An Analysis of Texas' Bullying Policies & Practices

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Abstract

Bullying is a serious problem affecting youth, families, and communities. Bullying is not an individual problem, but a family and societal one as well. Schools play a vital role in combating this issue. This study evaluates the strengths and weaknesses of the state of Texas' policy addressing bullying through a comprehensive policy analysis. This study also outlines and provides a guide to future policy makers, school officials, and families on how to reduce and hopefully eliminate bullying

Keywords: youth family violence; family systems theory; family conflict theory; social learning theory

Only in the last few decades has bullying been publicized through books, articles, and the media. Schools are continuously trying to combat this problem through legislation. Texas first enacted an anti-bullying policy in 2005 (Tex. H.B. 283). The policy mandates schools to develop prevention and interventions programs in schools in order to help students targeted by bullying and prevent the possibility of suicide. The objective is to train school staff to look for potential suicide victims. In 2011, amendments were passed to expand the anti-bullying policy which protected students who reported bullying and required counseling be provided to victims and the bullies (Tex. H.B. 1386; Tex. H.B. 1942).

To understand this problem one must not only look at bullying on an individual level but through a macro level to understand the extent of impact bullying has on society. Bullying in adolescence has been linked to many other societal problems. According to the Maine Project Against Bullying (2000), "bullies identified by age eight are six times more likely to be convicted of a crime by age twenty-four and five times more likely than nonbullies to end up with serious criminal records by age thirty" (para. 3).

Policy analysis is a tool that not only provides a method to determine the effectiveness of any act, policy, or law, but also highlights strengths and weaknesses of the legislation which will lead to more effective legislation in the future. The goals of this policy analysis are to (1) provide a comprehensive depiction of the Texas State law, (2) adapt a framework for the analysis of Texas

State law by incorporating components from several models of policy analysis, (3) evaluate the current Texas law by looking at the specific outcomes such as fidelity in reporting bullying, number of reported bullying incidents, and valid measures to determine the effectiveness of the policy, (4) explore the impact the law has on schools, and (5) discuss implications within the social work profession.

What is Bullying?

Bullying has been referred to as "an urgent social, health, and educational concern that has moved to the forefront of public debate on school legislation and policy" (Rose & Pierce, 2012, p. 1). It can be identified in numerous ways including physically and verbally aggressive behavior and electronically through cyberbullying. This social phenomenon contains many different components which are addressed in the Texas Education Code. These components include definition, documentation, and punishment. The Texas State Legislature defines bullying as:

Engaging in written or verbal expression, expression through electronic means, or physical conduct that occurs on school property, at a school-sponsored or school-related activity, or in a vehicle operated by the district and that: (1) has the effect or will have the effect of physically harming a student, damaging a student's property, or placing a student in reasonable fear of harm to the student's person or of damage to the student's property; or (2) is sufficiently severe, persistent, and pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student. (Tex. Educ. Code Ann. $\S37.0832(a)(1-2)$).

This definition is only part of what Texas defines as bullying. Learning the history and development of the policy will help policy makers, school officials, and practitioners gain a better understanding of the phenomenon. There has been a paradigm shift in how society has viewed bullying in just the last half century. Fifty years ago the topic of bullying was not discussed or publicized. It was not considered a societal issue or a problem in schools. In the last twenty years, bullying has come to the forefront within the schools and in society. Legislation has only been passed in the last ten years with regards to bullying. The first policy was enacted in 2005. This Texas state law has been amended several times since then. An example of an amendment is HB 1942 which was enacted to cover cyberbullying. Cyberbullying has become more prevalent in recent years. It involves bullying through electronic means such as the internet and phone. The basic premise of the bully prohibiting policy is to curb behavior that may lead to violence.

An important part of creating policy is to look at the empirical evidence to see what have been effective and ineffective policy measures in the area of interest. One area of bullying being researched is determining if certain groups are more susceptible to bullying than others. A study conducted by Robinson and Espelage (2012) found "LGBTQ identification remains a unique predictor of risk after accounting for peer victimization, raising concerns about policies that focus almost exclusively on bullying prevention to address LGBTQ-heterosexual risk disparities" (p. 316). This is an issue of concern that is not currently being addressed by the current Texas state law. State laws need to be adaptable to continue to address new issues or concerns. Robinson and Espelage (2012) state the law "tend[s] to focus on bullying prevention—usually, through generic anti-bullying policies that do not make explicit mention of

sexual orientation or gender expression—rather than on other aspects of school environment" (p. 309). There is current research being conducted to address this gap in policy. Bradshaw, Waasdorp, O'Brennan, and Gulemetova (2011) discuss ways to adapt a bullying policy to focus on the LGBTQ to "foster a more inclusive and supportive learning environment for LGBTQ youth, such as training teachers and staff in sexuality diversity" (p. 316).

