

*Bullying of and by
Students with Disabilities:
The Legal Issues*



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Bullying: What is It?

- Series of repeated intentional acts
- Students play the same bully and victim roles
- Deliberate intent to harm the victim
- Can rise to the level of harassment, prohibited by law
- Can lead to violation of FAPE

Department of Education:



- **Disability harassment is based on or because of disability**
- **Results in a hostile environment**
- **Must be sufficiently severe, persistent, or pervasive**



Liability Concerns:

- The student is an individual with a disability.
- The student was harassed based on his/her disability.
- The harassment was “sufficiently severe or pervasive” that it altered the student’s education and created an abusive environment.
- The school knew of the harassment.
- The school was deliberately indifferent to the harassment.



Review of Cases: You Be The Judge!

- PROMPT REMEDIAL ACTION—REMEMBER THIS STANDARD**
- Case Facts:**
- Student complained of harassment**
- School responded by:**
 - Conducting individual and group interviews
 - Instructing classmates to stop
 - Separation of students
 - Training students and staff at school assemblies and in small groups
 - Holding mediation sessions between students
 - Disciplining students as needed
 - Calling the police
- You be the judge. Should the school be held liable in this situation?**

You Be The Judge...



- Nine year old little girl placed with male student on the bus**
- Male student frequently engages in sexually inappropriate behaviors—even had a BIP to address**
- Parents requested a bus monitor**
- School refused**
- Little girl was attached on the bus by the teenager**
- YOU BE THE JUDGE: SHOULD THE SCHOOL BE HELD LIABLE?**



You Be The Judge:

- Student bullied for two years
- Was spit on, having desks thrown at him, picked up and twirled around by a peer in gym class
- Physically assaulted
- Student used to be in SE; was dismissed. Then, demonstrated social issues, hygiene issues
- Referred to outside counselors; parent reported to CPS
- Student committed suicide
- You be the judge...



You Be The Judge

- Transfer student subjected to harassment—by “approximately” fifty students
- Name calling
- School principal tried to stop but failed
- Janitor found a “hit list” in the student’s geography book, which was dropped
- Administrators alerted the reported victims on the hit list
- Administrators sued for violation of confidentiality rights
- You be the judge: violation of FERPA?

You Be The Judge



- Middle school student (small statured) with ADHD
- Harassed at school
- School alleged to have allowed harassment
- Harassment included placing the student in a backpack and carrying him like a baby through the school halls
- Carrying the student on shoulders of classmates
- Calling him names
- Making sexually disparaging remarks
- You be the Judge!



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Thank You!

*The information in this handout was created by
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