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Saba Nazir

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Saba Nazir
Professor Coleman
Public Health Law

The Rise of Bullying as a Public Health Issue

Bullying has severe public health consequences, not only for the children bullied, but also for the bullies. Bullying was once perceived as a right of passage, but this is not the belief anymore. Bullying is linked to several health ailments, including suicide¹, which makes it a rising public health issue. A public health approach to bullying should address preventative measures so the bullying does not occur, as well as rehabilitative measures for both the bully and the victim, for when it does occur. Awareness needs to be raised about the social determinants of bullying as well as the consequences of bullying. While most states currently have some sort of anti-bullying policy or law in place, these laws are not enough. Congress needs to implement federal anti-bullying legislation to help stop bullying before it progresses even further.

What is Bullying?

The Center for Disease Control defines bullying as “any unwanted aggressive behavior(s) by another youth or group of youths who are not siblings or current dating partners, involving an observed or perceived power imbalance and is repeated multiple times or is highly likely to be repeated.”² Bullying occurs in all shapes and forms and should no longer be excused as “kids will be kids,” because the consequences of bullying

¹ Ashley Strickland, *Bullying is a ‘serious public health problem,’ experts say*, CNN (Dec. 2, 2016), <http://www.cnn.com/2016/05/10/health/bullying-public-health-zero-tolerance/>

² Centers for Disease Control & Prevention, *Bullying Research*, cdc.gov, <https://www.cdc.gov/violenceprevention/youthviolence/bullyingresearch/> (last visited Nov. 22, 2016).

today are far more severe than they were decades ago. Suicide is the third-leading cause of death of children under the age of fourteen, and it has a strong connection with bullying.³ Over the past three decades, suicides of school-aged children have grown by over 50%, with an increase of 25% just in the last decade.⁴ Without addressing the problem by raising awareness, it will only increase further over the next decade.

There are three main categories of bullying: physical, verbal, and relational.⁵ Physical bullying includes pushing, kicking, or forcing someone to do something against their will. Verbal bullying has grown over recent years with the spread of social media. It encompasses name-calling, spreading of rumors, and cyber-bullying- often through fake profile pages, which are aimed to gain the trust of the victim, and then hurt them verbally. Relational bullying occurs by refusing to speak to someone; encouraging others to bully someone, and making someone feel like they simply do not belong. The multitude of ways bullying can occur indicates its potential danger, especially since one third of American children are affected by bullying.⁶

There are different factors that increase an individual's risk of engaging in bullying, or being bullied.⁷ Some factors that are associated with a higher likelihood of engaging in bullying include harsh parenting by caregivers, disruptive and defiant behavior, and attitudes accepting of violence.⁸ Some factors that are associated with a

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ See Strickland, *supra* note 1.

⁷ Centers for Disease Control & Prevention, *Understanding Bullying*, cdc.gov, https://www.cdc.gov/violenceprevention/pdf/bullying_factsheet.pdf (last visited Nov. 22, 2016).

⁸ *Id.*

higher likelihood of being bullied include low self-esteem, poor peer relationships, and being seen as different from others.⁹ Bullying victimization is more prevalent in gay and lesbian youth, where 60% reported victimization in the past thirty days in a national survey, as opposed to 28.8% of heterosexual youth.¹⁰ Obese and disabled children are also at a greater risk of being victims to bullying. A study found students who have fewer peers of the same ethnicity within their school also have increased chances of being exposed to bullying.¹¹ This suggests why the promotion of diversity is important. Each day, there are 160,000 kids nationwide who stay home from school because of their fear of bullying, preventing them from earning a complete education to which they are entitled.¹² 31% of children are affected by regular bullying, while 15% of children are affected by cyber-bullying, but it is on the rise.¹³

Why bullying is a public health issue

Bullying today is not what bullying was years ago. Dr. Jorge Srabstein, medical director of the Clinic for Health problems related to bullying at the Children's National Medical Center, stated bullying is linked to a wide range of health issues, both physical and emotional symptoms.¹⁴ The harmful effects of bullying manifest themselves physically in kids and teens by disrupting their sleep, causing gastrointestinal issues,

⁹ *Id.*

¹⁰ Marci F. Hertz, *Bullying and Suicide: A Public Health Approach*, *Journal of Adolescent Health*, S1-S3, 2013.

¹¹ See Strickland, *supra* note 1.

¹² Bullying Statistics, *Bullying and Suicide*, <http://www.bullyingstatistics.org/content/bullying-and-suicide.html> (last visited Dec. 3, 2016).

¹³ See Strickland, *supra* note 1.

