

# MAINE STATE LEGISLATURE

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**Date:** February 26, 2020

**Source of Report:**

LD 1306, An Act To Promote Safe Schools through the Creation of the Safe School Climate Council: Resolve, To Examine Issues Relating to Bullying in Schools

**Topic:**

To comprehensively examine issues associated with bullying in schools and how the State's laws relating to bullying should be improved.

**Context**

The Maine Department of Education convened a Bullying Law Task Force consisting of a broad coalition of educators, administrators, mental health agencies, clinical practitioners, parents, and students in response to LD 1306. The goal of the task force was to develop recommendations to the Legislature that identified any key areas of need for change in the current bullying law or procedures. Information in this report was also developed with input from the Children's Cabinet, Trauma Informed Taskforce, and findings from the Minnesota Bullying Study, which included State of Maine data.

**Actions**

Commissioner Makin provided direction and inspiration for the work the Bullying Law Task Force completed. Richard Meserve, Director of the Office of School and Student Supports, Kellie Bailey, Social Emotional Learning Specialist, Bear Shea, Mental Health and School Counseling Specialist, and Page Nichols, Chief Innovations Officer facilitated the work sessions and prepared the report. Over the course of three meetings, task force members identified the diverse impacts of bullying and areas of possible need. They also outlined possible recommendations for the Committee to consider.

The Task Force met on the following dates: Friday, January 10, Friday, January 17, and Friday, January 31. The members of the Task Force are included below.

<b>Name</b>	<b>Role</b>
Chad Kempton	Principal Gardiner Area HS
David Dorr	Somerset County CTE Center
Deb Landry	Bryson Taylor Inc.
Delaney A. (Student)	Crossroads
Jaime Stone	Camden-Rockport Middle School Principal



Josh Ottow	MSAD 75 High School AP
Kevin Harrington	RSU 73 Primary School Principal
Laurie Stiles	Nobleboro Community School Teacher
Leonard Lewis	MSAD 40 teacher
Martin Mackey	Nobleboro principal
Mary Buonato	GLAD Legal Advocates
Nancy Cronin	Maine Developmental Disabilities Center, ED
Nate Larlee	Drinkwater School MS teacher
Rhonda Sperrey	RSU 64 Superintendent
Robyn Bailey	Lincoln Middle School (PPS) AP
Sabrina Lopizzo	Maine Youth Action Network – Franklin County
Sara L. (Student)	Nobleboro Community School student
Sarah Adkins	Farrington Elementary Dean of Students
Skyla L. (Student)	Crossroads
<b>DOE Staff</b>	<b>Role</b>
Bear Shea	Mental Health and School Counseling Specialist
Kellie Bailey	SEL and Restorative Practices Specialist
Rob Susi	School Safety Specialist
Deqa Dhalac	Family Engagement and Cultural Responsiveness Specialist
Mary Herman	Commissioner’s Office, Special Projects
Rich Meserve	Director-School and Student supports
Page Nichols	Chief Innovation Officer
<b>Other participants</b>	<b>Role</b>
Allison Iwan	University of Minnesota Research Presenter

## Findings

### *Bullying Historical Context:*

While bullying has existed since time immemorial, bullying-related research only began in the early 70's (Olweus 1978). In the late 90's and early 2000's, the increase in youth suicide and school violence brought the issue to the forefront again with several states enacting laws for their schools and then again after a national White House Conference on Bullying in 2011. Maine's law was framed in 2012. Traditionally, terminology for bullying behavior has been defined as a



subcategory of interpersonal aggression characterized by intentionality, repetition, and an imbalance of power, with abuse of power being a primary distinction between bullying and other forms of aggression (Vaillancourt, Hymel, & McDougall, 2003). This definition continues to be promoted by both the Center for Disease Control and the National Association of School Psychologists (CDC 2020), (NASP 2020). With the goal of changing longstanding stigma and reduce the impact on children, there was a desire to include other kinds of peer-based negativity and harassment, leading to the term "bullying" to stray from its clinical definition and becoming an umbrella term covering many negative behaviors (Hymul, Swearer 2015).

