Defining Bullying, Harassment and Peer Aggression: Implications for Law, Policy and Practice

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Bullying is a Special Harm

“Because of the repetitive nature of bullying and the power differential that makes it impossible for victims to defend themselves, bullying is an especially harmful form of victimization. As such bullying has a special status as a form of victimization, necessitating that it is clearly distinguished from other types of peer victimization” (Greif & Furlong, 2006)
Goals of Presentation

- Differentiate bullying from peer aggression and harassment
- Examine bullying definitions in measurement and anti-bullying statutes
- Underscore the importance of a precise and consistent definition of bullying
Bullying Awareness Grows with Extreme Media Attention

- Columbine HS, Ryan Halligan Tyler Clemente

LOVING SON - Ryan Halligan committed suicide in 2003 at 13 years old because of undetected and untreated depression, brought on largely by years as a victim of bullying, his father, John, asserts.

Submitted photo
Bullying and Its Impact on the School Community

- Victim Powerlessness
- Bystander Effect
- Bully Stigma
- School climate
What is Bullying?

- According to Olweus (1993), a child is exposed
  - to intentional aggression
  - repeatedly and over time
  - by another child (or children) who are in a more powerful position
Repetition


- Dynamic relationship between victim and bully
  - May change over time
  - Same bully—Same victim

- NOT
  - Same victim—Different bully
  - Same bully—Different victim
Power Imbalance

- Most difficult aspect to define: Consensus building

- **Objective**
  - Size, Age, Strength, Gender

- **Status**
  - Social/Leadership
  - Disability /Appearance
  - Perceived sex orientation
  - Race/Religion/Ethnicity

- **Number**
  - More than one
What is NOT Bullying?

- Not every negative act should be considered bullying
  - Peer Aggression
  - Harassment

- Peer Aggression and Harassment are examples of other aggressive behaviors which require attention but they lack two key features of Bullying
  - Repetition
  - Imbalance of Power
Bullying?

Billy and Joey are classmates.

One day, Billy insults Joey’s mother. In response, Joey punches Billy and pushes him against the lockers. Billy swings at Joey, but misses.

Other students gather around to watch as the boys take swings at each other. Within minutes a teacher separates the boys.
Bullying?

Sally and Jane are classmates.

One day, in front of Jane, Sally whispers to her friends that Jane is a slut.

Jane overhears, and feels really humiliated. She goes home and writes in her diary that she hates herself.

The next day she refuses to go to school.
Are these Bullying?
No, because:

- They are one time occurrences, not repeated patterns of aggressive behavior
- There is no indication of power imbalance between Billy and Joey
- There may be an indication of power imbalance between Sally and Jane since Sally whispers to a group of friends whereas Jane is by herself
- These examples meet only 1 or 2 elements of the bullying definition
Peer Aggression

- Aggressive behaviors intended to cause injury, physical or emotional pain, including degree of fear or intimidation provoked
  - Includes physical, verbal, sexual aggression or assault, dating violence, gang violence
  - Often includes psychological aggression: rejecting, isolating, terrorizing, ignoring or corrupting, as defined by Garbarino
  - Aggression entirely about intent of aggressor

Finkelhor, Turner, & Hamby, 2012
Bullying and Peer Aggression

Peer Aggression

Intent of Aggressor

Repeated actions
Power Imbalance

Bullying
What is Harassment?

• Negative actions against
  • One person, a group, and/or the environment
  • Does not have to be repeated

• Individual does not have to be direct target of harassment to perceive the environment as hostile
  • It is not about intent of harasser
  • Victim perception is key feature

• The behavior creates a hostile environment
Harassment

- Federal Anti Discrimination Laws enforced by the Department’s Office for Civil Rights (OCR)

<table>
<thead>
<tr>
<th>Title</th>
<th>Prohibits discrimination on the basis of:</th>
</tr>
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<tbody>
<tr>
<td>Title IV of the Civil Rights Act of 1964</td>
<td>race, color, national origin</td>
</tr>
<tr>
<td>Title IX (1972)</td>
<td>sex</td>
</tr>
<tr>
<td>Title II of the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973</td>
<td>disability.</td>
</tr>
</tbody>
</table>
Bullying?

