

# Legal Issues Bullying

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“The Georgia Department of Education expressly prohibits the bullying of any person, by any means or method, at school, on school property, or at school-related functions.”

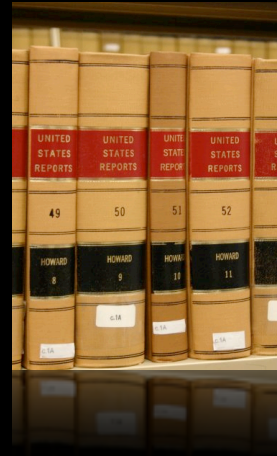
-- GDE Statement Against Bullying

“The real reason for a school to take a strong stance against bullying is not to avoid legal liability.”

-- Perry A. Zirkel, Lehigh University

## Bullying Cases

- Strict standards
- Courts are not flexible in interpreting standards
- Need clear patterns
- An example?



## Davis v. Monroe County Board of Ed. (526 U.S. 629, 1999)

- Case re: peer on peer harassment under Title IX
  - Title IX -- gender-based discrimination
  - Student is a member of “protected class” -- gender, race, or disability
  - Peer harassment is based upon that “protected class”
  - School exercises substantial control over harasser
  - Sexual harassment must be severe, pervasive, objectively offensive = deprives educational opportunities
  - “Appropriate person” with ability to take corrective action has “actual knowledge”
  - And responds with “deliberate indifference”



Student Conduct Can Trigger Two Paths

## O.C.G.A. § 20-2-751.4

- Ministerial v. Discretionary
- M --negligence standard;  
D -- actual malice standard
- Note the good faith reporting immunity. OCGA § 20-2-751.4(e)



# “Dear Colleague”

- Going federal law, not state law
- Discrimination
- Harassment
- Disability



# Editorial Comment

# The Phone Call

# The Discussion

- Tell me about when you found out.
  - How and when began?
  - How many times?
  - Where?
  - Who saw it?
  - What child/children involved?
  - Whether others have been bullied by child/children.

## The Discussion (con't)

- Tell me about your child.
  - How does he/she do in school?
  - Who are his/her best friends?
  - Who is his/her favorite teacher?
- Tell me how this has affected your child.
  - Physically?
  - Emotionally?
  - Educationally?

## The Discussion (con't)

- Tell me your understanding of school's responsibilities regarding bullying.
- Tell me your understanding of how school is organized to address bullying.
- Tell me what you did to address situation with child.
- Tell me what you did to address situation with school.
- Tell me about your documentation.
- Tell me about the response.

# The Response

The Three Bears Theory

## The Response (According to Parent/Guardian)

- Does parent know the extent of response?
- Negligent conduct?
- Willful and wanton conduct?
- Intentional conduct?
- Deliberate indifference?
- Blaming the child who was bullied?