Observations made in the literature review show the actual effectiveness of anti-bullying policies, which is important for legislators to consider when crafting a policy. Jeong and Lee (2013) found "bullying prevention had a negative effect on peer victimization" (p. 1). The authors used a multilevel analysis to determine that a school which had an anti-bullying policy in place had a higher number of bullying incidents than schools that did not. This requires future research to discover the reason behind this outcome. An example of the reporting not being accurately reflective to the actual number of incidents is in Mercer county New Jersey. Superintendent of James Parla explains "the increase to a commitment to keep every case 'on the record,' reported and filed, would 'logically' lead to a higher number of incidents" (Davis, 2013, para. 5).

As part of the literature review there has been research conducted on analyzing state laws and school policies. Rose and Pierce (2012) took an in-depth look at not only Texas but every state bullying policy. They stated "policies may not benefit schools or students unless they can be successfully implemented" (Rose & Pierce, 2012, p. 129). The importance of implementation is elaborated throughout the book. It is also supported by other studies, such as the one conducted by Smith, Smith, Osborn and Samara (2008): "the nature and effectiveness of school antibullying policies mainly reflect on their coverage and implementation, rather than on the principle of having a policy" (p. 4). There are several models and methods one can utilize to evaluate policy. The next section details a unique method tailored to analyzing bullying.

Method of Analysis

A unique approach to analyze Texas state law prohibiting bullying uses aspects of several policy analysis models. The data illustrated in this policy analysis is derived from a review of the literature on bullying policies. The principal method of policy analysis is presented by Chambers and Wedel (2009). This model consists of (1) goals and objectives, (2) eligibility rules, (3) administration and service delivery, and (4) financing. In order to have a more comprehensive evaluation, four more models are incorporated into the primary model. One of the first steps in policy analysis is to identify the problem. This new model incorporates Dobelstein's (2003) identification of social problem. A part of policy analysis is to understand the underpinning values and theoretical assumptions behind the policy. Moroney's (1981) value framework is integrated in this new model as a part of the analysis. Another feature of this model is to look at the ability to transfer this law to school districts or other areas such as the workplace. There are certain factors that influence the success or failure of transfer which is highlighted by the model by Lightfoot (2003). The next component of the model involves social justice. The policy analysis uses McInnis-Dittrich's (1994) social justice aspect. It asks if "the program address[es] the important issue of social justice as expressed by society and the social work profession?" (p. 121). Policy makers must be aware of potential short and long term effects of enacting the policy. The next piece to the analysis is the unintended consequences from the implementation of the law and future implications for the social work profession and policy are conferred. Below is the

tailored model which includes (1) identifying the problem, (2) goals and objectives, (3) underlying values, (4) eligibility rules, (5) benefits, (6) procedure, (7) financing, (8) unintended consequences, and (9) implications used to analyze the Texas state policy on bullying.

Identifying the Problem

The very first step with any policy analysis is to first identify the problem. It is important not only to identify but to understand and clarify the problem. Dobelstein (2003) emphasized an effective policy will state the problem with the clear understanding in order to be appropriately analyzed. The Texas state policy does not illustrate bullying as a significant problem but does define it. The ability to define bullying gives not only the policy makers but others a strong understanding of it. The policy makes a clear distinction in the difference between bullying and harassment. This will eliminate any confusion and add to the understanding of bullying.

Currently, the Texas policy does not identify different classifications such as race, sex, or gender identity as vulnerable to bullying. Since this point is left out of the policy and is just implied, it does raise some questions. These include: Are there different punishments for bullying that involves discrimination based on race, sex, gender identity? Why it is not mentioned? Do policy makers think bullying based on race, sex or gender identity is not a problem? These questions need to be answered in order to clarify the problem. This illustrates the need for demographics to be addressed in policy making. Further attention needs to be placed on making clear the impact bullying has on individuals and society. The success of any policy is determined by achieving the goals set forth.