- In the school cafeteria, one student called another student “fag” and “lesbo” when she clumsily dropped her lunch tray, even though she is known to be straight. LGBT(Q) students heard this teasing and now feel unwelcome and unsafe at school.
Is this Bullying?
.....No, because:

- No one LGBT(Q) individual is necessarily targeted

- These may be one time occurrences, not repeated patterns of behavior

- MUST create hostile environment
Harassment, Bullying, and Peer Aggression

- **Peer Aggression**
  - Intent of Aggressor
- **Bullying**
  - Repeated actions
  - Power Imbalance
- **Harassment**
  - Perceived by Target
BULLYING & MEASUREMENT
Measurement Approaches to Bullying Behavior

• How we measure bullying defines the scope of the problem

• Without measurement
  • No way to tell how often bullying occurs,
  • What impact it has (e.g., depression), and
  • No evaluation of policies and interventions which target bullying
  • Process
  • Outcomes
  • Cost Effectiveness
Measurement of Bullying

- Objective approaches
  - Direct observation
  - Peer ratings or nominations
  - Teacher ratings or nominations

- Self Report
  - 80% of research studies use self report measures
  - Efficient
  - Low cost and burden
  - Patterns of association between bullying and other factors such as self esteem or depression are not affected by informant source
### CDC Measures of Bullying
(Hamburger, Basile & Vivole, 2011)

<table>
<thead>
<tr>
<th>Informant</th>
<th>No.</th>
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<tbody>
<tr>
<td>Victim or Bully</td>
<td>11</td>
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<tr>
<td>Victim and Bully</td>
<td>18</td>
</tr>
<tr>
<td>Victim, Bully and/or Bystander</td>
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<tr>
<td>Relationship not specified</td>
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<table>
<thead>
<tr>
<th>Power Imbalance</th>
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<tbody>
<tr>
<td>Stated in definition</td>
<td>4</td>
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<tr>
<td>Maybe implied power imbalance</td>
<td>2</td>
</tr>
<tr>
<td>Discrimination Based Harassment</td>
<td>1</td>
</tr>
<tr>
<td>homophbic, racist</td>
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</table>

<table>
<thead>
<tr>
<th>Instruction</th>
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<tbody>
<tr>
<td>Bullying Defined</td>
<td>6</td>
</tr>
<tr>
<td>Bullying mentioned in directions</td>
<td>2</td>
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</table>
Bully Victim Questionnaire
(Olweus, 1996)

- A variety of bullying behaviors defined
  - Hurtful names, social exclusion
  - Pushing, shoving or hitting
  - Spreading false rumors

- Repeated and the student being bullied cannot defend himself or herself

- Not bullying
  - Teasing each other in a friendly, playful way.
  - Two students about the same strength or power argue or fight (Solberg & Olweus, 2003, p 246)
Cyber-Harassment Student Survey
(Beran & Li, 2005)

- Harassment occurs when
  - Hurtful names, social exclusion
  - Get others to dislike
  - Spreading false rumors

- Repeated and the student being harassed cannot defend himself or herself

- Not harassment
  - Teasing each other in a friendly, playful way.
  - Two students about the same strength or power argue or fight
Behavior Based Self Report Strategy

- Youth are presented with specific behaviors and asked if they have committed or experienced them
  - Hitting
  - Threatening
  - Spreading rumors
  - Left out

- Avoids stigma and bias associated with term “bullying” or “bully”

- Problem:
  - Includes all peer aggression irrespective of important context factors associated with bullying, namely, repetition with same target-aggressor and power imbalance
Behaviors No Longer Distinct

- Peer Aggression
- Harassment
- Bullying
Distinctions Matter!