### **Prevalence**

\*22% of students ages 12- 18 were bullied at school during the 2012-2013 school year  
U.S. Department of Education (2015)

\*20% of high school students were bullied on school property at least once in the past 12 months

*Source: Kann et al. (2014)*

### **Forms of bullying at school**

- 14% made fun of, called names, or insulted
- 13% subject of rumors
- 6% pushed, shoved, tripped, spit on
- 5% excluded from activities on purpose
- 4% threatened with harm
- 2% forced to do things they didn't want to do
- 2% had property destroyed
- 7% had been cyberbullied

*Source: U.S. Department of Education (2015)*

### **Boys' and Girls' Experiences of Being Bullied and Bullying Others**

- Boys and girls experience relatively similar rates of bullying.
- Boys are more likely to bully others (x 1.7)
- Boys are more like to bully and to be bullied (x 2.5)

The 2012-2013 NCVS found that:

\*Girls aged 12-18 were more likely than boys to say that they had been bullied through rumor-spreading (17% vs 10%), name-calling (15% vs. 13%), social exclusion (6% vs. 4%), and cyberbullying (9% vs. 5%)

\*Boys were more likely than girls to say they had been physically bullied (7% vs. 5%)

*Source: Cook et al. (2010). U.S. Department of Education (2015)*



### **Protective Factors for Bullying-Individual and Family Factors**

- Secure, caring and self-confident children
- Supportive parenting and the modeling of positive relationships
- Consistent and affectionate parent-child interactions Peer and School Factors
- Close, positive friendships with peers
- Engaged and responsive teachers and school staff
- Inclusive, nurturing and safe schools

### **Protective Community Factors**

- Cultural norms and beliefs that are pro-social and non-violent
- Positive adult-child connections
- Safe neighborhoods

*Source: The Commission for the Prevention of Youth Violence (2000) outlines a coordinated public health approach to preventing youth violence.*

### **Children and Youth at Higher Risk for Being Bullied**

Those who:

- Have learning disabilities
- Have attention-deficit/hyperactivity disorder (ADHD)
- Have autism spectrum disorder (ASD)
- Have special health care needs or chronic diseases
- Are overweight or underweight
- Are lesbian, gay, bisexual, or transgender; are questioning their sexual orientation; or do not conform to gender stereotypes
- Speak another language at home

*\*However, even if a child has these risk factors, it doesn't mean that they will be bullied.*

### **Effects on Bullied Children and Youth**

Being bullied is associated with future:

- Internalizing problems
- Depression, anxiety, panic disorder, self-harm, suicidal thoughts and attempts
- Psychosomatic problems
- Headaches, stomach pain, sleeping problems, poor appetite
- Academic problems – Externalizing behavior

"Children and youth who are bullied are more likely than non-bullied peers to feel as if they don't belong in school and want to avoid going to school. They also are more likely to have somewhat lower academic achievement, whether measured through grades or standardized test scores. In addition, several longitudinal studies, which measure children's experiences of



bullying over time, suggest a causal relationship between bullying and academic achievement. For example, in a recent study of students in the U.S., middle schoolers' grade point averages and levels of academic engagement were predicted by whether or not they had been bullied. The researchers concluded that the effect of bullying could account for up to a 1.5 letter grade decrease in an academic subject over the 3 years of middle school" (Juvonen et al., 2011).

## I. **Barriers to Definition of Bullying**

Taskforce participants reported that there were several barriers stemming from how broadly the term bullying is defined. Participants unanimously reported that having clear and specific language that protects students from targeted harm is an important part of creating safer schools.