¹⁴ Michael Dhar, *Bullying Increasingly Seen as a Public Health Issue*, *Huffington Post* (Nov. 8, 2013) http://www.huffingtonpost.com/2013/11/08/bullying-public-health-issue_n_4241468.html

headaches, anxiety, and depression.¹⁵ In addition, these harms lead to increased likelihood of alcohol abuse, drug abuse, and violence later in adolescence and adulthood.

¹⁶ Bullying affects the health of the victim, the bully, and their loved ones. Both bullies and victims have complained about headaches and stomachaches, coupled with sleep deprivation, depression, and significant anxiety. ¹⁷ These symptoms appear in what is known as “clusters.” Clusters are a few different symptoms that occur simultaneously, instead of one at a time. Dr. Srabstein believes the clustering of these symptoms appear to be its own medical syndrome, the “bullying syndrome.” ¹⁸ However, Dr. Srabstein noted that there is not enough evidence to declare this as such currently. More negative outcomes of bullying include poor social functioning, poor school performance, poor attendance, and ultimately low standardized test scores. ¹⁹ However, individuals who are both bullies and victims suffer the greatest risk for both mental health and behavioral problems, as opposed to individuals who are only bullies, or only victims.

In 2015, a national survey found that 20% of high school students reported being bullied on school property within the last year. ²⁰ 16% of high school students also reported that they were bullied electronically within the last year.²¹ This evinces the effects of bullying are prevalent in not just the youth, but teenagers as well. However, younger children are more likely to be involved in bullying than high school aged

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Centers for Disease & Prevention, *The Relationship between Bullying and Suicide*, cdc.gov, <https://www.cdc.gov/violenceprevention/pdf/bullying-suicide-translation-final-a.pdf> (last visited Dec. 2, 2016).

²⁰ *Supra* note 7.

²¹ *Id.*

children.²² A study suggested that there are two ways children handle the effects of bullying. One way is to internalize the effects, which increases the stress-related issues such as anxiety or depression. Another option is to externalize it, by turning into bullies themselves. This is often referred to as a bully-victim, where you stand on both sides of the fence.²³

The increased depression, anxiety, gastrointestinal issues, suicides, substance abuse, and death among the youth as a result of being bullied are a cry for help. Bullies themselves are often struggling with some sort of abuse at home or elsewhere, and feel they need to bully others in return. This is not an issue that should be taken lightly, because the consequences of both bullying and being bullied are detrimental to an individual's health. They can affect an individual in numerous ways, as listed above. Since victims of bullying have poor performance in school, and become uninterested in activities they once enjoyed, their future is at risk. Imagine a nation where one out of every three children dropped out of school. It is impossible to say the health of the public, as a whole will not be harmed with the lack of education and numerous ailments that lead into adulthood. The issues need to be addressed and resolved on a national level.

Children who bully others are also likely to vandalize property, get into fights, have criminal convictions and traffic citations as adults, and be abusive towards their romantic partners, spouses, or children as adults.²⁴ The kids who are bullied are more

²² See Hertz, *supra* note 10.

²³ Ashley Strickland, *Bullying by Peers has Effects Later in Life*, CNN, (May 8, 2015), <http://www.cnn.com/2015/05/08/health/bullying-mental-health-effects/>

²⁴ U.S. Dep't of Health & Human Servs., *Effects of Bullying*, stopbullying.gov, <https://www.stopbullying.gov/at-risk/effects/index.html> (last visited Dec. 2, 2015).

lonely and vulnerable. Their eating patterns become troubled, and they suffer more of the emotional health problems as opposed to their counterpart, bullies.²⁵

Examples of recent bullying

Just last week, 18-year old Brandy Vela put a gun to her chest and killed herself as a result of constantly being bullied.²⁶ She was a teen from Texas who had been relentlessly bullied for her weight. Family members stated that her bullying was reported to police, but they were unable to do anything as most of it involved cyber-bullying from anonymous sources. Before she committed suicide, she texted all her family members telling them, “I love you so much, please remember that, and I’m sorry for everything.”²⁷ Individuals are able to mask their identities behind these anonymous websites, and say things they would normally not say in person. It is very tragic that this young adult left this way.

After years of being bullied, a 13-year old boy from Staten Island hung himself by a belt in his attic, just a few months ago. His last words were written on a note, stating, “I give up.”²⁸ In his final note, he spoke about the years of torture he received during school from classmates and teacher who did not listen to his cries for help. In 2013, Hannah Smith hung herself in her bedroom after anonymous messages were being sent to her

²⁵ *Id.*

²⁶ Carma Hassan, *Teen who was Relentlessly Bullied Kills Herself in front of her Family*, CNN, (Dec. 2, 2016), <http://www.cnn.com/2016/05/10/health/bullying-public-health-zero-tolerance/>

²⁷ *Id.*

²⁸ Adam Shrier, *Staten Island boy, 13, kills self after School Ignored Bullying*, Daily News, (Aug. 18, 2016), <http://www.nydailynews.com/new-york/staten-island-boy-13-kills-school-bullying-article-1.2749245>

telling her to kill herself, drink bleach, and to just die.²⁹ She took the words of her abusers literally, and did just as they asked. The same year, a 15-year old boy also hung himself because of anonymous hate messages directed to him.³⁰ These suicides, along with four others were all linked to this anonymous social media website which allows users to post questions and answers, completely anonymously. This feature encourages children to be more hurtful and reckless because they feel they cannot be caught because of the strict privacy feature.

