Research Protocol for Anti-Bullying Laws

Prepared by the Policy Surveillance Program Staff

January 2018
Anti-Bullying Laws

I. Date of Protocol: November 2018

II. Scope: Compile state-level anti-bullying statutes and regulations addressing the definition of bullying, cyberbullying, areas of application, reporting requirements, educational and training requirements, consequences of bullying, and anti-bullying model policies. This longitudinal dataset includes relevant laws and regulations from January 1, 1999 to January 1, 2018.

III. Primary Data Collection

a. Project dates: October 2017 – November 2018

b. Dates Covered in the Dataset: January 1, 1999 – January 1, 2018

c. Data Collection Methods: The Policy Surveillance Program Staff (Team) building this dataset consisted primarily of three legal researchers (Researchers) and one supervisor (Supervisor).

Researchers began by writing a background memorandum to understand the key policy components of anti-bullying laws. Next, each Researcher wrote a five-state policy memorandum, summarizing laws related to the key components identified in the background memorandum. Multiple secondary sources were consulted in determining the scope of the dataset, including the U.S. Department of Education’s Analysis of State Bullying Laws and Policies; Cornell, D., & Limber, S. P. (2015), Law and policy on the concept of bullying at school. American Psychologist, 70(4), 333-343; and Srabstein, Jorge C. et al. Antibullying Legislation: A Public Health Perspective. Journal of Adolescent Health, Volume 42, Issue 1, 11 – 20. Additionally, the Team consulted with subject matter experts, Marizen Ramirez, PhD, MPH, and Mark Hatzenbuehler, PhD, to refine the scope.

All jurisdictions were 100% redundantly researched to confirm that all relevant law was collected. Divergences, or differences between the original research and redundant research, were reviewed by the Supervisor and resolved by the Team.

d. Databases Used: Searches were conducted using WestlawNext and state-specific legislature websites.

i. Full-text versions of the laws were collected from state legislature websites.

e. Search Terms: The following search terms were used:
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f. **Information about initial returns and additional inclusion or exclusion criteria:**

Included the following legal constructs:

- Definition of bullying
- Cyberbullying
- Whether the law recognizes the link between bullying and adverse incomes
- Type of school regulated
- Which grade levels the law applies to
- Where the law applies
- Protected classes enumerated in the law
- Mandatory reporting requirements
- Protections for those who report bullying
- Investigation requirements
- Documentation requirements
- Reporting bullying data to the state
- Appeals process
- Mental health services for victims and bullies
- Whether the law limits the victim’s right to legal redress
- Policy training
- Prevention programs
- Funding provisions
- Whether the state is required to develop a model policy
- Whether the state requires the school districts to develop a policy

Excluded the following legal constructs:

- Laws related to hazing
- Laws related to harassment
  - Alabama was coded as a state that regulates bullying, despite using the term harassment instead of bullying. This was because the legislation addresses conduct typically defined as bullying.
- Laws related to charter school bullying provisions where the law applying to charter schools did not differ from public schools
- Suicide prevention laws that mentioned bullying

**IV. Coding**
Development of Coding Scheme: The Team worked in collaboration with the subject matter experts listed in Section III(c) to determine the focus of the research and the key questions to be coded. In addition, the Team consulted with these subject matter experts to discuss the coding scheme. When the questions were finalized, the Researchers entered the questions into the MonQcle, a software-coding program.

Throughout the coding of jurisdictions’ records (a “record” refers to a set of coded responses for each jurisdiction for each point in time included in the dataset), the Team frequently met as a group to narrow the scope of the dataset. As the Researchers answered questions in MonQcle, any newly identified features of the law were collected. As necessary, the coding scheme was then altered to accommodate newly identified features of the law and completed states were re-coded.

Citations to the relevant legal text were included whenever a question was answered in the affirmative, or when the law explicitly indicated that the answer was “No.” No citation was provided when the answer was “No” but the law was silent on the question. Negative responses like “No” and “None” were reflective of the lack of affirmative answer choices for the question set, and not necessarily reflective of the universal state of the law.

a. Coding Methods: Researchers coded responses based on objective, measurable aspects of the law. Caution Notes were provided to explain any unique regulations and/or where the law was unclear.

