonably believe will:
 - a. Interfere substantially with the student's academic performance; or
 - b. Interfere substantially with the student's ability to participate in academic and extracurricular activities provided by a school district.
4. "Bullying" includes verbal expression, whether oral, written, or electronic, to the extent that:
 - a. Such expression is lewd, indecent, obscene, advocates illegal conduct, is intended to incite an immediate breach of the peace, or is the severe and pervasive use of threatening words intended to inflict injury; or

#11 HB 1465

- b. District administrators or officials reasonably believe such expression will cause actual, material disruption of academic work and extracurricular school activities.
- 5. No policy enacted pursuant to this section may contain a definition of "bullying" that differs substantially from the definition provided in subsections (3) and (4) of this Act.
- 6. Retaliation against any person who reports, is thought to have reported, files a complaint, or otherwise participates in an investigation or inquiry concerning allegations of bullying is prohibited.
 - a. Suspected retaliation must be reported in the same manner as bullying.
 - b. Retaliation may result in appropriate disciplinary action.
- 7. Knowingly making false reports of bullying is prohibited.
 - a. Suspected false reports must be reported in the same manner as bullying.
 - b. Knowingly making false reports may result in appropriate disciplinary action.
- 8. A policy developed under this section may not impede or preclude a student, the student's parents, or school officials from directly reporting to law enforcement officials any behavior that constitutes a violation of criminal law under title 12.1.
- 9. Each school district shall provide copies of its bullying prevention policy to all employees and to students in age-appropriate terms, and shall notify students' parents that the plan is available electronically on the school district website and in printed form upon request.

10. Each school district shall provide an opportunity for public comment before the development and implementation of the policy.

SECTION 2. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

School District – Immunity from liability.

A school district and its employees are immune from any liability that might otherwise be incurred as a result of a student having been the recipient of bullying, if the school district implemented a bullying prevention policy as required by section 1 of this Act and substantially complied with that policy.

SECTION 3. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

Interpretation – Protection of First Amendment rights.

Individual bullying prevention policies enacted by school districts shall not be interpreted to infringe upon the First Amendment rights of students, and are not intended to prohibit expression of religious, moral, philosophical or political views, provided that such expression does not cause an actual, material disruption of academic work and extracurricular school activities.

11 HB 1465

HB 1465 TESTIMONY

Senate Education Committee

March 2, 2011

Valerie Fischer, Director of School Health / Director of Adult Education

328.4138

Department of Public Instruction

Chairman Freborg and members of the Senate Education Committee – I'm Valerie Fischer, Director of School Health and Director of Adult Education for the Department of Public Instruction. On behalf of the Department, I am here to provide supportive testimony for HB 1465, which relates to bullying.

According to the **2009 Youth Risk Behavior Survey** ...

	Grades 7-8	Grades 9-12
Students who have been bullied on school property by another student.	50%	22%
Students who have been bullied away from school property during the past 12 months.	27%	18%
Students who have been electronically bullied (e-mail, chat rooms, instant messaging, Web sites or text messaging) during the past 12 months.	19%	14%
Percentage of students who have been harassed during the past 12 months because someone thought they were gay, lesbian, or bisexual.	14%	8%

The recent media attention across the country and across North Dakota has brought light to a social issue needing immediate reaction. Bullying needs to end; we have no place for such behavior in our schools and we must become intolerant of bullies and provide the structure for schools to take an aggressive stance against this negative conduct. By doing so, we will also stop the pain of literally thousands of ND students who don't want to go to school, who feel worthless and humiliated at the expense of others. This bill, or any law, will not stop bullying entirely; but a well written and well implemented law will put into place a comprehensive system which includes policy, programs/curriculum, sanctions, interventions, and professional development – for administration, staff, students, parents and the community – specific to the needs of elementary, middle and high school students. The remaining and most critical

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component to stop bullying is the time it will take to create and engage a culture and climate in every school building where civility and respect is paramount.

Initially, four (4) bills were introduced this legislative session; all had similar components and yet, were different. Attorney General Stenehjem convened a work group of stakeholders which included DPI, Council of Educational Leaders, School Boards Association, NDEA, ND Council on Abused Women, and the Governor's Office. By consensus, we contributed to the bill language and intent of HB 1465. These same groups were also part of the House Education Committee discussions for the amendments identified in the first engrossment you have today.

This concludes my testimony. I am available to take any questions the Committee may have. If not, thank you.

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A Pilot Study of the Bullies to Buddies Training Program

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A Pilot Study of the Bullies to Buddies Training Program

In a national study of bullying, Nansel, Overpeck, Pilla, Ruan, Simons-Morton, & Scheidt (2001) found that 29.9% of sixth through tenth grade students in the United States report moderate to frequent involvement in bullying: 13% as bullies, 10.6% as victims, and 6.3% as both bullies and victims. Even if they are not chronically involved with bullying, research indicates that the majority of students will experience some form of victimization at least once during their school careers (Felix & McMahon, 2007).

Research has shown that students involved in bullying are at increased risk for negative outcomes throughout childhood and adulthood. Children who are the targets of bullying are more likely to experience loneliness and school avoidance than non-bullied students (Kochenderfer & Ladd, 1996; Nansel et al., 2001), have poor academic outcomes, and are at increased risk for mental health problems such as anxiety and suicidal ideation, which can persist into adulthood (Kaltiala-Heino, Rimpela, Rantanen, & Rimpela, 2000; Kochenderfer & Ladd, 1996; Kumpulainen et al., 1998; Olweus, 1995; Rigby, 2000; Schwartz, Gorman, Nakamoto, & Tobin, 2005). Bullies also experience more negative outcomes than their peers; they are more likely to exhibit externalizing behaviors, conduct problems, and delinquency (Haynie et al., 2001; Nansel et al., 2001), are more likely to sexually harass peers, be physically aggressive with their dating partners, and be convicted of crimes in adulthood (Olweus, 1993; Pepler et al., 2006). Children who both bully and have been victimized experience the greatest risk for psychosocial and behavioral problems (Haynie et al., 2001). Even students who are not directly involved with bullying incidents as bullies, victims, or bully-victims can

experience negative outcomes, as chronic bullying within a school creates a negative school environment for all students (Jacobs, 2008).

The alarming prevalence of bullying in schools and the harmful consequences for all involved clearly signal the need for effective intervention. Many states have enacted bullying legislation and most schools have implemented some sort of program to address this growing problem (Limber & Small, 2003). Programs that address bullying in schools typically incorporate targeted and/or universal intervention components. Targeted interventions focus on changing the behaviors of specific groups of students, such as bullies or students who are at risk for becoming bullies. Universal interventions focus on training all members of the school community to react more effectively to bullying incidents as well as altering the school culture to be less accepting of bullying (Orpinas, Horne, & Staniszewski, 2003; Salmivalli, Kaukiainen, & Voeten, 2005). Many programs are modeled on the work of Norwegian researcher Dan Olweus, whose anti-bullying program incorporates both targeted and universal elements (Jacobs, 2008).