- CA Bullying Survey
  - Repetition
    - Target 2-3 times in the past month PLUS at least ONE
  - Power Imbalance: Respondent’s perception of aggressor’s
    - Popularity
    - Smartness
    - Physical strength
    - Athleticism
    - Attractiveness
More recent efforts

- CA Bullying Survey
  - Peer victimization (no power imbalance and one experience of aggression in past month)
  - Grades 5-12: 9-58%, peaked in grades 6-8

- Bullying victimization (at least one power imbalance and 2-3 experiences of aggression in past month)
  - Grades 5-12: 12-25%

- Bullied children reported less life satisfaction, school connectedness and hope
ANTI BULLYING STATUTES
States with Anti-Bullying Statutes

- 48: States with statutes (not SD, MT)

- 2 states leave the definition to school districts
DOE Report: Harassment & Aggression Definitions in Anti-Bullying Statutes
(Stuart-Cassel, Bell & Springer, 2011)

<table>
<thead>
<tr>
<th>Definition Component</th>
<th>States</th>
<th>NJ Statute</th>
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<tbody>
<tr>
<td><strong>Harassment</strong></td>
<td></td>
<td></td>
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<tr>
<td>Creates hostile environment</td>
<td>31</td>
<td>x</td>
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<tr>
<td>Interferes with learning</td>
<td>26</td>
<td>x</td>
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<tr>
<td>Disrupts school setting</td>
<td>20</td>
<td>x</td>
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<table>
<thead>
<tr>
<th>Harm (Intent or Impact)</th>
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<tbody>
<tr>
<td>General harm</td>
<td>43</td>
<td>x</td>
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<tr>
<td>Threats or fear of harm</td>
<td>31</td>
<td>x</td>
</tr>
<tr>
<td>Property damage</td>
<td>29</td>
<td>x</td>
</tr>
<tr>
<td>Physical harm</td>
<td>27</td>
<td>x</td>
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<tr>
<td>Psychological harm</td>
<td>27</td>
<td>x</td>
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Putting it All Together
(Cascardi, Brown, Iannarone, Cardona, 2013)

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<thead>
<tr>
<th>Acts</th>
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<tr>
<td>Verbal aggression</td>
<td>27</td>
<td>x</td>
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<tr>
<td>Physical Aggression</td>
<td>32</td>
<td>x</td>
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<tr>
<td>Social/Relational Aggression</td>
<td>1 (FL)</td>
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<tr>
<td>Cyber-bullying</td>
<td>38</td>
<td>x</td>
</tr>
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</table>

<table>
<thead>
<tr>
<th>Repetition</th>
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<tbody>
<tr>
<td>Continuous pattern</td>
</tr>
<tr>
<td>Repeated against the same student</td>
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<tr>
<td>Severe, Persistent or Pervasive</td>
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<tr>
<td>Any single (serious) or more acts (intended to)</td>
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</table>

| Power Differential                     | 3 |

35
## Terms Used

<table>
<thead>
<tr>
<th>Terms Used</th>
<th>States</th>
<th>NJ</th>
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<tbody>
<tr>
<td>Harassment only</td>
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<tr>
<td>Bullying, Harassment, and/or Intimidation</td>
<td>22</td>
<td>x</td>
</tr>
<tr>
<td>Bullying only</td>
<td>14</td>
<td></td>
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<tr>
<td>Bullying and Harassment separate</td>
<td>8</td>
<td></td>
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</table>
Harassment, Bullying, Peer Aggression and Statutes

- Harassment
- Bullying
- Peer Aggression
- Anti-Bullying Statutes
Is this Bullying?

- At the start of the school year Kelly gets the cold shoulder from her friends. During recess, girls tell her to go away.

- One girl had a party and everyone except Kelly was invited. No one girl or group of girls repeatedly targets her, but Kelly can’t find a way to fit in.

- She spends most of her recess time alone by the swings.
Is this Bullying?

- Based on NJ Statutes it would be because:
  - It includes at least one negative gesture or action
  - Creates hostile environment where Kelly feels unwelcome

- But it lacks these core features of the definition
  - Repetition by same aggressor
  - Power imbalance
Is Bucky a Bully?

- Bucky, an aggressive kid with a short temper, often lashes out at whomever irritates him.

- One day, Bucky thought Joe was staring at him and said, “what are you looking at Joe, you queer?”

- Another time, Bucky heard Scott and Robert saying Bucky is a bully. Bucky pushed Scott and punched Robert.

- Kids try to stay away from Bucky.
Is Bucky a Bully?