Goals and Objectives of Texas Policy

The importance of goals and objectives being clearly stated is emphasized by Chambers and Wedel (2009). They define them as "a goal is an abstract statement that describes the overall purpose, or expected outcome, of a program, and objectives are individualized, empirical, concrete statements that describe how a goal will be accomplished" (Chambers & Wedel, 2009, p. 210). Goals and objectives are valuable way to assess the effectiveness of the policy. These must be clearly defined and measureable. According to Chambers and Wedel (2009), there are several important functions of policy goals. First, the program's goals and objectives guide the daily operation. Second, objectives must be measured against data so social policies can be evaluated on their effectiveness. Third, the contribution towards meeting the goals and objectives must be evaluated at all phases of policy analysis.

In order to evaluate the goals and objectives, there must be a framework for the criteria for evaluation. Ginsberg & Miller-Cribbs (2005) define three criteria to judge the merit of the goals. First, they are clearly concerned with outcomes that can stand justified on their own merit, not just "means" to some distant end. Second, they are defined with sufficient clarity so that they can (potentially) be measured. Third, the theory in which the program is based is consistent with one of the causal explanations found in the social problem analysis.

The main goal of the Texas state law is to reduce and eliminate bullying through this policy (Tex. Educ. Code Ann. §37.001). This goal is not stated directly in the policy but is inferred. Each aspect of this policy is to help achieve the overall main goal. When looking at the first criterion, the

policy does meet this requirement. The goal and purpose of this policy is not clearly defined but rather inferred which fails to meet the Chambers and Wedel (2009) model of the goals guiding daily operation. There is the one overarching goal and not just means to some distant end. Based upon the second evaluation criterion, the Texas policy does satisfy this requirement. Although it is not clearly stated in the policy, there is a possibility of the outcomes being measured. Within the policy, reporting bullying incidents describes procedures for reporting "an incident of bullying, investigating a reported incident of bullying, and determining whether the reported incident of bullying occurred" (Tex. Educ. Code Ann. §37.0832(b)(6)) and can be potentially measured to determine effectiveness. The third criterion involves theory in which the policy is consistent. Currently, the policy does not refer or mention any underlying theories from which it was built. These are some methods being used to evaluate the effectiveness of the goals and objectives of the Texas policy. Values can help understand not only the reason behind the creation of the policy, but also the desired outcome.

Underpinning Values

The enactment of this policy is consistent with the social work values, to help people in need and to address social problems. The societal problem in this case is the prevalence of bullying in schools. According the National Association of Social Workers' (NASW) Code of Ethics, "social workers pursue social change, particularly with and on behalf of vulnerable and oppressed individuals and groups of people. Social workers' social change efforts are focused primarily on issues of poverty, unemployment, discrimination, and other forms of social injustice" (NASW, 2008, para. 3). This policy aligns with the shared core values. The goals of this policy clearly promote equality among individuals. An example of this is the prohibition of bullying of individuals with disabilities, which "requires that discipline for bullying of a student with disabilities comply with applicable requirements under federal law" (Tex. Educ. Code Ann. §37.0832(c)(8)).

The next part of the policy analysis is to evaluate the underpinning values. Moroney (1981) advocates that a policy analysis gauges whether the values of fraternity, equality, and liberty are present. Based upon Moroney's beliefs, if one of these values becomes a priority then the other two will be limited. In the Texas policy, fraternity is most prominent among the three values. According to Moroney (1981), fraternity refers to helping a specific population through the safety and well-being of others. The focus of this policy is on the victims of bullying. One of the underlying goals is to help the victims. Fraternity also means caring, well-being, safety, community, and unity. Safety is one concern brought to the forefront when there is an occurrence of bullying. The objective is to increase safety of the victim by prohibiting bullying.

As stated before, due to the high prominence of fraternity throughout the policy, liberty and equality are limited but not eliminated. All three of these values are embedded in the policy. Equality is seen through the definition of bullying stated. Each person is equally protected under this policy without the exclusion of any group. Even though the policy does not explicitly state each particular group, it encompasses everybody no matter the race, gender, color, or disability.