Despite the large-scale dissemination of these programs, their effectiveness has not been demonstrated on a consistent basis. For example, although the original report of outcomes of the Olweus program demonstrated a 50% reduction in student bullying behavior two years after implementation (Olweus, 1994), other studies using interventions replicating or modeled after the Olweus program have yielded mixed results (e.g. Bauer, Lozano, & Rivara, 2007). A meta-analysis by Smith, Schneider, Smith, & Ananiadou (2004) concluded that the majority of whole-school programs yielded non-significant outcomes on measures of self-reported victimization and bullying. A second meta-analysis, conducted by Merrell, Gueldner, Ross, and Isava (2008), also included

targeted interventions, and found that the majority of intervention outcomes evidenced no meaningful change in a positive or negative direction.

A less frequently utilized approach to bullying intervention is to empower victims to react more effectively to the bully. Research has revealed a number of characteristics and behaviors that put children at risk for victimization. Victims of bullying are more likely than non-victims to exhibit behavioral vulnerability (e.g. looking scared/weak), withdrawn and solitary behavior (e.g., talking very quietly), submissiveness, (e.g., giving up easily), and signs of distress (e.g., crying easily) (Fox and Boulton, 2005). In addition, they often lack friendships and positive relationships with classmates (Andreou, Vlachou, & Didaskalou, 2005; Nansel et al., 2001). Externalizing behaviors also may serve as antecedents for victimization. Research has demonstrated an association between relational aggression and peer rejection, such that engagement in relationally aggressive behavior (including retaliation) may lead to peer rejection, and rejected children may be more likely to engage in aggressive behavior (Kuppens, Grietens, Onghena, Michiels, & Subramanian, 2008). Not surprisingly, victims are likely to have low self-esteem and poor perceptions of their social competence (Andreou et al., 2005; Jankauskiene et al., 2008; Rodkins & Hodge, 2003). Gini, Pozzoli, Borghi, & Franzoni (2008) report that victims become less well-liked by peers with increasing age; that is, positive attitudes toward victims decrease over time, while negative attitudes toward victims (i.e., dislike for being “weak”) increase. Ideally, intervention with victims should target both their behavior (submission, anger, distress, retaliation) and their perceptions of themselves as helpless victims, before attitudes and behavior become well-established.

Children who are victims of bullying typically believe that teacher intervention will be effective in countering bullying behavior, and such intervention is a component of most bullying prevention programs. However, research suggests that teachers under-identify bullying behavior, and that, when students report bullying events to teachers, bullying may increase (Smith & Shu, 2000). Although teacher intervention has been shown to reduce bullying in some studies, such intervention must be timely and consistent, and requires close supervision of students. Moreover, teachers' attitudes about bullying have been shown to influence their willingness to intervene, as well as the skill with which they do so (Kochendorfer-Ladd, & Pelletier, 2008). Thus, it is not always possible – and, in some instances, may not be advisable – to rely on teacher intervention as a means of managing the problem of bullying.

Additional support for targeting victims of bullying comes from research showing that anti-bullying programs, in general, have been more successful in reducing the proportion of children being bullied than the proportion of children bullying others. This may be because victimized children are more motivated to learn behaviors and coping strategies that will help prevent continued victimization than bullies who are likely enjoying their current status (Rigby, 2004). Change in bullying behavior may follow change in the behavior of victims, as bullying students with more adaptive coping skills may lose its appeal.

Little research has been conducted to evaluate the effectiveness of interventions designed specifically to target victims, rather than bullies or the school environment as a whole (Fox & Boulton, 2003). The few programs targeting victims that have been evaluated incorporate assertiveness training and/or social skills training to address the

risk factors of chronic victimization (Felix & Furlong, 2008; Rigby, 2004). *Assertiveness training* teaches victims to react less passively to bullies (Smith, Ananiadou, & Cowie, 2003). An example of an assertiveness program designed specifically for victims of bullying is the "Assertiveness Training Program" which was developed for the Sheffield Anti-Bullying Project. An evaluation of this program by Tonge (1992) revealed a statistically significant increase in victims' self-esteem as well as other positive outcomes including an increase in self-confidence and assertive behaviors and a decrease in reports of being bullied (as cited in Fox & Boulton, 2003, p. 233).

Social skills training programs teach victims skills that will make them less obvious targets for bullies (Felix & Furlong, 2008). An example of a social skills program for victimized and at-risk children is the "Social Skills Group Intervention" developed by DeRosier and Marcus (2005). This program teaches students basic social skills and coping strategies, and resulted in increased social acceptance and self-esteem and lowered depression and anxiety for a group of third grade students (although several treatment effects were present for girls but not boys). Another social skills training program for victims of bullying is the "Social Skills Training Program" developed by Fox and Boulton (2003) which teaches victims to use social problem solving skills, relaxation skills, positive thinking, nonverbal behavior, and specific verbal strategies. An evaluation of this program revealed less positive results. The students participating in the program evidenced an increase in "global self-worth." However, there were no changes in victimization status or social skills problems.

The limited research that has been conducted to date on programs that specifically target victims has yielded promising but mixed results. A comparison of research on

outcomes of the assertiveness training versus social skills training approaches suggests that interventions should focus on strategies for coping with bullying incidents, rather than on the development of overall social skills. There is a clear need for additional outcome studies that examine the effectiveness of victim-focused intervention, so that schools can determine whether this component should be included in anti-bullying efforts (Pepler, Smith, & Rigby, 2004).

Although difficult to achieve in school settings, there is a particular need for experimental studies in which random assignment to treatment and control groups is employed. The meta-analysis reported by Smith, et al. (2004) featured fourteen studies, of which eight employed control groups and only four utilized random assignment. Merrell, et. al (2008) noted that, of the sixteen studies included in their meta-analysis, only three employed true experimental designs. The remainder used quasi-experimental or mixed designs. Methodological limitations of studies included in these meta-analyses clearly indicate the need for outcome studies that employ stronger experimental designs.

Methodological limitations are particularly apparent in studies evaluating programs designed specifically to target victims. Findings of research on the "Assertiveness Training Program" (Tonge, 1992), and the assertiveness training program evaluated by Arora (1992) cannot be attributed to program effects, nor can they be generalized to other settings, due to methodological limitations including small sample size and the absence of control groups (Fox & Boulton, 2003). The "Social Skills Training Program" developed by Fox and Boulton (2003) did employ a waitlist control group, but there was no random assignment of subjects to groups. Of the studies found in

a review of the literature on victim-focused programs, only one (DeRosier & Marcus, 2005) employed random assignment of children to treatment and control groups.

The present study was conducted to evaluate the impact of student training using an abbreviated version of the Bullies to Buddies program, developed by Israel Kalman (2005). The Bullies to Buddies Program (B2B) is a training intervention that teaches victims specific techniques that can be used to respond to bullying. These coping strategies help students avoid behaviors that are believed to contribute to continued victimization (retaliation, anger, reporting, resistance) and replace them with more socially adaptive responses. Through role plays consisting of examples and non-examples of appropriate strategies, students are taught to react to bullying calmly and with honesty (and even with humor and playfulness, if possible), instead of anger, defensiveness, and fear. The B2B program discourages victims from reporting bullying events to teachers, citing the need for them to develop a more effective repertoire of behaviors. It also discourages retaliation, which may precipitate the peer rejection that is associated with higher rates of victimization.