Below are descriptions of specific rules that were followed when coding questions and responses in the anti-bullying laws dataset. Note that this section only includes questions and responses that require further explanation to understand how they were coded. Descriptions were not included below for questions and responses that were coded on their plain language meaning alone.

Question: What is included in the definition of bullying?

- Coded “Repetition” where the language in the definition included “continuous” or “pervasive.”
- Coded “Aggressive behavior” where the language in the definition included “threats of violence,” “violence,” “hostile,” “severe physical conduct,” or “harm.”
- Coded “Reasonable person standard” where the word “reasonable” was used in the definition in relation to the victim’s perception of the bullying.
**Question:** Does the definition of bullying explicitly distinguish bullying from other acts?

- Coded “Yes, hazing” where the term was explicitly distinguished from “bullying” in the bullying definition.
- Coded “Yes, harassment” where the term was explicitly distinguished from “bullying” in the bullying definition.
- Coded “No” where hazing or harassment were not distinguished in the definition of bullying, where bullying was defined to include hazing or harassment, or where hazing or harassment were defined separately in the law with no reference in the definition of bullying.

**Question:** Does the law regulate cyberbullying?

- Coded “Yes” where the law does not identify “cyberbullying” explicitly, but where the law regulates bullying conducted by electronic means.

**Question:** Does the law recognize the link between bullying and adverse outcomes?

- The question was coded based on the definition of bullying, the intent/purpose section of the law, or any other provision in the law that acknowledged the relationship between bullying and other adverse outcomes.
- Coded “physical harm” where physical or bodily injury or harm to an individual student was included in the law.
- Coded “mental harm” where mental, psychological, or emotional harm or trauma was referenced in the law, or where the law included bullying acts that were done with the intention of “ridiculing,” “humiliating,” “frightening,” or “intimidating,” an individual student, or where the bullying act caused “distress” to an individual student.
- Coded “school safety” where “safety” or “safe” was explicitly used in the law.
- Coded “school performance” based on language in the law similar to “substantially and materially interferes with access to an educational opportunity or benefit” or “disrupts the education process.”
- Coded “school climate” where the law indicated that the school “environment,” “climate,” “atmosphere,” or “orderly operation of the school” was impacted by bullying for the school or students generally.

**Question:** Which type of school is regulated?

- Coded “public” where school districts, school boards, or charter schools were regulated in the law.
- Coded “private” where “private school” or “nonpublic school” were explicitly mentioned in the law.
**Question:** Which grade levels are included in the law?

- Laws regulating students prior to kindergarten were scoped out.
- Coded “K-12” where the law applied to combinations of elementary, primary, and/or secondary schools.
- Coded both “Middle school” and “High school” where the law applied only to grades 6-12.

**Question:** Where does the law apply?

- Coded “school event” when the law regulated school-sponsored functions.
- Coded “electronic communication” when the law regulated “cyber-bullying.”
- Coded “school property” where the anti-bullying policy must be included in the student code of conduct, or where the school district must adopt or develop an anti-bullying policy.
- Coded “school transportation” when bullying was regulated at a school bus stop.
- Coded “outside of school setting” where the law explicitly regulated in-person bullying of students outside of school property, school event, or school transportation.

**Question:** Does the law enumerate classes protected by the law?

- Coded “Yes” where the law gave status to specific classes in the definition of bullying or in the application of the policy.

**Question:** What are the classes protected by the law?

- Coded “Disability” where the law included “need for special education services.”
- Coded “Socio-economic status” where the law included “source of income.”
- Catch-all categories of classes, such as “any other distinguishing characteristics,” were scoped out, as the inclusion or exclusion of other categories of students was captured in the question “Does the law only cover classes explicitly protected under the law?”

**Question:** Are there mandatory reporting requirements?

- Coded “Yes” where specific reporting requirements for a bullying incident were mandated by the law itself.
- Coded “No, but school district must develop reporting requirements in the policy” where the law required that the anti-bullying policy include reporting requirements, but did not mandate any specific individuals to report in the law itself.

**Question:** What protections are in place for those who report bullying?
• Coded appropriate affirmative responses where the protections were mandated for inclusion in the current or future to-be-adopted anti-bullying policy.
• Coded “None” if the protections were only suggested to be included.