### *Maine Statute Current Definition of Bullying:*

"Bullying" includes, but is not limited to, a written, oral or electronic expression or a physical act or gesture or any combination thereof directed at a student or students that:

(1) Has, or a reasonable person would expect it to have, the effect of:

(a) Physically harming a student or damaging a student's property; or

(b) Placing a student in reasonable fear of physical harm or damage to the student's property;

(2) Interferes with the rights of a student by:

(a) Creating an intimidating or hostile educational environment for the student; or

(b) Interfering with the student's academic performance or ability to participate in or benefit from the services, activities or privileges provided by a school; or

(3) Is based on a student's actual or perceived characteristics identified in Title 5, section 4602 or 4684-A, or is based on a student's association with a person with one or more of these actual or perceived characteristics or any other distinguishing characteristics and that has the effect described in subparagraph (1) or (2).

"Bullying" includes cyberbullying.

(LD 1237, An Act To Prohibit Bullying and Cyberbullying in Schools, 2012)

Taskforce members report that there are several problematic barriers with the current definition as it stands including:

- The definition can lead to any unkind act being treated as an act of bullying
  - a. This can be problematic because it opens the possibility for an incident that could be resolved through an intervention that allows for resolution and growth, to instead be processed through the more protracted bullying guidelines.
- The definition covers many kinds of different interactions encompassing: harassment, inciteful language, trolling, categorization of student's hierarchy, trauma response, fear, shaming, intimidation, activism, hate speech, stalking etc.

- a. While often the use of the bullying definition can lead to a more significant response than indicated, it also can divert attention from notable issues where using alternative interventions with clinical descriptors would be best practice.
  - b. Clinical bullying involves power dynamics and targeted aggression, the intervention indicated is very different than developmental peer lagging skills. Mediation is often used to address bullying because many negative peer interactions are the result of developmentally appropriate lagging skills.
    - i. Mediating a bullying incident may send inappropriate messages to the students who are involved and may further victimize or traumatize a child who has been bullied. A trauma-informed approach should recognize that children who have been bullied may have experienced trauma and need special care to address this and avoid practices that may re-traumatize them.
    - ii. This could also lead to blanket policies for "bullying" that don't differentiate between clinically severe and more developmentally appropriate cases.
    - iii. In some cases, restorative practices, which focus on restoring relationships and repairing the harm done, may be appropriate, but these typically require considerable time and training by professionals—situations that are not common to most peer mediation programs in schools.
- There is a negative stigma associated with both a student being identified as a bully or a bullying victim.
    - a. With a broad definition, this has the risk of effectively labeling children inaccurately and perpetuating stigma.
    - b. It is also possible that with many more behaviors being identified as bullying, that the term is degraded and has less significance.
  - With a broad definition, there are many behaviors that fall into the bully category and may increase the official response required. This can lead to:
    - a. Administrators and staff adopting a short-term, piecemeal approach
    - b. Bullying may be the topic of a staff in-service training, PTO meeting, school-wide assembly, lessons taught by individual teachers, but process separate from intervention
    - c. These efforts may be good first steps, but are unlikely to reduce bullying on their own because they are not changing the school climate
  - Recent bullying law research has indicated that the coverage for multiple forms of aggression within a single law may seem advantageous; however, the overly broad definition of prohibited behaviors in current anti-bullying laws has the potential for inappropriate, fragmented, or inconsistent implementation (Cascardi et al., 2014; Cornell & Limber, 2015). In particular, bullying and harassment are commonly conflated, which is problematic because legally schools have different obligations when responding to harassment and bullying (Ali, 2010; Conn, 2004; Stuart-Cassel, Bell, & Springer, 2011)





## **II. Barriers in Bullying Procedure**

Task Force members report that the current bullying procedure has several limiting factors that create negative impact for students, staff and school culture. These barriers can include:

- The amount of paperwork and procedure can take away from intervention.
- The procedure can lead to an incident being successfully resolved without the ability to inform anyone of the results.
  - a. This can lead to students, staff, family, and community members with the impression that nothing was resolved
  - b. Staff and administration that are involved must limit their responses and this can create a distance between them and their school community
  - c. If there is a feeling that bullying incidents are not followed through it can have a negative impact on reporting and a general feeling of lack of safety within school culture.
  - d. Structure of bully procedure limits community processing of event as well as limiting supports

## **III. Barriers in Legal Implication**

Taskforce members identified a high level of engagement with the criminal law relating to bullying and a concern regarding the role of School Resource Officers.