The study was designed to overcome the methodological problems associated with earlier studies through the use of a waitlist comparison group, as well as random assignment of classes to training or comparison groups. In addition, the training intervention did not target only so-called "victims" of bullying, but intact classrooms of children. According to Espelage and Swearer (2003), children may function at various times as bullies, victims, and bystanders, suggesting that many would benefit from a bullying intervention program focusing on victim responses. Moreover, research has shown that classwide implementation of interventions may lead to increased

generalization of newly-learned skills, and positively affect peer attitudes, two factors shown to be critical in bullying prevention (Fox & Bolton, 2003).

The fourth- and fifth-grade levels were selected because, by this age, students were assumed to have developed social competencies (such as perspective-taking) that would support their use of skills taught in the program; at the same time, because students had not yet reached pre-adolescence, the trajectory leading to peer disliking and rejection of victims might not yet have been established. In addition, based on reports of a peak in bullying at the sixth- through eighth-grade levels, intervention with fourth- and fifth-grade students was thought to be desirable as a preventive measure.

Method

Procedure

This study examined the effects of the Bullies to Buddies (B2B) bullying prevention program on 142 fourth- and fifth-grade students attending eleven schools in the Greater Cleveland, Ohio, area. Participating schools received professional services from PSI, a community-based educational service agency, including a series of optional prevention programs. Principals of thirteen schools receiving a prevention series (Dinero & Rosenberg, 2004) were asked to participate in a study examining the effectiveness of a specific approach to bullying prevention. Eleven principals agreed, and letters requesting parental consent and student assent were distributed. Students for whom either was denied or missing were not included in the study. PSI personnel were responsible for (1) enlisting schools to participate in the study; (2) distributing and collecting consent and assent forms; (3) training facilitators to deliver the B2B student training; (4) conducting the B2B training with students; and (5) coding, distributing, and then collecting, in an

envelope sealed by the teacher, completed survey materials at pretest and posttest.

Completed materials were hand-delivered in the original sealed envelopes to the research team (headed by the first author) at Cleveland State University.

The entire B2B program includes teacher training in responding to student reports of bullying (Kalman, 2007), as well as student training in responding to threats of violence, stolen possessions, social exclusion, coercion to choose between friends, and sibling rivalry (Kalman, 2005). For the present pilot study, only the student training was conducted, and it consisted of three 45-minute lessons addressing common bullying behaviors of spreading rumors, insults, and physical attacks. Facilitators received initial training from Israel Kalman, the author of the B2B program, in two sessions, the first of which focused on the overall philosophy and goals of the program, as well as skills that would be taught to students. In a second training, lessons that would be taught to students were modeled, including role plays that are a major feature of the training. In subsequent sessions, the second author presented and modeled for facilitators the three lessons that were to be taught to students. She observed facilitators presenting each lesson in practice sessions, and provided feedback to ensure that lessons were delivered as designed. Facilitators received detailed scripts for each lesson, and met periodically to review the B2B sessions to monitor implementation integrity. (Manuals containing detailed scripts for teacher and student training were made available by the author of the program.)

An alphabetically-ordered list of participating schools was created, and each school (i.e., its fourth- or fifth-grade classroom) was assigned on an alternating basis to either the participant or comparison group. (In three schools, two classrooms existed in the same building at the fourth- or fifth-grade level, so both were designated to

participate, with one randomly assigned to the participation group, and one to the comparison group.) Pretests were administered to all students three weeks prior to the delivery of the B2B lessons to the participating classes. Posttests were administered to both participating and comparison classes within a one-week period following the delivery of the B2B lessons to the participating classes. The B2B lessons were presented to the comparison group classes at various times subsequent to the posttest; consequently, it was not possible to assess longer-term outcomes of the B2B training.

Participants

A total of 267 students participated in the study. The proportion of students receiving free and reduced lunches was not made available by schools, but three schools were located in urban areas; three in first-ring suburbs; four in suburbs; and one in a rural area. Forty-nine percent ($n = 132$) of the total sample were boys, and 51% ($n = 135$) were girls; 88% of students ($n = 233$) were of White/Caucasian ethnicity; 5% ($n = 12$), African-American; 4% ($n = 10$), Asian/Pacific Islanders; and 3% ($n = 9$), Hispanic. Because White/Caucasian students were over-represented in the sample as a whole, results may not be generalizable to non-White populations.

With respect to demographic characteristics, the participant ($n = 142$) and comparison groups ($n = 125$) were very similar (see Table 1); however, the participant group had a higher proportion of students of White/Caucasian ethnicity (90.8%, v. 83.2% in comparison group), coupled with a lower proportion of African-American students (1.4%, v. 8% in comparison group). Therefore, on this demographic dimension, the participant and comparison groups were not equivalent.

Instruments

Measures employed in this study included a teacher rating of victimization for each student ("On a scale from 1 to 9 [with a rating of "1" corresponding to low victimization, and "9" corresponding to high victimization], how would you rate this student in terms of the extent to which he or she has been a victim of bullying in recent months?") Ratings were later reversed for purposes of data analysis, resulting in a rating of "1" corresponding to high victimization, and "9" corresponding to low victimization.

Prior to the initiation of the B2B training with the participant group, students in both groups completed a survey in which they rated the frequency with which they had experienced bullying-related events; employed certain responses to bullying (if they had in fact experienced bullying); the degree to which they believed certain responses to be appropriate; and the frequency with which their teachers displayed certain behaviors in response to bullying events. The survey defined bullying as "called names, teased, excluded, threatened, gossiped about, etc." Items were designed to assess events and behaviors that are the focus of the B2B training (i.e., victim responses to bullying: "...in the past month, when kids called you names, threatened you, or made fun of you, about how often did you tell a teacher or other adult?; call them names back?; not care?").

A Principal Component Analysis employing Varimax rotation with Kaiser Normalization was conducted to estimate construct validity of the student survey (see Table 2). The analysis yielded a three-factor solution (eigenvalues greater than 2.0) at pretest (accounting for 35% of variance in responses) that was replicated at post-test (accounting for 38% of the variance in responses); this served as evidence of the stability of the survey's factor structure. The first factor, entitled "Victimization", with an initial eigenvalue of 5.36 at pretest and 6.28 at post-test (accounting for 16.2% and 19% of the

variance, respectively), was defined by items reporting experiences as a victim of bullying, accompanied by a tendency to report incidents to the teacher or another adult. The second factor, "Aggressive Response," with an initial eigenvalue of 3.96 at pretest and 3.03 at post-test (accounting for 12% and 10.5% of the variance, respectively), describes a tendency to respond to bullying with retaliation, and to engage in bullying-related fights. The third factor was defined by items describing teacher reactions to reports of bullying, which was not a focus of this study; therefore, data for this factor (which explained an additional 7% and 9% of the variance at pretest and post-test, respectively) are not included in Table 2. Survey factors were not employed as variables in this study; instead, specific survey items representing phenomena of interest were selected and employed as predictor (pretest) and dependent (posttest) variables.