- Based on NJ Statutes, he would be because:
  - It includes at least one negative gesture or action
  - Creates hostile environment where kids stay away from Bucky

- But his behavior lacks this core feature of the definition
  - Repetition against same target
# Legal Implications

<table>
<thead>
<tr>
<th>Charges against students accused of bullying</th>
<th>Legal cases where students accused of bullying</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stalking</td>
<td>Nebraska v. Jeffrey K. (2006), overturned on appeal; in re Steven R. (2003), overturned on appeal</td>
</tr>
<tr>
<td>Violation of civil rights with bodily injury resulting, assault and disturbance of a school assembly</td>
<td>Used in Phoebe Prince case, indictment against six teenaged bullies, as cited in Eckholm and Zezima (2010)</td>
</tr>
<tr>
<td>Charges against students accused of bullying</td>
<td>Legal cases where students accused of bullying</td>
</tr>
<tr>
<td>---------------------------------------------</td>
<td>-----------------------------------------------</td>
</tr>
<tr>
<td>Invasion of Privacy N.J.S.A. § 2C:14-9(b)</td>
<td>Used in Tyler Clemente case against Dharun Ravi, as cited in Tefertiller (2011)</td>
</tr>
<tr>
<td>Bias intimidation</td>
<td>Used Tyler Clemente case against Dharun Ravi, as cited in DeFalco (2011)</td>
</tr>
<tr>
<td>Wrongful death</td>
<td>Jasperson v. Anoka-Hennepin School Dist. (2007); but see the Tyler Clemente case, where prosecutor determined that wrongful death is inappropriate in bullying cases</td>
</tr>
<tr>
<td>Defamation</td>
<td>Finkel v. Dauber (2010) no conviction</td>
</tr>
<tr>
<td>Hate crimes (Bias intimidation), N.J.S.A. § 2C:16,</td>
<td>As cited in the Grand Jury Indictment of Dharun Ravi, No. 10002681 (2010)</td>
</tr>
</tbody>
</table>
Jena Six
An Inappropriate Response Leads to Increased Violence...

...and National Outrage
Distinction Matter!

Bullying?

- Aggression
  - Nooses: The hanging of the nooses?
  - Attack: The attack on Justin Barker

- Power Imbalance
  - Nooses: Whites have more power than blacks
  - Attack: Six have more power than one

- Repeated
  - Multiple incidents BUT
  - Different aggressors and victims

Harassment?

- Negative actions against a person or group

- Based on race

- That is perceived by the victim(s) as creating a hostile atmosphere.
## Jena Six and Bullying

<table>
<thead>
<tr>
<th></th>
<th>Theory</th>
<th>LA State Law Applied</th>
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</thead>
<tbody>
<tr>
<td>Bullying</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>LA State Statute:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A “reasonable person under the circumstances would know” will harm a student, or cause reasonable fear of harm</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Act may be “severe”, not necessarily repeated</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Peer aggression</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>LA State Statute:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>As applied, Black young man charged with aggravated assault with a deadly weapon: the weapon? sneaker</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Harassment</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>
Moving Towards a Model Statutory Definition

- Must specify that action is repeated
  - Severe is not sufficient

- Must begin to define power imbalance beyond discrimination against protected classes

- Must avoid unnecessary language that dilutes or obscures the definition
Implications for Applying Statutes to School Policies

- Bullying, Harassment and Aggression must be clearly distinguished for purposes of response while at the same time acknowledging the ways they sometimes overlap

- Peer aggression
  - Conflict resolution, Anger Management, Peer Relationships

- Harassment
  - School wide tolerance and awareness
  - Individual education

- Bullying
  - School wide intolerance and bystander intervention
  - Individual bully and victim assistance
Where do we go from here?

- **Practice Implications**
  - For practitioner
    - What questions must you ask?
      - Intentionality of behavior form aggressor perspective
      - Impact from victim perspective (harassment)
      - Power differential (consensus perspective; bullying)
      - Repetition (same vs different aggressors and perpetrators)
  
- For agency or school setting
  - Consensus building around definitions, particularly power imbalance and appropriate interventions
“Because of the repetitive nature of bullying and the power differential that makes it impossible for victims to defend themselves, bullying is an especially harmful form of victimization. As such bullying has a special status as a form of victimization, necessitating that it is clearly distinguished from other types of peer victimization” (Greif & Furlong, 2006)