A strong point of the policy is its reference to liberty. It "prohibits retaliation against any person, including a victim, a witness, or another person, who in good faith provides information concerning an incident of bullying" (Tex. Educ. Code Ann. §37.0832(c)(2)). This affords any

individual the right to report bullying without the threat of retaliation or consequences. The values are an essential part of any policy. These values ensure that the policy encompasses different perspectives and makes for a stronger more effective policy. Every policy has a target population or group of people it is trying to help. It is important that the criteria are well thought out and clear to everyone involved.

Eligibility Rules

Chambers and Wedel (2009) define eligibility rules as establishing guidelines that identify who is entitled to receive the benefits of the policy. Evaluative criteria are utilized to determine the appropriateness of the eligibility rules. Ginsberg and Miller-Cribbs (2005) list three parts to the evaluation including (1) examine whether the eligibility rules fit the social problem analysis to which this program intends to contribute at least a partial solution, (2) determine whether program participation stigmatizes, and (3) assess off-targeting and over- or underutilization. There is one group that is eligible under the Texas state policy and that is the victims of bullying. Any victim no matter their race, sex, gender, or disability will be protected under this policy. There is one noticeable limitation to this policy. Any student enrolled in a private school is not protected under this policy. The only protection they would have is if their own private school enacts an anti-bullying policy.

A limitation of this policy is that it is susceptible to stigmatization which is part of the second evaluation criterion. The intended consequence of this policy is it labels both the victim and bully. Once the student is labeled a victim or bully, the student is grouped them in distinct categories which will make it hard for him or her to change if a mislabeling occurs. There is a gap in this policy and it refers to determining eligibility. The question that arises is who makes the final call on labeling the victim and bully, is it the principal, teacher, counselor?

The third evaluative criterion involves off-targeting. It describes the effectiveness of the policy reaching its target population and not others. The Texas state policy does a good job of helping victims of bullying through providing counseling options for those in need (Tex. Educ. Code Ann. §37.0832). Each component relates to the victims and no other groups. An important question that must be answered within any policy is who and what are the benefits of this policy. The following section outlines these benefits.

Form of Benefit

A vital part of a policy is the benefits. A pertinent question asks who benefits from this policy. This answer should be clear in the policy. In the Texas state policy, the victims of bullying benefit. Under this policy, there is more protection for potential victims and punishment for bullies as a deterrent. Peace of mind is also an added benefit to this policy. The victims would not have to be worried about possible physical or verbal aggression from others. As part of Ginsberg and Miller-Cribbs (2005) evaluative criterion, it seeks to determine if the benefit is a good fit with what the social problem requires. In this case, the policy is a good fit to the social problem. The benefits of peace of mind, protection for potential victims are both beneficial outcomes of this policy. There must be a clear structure and procedure on how the policy will be implemented. Many policies become ineffective due to unclear responsibilities. The Texas Education Code outlines these important factors.

Administration and Service Delivery

An understanding of the theoretical underpinnings of a specific policy can aid in identifying who is responsible for the execution of the policy. This aligns with Chambers and Wedel (2009) policy analysis section. The Texas state policy focuses on the administration in a few ways. It "establishes procedures for reporting an incident of bullying, investigating a reported incident of bullying, and determining whether the reported incident of bullying occurred" (Tex. Educ. Code Ann. §37.0832(c)(6)). This describes the administration aspect of the policy which is key. Determination of the effectiveness of the administration component lies within Ginsberg and Miller-Cribs (2005) criteria. They discuss evaluation based upon accountability, meaning the organization's ability to establish who makes decisions and a forum for appealing them when program consumers or staff feel they have not been consistent with the organization's own polices. The Texas state policy does meet this criterion by discussing procedure. It also defines who is responsible for the implementation of the policy: "the board of trustees of each school district shall adopt a policy, including any necessary procedures, concerning bullying" (Tex. Educ. Code Ann. §37.0832(c)). Despite this, there is a lack of clarity regarding appeal. The policy does not state any appeal procedure or process for when staff feel that their own organization's practices are not consistent with the bullying policy. In other words, there is no mechanism or review process to ensure proper procedures are being met. This fails to meet the second criterion in Ginsberg and Miller-Cribs (2005) administration evaluation. Any policy enacted will have some cost. Understanding the financing will help all the stakeholders determine the overall success of the policy.

