

Key points:

- Interview all parties involved in alleged bullying incident to understand situation
- Respond with appropriate measures to eliminate harassment
- Revise victim's 504 plan if evidence shows that bullying affected child's receipt of FAPE

Investigate every alleged incident of disability-based bullying, harassment

Schools have a responsibility to address incidents of bullying and harassment about which they know or reasonably should have known. In addition, they must take immediate and appropriate action to investigate or otherwise determine what occurred. *Dear Colleague Letter*, [55 IDELR 174](#) (OCR 2010).

A district that fails to act promptly can quickly find itself the subject of discrimination claim. Such was the case in *Spring v. Allegany-Limestone Central School District*, [71 IDELR 82](#) (W.D.N.Y. 2017). Here, the district was unable to have dismissed claims that it violated Section 504 when it failed to respond to parents' multiple reports of disability-related peer harassment of a student with Tourette syndrome and ADHD.

Here are some steps to take when you receive reports of alleged disability-based bullying:

Investigate. Should you investigate a single allegation? Is that in and of itself enough to constitute bullying and harassment? New York State's [Dignity for All Students Act](#), which "seeks to provide the State's public elementary and secondary school students with a safe and supportive environment free from discrimination, intimidation, taunting, harassment, and bullying on school property, a school bus and/or at a school function," directs school districts to look at even one incident, said attorney Timothy M. Mahoney of [Frazer & Feldman, LLP](#) in New York. He said he agrees with the DASA as a guideline for all districts. "I'd rather err on the side of caution and have the investigation than wait until it becomes something bigger," he said.

Conduct extensive interviews. Start by talking with the student and the parents so you can get a general idea of what occurred, Mahoney said. Identify the setting where the alleged bullying happened. Next, interview other parties who were present: Talk with the aggressor and witnesses, including students and school staff members.

Take appropriate responsive steps to eliminate harassment. Although a district's response when it learns of an incident of harassment will be based on the specific circumstances of the case, OCR outlined the following general guidelines in the *Dear Colleague* letter reported at [55 IDELR 174](#) :

- Separate the accused harasser and the target.
- Provide counseling for the target and/or harasser.
- Take disciplinary action against the harasser.
- Provide training or other interventions not only for the perpetrators, but also for the larger school community to ensure that all students, their families, and school staff can recognize harassment if it recurs and know how to respond.
- Issue new policies against harassment and new procedures by which students, parents, and employees may report allegations of harassment (or ensure the wide dissemination of existing policies and procedures), and widely distribute the contact information for the district's Title IX and Section 504 or Title II coordinators.

Revisit the student's 504 or IEP plan. If the evidence shows that bullying has adversely affected a student's receipt of FAPE, the district must reconvene the student's 504 or IEP team and revise the plan as needed. *Dear Colleague Letter*, [64 IDELR 115](#) (OCR 2014). "Teach coping skills, self-advocacy skills," Mahoney said. "Look at program modifications in which the student has the ability or structure to control his environment better." Some suggestions might be allowing the student to leave class early, show up to class later, or have preferential seating.

Follow up with aggressor if needed. In some instances, the aggressor may also be a student with a disability. In that case, the aggressor's 504 or IEP team also needs to reconvene so they can address the behavior that is occurring. Mahoney suggested providing the student with counseling to address self-esteem issues and improve communication and interpersonal skills.

See also:

- [Take these steps to ensure bullying isn't ignored in your district](#)
- [Know when to convene 504 team in light of latest OCR letter on bullying](#)
- [Follow these steps to address parents' heightened concerns about bullying](#)

For more stories and guidance on this topic, see the [Bullying & Harassment Roundup](#).

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