Bullying in School as Child Abuse and Neglect

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The Forgotten Child: Multidisciplinary Approaches to Child Neglect

Montclair State University
Center for Child Advocacy
Adults Responsible for Bullying

Traditional view

'boys will be boys', 'girls are mean' 'it’s a dog-eat-dog world' ‘life is cruel’ ‘rite of passage’ ‘people are like that’ ‘you have to get tough’ ‘competition builds character’ ‘you can handle it’ ‘life isn’t always fair’

= inevitable, in the nature of children, a growth experience, strengthening

Modern view – bullying is created by adults:

• modeling of bullying behavior
• acceptance of bullying as normal
• inaction when bullying occurs
• exposing persons to social systems in which bullying is rewarded or implicitly accepted.

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What is Bullying?

-Negative acts intended to harm

-Negative acts can be in person or not, direct or indirect, including electronic (eg, text, email, web).

-Almost always a pattern, not a single incident

-In a relationship characterized by an imbalance of power

-Most bullying occurs in schools (or other institutional settings) and between children who know each other in those settings.
**Error of Attribution**

**Error:** Explaining events by attributing the cause to global, stable, internal (individual) factors.

**Reality:** Most events are environmentally determined (‘caused’).

For bullying, the error is to attribute bullying to personality and psychopathology, assume it is difficult to change, and that targets provoke it.

The reality is that bullying is primarily a function of the setting (school culture/climate, institutional characteristics). (Espelage, Swearer; Olweus)
School Climate

- The most important driver of bullying and harassment is the overall school climate: the lived experience of the school for all stakeholders in the school.

- Climate (how the school ‘feels’) is a function of school culture (‘how we do things here’).

- Adult behavior is the primary factor in school culture (decisions, modeling, control).

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<th>OVERALL DIMENSION of School Climate</th>
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<td>School Connectedness, Commitment to School, Belonging (emotional bond to school), Investment in School, Bonding to School, School Spirit, Commitment to School. Includes behavioral aspects of participation as well as feelings about schools.</td>
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<td><strong>Justice/Safety</strong></td>
<td>Fair and Justice Rules, Feeling Safe, Rules Consistently Applied and Fairly Enforced, Feels Socially and Emotionally Safety &amp; Secure in School, ethos of caring</td>
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<tr>
<td><strong>Contribution</strong></td>
<td>Contribution: Student Involvement in Creation of Rules, Student Voice Listened &amp; Responded to, Student Opportunities to Contribute, Collaborative Orientation</td>
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| **Interpersonal Relationships Among Students, Teachers, Support Staff, & Administrators** | A. Attachment To, Positive Feelings About, Social and Emotional Support From, Friendships  
B. Academic Support from Teachers, Staff, Administration, Peers, High and Reasonable Academic Expectations |
<p>| <strong>Physical Setting</strong>               | Feelings about Physical Environment, e.g., design, walls, heat, layout, and physical structure |</p>
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NJ State Law: Definition of HIB

Any gesture, any written, verbal or physical act, or any electronic communication, whether it be a single incident or a series of incidents, that is:

Reasonably perceived as being motivated either by any actual or perceived characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression, or a mental, physical or sensory handicap or disability, or by any other distinguishing characteristic, that takes place on school property, at any school-sponsored function or on a school bus, or off school grounds, that substantially disrupts or interferes with the orderly operation of the school or the rights of other students

and that
a) a reasonable person should know, under the circumstances, will have the effect of physically or emotionally harming a student or damaging the student's property, or placing a student in reasonable fear of physical or emotional harm to his person or damage to his property;

b) has the effect of insulting or demeaning any student or group of students; or

c) creates a hostile educational environment for the student by interfering with a student’s education or by severely or pervasively causing physical or emotional harm to the student.
Any school employee, member of the board of education, volunteer, or contracted serviced provider who witnesses or has received reliable information of an HIB incident must verbally report the incident or alleged incident to the school principal on the same day in which the employee or contracted provider witnesses or has reliable information of such an incident.

Such verbally reported incidents must be reported in writing to the school principal within two school days of when such incidents are witnessed or from which time the individual has secured reliable information that such an incident occurred.
In Addition

An act of HIB may be reported verbally, in writing, or anonymously by a student, parent, or visitor; however, anonymous reports shall not in and of themselves be considered to permit formal disciplinary action.

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The School Safety Team Shall

1) Receive complaints of HIB;

2) Receive reports of investigations of HIB;

3) Identify/address patterns of HIB;

4) Review and strengthen school climate and policies to prevent and address HIB;

5) Educate the school community, including parents, to prevent and address HIB

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The short answer is NO, far from it.