Results

Participant and comparison group characteristics. An independent samples *t*-test was conducted to determine whether there were differences between participant and comparison groups at the time of pretest on teacher ratings of victimization. There were no significant differences in teacher ratings of victimization between the participant group ($M = 2.10$, $S.D. = 1.40$) and the comparison group ($M = 2.07$, $S.D. = 1.50$) ($df = 298$; $t = .41$). However, in both groups, ratings were negatively skewed; that is, teachers assigned generally high ratings of victimization (see Table 1). It is possible that principals who agreed to participate in the study were motivated by a perception of bullying as a significant problem in their schools. The results of an independent samples *t*-test revealed no differences between the participant and comparison groups at pretest in their reports of bullying-related coping responses and beliefs about appropriate coping responses.

However, a significant difference between participant and comparison groups was found in pretest reports of having been threatened by peers, with students in the participant group reporting fewer instances ($df = 274, t = -2.68, p < .01$). Consequently, results of analyses employing this variable must be interpreted conservatively.

Gender Differences in Bullying-Related Phenomena

Preliminary analyses of pretest findings across both participant and comparison groups revealed some differences in variables as a function of gender. Boys were more likely to be rated as victims of bullying than were girls (relationship between gender and teacher victimization rating of $r = -.15, p < .01$). Girls were more likely than boys to report victimization in the form of "rumors spread" ($r = .15, p < .05$), while boys were more likely than girls to report that they "called names back" ($r = -.15, p < .05$) and "threatened to hit" ($r = -.22, p < .05$) in response to teasing or provocation by others.

Changes in reported bullying events, responses, and beliefs from pre- to post-test.

Table 3 presents results of paired-samples *t*-tests of the significance of differences between pretest and posttest reports of bullying-related events, responses, and beliefs about appropriate responses among students in the participant and comparison groups. Within the comparison group, no changes from pretest to posttest were reported in bullying-related phenomena of any kind. In contrast, students who participated in the B2B training reported a significant decrease in having had rumors spread about oneself, with a pretest mean score of 7.45 ($SD = 2.13$) and a posttest mean score of 7.75 ($SD = 2.08$); ($df = 142, t = -2.15, p < .05$). (A rating of 1 corresponded with "very often," a rating of 9 corresponded with "never.") This finding was further explored through the more rigorous method of hierarchical regression analysis, where posttest reports of

rumors spread were predicted by pretest scores (entered into the equation first, due to their strong correlation with posttest scores), and by participation in the B2B training. Results indicated that participation in the training improved prediction of the frequency of "rumors spread" from pretest scores ($df = 1, 250$; $R^2 = .44$; R^2 change = .012, $p < .05$).

No change in other bullying-related events (threats, name-calling, fighting) was reported by participants, nor were there any changes in their reported behavioral responses to bullying. However, they did report changes in beliefs about appropriate responses to bullying. Specifically, beliefs about whether victims should tell adults about bullying events declined from pretest ($M = 2.65$, $SD = 2.16$) to posttest ($M = 3.89$, $SD = 2.66$); ($df = 141$, $t = -4.86$, $p < .001$). (A rating of 1 corresponded with "strongly agree;" a rating of 9 corresponded with "strongly disagree.") In addition, beliefs about whether victims should attempt to stop the bully's behavior decreased from a pretest mean rating of 2.42 ($SD = 2.13$) to a posttest mean of 3.65 ($df = 141$, $t = -4.99$, $p < .001$).

Difference in Changes in Beliefs about Appropriate Responses from Pretest to Posttest between Participant and Control Groups.

Further analysis was deemed necessary to link changes in student beliefs about appropriate coping responses to the B2B training. To control for strong pretest-posttest item correlation as well as item variance, hierarchical regression analyses were conducted to determine whether changes in beliefs were attributable to participation in the B2B training. In all analyses, pretest scores on survey items were entered into the equation first, followed by group membership (participant v. comparison).

Results are reported in Table 4. With respect to posttest beliefs about the appropriateness of telling an adult, telling the bully to stop, and "not being bothered" by

the bullying, participation in the B2B training explained an additional 3%, 3.4%, and 1.5% of the variance, respectively; all represented statistically significant improvements in prediction over that afforded by pretest-posttest prediction only. The combination of pretest-posttest and training participation explained 13.7%, 12.1%, and 7.8% of the total variance in responses for each of these beliefs, respectively. However, participation in the B2B training did not improve the prediction of posttest scores on the appropriateness of retaliation, where only pretest scores served as significant predictors of posttest scores.

Relationship between changes in reports of bullying events, responses, and beliefs and teacher-rated victimization among B2B-trained students. Because of its focus on bullying victims, the B2B training might be expected to have a more significant impact on victims than on bullies or bystanders. Pearson product-moment correlations were calculated to determine whether teacher-rated victimization was related to change from pre-test to post-test in student-reported bullying-related events, responses, and beliefs about appropriate responses to bullying. Results are presented in Table 5. Among trained students, teacher-rated victimization was related to changes in students' *reports of bullying-related events*. That is, students who were rated by teachers as more frequent victims reported a significant decrease in reports of being "called names" ($r = -.22, p < .01$) and being "in trouble for fighting" ($r = -.26, p < .01$). Victimization ratings were not related to changes in trained students' reports of threats or rumors.

With respect to changes in trained students' *reports of their responses to incidents of bullying*, teacher-rated victimization was related only to changes in reports of "calling names back" as a form of retaliation ($r = -.26, p < .01$); students rated by teachers as more frequent victims reported an increase in this response. Victimization ratings were

unrelated to changes in trained students' reports of bullying responses of telling an adult, telling the bully to stop, or not being bothered by the bullying event.

However, changes in trained students' *reports of their beliefs about appropriate responses to bullying* were related to teacher-rated victimization for "should call names back" and "shouldn't bother me." Following training, students rated as more frequent victims of bullying were less likely to endorse the appropriateness of calling names back ($r = -.26, p < .01$), despite self-reported increases in this response, and more likely to endorse the belief that they shouldn't be bothered or upset when bullied ($r = .19, p < .05$). However, teacher-rated victimization was not related to changes in trained students' endorsement of "telling an adult" and "telling the bully to stop".

Results of the hierarchical regression analyses presented in Table 4 demonstrate that, while participation in the B2B training predicted various outcomes at posttest, teacher-rated victimization did not improve prediction. Thus, bullying victims did not differ from non-victims in the extent to which they changed beliefs about the appropriateness of various coping responses as a result of the B2B training.