On October 19, 2016, an 11-year old girl took a loaded gun to her head. Her parents stated she did this as a result of constant bullying, which she received because of her appearance. The child had beat brain cancer and the removal of the tumor left her head slightly crooked with nerve damage.³¹ She endured the bullying over a year, and tried to address it by hanging anti-bullying posters around the school. Unfortunately, she was not allowed to do so because the posters were not positive.³² There was a boy a few years ago at her same school that took his own life as a result of bullying. It is a sad scenario when children feel they have to take matters into their own hands to address bullying and the harms it causes. The school system failed to address her concerns. School administrators need to be held accountable to at least try to alleviate the bullying as best as possible, at least when the bullying is obvious and done openly. It would not be

²⁹ Leon Watson, *Schoolgirl found Hanged in her Bedroom after being trolled on Ask.fm*, DailyMail, (May 6, 2014), <http://www.dailymail.co.uk/news/article-2621705/Schoolgirl-hanged-bedroom-trolled-Ask-fm-sent-abusive-messages-inquest-hears.html>

³⁰ *Id.*

³¹ Jennifer Cruz, *Parents blame Bullying for 11-year-old Daughter's Suicide*, (Oct. 31, 2016), <http://www.guns.com/2016/10/31/parents-blame-bullying-for-11-year-old-daughters-suicide/>

³² *Id.*

wise to demand such a requirement from school administrators when they are unaware of the bullying, but once they become aware of it, they need to address it so future suicides resulting from bullying can be prevented.

In 2010, Tyler Clementi jumped off the George Washington Bridge once his roommate used a webcam to spy on Tyler without his knowledge, being intimate with another man. He then proceeded to spread the word to all his friends and twitter followers to watch the webcam with him. This was more than Tyler could handle, and although it was one isolated event, the publicity of coming out in this way was the last thing Tyler wanted, or needed. His suicide brought national attention to the issue of cyber-bullying and the struggles the LGBT youth face.³³

With the ease of social media, some bullying involves physical abuse coupled with other abuses. Last year, 14-year old Raymond Howell shot himself to death because he suffered from bullying on a daily basis.³⁴ Raymond was physically abused by being beaten up by a group of boys on several occasions. Each time he was beat up, a video was made and posted on the social media website, Twitter. Bullies would also target his younger siblings and beat them up and post those videos as well. In his suicide note, Raymond stated he killed himself to protect his family; he did not want them to have to

³³ Nate Schweber, *Roommate in Tyler Clementi Case pleads guilty to Attempted Invasion of Privacy*, The New York Times, (Oct. 27, 2016), http://www.nytimes.com/2016/10/28/nyregion/dharun-ravi-tyler-clementi-case-guilty-plea.html?rref=collection%252Ftimestopic%252FClementi%252C%20Tyler%20&action=click&contentCollection=timestopics®ion=stream&module=stream_unit&version=1&atest&contentPlacement=1&pgtype=collection&_r=2

³⁴ Michael E. Young, *McKinney Teen's Family says Relentless Bullying led to his Suicide*, Dallas News, <http://www.dallasnews.com/news/crime/2015/04/03/mckinney-teens-family-says-relentless-bullying-led-to-his-suicide> (last visited Dec. 15, 2016).

go through the pain and suffer like he had to.³⁵ An unfortunate fact is that school officials knew about the bullying, but did nothing more than suspend the alleged bullies, and Raymond himself for fighting back. With no guidance or counseling given to the students, the behavior was repeated, until a loud and final message was sent by Raymond's suicide.

Link between Bullying and Suicide

A Yale study showed that victims of bullying are two to nine times more likely to report thoughts of suicide compared with children who have not been bullied.³⁶ The study was led by Dr. Young-Shin Kim, who analyzed thirty-seven studies that examined bullying and suicide among the youth, and found almost all of the studies found connections between being bullied and suicidal thoughts among the children.³⁷ A 2010 study reported one in seven high school students had seriously considered suicide in the past year.³⁸ Suicide-related behavior begins when an individual experiences overwhelming feelings of helplessness and hopelessness.³⁹ It is never the result of a single source of trauma.⁴⁰ This projects that the repeated pattern of bullying can lead an individual up to this point of hopelessness where they begin to experience suicidal thoughts, attempt suicide, or even successfully carry out a suicide. The unfortunate matter

³⁵ *Id.*

³⁶ Karen N. Peart, *Bullying-Suicide Link Explored by Researchers at Yale*, Yale News (July 16, 2008), <http://news.yale.edu/2008/07/16/bullying-suicide-link-explored-new-study-researchers-yale>

³⁷ *Id.*

³⁸ Centers for Disease Control & prevention, *Suicide Prevention: A Public Health Issue*, cdc.gov, <https://www.cdc.gov/violenceprevention/youthviolence/bullyingresearch/index.html> (last visited Dec. 2, 2016).