The use of school resource officers (SROs) expanded dramatically in response to zero-tolerance policies following a handful of high-profile school shooting in the 1990s. According to the Justice Policy Institute, however, there is no evidence to show that expanding school resource officer programs in schools makes them safer.

Although the purpose of using SROs is to protect students and maintain safe school environments, data shows that there are several unintended consequences which include higher rates of suspensions, expulsions, and arrests (NPR 2018). In some cases, the presence of law enforcement in a disciplinary intervention in school can escalate a minor infraction into something more significant that funnels them into the juvenile justice system (ThoughtCo 2020). Nationally, there are no specific training requirements for SROs. The National Association of School Resource Officers (NASRO) offers a 40-hour course that includes developmental neuroscience related to behavior and non-violent de-escalation strategies (NASRO 2020).

## **IV. Preliminary Legislative Report from the University of Minnesota**

The Centers for Disease Control and Prevention funded a multi-disciplinary team of researchers from the University of Minnesota, Columbia University, the University of Iowa, and Temple University to evaluate the effectiveness of anti-bullying laws across the country. One of the





primary aims of the study involves a unique partnership with the Maine Department of Education to better understand how anti-bullying laws are carried out in practice, and which elements of a law might be most protective against bullying and other forms of school violence. The study team has been collaborating with the Maine Department of Education since 2017 to conduct a multi-method study of policy implementation in Maine’s public schools.

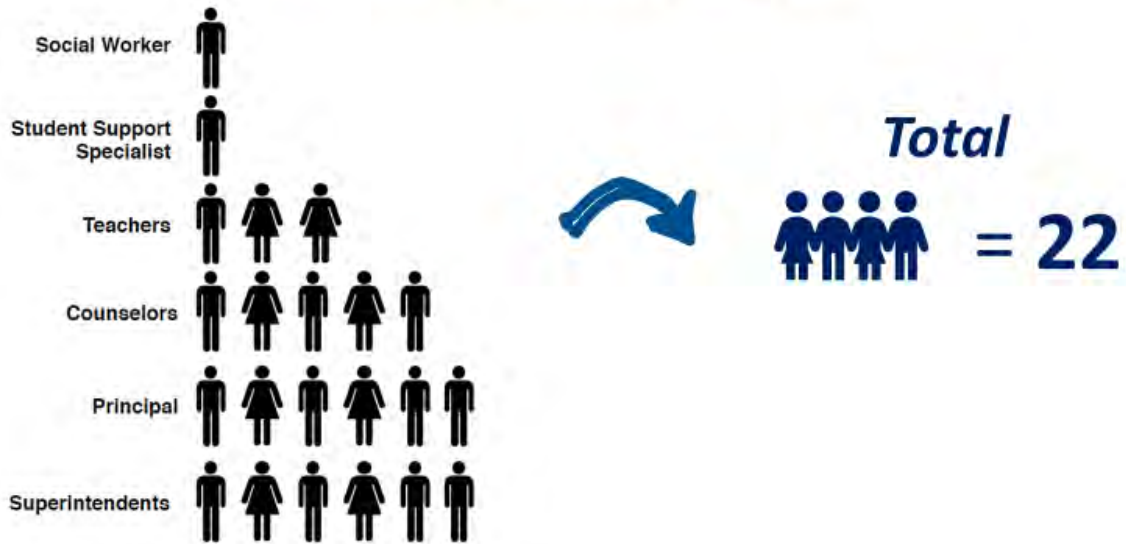
From 2017-18, the study team conducted in-depth interviews with 21 staff purposely selected from six regions of Maine to reflect the diversity of rural and urban communities. Some key themes emerged from preliminary analysis of the data. Staff reported significant challenges in investigation, reporting, and training – all of which are required under Maine’s law. These challenges were particularly relevant to cyberbullying cases.