**Question:** Does the law include investigation requirements once bullying is reported?

• Coded “Yes” where specific and detailed investigation requirements were mandated by the law itself.
• Coded “No, but investigation requirements must be included in the school policy” where the law required that the policy include investigation requirements, but did not mandate any specific investigation requirements in the law itself.
• Coded “No” where the law only included specific requirements for the notification of individuals following a bullying incident but not specific and detailed requirements for investigation of these incidents.
• Coded based on requirements in the law for initial investigations, not for any required secondary investigations.

**Question:** Who must be notified of a bullying investigation?

• Coded “Parents” where notification of parents and/or guardians was required by default.

**Question:** Must written documentation of bullying incidents be maintained?

• Coded “Yes” where detailed documentation of a bullying incident as part of the reporting or investigation process was required by the law.
• Coded “No” if the school only had to provide an inventory of bullying incidents to the state.
• Coded “No” where the law only required a written complaint for the reporting of a bullying incident, but required no further documentation.

**Question:** Must schools report bullying data to the state?

• Coded “Yes” where reporting requirements were explicitly linked to bullying incidents and were not only related to general student conduct violations which may include bullying as a violation.

**Question:** Does the law require an assessment of the reported data?

• Coded “Yes” where there was a step required for the state in the law beyond the receiving of bullying data from school districts in the state.

**Question:** Does the law include disciplinary consequences?

• Coded “Yes” where the law explicitly included disciplinary consequences. Where criminal penalties applied in narrow circumstances, a caution note was included indicating to which specific acts the law narrowly applied.
• Coded “No, but disciplinary consequences must be included in the school policy” where the law required that the anti-bullying policy or student code
of conduct include disciplinary consequences, but did not mandate any specific disciplinary consequences for bullying.

- Disciplinary consequences for school staff that engaged in bullying were scoped out.

**Question:** What are the disciplinary consequences for students who have bullied other students?

- Coded both “in-school” and “out of school” suspension where only “suspension” is included in the law.
- “Loss of extracurricular activities” was coded where the law used language similar to a loss of the “opportunity to participate in school social activities,” “opportunity to participate in graduation exercises or middle school promotional activities,” and/or the “dissolution of a team, organization, or other group.”
- Counseling was scoped out as a disciplinary consequence and was captured in the questions addressing mental health services for victims of bullying and students who have bullied other students.

**Question:** Are mental health services provided for victims of bullying?

- Coded “Yes” only where the mental health services included in the law related directly to bullying.
- Coded “No” where the mental health services included in the law were encouraged but not required.

**Question:** Are mental health services provided for students who have bullied other students?

- Coded “Yes” only where the mental health services included in the law related directly to bullying.
- Coded “No” if the mental health services included in the law were encouraged but not required.

**Question:** Does the law limit the victim’s right of legal redress?

- Citations were provided when this question was answered “No” any time the law explicitly stated the victim’s right of legal redress was not limited by other provisions of the anti-bullying law.

**Question:** Does the law include policy training?

- Coded “Yes, training programs are required” where the law required training on bullying investigations, responses to bullying, dealing with bullies and bullied students or the anti-bullying policy in general.
- Coded “Yes, training programs are encouraged” where the law encouraged training on bullying investigations, responses to bullying,
dealing with bullies and bullied students or the anti-bullying policy in general.

- Coded “Yes, contingent on funding,” where the law included policy training based on available funding.
- “No” was coded where the anti-bullying policy must only be “discussed” or “distributed.”

**Question: Who must be trained on the policy?**

- Coded “Administrators” where the law referred to management level staff, including superintendents, principals, vice principals, or their agents.
- Coded “Teachers” where the law referred to faculty, instructors, or substitute teachers.
- Coded “Staff” where the law referred to “school employees,” “school site personnel,” or any other non-management level school employees, including bus drivers.

**Question: Does the law include prevention programs?**

- Coded “Yes” where a distinct and specific prevention program that addresses the underlying causes of bullying was required by the law. Programs such as Bullying Awareness Month were included as prevention programs.
- Coded “No” if there were funds available for a prevention program to be established, but no specific prevention program was required by the law itself.
  - Funds in this situation were captured in the question: “Does the law include a funding provision?”
- A Caution Note was included to indicate what prevention program was coded, along with its citation.