³⁹ *Supra* note 19.

⁴⁰ *Id.*

is that any involvement with bullying behavior significantly contributes to these feelings, and raises the risk of suicide.⁴¹

Young people who report any involvement in bullying behavior, whether it is bullying others, being bullied, both, or observing bullying happening to others, are more likely to report high levels of suicide related behavior than youth who have no involvement with bullying behavior.⁴² A nationwide survey of high school students found 16% seriously thought about committing suicide, 13% created a plan, and 8% actually attempted to commit suicide within the past year.⁴³ Suicide is the third leading cause of death among young people, with about 4,400 deaths per year.⁴⁴ And, for every suicide among young people, there are at least one hundred suicide attempts.⁴⁵

While many children resort to self-harm, there is a small percentage of bullied children who retaliate through extreme violence by way of mass shootings. In 12 of 15 schools shooting in the 1990's, the shooters had a history of being bullied.⁴⁶

Link between Bullying and Carrying Weapons

A study based on a survey of American high school students found that victims of bullying are twice as likely to carry guns or other weapons to school. The data was received from the Centers for Disease Control and Prevention's 2011 survey on youth

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Supra* note 12.

⁴⁶ *Supra* note 24.

risk surveillance system.⁴⁷ An average of 200,000 bullied students brought weapons to school with them in 2014.⁴⁸ Increased risk factors were found to correlate with a greater chance of carrying a weapon.⁴⁹ Students who were bullied had a 9% chance of carrying a weapon. Students who were bullied, in a fight at school and injured or threatened with a weapon had a 46% chance of carrying a weapon. If the additional risk factor of missing school because they felt unsafe is added, the percentage rises to a 72%.⁵⁰

The 2013 school shooting in Nevada's Sparks Middle School involved a 12-year old shooter. Witnesses attested to the fact that before he shot anyone, he told a group of students that, "you guys ruined my life, so I'm going to ruin yours."⁵¹ Of the fifteen school shootings that occurred since the 1990's, twelve of them involved shooters who were victims of bullying.⁵² These alarming rates are a cry for change.

Public Health Approach to Bullying

A public health approach to bullying would focus on preventive approaches that impact the children being bullied. Mental health issues have risen in awareness, but these issues are addressed once the individual already has a problem. The purpose of a public health approach to bullying is to prevent the act from happening in the first place, which like a domino effect, will prevent the unfortunate consequences that arise from bullying.

⁴⁷ Julia Lurie, *Bullying Victims are Twice as Likely to Bring a Weapon to School*, (May 5, 2014), <http://www.motherjones.com/politics/2014/05/bullying-victims-carry-weapons-guns>

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ Catherine E. Shoichet, *Nevada School Shooting: Teacher killed, two Students Wounded*, CNN, (Oct. 21, 2013), <http://www.cnn.com/2013/10/21/justice/nevada-middle-school-shooting/>

⁵² *Id.*

To succeed in this approach, collaboration of medical officials, school administrators, and parents of children will be necessary. The signs of bullying are not always apparent across the board, and unification is needed from these three important parties to help tackle this very serious emerging problem. Health professionals may see bully-like symptoms, where parents may find excuses. An example of this would be a stomachache or a headache, which a parent could find the child is making up so he or she does not have to go to school. When they work together and share information across the board, results are likely to follow. Early detection is the best way to prevent the consequences of bullying before they occur.

The Center for Disease Control currently has a four-step approach to preventing bullying.⁵³ The first step addresses the problem, by defining what bullying is and monitoring it. They then study the data to identify where prevention is needed the most. The second step seeks information as to why bullying is occurring where it is occurring. They conduct research, and try to develop programs to reduce risk factors and increase protective factors.⁵⁴ The third step is the experimental phase, where they test strategies to prevent bullying. The final step may be the most important because it goes on to share the best prevention strategies. While this information is available, it is imperative that it actually be implemented across the nation. It should not be the responsibility of an individual school or district to take the matters into their own hands if they wish to do so. It should be mandatory for the strategies to be adopted. This is the problem we are facing. While almost every state has some sort of anti-bullying legislation or policies in place,

⁵³ *Supra* note 7.