Discussion

The Bullies to Buddies (B2B) bullying prevention program seeks to alter the behavior of bullying victims by teaching them to refrain from actions that reinforce the bullying behavior – such as getting angry, retaliating, and reporting to adults. In B2B, victims learn that, while they do not invite or cause bullies to behave as they do (i.e., bullying is not their fault), their reactions can perpetuate, and even exacerbate, bullying behavior. Victims are taught to respond to bullying calmly, and to avoid getting angry, retaliating, or reporting the bully to a teacher or other adult (unless the bullying is

physically injurious or extreme; this, and other exceptions to recommended non-resistance, are explored in detail in the student and teacher trainings). The overriding theme of recommended bullying responses is to avoid treating the bully as an enemy, and instead employ a calm and even friendly response when bullying is initiated. Students assume roles of both bully and victim in repeated role plays, so they can observe how a calm response to a bullying episode when it is first initiated can interrupt the typical sequence of escalation, leading many bullies to stop the bullying behavior.

Because it promotes behavior change, the B2B program is vulnerable to the same problems that have long been associated with social skills training, especially generalization of newly-learned behaviors. Although the profile of victims as socially unskilled, displaying inadequate and sometimes inappropriate behavior (Andreou, Vlachou, & Didaskalou, 2005; Fox and Boulton, 2005; Nansel et al., 2001), suggests that they may not easily learn to do so, victims are encouraged to respond playfully and paradoxically to bullying – including, in some instances, agreeing with and even exaggerating the bully's derogatory comments .

Several important findings emerged in this study. With respect to bullying *events*, fourth- and fifth-grade students who participated in the B2B training reported significant decreases in having had rumors spread about them, and this outcome was a result of participation in the B2B training (i.e., no decrease was reported by the comparison group). Fox and Boulton (2003) suggested that reductions in bullying following whole-class interventions were a result of increased awareness and disapproval of bullying behavior. In any event, in view of the limited dosage of the B2B training employed in this study, any change in the frequency or severity of bullying behavior is noteworthy.

Results showing no change in reported coping *behaviors* among trained students were consistent with the findings of a meta-analysis conducted by Merrell, et. al (2008), where the authors noted that successful bullying prevention programs more often result in changes in knowledge, attitudes, and self-perceptions about bullying than in documented changes in behavior. A central premise of the B2B program is that common responses to bullying, such as reporting to adults, telling the bully to stop, and retaliation serve only to exacerbate the problem, and these responses should be curtailed. In this study, the B2B training was successful in changing student *beliefs* about the appropriateness of these responses; in comparison to the waitlist group, at posttest, trained students reported that victims should not report to adults or tell the bully to stop, and they more strongly endorsed the notion that victims should not be bothered by bullying. Changing beliefs about appropriate responses, and even engaging in recommended responses, has not been demonstrated to result in an actual reduction of bullying behavior, however, and research to establish this relationship is essential.

It is possible that, in a more extensive version of the B2B training which includes additional opportunities for skill practice, monitoring (and prompting) of skill use, and followup evaluation, corresponding changes in behavior might occur. However, evidence that the behavior change recommended by the B2B program is itself responsible for a reduction in bullying will be required in order to fully establish the program's effectiveness.

Outcomes reported by students rated by teachers as more frequent victims of bullying are of particular interest, since B2B is designed to foster more effective responses among victims. Analysis of the degree of change in events, coping behaviors, and outcomes

reported by victims at posttest revealed that, among students who participated in the B2B training, children who are more frequent victims reported greater change (reduction) than non-victims in being called names and being involved in fights. In addition, victims reported greater change in beliefs that they should retaliate (reduction), and that they shouldn't be bothered by bullying (increase).

Findings of this study are noteworthy for several reasons, including the fact that a significant change in one especially problematic form of bullying – spreading rumors – was reported by students, and this change was explained by participation in the B2B training. Thus, although the program is targeted to bullying victims, exposing an entire class to the B2B training (as occurred in this study), at minimum, might be expected to raise awareness about, and discourage, at least some forms of bullying. However, because of methodological limitations, it is not known whether studies of other classwide bullying prevention programs demonstrate a similar effect – that is, whether exposure to *any* classwide program might have the same impact. A second noteworthy aspect of this study was its use of an experimental design in which classes of students were randomly assigned to either participant or comparison (wait-list) conditions; as noted earlier, few studies of bullying prevention programs have employed experimental methodology.

Several limitations of the study should be noted, especially the abbreviated nature and minimal dosage of the B2B intervention. As designed by the author, the B2B program includes both a teacher training component (encouraging teachers to adopt different responses to reports of bullying incidents) and a student training component. In this study, only the student training component was employed, and it was of limited duration (three 45-minute sessions). A second limitation was the self-report measurement of

bullying events and student use of the coping behaviors recommended in the B2B training; direct measurement of both phenomena (as well as monitoring of the integrity of coping behaviors) would provide a more objective and useful index of program effects. Because actual use of coping behavior was not measured, it is not possible to determine whether outcomes were the result of students' simply having experienced a(ny) bullying prevention training, the philosophy and knowledge imparted to all children by the B2B program, or the impact of the B2B training on the attitudes and behavior of victims.

Methodological limitations of the study included a sample in which children of color were under-represented, and the fact that classes – not children – were randomly assigned to participant v. comparison groups (although there is no reason to believe there was a systematic difference between classes in the characteristics or behavior of students). A final methodological concern is related to the tendency of teachers to assign relatively high ratings of victimization to most students. This may have occurred because it is an accurate depiction of the school populations included in this study, or because of inordinately broad definitions of “bullying.” In any case, it created a restricted range of victimization ratings, which may have affected statistical analyses and their results.

Future research on the B2B program should employ objective measures of bullying and coping responses, and designs should provide for more extensive training and followup, as well as a method to monitor the use of recommended behavioral strategies by students. Thus, the use of B2B strategies by students, rather than their participation in a training (as was the case in this pilot study), would serve as an independent variable whose effectiveness can be more accurately assessed.

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Table 1. Comparison of participant and comparison groups on demographic characteristics.

Demographic Characteristic	Group	
	Participant (n = 142)	Comparison (n = 125)
Gender		
Male	52.1% (74)	53.6% (67)
Female	47.9% (68)	46.4% (67)
Race/Ethnicity		
White/Caucasian	90.8% (68)	83.2% (104)
African-American	1.4% (2)	8.0% (10)
Asian/Pacific Islander	4.2% (6)	3.2% (4)
Hispanic/Non-White	3.5% (5)	3.2% (4)
Teacher-Rated Victimization ^a	<u>M</u> = 2.10 (S.D. = 1.40)	<u>M</u> = 2.07 (S.D. = 1.50)

^aNote: Rating scale range of 1 (very frequently a bully victim) – 9 (never a bully victim).

Table 2. Item loadings on student survey factors 1 and 2.