One superintendent reported that investigations were *“very time-consuming...it can eat up several hours in a day...between interviews...and looking at videotapes and talking to parents.”*

Another superintendent said, *“I don’t know that there’s enough in-depth training...So, I think having training from a real trained investigator could be helpful to the administrators, where they a get a better sense of it...how to really pose and ask questions.”*

Findings from these interviews were used to develop a survey questionnaire for school staff to report their efforts in bullying prevention, including adherence to the provisions of the law, as well as barriers and resources used to support bullying prevention efforts. To measure how implementation might change over time, and how these changes might affect bullying rates, the survey was designed for two time points of administration: 2018 and 2020. With extensive support from Sarah Adkins, who was the Student Assistance Coordinator at the Maine Department of Education at the time, we achieved responses from 84% of all school districts in Maine; 90 superintendents, 303 school administrators, 306 school counselors or social workers, and 1,454 teachers completed a survey.

## Participant Breakdown



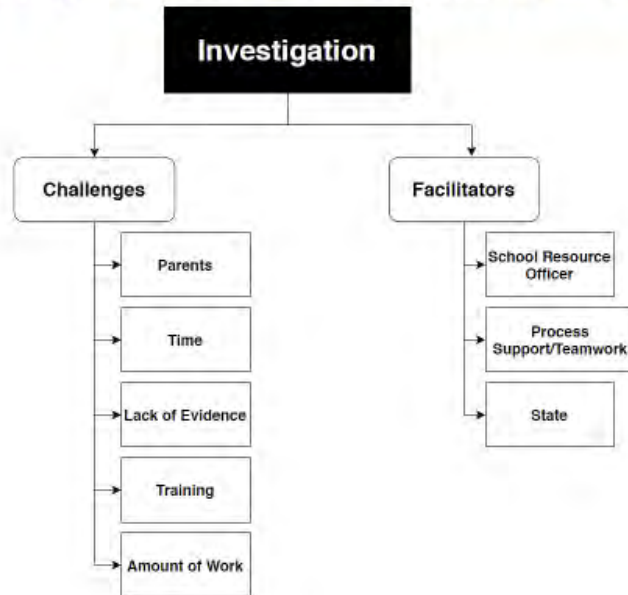
## Key Themes from Interviews



REPORTING			
Theme	Sub-Theme	Quote	Role
Challenges	Fear of Retaliation	<i>"They don't wanna be a tattletale, they don't wanna lose any friends...I believe those are some of the challenges for students."</i>	Superintendent
	Time Consuming	<i>"Time. Time. Schools are busy places with lots of responsibilities and these kinds of issues need full attention and they take time...We certainly do it but the other things that people are responsible to do then have to be pushed to after hours."</i>	Superintendent
	Amount of Work	<i>"...the most difficult part is completing... I mean, you do the three-part investigation and then you have to go in and use our management system to log all of that information into the system. I think that's where most of the frustration has come on the end of the administrators when I ask them about that."</i>	Superintendent
	Bullying vs. Harassment	<i>"...the form is a three-part form, there's the accusation, then there's investigation, and then there's the resolution. So, every event that gets reported as bullying, is investigated as bullying. Whether it's resolved as bullying, that's another question"</i>	Superintendent

REPORTING			
Theme	Sub-Theme	Quote	Role
Facilitators	Frequency of Policy Review	<i>"We talk to them every year at their first week of school...we do a review of the school policies and the rules, and that includes bullying. And because they are kids, you have to do this review every three months or so."</i>	Teacher
	Staff Training	<i>"Well, I mean, every year we do an online bullying training with staff that refreshes, you know, what is bullying, what constitutes bullying... But I would say, at least for us, it helps us educate staff within their school or within their classrooms or in the hallway or whatever what they should be looking for when it's bullying or a bullying incident and reporting those things accordingly."</i>	Principal
	Reporting System	<i>"...I have a locked box right outside my office. I'm the only one with a key. If they have anything that they want to report, they can put it in that box. And they know that I'm the only one that can see that information"</i>	Counselor