⁵⁴ *Id.*

they vary vastly in scope and implementation. It is simply not enough. A unified system needs to be implemented, with all states being on the same page as to what bullying is, and how it needs to be addressed. It is not the fault of the children for living in a particular state, which does not have as stringent enforcement of anti-bullying laws or policies as a neighboring state. The children should not have to bear this burden. This is why it is time for Congress to step in and enact federal anti-bullying legislation.

Since bullies, victims, and bully-victims all face the harms of bullying, they each need to have certain responses. Each act of bullying should be reported to the organization in charge, in most cases, it being the school. The school then needs to address each party in a way appropriate for them. Simple suspension will not solve anything. Bullies need to be counseled by sensitizing them to the harm they have inflicted. If needed, they need to be referred to appropriate outside health services. The victim on the other hand, needs support. With the widespread and ease of ending ones life, it is too great a risk to ignore a child who needs help. The public health approach should be periodically monitored and assessed to ensure its efficacy.

Dr. Srabstein suggested three ways on how health professionals can help address bullying. First, by contributing to the community and school programs to increase awareness of bullying, which in turn will promote a more respectful environment.⁵⁵ Second, he encourages doctors to identify bullying when it happens. This can include routine questions to all patients when they come in for a visit. The symptoms may come in clusters, and if they do, red flags should be raised.⁵⁶ Lastly, he suggests the urgency of

⁵⁵ *Supra* note 14.

⁵⁶ *Id.*

schools and doctors to work together to find signs of bullying.⁵⁷ These three small steps can make a major impact by identifying bullying and then going on to deal with its consequences.

Current Anti-Bullying Legislation

Anti-bullying legislation is enacted to help reduce and eliminate bullying. The legislations vary by state, but generally include provisions regarding prohibited conduct, disciplinary consequences, investigatory guidance, reporting requirements, transparency requirements, legal recourses, as well as training and preventive education policies. They serve as guidance's of protections available to victims, as well as repercussions, if any, to the bullies.

All fifty states in the United States have passed some type of anti-bullying legislation. The first state to do so was Georgia in 1999, and the final state was Montana, which adopted anti-bullying legislation just last year. There are eight states that define bullying to encompass only behaviors that are repetitive, systematic, or continuous, or those that are severe, persistent, or pervasive.⁵⁸ Only four states require bullying to be severe or pervasive.⁵⁹ The states also vary in terms of the intent required to count an act as bullying. Sixteen states require the bully to have intent to harm to qualify the act as bullying, while only seven states require that a reasonable person should know the act will cause harm.⁶⁰ Texas is the only state which requires there be a power imbalance to

⁵⁷ *Id.*

⁵⁸ Dena T. Sacco, *An Overview of State Anti-Bullying Legislation and Other Related Laws*, (Feb. 23, 2012), table 1, http://www.meganmeierfoundation.org/cmss_files/attachmentlibrary/State-Anti-Bullying-Legislation-Overview.pdf

⁵⁹ *Id.*

⁶⁰ *Id.* at table 2.

define bullying, whether by written or verbal expression or physical conduct.⁶¹ Two states, Delaware and New Hampshire recognize the role played by a power differential or imbalance and address it in their statutory provisions, while Massachusetts also recognizes the role played by a power differential, but not by an imbalance.⁶²

Thirty-two states have statutory provisions pertaining to cyber-bullying or bullying involving electronic acts.⁶³ These states recognize bullying does not need to be done only in person, and that the effects are prevalent by other means as well. Six states have defined cyber-bullying more broadly or specifically in their respective statutes.⁶⁴ Alabama has a bit of ambiguity in its statute because it requires the victim to possess differentiating characteristics, but does not provide a list of what the differentiating characteristics must be.⁶⁵ Two states, Iowa and New Jersey, have provisions, which require the victim to possess actual or perceived differentiating characteristics, but provide only a non-exhaustive list of what those differentiating characteristics could be.⁶⁶ California and Vermont have provisions that require the victim to possess actual or perceived differentiating characteristics in some respects, but not in others.⁶⁷ Eleven states recognize the role of the victim's differentiating characteristics, and provide a list of what those characteristics could be.⁶⁸ Mississippi is the only state that recognizes the role of victim's differentiating characteristics, but does not provide a list of what those

⁶¹ *Id.* at table 3.

⁶² *Id.*

⁶³ *Id.* at table 4.