Reporting frequencies based on 2010-2011 EVVRS:

- Fewer than three in 1,000 students were harassed, intimidated, bullied, or threatened, i.e., less than .3%. This figure contrasts dramatically with results from the 2009 NJ Student Health Survey in which 20% of high school students self-reported that they were bullied.

- Of the 669 school districts (includes charter and independent schools counted as districts), more than 25 percent reported zero or one incident of violence (HIB, assaults, fights, robbery/extortion, criminal threat, and sex offenses). Nearly 20 percent of the districts reported not a single instance of violence.

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The district board of education requires its school administrators to implement procedures that ensure both the appropriate consequences and remedial response for students who commit one or more acts of HIB.
The consequences and remedial responses should be reasonably calculated to end the HIB behavior and take into consideration:

The unique circumstances of the acts and the persons involved, as well as the unique conditions in and characteristics of each school district. Such consequences shall be varied and graded and based upon meaningful consideration of the nature of the behavior, the developmental age of the student, and the student’s history of problem behaviors and performance. Possible individual consequences to the perpetrator(s) can range from simple admonishment to expulsion.
The school climate/culture and the individual and institutional factors that contribute to a school climate/culture that overtly or inadvertently facilitates HIB should always be considered in specifying consequences and remedial actions.
Responses and remedial measures should provide support and protection for the targeted child. At a minimum, the school’s responsibilities include making sure that the harassed students and their families know how to report any subsequent problems, conducting follow-up inquiries to see if there have been any new incidents or any instances of retaliation, and responding promptly and appropriately to address continuing or new problems.

Ongoing remedial actions should be provided for the children involved intended to prevent recurrence, such as increasing adult supervision of an activity in which incidents have occurred and close monitoring of the targeted child’s security and “emotional and psychological support” (eg, counseling) as needed by the harmed child.

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A school administrator who receives a report of HIB from a district employee, and fails to initiate or conduct an investigation, or who should have known of an incident of HIB and fails to take sufficient action to minimize or eliminate the HIB may be subject to disciplinary action.
Discriminatory conduct that would not have occurred “but for” the student’s protected characteristic, that a reasonable student of the same age, maturity level, and protected characteristic would consider sufficiently severe or pervasive enough to create an intimidating, hostile, or offensive school environment that the school district failed to reasonably address.

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Race, creed, color, national origin, nationality, ancestry, age, sex (including pregnancy), affectional or sexual orientation, atypical hereditary cellular or blood trait, genetic information, and mental or physical disability, perceived disability, and AIDS and HIV status.
When a school district knows or should have known of the harassment the school must take actions

- reasonably calculated to end the mistreatment and offensive conduct.

- Schools are required to implement effective preventative and remedial measures to curb severe or pervasive discriminatory mistreatment.

- Schools do not have to know beforehand that their responses will be effective. However, if their initial steps are ineffective in stopping the harassment, reasonableness may require a series of escalating steps.

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Neglect is “a type of maltreatment that refers to the failure by the caregiver to provide needed, age-appropriate care although financially able to do so or offered financial or other means to do so”.

NCANDS (National Data Archive on Child Abuse and Neglect)

Neglect is usually typified by an ongoing pattern of inadequate care and is readily observed by individuals in close contact with the child.


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Types of Neglect

• **Physical** (e.g., failure to provide necessary food or shelter, or *lack of appropriate supervision*)

• **Medical** (e.g., failure to provide necessary *medical or mental health treatment*)

• **Educational** (e.g., *failure to educate a child or attend to special education needs*)

• **Emotional** (e.g., *inattention to a child's emotional needs, failure to provide psychological care*, or permitting the child to use alcohol or other drugs)
The greatest percentage of maltreated children suffer from neglect. A child may have suffered from multiple forms of maltreatment and was counted once for each maltreatment type. CPS investigations or assessments determined that for unique victims of neglect.

In the US more than 75 percent (78.5%) suffered neglect.

In NJ the percentage in 2011 was 82.6% or 6,803 individual cases.
Several Rigorous Longitudinal Studies have been Conducted on the Impact of Neglect Alone

Results Reveal that Neglected Children have:

- Lower grades
- More school suspensions
- Internalizing Problem
- Cognitive impairment
- Externalizing Problems

Caveat: studies generally included populations of children who were neglected during infancy and toddler years.


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The Child Abuse Prevention and Treatment Act (CAPTA), (42 U.S.C. §5101), as amended by the CAPTA Reauthorization Act of 2010, retained the existing definition of child abuse and neglect as, at a minimum:

Any recent act or failure to act on the part of a parent or caretaker which results in:

- Death, serious physical or
- Emotional harm, sexual abuse or exploitation;
- Or an act or failure to act, which presents an imminent risk of serious harm.
Neglect of a child shall consist in any of the following acts, by anyone having the custody or control of the child:

(a) willfully failing to provide proper and sufficient food ... or

(b) failure to do or permit to be done any act necessary for the child's physical or moral well-being.