Item	Factor 1	Factor 1	Factor 2	Factor 2
	Pretest	Posttest	Pretest	Posttest
I get bullied.	.85	.87		
Others see me as bullying victim.	.78	.84		
I am called names.	.78	.80		
I am threatened.	.74	.68		
Rumors are spread about me.	.73	.75		
Bullying is a real problem here.	.58	.60		
When bullied, I tell the teacher.	.43	.55		
When bullied, I tell the bully to stop.	.37	.41		
Victims should call names back.			.75	.39
When bullied, I call names back.			.75	.53
When bullied, I threaten to hit.			.74	.80
I'm a bully.			.71	.68
I get in trouble for fighting, threatening, calling names, or spreading rumors.			.71	.76
Victims should threaten to hit bullies.			.66	.60
Others see me as a bully.			.50	.68

Dear North Dakota Legislature:

Personal background: I am a Nationally Certified School Psychologist practicing since 1978. I have always had a great interest in aggression among people and teaching them how to deal with it. In the course of my work I have developed a quick and effective way of teaching people to reduce aggression, both in their own relationships with other people, and among their children and students. I am creator of the website Bullies2Buddies.com and founder of Bullies to Buddies, Inc. My approach is based on philosophical teachings that have been understood by philosophers and religious leaders for thousands of years as well as on psychological principles that are taught by every major school of psychology.

As a mental health professional, my professional duty is to help people use their minds to understand and solve their problems. I teach people how to deal with bullying on their own, without the help of others and without getting people in trouble with the authorities. I cannot help my clients by trying to protect them from people and trying to make other people change.

For the past nine years, I have been teaching my methods to mental health professionals and educators throughout the United States, mostly at seminars sponsored by Cross Country Education, one of our country's leading providers of continuing education seminars to professionals. Approximately 40,000 professionals having attended my full-day seminars thus far. I also provide more intensive training to individual professionals who want to learn my methods. Professionals and schools that are using my approach are very satisfied and report excellent results.

My approach to the problem of bullying is, admittedly, different from the orthodox field of bullying, which treats it as a crime from which children need to be protected and perpetrators need to be punished. In my work, I demonstrate how treating bullying like a crime generally intensifies hostilities and leads to increased bullying. However, when kids can learn how to handle bullying on their own—and it is actually quite simple to do so—the bullying is quickly defused. Furthermore, when kids are able to solve their problems on their own, their self-confidence, resilience, happiness and popularity increase and their academic performance, if it had been lowered because of the bullying, improves.

The Problem with Anti-Bullying Laws: Governments throughout the US and the world have been passing anti-bullying laws that hold school responsible for the bullying that goes on between children. These laws are based on good intentions. Because anti-bullying laws sound so good, they are eagerly and blindly supported by everyone: parents, educators, mental health professionals and the media. It is almost impossible to find any reason to object to such laws because the entire academic field of bullying supports the treatment of bullying like a crime. In fact, anyone who objects to these laws is likely to be seen as someone who hates children.

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It is understandable that the general public would favor these laws. People tend to have an exaggerated belief in the power of government. They think that if there is a negative phenomenon, all that's needed is to pass a law against it and it will go away. Most legislators are aware that the government cannot magically solve problems by passing laws against them. If laws could get rid of bullying, governments would have first passed laws forbidding bullying in government! Every new law requires expenditures of money to enforce the laws while creating another class of criminal. And there is no guarantee that a law is actually going to solve the problem it is meant to solve. Many laws have been known to cause more harm than good.

There would be absolutely nothing wrong with anti-bullying laws if they could actually be expected to significantly reduce bullying. However, there is no objective reason to support such an expectation. Anti-bullying legislation has been around for over a decade in many places. You will be hard pressed to find any government in the world that has achieved an independently verified reduction in bullying following the passage of an anti-bullying law. In fact, the opposite often occurs. The bullying problem intensifies. The government concludes that the laws aren't tough enough. They intensify the laws and then the problem gets even worse. It is important to realize that bullying has been a growing problem during the very period that the world has been fighting it the hardest. That the laws are not intensive enough, or not being implemented intensively enough, cannot be the only logical conclusion. A logical mind would have to consider the possibility that bullying is becoming a greater problem *because* of anti-bullying laws.

Perhaps we would find justification for anti-bullying laws in the professional literature. Here, too, we fail. Research has been showing that the most intensive anti-bullying programs--and specifically the ones that require schools to take the very approach to bullying that your proposed law mandates...to treat bullying like a crime from which children need to be protected and perpetrators punished--are highly unreliable. They rarely result in a reduction in bullying and often lead to an increase in the problem. How can schools be expected to reduce bullying if the anti-bullying interventions they are required to use don't work or cause the problem to escalate?

Real life experience also makes it clear that treating bullying like a crime doesn't work. Let's say you and I are kids in school and I don't like the way you have been treating me. I tell the teacher, who then sends you to the school principal. The principal punishes you for bullying me and sends you for counseling. Is that going to make you like me? Is it going to make you like the school? You are going to hate both me and the school, and so will your parents. You will want to beat me up after school, to make me look like scum on Facebook, or to try to get me in trouble for bullying you. So the next incidents are set into motion, and probably worse incidents. If you look at the high-profile bullying cases that have caught the world's attention because they led to serious violence, you will notice that in most cases

they happened after the school authorities got involved to try to make the bullying stop.

The school needs to try to make both sets of parents happy. However, this is rarely the case. The disgruntled parents are likely to go complaining about the school to the district office and may even hire lawyers to sue the school, and then the hostilities fly through the roof.

You can also examine what happens in your own homes when you try to protect your own children from each other, and get involved investigating and punishing them when they treat each other badly. You get intense and never-ending sibling rivalry. How can the same approach that causes endless warfare at home bring peace to schools?

A few years ago, I conducted a survey of about 3,000 mental health professionals and educators who have two or more children. It shows that their own children are four times more likely to be hit by a sibling every day than by another student in school. There are more than twice as likely to be called names by a sibling every day than by a student in school. So if one or two parents—the very people who are supposed to be responsible for eliminating bullying in school can't even get their own couple of kids at home to stop tormenting each other, how can they make bullying disappear from an entire school?

It also wouldn't be so bad if the perpetrators of bullying were the ones to be held responsible by anti-bullying laws. Ultimately, however, it is the schools that are being held legally responsible, so that if kids get bullied, their parents sue the school, not the perpetrator.

If schools are to be held responsible for the bullying that goes on between students, shouldn't they be allowed to screen children for bullying-proneness and refuse to admit any student who has the potential of being a bully or victim? And if they were to do such screening, how many children would actually end up being admitted to the school?

Law enforcement agencies were created to protect people from crime. However, law enforcement agencies do not get sued for failing to prevent a crime from occurring in the first place. The medical professions were created to help people get healthy, but they don't get sued for failing to prevent people from getting sick. Schools were created to educate children, but schools do not get sued when a student fails to get a good education. But schools were *not* created to guarantee children a life of happy relationships. The only place where everyone is always nice to each other is Heaven. Yet today schools are the ones that get sued when kids aren't happy with the way other kids treat them.

Schools are always strapped for money. Anti-bullying laws require the schools to act as high-powered law enforcement agencies. Educators do not go to law school or the

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police academy, yet they are expected to function like the FBI at the very same time they are trying to teach academics. They have neither the training nor the funds for such activities. School districts throughout the world are complaining that they don't have the funds to implement their anti-bullying policies.

Anti-bullying laws require schools to investigate and report every complaint of bullying. School staff can easily spend upwards of ten hours investigating every complaint of bullying, meeting with each side and their parents, with other educators, with student witnesses, etc. This is valuable time stolen from the true purpose of school.

