



School Leaders Risk Management Association

# UPDATE

March 2015



## Don't Let Your School Become the Target of Federal Investigations and Lawsuits Over Your Bullying and Harassment Policies.



Use SLRMA's Bullying and Harassment: Identification, Investigation and Remediation Self-Audit Checklist and Best Practices for School Districts to prevent unnecessary liability.

In August 2013, the National Center for Education Statistics surveyed over 24 million students regarding their experiences with bullying and harassment. The survey found that nearly a third of the students experienced some sort of bullying and almost 10% of the students experienced cyber-bullying. The U.S. Department of Education's Office for Civil Rights ("OCR") has taken notice and is stepping up its investigation of bullying and harassment at schools across the nation. A school that fails to appropriately identify, investigate and remediate incidents of bullying or harassment may face consequences directly from the OCR and can be referred to the U.S. Department of Justice for civil rights violations.

In addition, more and more parents are filing suit seeking damages for the school's inability or failure to address bullying. In Pennsylvania, a student received a settlement of \$312,000 for bullying and harassment based on perceived sexual orientation. A bullied student in California won \$1.35 million after the school refused to expel a bully, who tormented the claimant with anti-Semitic taunts, under its zero-tolerance policy. The lawsuits are not limited to incidents with students. A teacher was recently awarded \$350,000 after being bullied and eventually terminated by the school's principal, who also faces several other lawsuits.

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In SLRMA's *Bullying and Harassment: Identification, Investigation and Remediation Self-Audit Checklist and Best Practices for School Districts*, we have included discussions regarding OCR's guidance material issued in October 2010 and October 2014. In addition, we address the U.S. Department of Education's Office of Special Education's August 20, 2013 guidance on addressing the bullying of children with disabilities. Schools need to ensure they have policies and procedures in place to identify, investigate and remediate bullying and harassment in schools. By following this self-audit and checklist, schools may avoid being a target of liability.

## **Bullying and Harassment: Identification, Investigation and Remediation**

Self-Audit Checklist and Best Practices for School Districts. This self-audit form allows a school district to examine whether it has a policy addressing bullying and harassment that allows it to appropriately identify, investigate, and remedy bullying that rises to the level of harassment.

**Written procedures for investigating and remediating incidents of harassment**  Yes  No

**The school has written procedures for investigating and remediating incidents of bullying that rise to the level of harassment.**  Yes  No

**The staff member(s) identified as investigators have been properly trained and have a working knowledge of the school's anti-bullying and anti-harassment policies and procedures.**  Yes  No

**Review applicable statutes, regulations, school anti-bullying and anti-harassment policies and procedures.**  Yes  No

**Attempt to assess witness credibility by considering the witnesses character, prior inconsistent statements, bias or motive, demeanor, opportunity or capacity to observe the events, and cooperation with the investigation (or lack thereof).**  Yes  No

**Provide interviewee with appropriate translation services if the interviewee is an English Language Learner.**  Yes  No

**In keeping the alleged victim and his or her family informed throughout the investigation, comply with the privacy requirements of the Family Educational Rights and Privacy Act ("FERPA"), which generally requires schools to have written permission from a student's parent in order to release any information from that student's educational record.**  Yes  No

**Download the complete checklist at [SLRMA.org](http://SLRMA.org)**

# Recent Dispatches in the Newsroom



**Log In and Download the Recent Case Summaries That Impact Your School District and Find Out What You May Be Missing**

## Protecting Student Privacy While Using Online Education Services: Model Terms of Service

**March 2, 2015**

Is your school district protecting students' privacy while using online educational tools? On February 26, 2015, the U.S. Department of Education issued guidance regarding school districts' use of online educational services. Read the guidance letter and Hogan Lovell's advisory memorandum.

## Federal Communications Commission Adopts New Rules for the E-Rate Program

**December 15, 2014**

In its new client memorandum, Hogan Lovell attorneys outline the updated rules governing the schools and libraries universal service support program known as E-rate recently passed by the Federal Communications Commission (FCC).

## Reifinger v. Parkland School District 2015 WL 509557 (3rd Cir. 2015 - Pennsylvania)

**February 9, 2015**

The Third Circuit Court of Appeals determined that a claimant who raises an age discrimination claim must establish that age was the "but for" reason for the discrimination or adverse employment action. In addition, the court defined "adverse employment action" and found that "constructive discharge" must be the result of reasonably intolerable conditions. Read this case today to ensure your district knows the elements of an age discrimination claim so as to avoid this area of potential liability.

SLRMA's Checklists are tools to help you avoid potentially damaging liability.

**In the last quarter, SLRMA's most popular downloads were:**



- 1** Undocumented Student Enrollment Policy: Self-Audit and Best Practice
- 2** Hogan Lovells' Advisory Memorandum on the Office for Civil Rights' Dear Colleague Letter on Equal Access to Education Resources
- 3** Best Practices and Policies for Serving Transgender and Gender Non-conforming Students- Extracurricular Activities
- 4** School District Use of Cloud Computing Services Self-Audit Checklist and Best Practices

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# Teachers need help with bullies

Many don't have the skills to detect bullying  
and counsel perpetrators

**Download SLRMA's**

***Bullying and Harassment:***

***Identification, Investigation and Remediation: Self-Audit and Best Practices***

**Today and Protect Your School.**