⁶⁴ *Id.*

⁶⁵ *Id.* at table 5.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

differentiating characteristics could be.⁶⁹ Lastly, Missouri is the only state that has a provision, which prohibits the special consideration of a victim's differentiating characteristics.⁷⁰ Surprisingly, only six states have provisions that require equal treatment for all students, regardless of their status under the law.⁷¹

Often the terms harassment and bullying are used interchangeably, even though they have very different meanings. If anything, harassment is a subgroup of bullying. However, the United States Department of Education office for Civil Rights groups bullying in with harassing conduct.⁷² An interesting aspect of their definition of harassment, which is similar to the Center for Disease Control's definition of bullying, is the exception of the behavior having to be repetitive. Three states, including New York only refer to harassment in their legislation.⁷³ Four states refer to both harassment and bullying, but fail to define either.⁷⁴ Five states refer to harassment and bullying separately, and define them both.⁷⁵ This is an element of anti-bullying legislation that should be adopted nationally. Sixteen states, including New Jersey refer to both harassment and bullying but define them together.⁷⁶ Five states actually include the term harass or harassment in their definition of bullying.⁷⁷ This clears up lots of confusion and allows one to realize harassment is a subgroup of bullying.

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.* at table 6.

⁷² Letter from Russlynn Ali, Assistant Sec'y for Civil Rights, U.S. Dep't of Educ., to School Officials 2 (Oct. 26, 2010), available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>

⁷³ *Supra* note 51 at table 6A.

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

The next issue deals with the scope of the school in dealing with bullying incidents. Fourteen states limit their state laws to apply to bullying that occurs at school or on school-related locations.⁷⁸ Seven states have their anti-bullying laws applied to bullying incidences that occur at school, at school-related locations, or using school-owned technology, such as computers.⁷⁹ Nine states have statutes that are ambiguous to whether it will reach bullying that occurs outside of school or at other school-related locations.⁸⁰ There are only eleven states that have provisions explicitly extending the ability to reach at least some incidents of bullying that occur outside of school or other school-related locations.⁸¹ These types of provisions are imperative in this day and age with the widespread use of social media, since a form of bullying is often conducted online with embarrassing pictures, videos, and fake profiles.

With the rise of social media and other technology, the need for bullying to be repetitive to be considered bullying is not proper. Now, if a harming video is posted online, it can be shared hundreds and thousands of times, essentially going viral. While this is just one instant, it has the same effect of repetitive behavior. Similarly, a suggestive photo can be passed around, and this sheer embarrassment is often enough for one to want to end their life because they do not want to face anybody. Tovonna Teamer, 15, committed suicide by shooting herself with her mother's gun after friends had taken a video of her in the shower and spread it on the social media site, Snapchat.⁸² Her

⁷⁸ *Id.* at table 8.

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² Candace McCowan, *Girl Commits Suicide after Friends Share Nude Snapchat Video*, (June 10, 2016), <http://wfla.com/2016/06/08/girl-15-commits-suicide-after-friends-share-nude-snapchat-video/>

decision was immediate, as she did the act only three hours after realizing the nude video was surfacing the Internet.

The majority of states, twenty-nine to be exact, requires or encourages schools to adopt bullying investigation procedures.⁸³ The better policy would be requiring them to do so, because if it is only encouraged, many schools may not follow the procedure, and in that way do not assist in preventing bullying from happening. If students see there is no punishment following, they will have no incentive to stop the harmful behavior. Three states even go so far as to having provisions on investigation procedures of bullying, but hold them out to be non-mandatory.⁸⁴ What is concerning is that there are only twelve states that require staff to report incidences of bullying.⁸⁵ Certain acts of bullying are so severe that they require law enforcement to be involved, and nine states include this provision in their state laws.⁸⁶

Thirty-six states require discipline as a consequence for bullying.⁸⁷ Most of the disciplinary actions involve suspension or exculpation of the bully. Often times, the victim is forced to leave that particular school and start over at a new one because the bullying has been so excessive that it is not a safe or viable option to return. These states have enacted zero-tolerance policies. These policies punish the bully by taking him or her away from school for a few days. However, studies show this is not an effective method. The bully may be temporarily halted but it does not address the actual issue. In fact, this decreases their chances of getting better, or completing school, and ultimately getting a

⁸³ *Supra* note 51 at table 9.

⁸⁴ *Id.*

⁸⁵ *Id.* at table 10.

⁸⁶ *Id.* at table 12.

⁸⁷ *Id.* at table 13.

job. The consequences are long-term.⁸⁸ Only two states, Massachusetts and Rhode Island, have provisions that require disciplinary actions to be balanced with the need to teach appropriate behavior.⁸⁹ This method of rehabilitation seeks to address the problem, and has an aim of resolving it. Isolating the bully will not prevent future acts of harm. Often times, the bullies are troubled and need counseling. Fourteen states encourage providing counseling or other support services as a response to bullying.⁹⁰ The encouraging language should be changed to mandatory language in order to have the best outcome in reducing bullying in this nation. This is similar to the debate of trying to rehabilitate someone as opposed to sending them off to prison. Similarly, Massachusetts and Connecticut are the only states that require a professional development to teach appropriate intervention and prevention strategies.⁹¹

The power differential is also something that needs to be addressed uniformly. As noted above, some states require a power imbalance, when this does not always need to be the case. Everyone and anyone can be affected by the harms of bullying and one should not have to prove that he or she is inferior to the oppressor in order to receive some sort of relief. Roles can always be reversed, and bullying can come from the unlikely individual. There is no time to address stereotypes when it comes to the seriousness of this public health issue.