## Key Themes from Interviews



INVESTIGATION			
Theme	Sub-Theme	Quote	Role
Challenges	Parents	<i>"Like I said, I think that the hardest part is really the parents. As long as they are supporters, that's great. If not, then it's..."</i>	Teacher
	Time	<i>"...it's very time-consuming. That's where...a principal spends a ton of time on these incidents. So it could be one incident. It can...eat up several hours in a day...between interviews and...looking at videotapes and talking to parents, and things along those lines."</i>	Superintendent
	Lack of Evidence	<i>"Well we had one recently where the issue happened a month ago and the student didn't tell the parent and didn't tell anybody at school. So now we're trying to interview students and the student doesn't remember exactly who was there. And we've had students bring up something that happened two years ago and it's just trying to chase down witnesses or to get to the facts of the matter."</i>	Superintendent
	Training	<i>"We have a number of in-service days at the beginning of the year where I think of that. Like I said, I know we've done a lot with the restorative practices and bullying tends to be a focus in those trainings. But I think as far as talking about protocol and how our building is handling reports, certain investigations of bullying, that could be a focus"</i>	Teachers
	Amount of Work	<i>"The things that make it difficult are time and chasing down details of layers of issues with lots of complexity."</i>	Superintendent



INVESTIGATION			
Theme	Sub-Theme	Quote	Role
	School Resource Officer	<i>"I think one of the greatest things is our school resource officer who is a member of the X Police Department. We have a very strong, what I call, working relationship with the X Police Department."</i>	Superintendent
Facilitators	Process Support/Teamwork	<i>"We usually get guidance counselors involved, administration does get involved... We have video cameras in our hallway, which has been incredibly helpful this year, so if something took place in a particular part of the hallway, they can look at that for evidence to find out what's going on. But as far as their protocol, I don't really know."</i>	Teacher
	State	<i>"Definitely the push from the state in policies to make sure that we're investigating all incidences, I think that that expectation is definitely helpful to make sure those get done"</i>	Counselor

The research team is preparing for the launching of the 2020 survey in March in collaboration with Richard Meserve, Director of School and Student Supports at the Maine Department of Education. To determine how levels of implementation can affect school climate and violence, these survey data will be linked to student violence data from the Maine Integrated Youth Health Survey, the NEO bullying reporting system, Infinite Campus and the Synergy Management System. Researchers anticipate sharing results with the Maine Department of Education after completion of the survey, linkage across data sources, and rigorous statistical analysis.

### Recommendations

1. Develop a work group to examine bullying definitions in order to identify best practices in differentiating bullying and other harmful behaviors and identify clear intervention practices.
2. Develop a work group to draft new reporting/responding forms to respond to both bullying and harmful behavior that administrators assess can be addressed by best practice interventions and that achieve equitable outcomes for all students.
3. Create clarity about the kind and purpose of data collection and use data to guide training and support for districts that request additional support based on the data.
4. Review the need for an anti-bullying law procedure requiring administrators to report their opinions on what cases should be prosecuted by law enforcement or by the Attorney General's Office.



5. Develop a work group to examine and update the definition of "alternative discipline" (2)(A) and the procedure for consequences of substantiated bullying or false reports (5)(G) considering the expanded purposes of the law.
6. Amend the law to include an option of addressing and resolving reported or suspected bullying behavior informally, promptly, and equitably. This would apply when the responsible adult considers the students involved, the context and any other relevant information and determines the matter can be addressed through positive interventions that promote resolution and growth for all involved. The Department shall specify what information must be recorded from such incidents and interventions.
7. Remove from the law, the list of "alternative disciplinary" options and require that the policy include a list of potential options.
8. Provide opportunities for bullying prevention through funding.
9. Amend the anti-bullying law to remove references to "victim," "offender," and "bully" language to allow for positive interventions and preventative education, rather than labelling students.
10. Amend the law by amending the findings, and any other section required to recognize that bullying behavior may be a consequence of lagging social-emotional skills, and/or lagging skills in other subjects, and that these behaviors may provide an opportunity to teach developmental skills.

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National Association of School Resource Officers 2020 <https://www.nasro.org/>

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