Financing

The next section of Chambers and Wedel (2009) policy analysis is financing. This entails how the policy will be funded. Usually within every policy it describes where it will receive its funding or the money to cover the costs of implementation. The Texas state policy is considered an unfunded mandate. The policy requires all school districts to enact this policy without any financial help. It makes it the districts responsible for finding funding and meeting all the requirements set forth in the policy. This can be problematic for small school districts to find funding. Dependability over time and whether financing provides incentives or disincentives for obtaining specific client outcomes are part of the evaluation criteria by Ginsberg and Miller-Cribs (2005). As stated above, some school districts may not meet the dependability over time criterion because of financial reasons. It may become too big of a burden to continually fund this policy without any financial help from the state. The second criterion involves any financial aid being tied to performance, in this case it would be lowering the number of bullying incidents. This does not apply to the Texas state policy because there is no financial help given by the state.

Unintended Consequences

Every policy will have consequences that are foreseen. It is critical to identify the unintended consequences whether positive or negative in order to help rectify any negative effects the implementation of the policy created. The effect of the policy may differ from the original goals and objectives created. It is crucial that unintended consequences are considered when creating policy. This Texas state policy has several unintended consequences. First is the stigma placed on the bully and the victim. Part of the policy is to identify the bully and the victim.

label get placed on them it would be hard to get it off. A possible future problem is mislabeling students. It would be a mistake to label individuals as a bullies when in fact it turns out they are not. As mentioned before, there is no defined appeal process if this mistake occurs. Labeling could also lead to more negative effects for the victim being grouped into that category and possible facing more ridicule or negative consequences.

Another unintended consequence is the financial concerns. Due to the fact that this policy is an unfunded mandate, the financial concerns lies with the school districts. An unforeseen implication is the ability for small districts to continually fund this policy without any financial assistance. This could put extra strain on the districts or make them cut something important to pay for this.

The last unintended consequence involves the accuracy of the outcomes. Once a policy is enacted there could be a higher number of incident reports due to having a process in place. This higher number reported may not be indicative of the actual results. The description in the policy regarding reporting enforces the idea there will be in an increase. "The procedure for reporting bullying established under Subsection (c) must be posted on the district's Internet website to the extent practicable" (Tex. Educ. Code Ann. §37.0832(e)). This caution is also substantiated:

In some cases, program effects were actually negative, with documented increases in bullying among students. These reported "increases," however, may reflect an increase in awareness and vigilance regarding bullying behavior. The validity of self-reports is seldom questioned in bullying intervention studies. (Swearer, Espelage, Vaillancourt, & Hymel, 2010, p. 41)

The funding, stigmatization, and accuracy of the reporting are a few of the potential unintended consequences with the implementation of the Texas state policy. Implications of the policy should be looked at through a micro and macro lens. This policy could be the framework for another Texas policy or even another state to enact an anti-bullying policy. We must be cognizant of all effects from the individual, family, school, and other places around the country the policy created.

Implications for Social Justice Practice and Policy Transfer

The last part of the model consists of a social justice component. McInnis-Dittrich (1994) discuss the importance of addressing the issue of social justice as expressed by society and the social work profession. As mentioned before, public opinion conveys the social problem of bullying. It correlates with the social work profession through the social aspect lens. Social workers strive to create equality among all groups and help groups who have limited ability or vulnerability. The value embedded in this policy is that of fraternity. Its goal is attempt to get the well-being, safety, community, and unity among all individuals. This model does meet the criterion set forth by McInnis-Dittrich (1994) to achieve goals and work towards the elimination of bullying.

Conclusion

This analysis of bullying-related policies in the Texas Education Code has illustrated numerous necessities associated with the successful creation, application, and transfer of the Texas state

policy. Future research is needed to add to the general knowledge base that can help policymakers and social workers in addressing such issues the stigmatization of bullies and victims, the effective way to evaluate the outcomes, and the meeting the financial needs to successfully implement this policy. The analysis provides a comprehensive understanding of the anti-bullying policy in Texas. By evaluating each section in the policy including the definition, reporting procedures, punishment, and help for the victims, it gives an understanding using the tailored model in this analysis. Future research must incorporate a collaborative approach to the policy analysis while adding additional models as part of the analysis. The use of a systems theory approach may allow for a more holistic understanding of the impact bullying has on society. This model will aid the proficiency and efficacy of the anti-bullying policy with continued analysis.

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