Progressive Anti-Bullying Lawmaking

⁸⁸ See Strickland, *supra* note 23.

⁸⁹ *Supra* note 51 at table 13A.

⁹⁰ *Id.* at table 13B.

⁹¹ *Id.*

In October of this year, the Governor of California signed a law addressing Muslim, Sikh, and South Asian American Bullying.⁹² The new legislation is entitled the “Safe Place to Learn Act” and is aimed at providing students a safer school environment.⁹³ This legislation shows how even in modern day America, there is a need for protection in practicing ones faith freely. It is not something that should be taken for granted. This act protects those of the listed affiliations, as well as those perceived to be in affiliation with the above religious and cultural groups.⁹⁴ Recently, there has been increased bullying of Muslim students, and now these children can go to school being assured they will be protected from bullying as a result of discrimination. The reason this legislation is so imperative is because it is not waiting for discriminatory bullying to continue. California saw a specific problem; discrimination and bullying of Muslim and Sikh students, especially in regards to headwear, and it enacted legislation on their behalf.

The act was passed with the help of students from the Muslim and Sikh communities, who testified in front of Assembly members about their own personal experiences being bullied. The act requires the superintendent of public instruction to publish anti-bullying resources related to religious and perceived religious affiliation on its website.⁹⁵ It also provides school administrators with school-site and community resources. The purpose is to spread awareness of the issue. Based on the aforementioned

⁹² Frances Wang, *California Gov. Signs Law to Address Muslim, Sikh, South Asian American Bullying*, NBC News, (Oct. 3, 2016), <http://www.nbcnews.com/news/asia-america/california-gov-signs-law-address-muslim-sikh-south-asian-american-n658486>

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Id.*

state laws, it is evident that California is on the progressive side, and can be a role model for other states.

What Should Be Done

One thing all family members whose children commit suicide have in common is that they seek to raise awareness about bullying and teen suicide. The signs are not always there or clear for everyone to know. Some children suffer in silence until they reach their breaking point. Having a federal legislation enacted will bring this type of awareness.

In the landmark decision *Brown v. Board of Education*, the Supreme Court recognized education as “perhaps the most important function of state and local governments.”⁹⁶ In order to satisfy this important function, it is imperative that schools provide a safe environment for students, and this includes anti-bullying measures. In 2012, the Department of Education provided a guidance to help classroom teachers combat bullying. It contained a two-part training kit and was designed to reduce incidences of bullying in the classroom. Unfortunately, this was only a guidance, and not mandated for schoolteachers to implement. Further, the minimal instructions on how to combat bullying seem incomplete.⁹⁷

In Canada, in 2014, the federal government pledged two hundred and fifty thousand dollars for the training of young people to deliver anti-bullying workshops in their communities. This showed the government realizing the seriousness of suicides and

⁹⁶ *Brown v. Bd. of Educ.*, 347 U.S. 483 (U.S. 1954).

⁹⁷ U.S. Dep’t of Educ., *U.S. Dep’t of Educ. Provides Guidance to Help Classroom Teachers Combat Bullying*, ed.gov, (Sep. 28, 2012), <http://www.ed.gov/news/press-releases/us-department-education-provides-guidance-help-classroom-teachers-combat-bullyin>

how strongly it is linked to bullying. The United States government should take a similar approach, or follow the initiative.⁹⁸

School involvement is imperative. Time and time again we hear stories about children ending their lives because of the abuse received from bullies when it is too late. School administrators are at the frontline when it comes to bullying, and greater responsibilities need to be administered. While each state has its own state laws addressing anti-bullying policies, it is not enough. The reason is due to the fact that they all vary so much, and in most of the states the statute has recommendations as opposed to requirements. When school officials are not taking bullying as seriously as they should be, it will continue and likely even worsen. The recent rise in suicide related to bullying is dangerous and needs to be prevented. This can only be done so with uniformity, where the same principles are demanded of all schools, in all states. Federal legislation will do just that.