(c) Neglect also means the continued inappropriate placement of a child in an institution...with the knowledge that the placement has resulted and may continue to result in harm to the child's mental or physical well-being.

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The person having the care, custody and control of any child", as used in this chapter, shall mean any person who has assumed the care of a child, or any person with whom a child is living at the time the offense is committed, and shall include a teacher, employee or volunteer, whether compensated or uncompensated, of an institution as defined in section 1 of P.L.1974, c.119 (C.9:6-8.21) who is responsible for the child's welfare, and a person who legally or voluntarily assumes the care, custody, maintenance or support of the child. Custodian also includes any other staff person of an institution regardless of whether or not the person is responsible for the care or supervision of the child. Custodian also includes a teaching staff member or other employee, whether compensated or uncompensated, of a day school as defined in section 1 of P.L.1974, c.119 (C.9:6-8.21).
"Day school" means a public or private school which provides general or special educational services to day students in grades kindergarten through 12. Day school does not include a residential facility, whether public or private, which provides care on a 24-hour basis.
N.J.A.C. 6A:16-11 requires that a person be identified “to act as the primary contact person between the schools in the school district and child welfare authorities with regard to general information sharing, the development of mutual training and other cooperative efforts.”
Under tort principles of negligence, educators owe students a duty to anticipate foreseeable dangers and to take reasonable steps to protect those students from that danger.

To this end, educators owe the same degree of care and supervision to their students that reasonable and prudent parents would employ in the same circumstances for their children.

NJ Administrative Law: 6A:16-5.1 School safety and security plans:

Each school district shall develop and implement comprehensive plans, procedures and mechanisms that provide for safety and security in the public elementary and secondary schools of the school district. The plans and procedures, which shall be in written form, and the mechanisms, at a minimum, shall provide for:

1. The protection of the health, safety, security and welfare of the school population;
2. The prevention of, intervention in, response to and recovery from emergency and crisis situations;
3. The establishment and maintenance of a climate of civility; and
4. Supportive services for staff, students and their families.

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The maintenance of discipline in the schools requires not only that students be restrained from assaulting one another, abusing drugs and alcohol, and committing other crimes, but also that students conform themselves to the standards of conduct prescribed by school authorities. ...
Many cross-sectional and, more importantly, longitudinal studies that examine the impact of chronic bullying, indicate serious psychological impacts which parallel the damage done by child abuse and neglect.

In instances of chronic bullying where the school either does not report the bullying or intervenes inadequately, the bullied students suffer and, we submit, the school and its personnel are guilty of neglect as defined by NJ Law: “failure to do or permit to be done any act necessary for the child's physical or moral well-being.”

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A 2009 analysis of 11 research studies found that bullying victims had a higher risk for such physical health outcomes as headaches, backaches, sleeping problems, and bad appetite, as compared with their peers who had not been bullied. Additionally, a 2010 analysis of 33 research studies on bullying and academic achievement found that bullying is related to concurrent academic difficulties for children bullied. Academic achievement was assessed based on such measures as grade point averages, standardized test scores, or teacher ratings of academic achievement. Researchers have also linked bullying to increases in behavioral problems for children bullied over time, such as aggression, delinquency, and truancy.

(cited in 5/12 GAO Report, sources listed below)


Children Bullied:

Internalizing Disorders: Agoraphobia, Generalized anxiety, Panic disorder

Children Both Bullied and Bullying:

Depression, Panic disorder, Agoraphobia-females only, Suicidality-males only

Bullying has been identified as one risk factor associated with violent actions against oneself and others. For example, one 2011 analysis of 18 studies found that gay, lesbian, and bisexual youth were more likely to be verbally harassed and teased or physically and sexually victimized than heterosexual youth, and more likely to experience detrimental outcomes, such as suicidal thoughts and attempts.21 Their risk of suicide can be increased further by bullying.

Violence Against Others

For example, a 2002 study by Education and the Secret Service reviewed 37 incidents of school attacks and shootings occurring between 1974 and the end of the 2000 school year, and reported that nearly three-quarters of attackers were bullied, persecuted, or injured by others prior to the attack. ...22


Questions for Discussion

- At what point does the harm caused by ignoring chronic bullying rise to the level of child neglect?
- At what point should CPS be called in or at what point should the potential neglect be reported?
- What can CPS do if child neglect by the school is substantiated?
- Who or what is the responsible party if the neglect is substantiated?
- The caseloads of CPS are still dangerously high, won't this simply create more work for CPS and deflect from its primary mission to protect children from abusive behavior by parents/guardians?
- Another agency (revive Office of the Child Advocate)?

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