While the intention of anti-bullying laws is to reduce hostilities in school, they have accomplished the opposite. Never before in history has there been so much hostility and anxiety among students, parents and staff as there is now, courtesy of anti-bullying laws. Talk to school principals, and you will discover that most of them are becoming miserable because of anti-bullying laws.

We should not be hypocrites. Until we are willing to be sued for failing to make our own children at home stop bullying each other, we have no business passing laws that hold schools responsible for stopping the bullying that goes on between students.

Sincerely,
Israel C. Kalman, MS, NCSP

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Consequences Matrix for Bullying

*Consequences may include but are not limited to the following guidelines as determined by the administrator based on the circumstances of the incident.

Bullying behaviors include but are not limited to:	First Offense	Second Offense	Third Offense
Teasing: <ul style="list-style-type: none"> Name calling Isolating Any other behavior that creates an imbalance of power. 	<ul style="list-style-type: none"> Written documentation to parents. Student contacts parents via phone. 	<ul style="list-style-type: none"> Written documentation to parents. Student contacts parents via phone. 1 detention (hour increments). 	<ul style="list-style-type: none"> Written documentation to parents. Student contacts parents via phone. 3 days OSS.
Exclusion: <ul style="list-style-type: none"> Starting rumors. Actions causing one to be without friends (Alienation) 	<ul style="list-style-type: none"> Written documentation to parents. Student contacts parents via phone. 	<ul style="list-style-type: none"> Written documentation to parents. Student contacts parents via phone. 3 detentions (hour increments). 	<ul style="list-style-type: none"> Written documentation to parents. Student contacts parents via phone. 3 days OSS.
Threats: <ul style="list-style-type: none"> Causing or implying harm to another person verbal or non-verbal 	<ul style="list-style-type: none"> Written documentation to parents. Student contacts parents via phone. 1 day OSS 	<ul style="list-style-type: none"> Written documentation to parents. Student contacts parents via phone. 5 days OSS. 	<ul style="list-style-type: none"> Written documentation to parents. Student contacts parents via phone. 5 days OSS.
Physical Contact: <ul style="list-style-type: none"> Pushing Kicking Grabbing Punching Any behavior that may cause injury 	<ul style="list-style-type: none"> Written documentation to parents. Student contacts parents via phone. 1 day OSS 	<ul style="list-style-type: none"> Written documentation to parents. Student contacts parents via phone. 3 days OSS. 	<ul style="list-style-type: none"> Written documentation to parents. Student contacts parents via phone. 5 days OSS.

The severity of the incident may dictate that the consequence given will not follow the matrix.

Abstract

Background: Many girls bully others. They are conspicuous because of their risk-taking behavior, increased anger, problematic interpersonal relationships and poor quality of life. Our aim was to determine the efficacy of brief strategic family therapy (BSFT) for bullying-related behavior, anger reduction, improvement of interpersonal relationships, and improvement of health-related quality of life in girls who bully, and to find out whether their expressive aggression correlates with their distinctive psychological features. **Methods:** 40 bullying girls were recruited from the general population: 20 were randomly selected for 3 months of BSFT. Follow-up took place 12 months after the therapy had ended. The results of treatment were examined using the Adolescents' Risk-taking Behavior Scale (ARBS), the State-Trait Anger Expression Inventory (STAXI), the Inventory of Interpersonal Problems (IIP-D), and the SF-36 Health Survey (SF-36). **Results:** In comparison with the control group (CG) (according to the intent-to-treat principle), bullying behavior in the BSFT group was reduced (BSFT-G from $n = 20$ to $n = 6$; CG from $n = 20$ to $n = 18$, $p = 0.05$) and statistically significant changes in all risk-taking behaviors (ARBS), on most STAXI, IIP-D, and SF-36 scales were observed after BSFT. The reduction in expressive aggression (Anger-Out scale of the STAXI) correlated with the reduction on several scales of the ARBS, IIP-D, and SF-36. Follow-up a year later showed relatively stable events. **Conclusions:** Our findings suggest that bullying girls suffer from psychological and social problems which may be reduced by the use of BSFT. Expressive aggression in girls appears to correlate with several types of risk-taking behavior and interpersonal problems, as well as with health-related quality of life.


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Article Information

Number of Print Pages : 9
Number of Figures : 2, Number of Tables : 4, Number of References : 40

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NDLA, S EDU

From: Larsen, Oley L.
Sent: Wednesday, March 02, 2011 6:00 PM
To: NDLA, S EDU
Subject: Bully info

Committee members,

Here is a web link to the Bullies to Buddies concepts North Dakota needs to be heading in.

<http://www.bullies2buddies.com/>

If you have any questions or concerns send an e-mail contact and Mr. Kalman. He will get back to you directly. He has been very helpful to me in this process in victim proofing schools.

HB1465

March 4, 2011

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1465

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study of bullying prevention."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - BULLYING PREVENTION.

1. The legislative management shall consider studying the feasibility and desirability of requiring each school district to implement a policy for the purpose of bullying prevention. The study must:
 - a. Examine the various definitions of bullying considered by the sixty-second legislative assembly to determine if the prohibited conduct or activity is described with sufficient clarity and precision so that it is similarly understood by a wide array of individuals and not subject to varying interpretations based on individual experiences or sensibilities;
 - b. Examine North Dakota Century Code title 12.1 to determine if provisions governing assault, criminal coercion, harassment, hazing, menacing, stalking, and terrorizing are sufficient to address conduct or activities defined as bullying;
 - c. Determine if there is a significant variation in the percentage of reported bullying incidents in small, medium, and large school districts;
 - d. Examine reported bullying incidents to determine if there are any statistical similarities based on gender, race, ethnicity, sexual preference, economic status, sibling positioning, or familial structure;
 - e. Examine any medical studies indicating long-term physical or psychiatric consequences attributable to bullying;
 - f. Determine if school district officials are adequately trained in investigatory techniques and sufficiently knowledgeable about students' constitutional rights and freedoms;
 - g. Determine the sufficiency of disciplinary tools that are available to school district personnel;
 - h. Determine the physiological and psychological effects of bullying if that conduct or activity occurs within a public school or on school district premises as opposed to conduct or activity that occurs at a student's home, or at a shopping mall, park, public roadway, or on property immediately adjacent to school district premises; and

- i. Determine if in addition to or instead of identifying and disciplining those students who engage in bullying, school districts should be directed to teach all students how to recognize and appropriately respond to conduct or activities that meet the definition of bullying.
2. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly."

Renumber accordingly

(#1)

March 11, 2011

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1465

Page 1, line 8, remove the underscored colon

Page 1, line 9, replace "a. Conduct that occurs" with "conduct that is generated by a student"

Page 1, after line 11, insert "a."

Page 1, line 17, replace "or" with "and"

Page 1, remove lines 18 through 24

Page 2, replace lines 1 through 3 with:

"b. Does not include assault, criminal coercion, criminal defamation, harassment, hazing, menacing, simple assault, stalking, terrorizing, or any other action that constitutes a crime under title 12.1."