Preventative interventions cannot be left to one organizational group to bear. Instead, it needs to involve entire communities, by raising awareness about the nature of bullying and its dangerous consequences. Many people do not realize how much bullying has changed from when they were children. Efforts need to be made to promote respect, inclusion policies need to be implemented, and tolerance for diversity needs to be promoted. Another proposal would be to create advisory groups who provide recommendations and develop guidelines and strategies for dealing with prevention, intervention, and treatment for bullying-related issues. These advisory groups could stand

⁹⁸ CBC News, *Feds Pledge \$250k to youth-led anti-bullying project*, (June 3, 2013), <http://www.cbc.ca/news/canada/ottawa/feds-pledge-250k-to-youth-led-anti-bullying-project-1.1341397>

at a national level, to ensure uniformity. Training is also needed, and partnerships with social media websites should be established to identify the harms of cyber-bullying.

By putting the focus in prevention and intervention strategies, the public will eventually benefit because there will be a reduction of bullying-related injuries and ill health in general. These programs can reduce school dropout rates and medical expenses for individuals who have had to deal with the consequences of bullying for an extended period of time. A reduction in dropouts that are linked to bullying essentially means a healthier and more productive population will arise.⁹⁹

Conclusion

Current state anti-bullying laws are a step in the right direction, but that step needs to be taken further. It is time for congress to step up and pass anti-bullying legislation. Verbal harassment and physical abuse by bullies has gotten so severe that it is a public health issue. These torments continue, and some children are not able to handle it, and why should they have to in the first place? Awareness needs to be raised at a national level, just as it was in the No Child Left Behind Legislation in 2002. Surely, it is time for congress to pass a law to help end bullying.

Having federal legislation for anti-bullying efforts will create uniformity among the states. There will be a set minimum standard that all state laws must comply with. Thanks to the Supremacy Clause,¹⁰⁰ the federal and state law cannot conflict. However, preemption will still allow individual states to be free to go further and add extra

⁹⁹ World Health Organization, *Prevention of Bullying-Related Morbidity & Mortality: A Call for Public Health Policies*, <http://www.who.int/bulletin/volumes/88/6/10-077123/en/> (last visited Dec. 10, 2016).

¹⁰⁰ U.S. Const. art. VI., § 2.

protection, so long as it does not contradict the federal standard. The federal law will allow individual states to share the key components necessary for effective anti-bullying legislation. Currently, there are guidance's on what states should include in their anti-bullying laws if they are looking to create new laws, or simply approve upon existing ones.¹⁰¹ Each state can have active provisions pertaining to the purpose of the anti-bullying legislation, the scope of the legislation, the specification of prohibited conduct, the enumeration of specific characteristics, the development and implementation of policies on reporting incidences of bullying, the review of these policies, transparency and monitoring procedures, and a statement of rights on other legal recourses.¹⁰² This will allow each individual affected by bullying to be protected by equal minimum standards at the federal level. Residency in a particular state will only be beneficial to an individual affected by bullying, not detrimental, as it is in some cases today because some states provide greater protection with their anti-bullying statutes than others.

Until Congress decides to enact anti-bullying legislation, the collaboration of our community members is needed to combat bullying. Health professionals, law enforcement, advisory councils, school administrators, and parents alike need to work together to send a unified message of the harms of bullying. It is no longer something to be taken lightly, or a harmless gesture.¹⁰³ Bullying is severe and serious, at all ages, but especially for the youth. It is advisable to speak to children who are victims of bullying and ask if they have any intention of harming themselves. Support is needed at all levels,

¹⁰¹ U.S. Dep't of Health & Human Servs., *Key Components in State Anti-Bullying Laws*, stopbullying.gov, <https://www.stopbullying.gov/laws/key-components/index.html> (last visited Dec. 15. 2016).

¹⁰² *Id.*

¹⁰³ *See* Peart, *supra* note 35.

and our children need to grow up, healthy and happy and to be able to contribute to society the best way they can. This is all prevented once they are affected by bullying, and currently one third of our population is affected by bullying. Teaching and instilling inclusion and accepting values within our children can fix the culture, which promotes bullying. This requires a collaborative effort from parents, school administrators, and communities in general.

It is evident that much more work is needed at each state level, but they will only do so if mandated by federal law. Studies need to be put into place by each state, and their state laws in regards to anti-bullying need to be enforced and monitored periodically. The key is to raise awareness to this public health issue, and for society to be on the same page as to what bullying is, and how it should be handled. The problem with this is the disconnect between adults and children from what they see as bullying.¹⁰⁴ Children see an act as bullying, while adults often push it aside as kids being kids, and this needs to stop. It took a total of sixteen years for each state in the United States of America to establish some form of state anti-bullying legislation, with the last state passing its law only last year. This is clearly a working progress in the right direction, but more needs to be done before it is too late. A twenty five percent increase on suicides as a result of bullying just over the past decade is simply not okay.¹⁰⁵ Bullying needs to be stopped today.

¹⁰⁴ See Strickland, *supra* note 1.

¹⁰⁵ *Id.*