**Question: Does the law include training for prevention programs?**

- Coded “Yes, training for prevention programs is required,” where the law required training, curriculum, or instruction on the specific prevention program included in the law.
- Coded “Yes, training for prevention programs is encouraged,” where the law encouraged training, curriculum, or instruction on the specific prevention program included in the law.

**Question: Who must be trained on the prevention programs?**

- Coded “Students” where training on the prevention program had to be included in the student curriculum.
- Coded “Administrators” where the law referenced management level staff, including superintendents, principals, vice principals, or their agents.
• Coded “Staff” where the law referenced “school employees,” “school site personnel,” or any other non-management level school employees.

**Question:** Is the prevention program identified as evidence-based?

• Coded “Yes” where law used the term “evidenced-based” or “research-based.”

**Question:** Is the state required to develop a model anti-bullying policy?

• Coded “Yes” where the law required the state to develop an anti-bullying policy in line with the law, even where not explicitly referred to as a “model policy.”

**Question:** Does the state require school districts to develop an anti-bullying policy?

• Coded “Yes” where the school district must develop or create their own policies to address bullying in the student code of conduct, and not just required to adopt a previously developed policy.

• Coded “No, but school districts must adopt an existing anti-bullying policy” where the school district must only adopt an anti-bullying policy previously created by an entity other than the school district.

**Question:** Must the state review district policy?

• Coded “Yes” where the district must submit the policy to the state and the state is required to meet a further step of review or evaluation.

• Coded “No” where the school district must only submit the policy to the state.

V. Quality Control

a. **Quality Control – Background Research:** 100% of jurisdictions were redundantly researched to confirm that the Researchers collected all relevant laws. The Supervisor reviewed all redundant research, and any diverging laws that were determined to be in scope were added to the collection of laws used to complete coding.

b. **Quality Control – Coding:**

i. **Original Coding:** Quality control of the original coding consisted of the Supervisor exporting the data into a Microsoft Excel document each day that the Researchers completed coding to examine the data for any missing entries, citations, or unnecessary caution notes. All needed citations and other entries were added and unnecessary caution notes were deleted.

ii. **Redundant Coding:** The redundant coding process entails independent, redundant coding by two Researchers for each jurisdiction. Redundant
coding means that each jurisdiction (a record) is assigned and coded independently by the two Researchers. Within each jurisdiction, redundant coding was only conducted when there was a substantive change in the law (i.e., a change that required a change in coding). Divergences, or differences between the original coding and redundant coding, are resolved through consultation and discussion with subject matter experts and the Team.

Quality control of the redundant coding consisted of the Supervisor exporting the data into a Microsoft Excel document each day the Researchers completed redundant coding to calculate divergence rates. All records with substantive changes were redundantly coded throughout the life of the project.

After coding and redundantly coding the first nine jurisdictions (Batch 1), the rate of divergence was 19.2% in February 2018. A coding review meeting was held and all divergences were resolved. Questions that caused confusion were edited for clarity and then checked across the dataset to make sure coding was consistent. The Supervisor assigned the next 12 jurisdictions (Batch 2) for original and redundant coding and the rate of divergence dropped to 7.1% in May 2018. Again, a coding review meeting was held and all divergences were resolved. The Supervisor then assigned original and redundant coding of the next 12 jurisdictions (Batch 3) and the divergence rate was 10.1% in September 2018. Divergences were again resolved through consultation and discussion with the Team. The Supervisor then assigned original and redundant coding of the next 12 jurisdictions (Batch 4) and the divergence rate was 8.9% in September 2018. Divergences were again resolved through consultation and discussion with the Team. The Supervisor then assigned the final six jurisdictions (Batch 5) for original and redundant coding, and the divergence rate was 17.1% in November 2018. New researchers were brought onboard to code Batch 5, which ultimately caused a spike in the divergence rate. These final divergences were resolved through consultation and discussion with the Team.

c. Quality Control - Final Data Check: Prior to publication, the Supervisor downloaded all coding data into Microsoft Excel to do a final review of coding answers, statutory and regulatory citations, and caution notes. All unnecessary caution notes were deleted and all necessary caution notes were edited for publication. Any responses which were inconsistent with the project’s coding rules were updated. Any missing citations were added.