Page 2, line 4, replace "includes" with "may involve"

Renumber accordingly

/

11.8212.02005
Title.

Prepared by the Legislative Council staff for
Senator Schaible
March 11, 2011

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1465

Page 1, line 2, after "schools" insert "; and to provide an expiration date"

Page 5, after line 2, insert:

"SECTION 7. EXPIRATION DATE. This Act is effective through June 30, 2013,
and after that date is ineffective."

Renumber accordingly

2

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1465

Page 2, remove lines 21 through 29

Page 3, replace lines 1 through 6 with:

- "b. Establish procedures for notifying school district personnel about alleged acts of bullying, reprisal, or retaliation;
- c. Establish procedures for school district personnel to follow when notified about alleged acts of bullying, reprisal, or retaliation;
- d. Establish a schedule for the retention of any documents generated by school district personnel when responding to notification about alleged acts of bullying, reprisal, or retaliation;
- e. Authorize the imposition of disciplinary measures applicable to a student who engaged in bullying, reprisal, or retaliation;
- f. Authorize the imposition of disciplinary measures applicable to a student who makes a false accusation, report, or complaint pertaining to bullying, reprisal, or retaliation; and
- g. Establish strategies to reduce recurrences of bullying."

Renumber accordingly

3

March 11, 2011

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1465

Page 3, line 7, replace "shall involve" with "may seek suggestions and comments from"

Page 3, line 10, remove "and"

Page 3, line 10, after "representatives" insert ", and other interested parties"

Renumber accordingly

4

11.8212.02008
Title.

Prepared by the Legislative Council staff for
Senator Schaible

March 11, 2011

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1465

Page 3, line 12, after "students" insert "annually"

Renumber accordingly

#5

March 14, 2011

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1465

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact six new sections to chapter 15.1-19 of the North Dakota Century Code, relating to the prevention of bullying in public schools; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

Bullying - Definition.

As used in this Act:

1. "Bullying" means conduct that is generated by a student in a public school, on school district premises, in a district owned or leased schoolbus or school vehicle, or at any public school or school district sanctioned or sponsored activity or event and which:
 - a. (1) Is so severe, pervasive, or objectively offensive that it substantially interferes with the recipient student's educational opportunities;
 - (2) Places the recipient student in actual and reasonable fear of harm;
 - (3) Places the recipient student in actual and reasonable fear of damage to property of the student; or
 - (4) Substantially disrupts the orderly operation of the public school; and
 - b. Does not include assault, criminal coercion, criminal defamation, harassment, hazing, menacing, simple assault, stalking, terrorizing, or any other action that constitutes a crime under title 12.1.
2. "Conduct" may involve the use of technology or other electronic media.

SECTION 2. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

Bullying - Prohibition by policy.

1. Before July 1, 2012, each school district shall adopt a policy providing that while at a public school, on school district premises, in a district owned or leased schoolbus or school vehicle, or at any public school or school district sanctioned or sponsored activity or event, a student may not:
 - a. Engage in bullying; or

- b. Engage in reprisal or retaliation against:
 - (1) A victim of bullying;
 - (2) An individual who witnesses an alleged act of bullying;
 - (3) An individual who reports an alleged act of bullying; or
 - (4) An individual who provides information about an alleged act of bullying.

2. The policy required by this section must:

- a. Include a definition of bullying that at least encompasses the conduct described in section 1 of this Act;
- b. Establish procedures for notifying school district personnel about alleged acts of bullying, reprisal, or retaliation;
- c. Establish procedures for school district personnel to follow when notified about alleged acts of bullying, reprisal, or retaliation;
- d. Establish a schedule for the retention of any documents generated by school district personnel when responding to notification about alleged bullying, reprisal, or retaliation;
- e. Authorize the imposition of disciplinary measures applicable to a student who engaged in bullying, reprisal, or retaliation;
- f. Authorize the imposition of disciplinary measures applicable to a student who makes a false accusation, report, or complaint pertaining to bullying, reprisal, or retaliation; and
- g. Establish strategies to reduce recurrences of bullying.

3. In developing the bullying policy required by this section, a school district may seek suggestions and comments from parents, school district employees, volunteers, students, school district administrators, law enforcement personnel, domestic violence sexual assault organizations as defined by subsection 3 of section 14-07.1-01, community representatives, and other interested parties.

4. The superintendent of public instruction shall develop a model policy based on the requirements of this section and shall make the policy available to each school district.

5. Upon completion of the policy required by this section, a school district shall:

- a. Provide copies of the policy to all employees;
- b. Provide age-appropriate versions of the policy to all students;
- c. Ensure that the policy is explained to and discussed with students in age-appropriate terms;
- d. Notify each student's parent that the policy is available in electronic form on the school district's website and in printed form upon request;

- e. File a copy of the policy with the superintendent of public instruction; and
 - f. Include the policy in student and personnel handbooks.
6. Each school district shall review and revise its policy as it determines necessary and shall file a copy of the revised policy with the superintendent of public instruction.

SECTION 3. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

Professional development activities.

Each school district shall include, in professional development activities, information regarding the prevention of bullying and shall provide information regarding the prevention of bullying to all volunteers and nonlicensed personnel who have contact with students.

SECTION 4. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

Bullying prevention programs.

Each school district shall provide bullying prevention programs to all students from kindergarten through grade twelve.

SECTION 5. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

Causes of action - Immunity - School districts.

1. This Act does not prevent a victim from seeking redress pursuant to any other applicable civil or criminal law. This Act does not create or alter any civil cause of action for monetary damages against any person or school district, nor does this Act constitute grounds for any claim or motion raised by either the state or a defendant in any proceedings.
2. Any individual who promptly, reasonably, and in good faith reports an incident of bullying, reprisal, or retaliation to the school district employee or official designated in the school district bullying policy is immune from civil or criminal liability resulting from or relating to the report or to the individual's participation in any administrative or judicial proceeding stemming from the report.
3. A school district and its employees are immune from any liability that might otherwise be incurred as a result of a student having been the recipient of bullying, if the school district implemented a bullying policy, as required by section 2 of this Act and substantially complied with that policy.

SECTION 6. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

Causes of action - Immunity - Nonpublic schools.

1. This Act does not prevent a victim from seeking redress pursuant to any other applicable civil or criminal law. This Act does not create or alter any civil cause of action for monetary damages against any person or nonpublic school, nor does this Act constitute grounds for any claim or motion raised by either the state or a defendant in any proceedings.
2. Any individual who promptly, reasonably, and in good faith reports an incident of bullying, reprisal, or retaliation to the nonpublic school employee or official designated in the school's bullying policy is immune from civil or criminal liability resulting from or relating to the report or to the individual's participation in any administrative or judicial proceeding stemming from the report.
3. A nonpublic school and its employees are immune from any liability that might otherwise be incurred as a result of a student having been the recipient of bullying, if the school implemented a bullying policy, similar to that required by section 2 of this Act and substantially complied with that policy.

SECTION 7. EXPIRATION DATE. This Act is effective through June 30, 2013, and after that date is ineffective."

Renumber accordingly

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