
***TO THE BARRICADES:
The Battle Against Bullying Abateth Naught***

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TO THE BARRICADES: THE BATTLE AGAINST BULLYING ABATETH NAUGHT

I. BULLYING, INTIMIDATION AND HARASSMENT

A. What is Bullying?

1. Section 27-23.7 of the *Illinois School Code* prohibits bullying on the basis of actual or perceived race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental disability, military status, sexual orientation, gender-related identity or expression, unfavorable discharge from military service, association with a person or group with one or more of these actual or perceived characteristics, or "any other distinguishing characteristic."
 - a. The "any other distinguishing characteristic" category is vague and may not be constitutional.
2. Currently, Section 27-23.7 prohibits bullying in three contexts:
 - a. During any school-sponsored education program or activity;
 - b. While in school, on school property, on school buses or other school vehicles, at designated school bus stops waiting for the school bus, or at school-sponsored or school-sanctioned events or activities; or
 - c. Through the transmission of information from a school computer, a school computer network, or other similar electronic school equipment.
3. But wait! Public Act 98-801, effective January 1, 2015 (*available online at www.ilga.gov*), prohibits bullying "through the transmission of information from a computer that is accessed at a nonschool-related location, activity, function or program or from the use of technology or an electronic device that is not owned, leased, or used by a school district or school if the bullying causes a substantial disruption to the educational process or orderly operation of a school."
 - a. This will only apply "in cases in which a school administrator or teacher receives a report that bullying through this means has occurred." It does not require a district or school to staff or monitor any nonschool-related activity, function, or program.
 - b. In light of this added prohibition, P.A. 98-801 also amends Section 27-23.7 to clarify that bullying includes "cyber-bullying" and includes a detailed definition of that term¹.

¹ P.A. 98-801 defines "cyber-bullying" as "...bullying through the use of technology or any electronic communication, including without limitation any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature

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4. Regardless of whether bullying is committed in person or via cyberspace, the *Illinois School Code* defines bullying as “any severe or pervasive physical or verbal act or conduct, including communications made in writing or electronically, directed toward a student or students that has or can be reasonably predicted to:
 - a. Place the student or students in reasonable fear of harm to the student’s or students’ person or property;
 - b. Cause a substantially detrimental effect on the student’s or students’ physical or mental health;
 - c. Substantially interfere with the student’s or students’ academic performance; or
 - d. Substantially interfere with the student’s or students’ ability to participate in or benefit from the services, activities, or privileges provided by a school. See *105 ILCS 5/27-23.7(b)*.

5. Note that the *Illinois School Code* definition of bullying:
 - a. Does not include an intent component.
 - b. Uses the objective reasonable person standard.
 - c. Contains language resembling the “substantial disruption” test of *Tinker*.
 - d. Does not address bullying of staff.

6. Bullying may take various forms, including: harassment, threats, intimidation, stalking, physical violence, sexual harassment, sexual violence, theft, public humiliation, destruction of property, and retaliation for alleging an act of bullying.

7. Illinois’ broad definition of bullying, use of “harassment” and “retaliation” as examples of bullying, and prohibition of bullying on various bases are consistent with guidance issued by OCR in October 2010, which cautions districts that misconduct which falls under a district’s anti-bullying policy may also trigger responsibilities under one or more federal

transmitted in whole or in part by a wire, radio, electromagnetic system, photoelectronic system, or photooptical system, including without limitation electronic mail, Internet communications, instant messages, or facsimile communications. "Cyber-bullying" includes the creation of a webpage or weblog in which the creator assumes the identity of another person or the knowing impersonation of another person as the author of posted content or messages if the creation or impersonation creates any of the effects enumerated in the definition of bullying in this Section. "Cyber-bullying" also includes the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more persons if the distribution or posting creates any of the effects enumerated in the definition of bullying in this Section."

antidiscrimination laws. See *OCR's October 26, 2010 Dear Colleague Letter*.

8. There is no cause of action pursuant to Section 27-23.7 of the *Illinois School Code*, but parents and victims may try to recover damages for alleged failure to comply with its provisions. There is precedent which holds that school districts are shielded from liability on such claims by the *Local Governmental and Governmental Employees Tort Immunity Act*, 745 ILCS 10/1 *et seq.* See, e.g., *Hascall v. Williams*, 996 N.E.2d 1168 (4th Dist. 2013).

B. Bullying Policies and Procedures Required by Public Act 98-669

Effective June 26, 2014, Public Act 98-669 (*available online at www.ilga.gov*) significantly amended the requirements for school district bullying policies.

1. Section 27-23.7 of the *Illinois School Code* now requires bullying policies to contain the following:
 - a. The statutory definition of bullying (see I.A.4., above);
 - b. A statement that bullying is contrary to state law and district policy;
 - c. Procedures for promptly reporting bullying, including, but not limited to:
 - i. Identifying and providing the school e-mail address and telephone number for the staff person(s) responsible for receiving reports of bullying; and
 - ii. Procedures for anonymous reporting.
 - d. Procedures (consistent with student privacy laws) for promptly reporting to parents/guardians of all students involved in the alleged bullying incident and discussing with them, as appropriate, the availability of social work services, counseling, school psychological services, other interventions, and restorative measures;
 - e. Procedures for promptly investigating and addressing reports of bullying incidents, including:
 - i. Making all reasonable efforts to complete the investigation within 10 school days after the date the report received;
 - ii. Taking into consideration additional relevant information received during the investigation about the reported incident;

- iii. Involving school support personnel and other staff with knowledge, experience, and training on bullying prevention, as deemed appropriate, in the investigation;
- iv. Notifying the principal or school administrator or designee of the report of the bullying incident as soon as possible after the report is received;
- v. Consistent with student privacy laws, providing parents/guardians of students who are parties to the investigation with:
 - a) Information about the investigation; and
 - b) An opportunity to meet with the principal or school administrator or designee to discuss the investigation, the findings of the investigation, and the actions taken to address the reported incident of bullying.
- f. Interventions that can be taken to address bullying may include but are not limited to:
 - i. School social work services;
 - ii. Restorative measures (defined below);
 - iii. Social-emotional skill building;
 - iv. Counseling;
 - v. School psychological services; and
 - vi. Community-based services.
- g. A statement prohibiting reprisal or retaliation against anyone who reports an act of bullying, and describing the consequences and potential disciplinary or remedial actions for a person who engages in reprisal or retaliation;
- h. Consequences and potential disciplinary or remedial actions for a person found to have falsely accused another of bullying as a means of retaliation or bullying; and
- i. A policy evaluation process to assess the outcomes and effectiveness of the policy which includes, but is not limited to, factors such as:
 - i. The frequency of victimization;
 - ii. Student, staff and family observations of safety at a school;

- iii. Identification of areas of a school where bullying occurs;
 - iv. The types of bullying engaged in; and
 - v. Bystander intervention or participation.
2. School district bullying policies MUST also be:
- a. Based on (the engagement of) a range of school stakeholders, including students and parents/guardians;
 - b. Posted on the school district's website;
 - c. Included in the student handbook;
 - d. Posted where other policies, rules, and standards of conduct are currently posted in the school;
 - e. Distributed annually to parents, guardians, students and school personnel (including new employees, when hired).
3. When a school district evaluates its bullying policy every two years, it must make information developed as a result of the policy evaluation available on the school district's website. If a website is not available, then it must provide the information to school administrators, school board members, school personnel, parents/guardians and students in another (unspecified) manner.
4. Section 27-23.7 defines "restorative measures" as a continuum of school-based alternatives to exclusionary discipline, such as suspensions and expulsions, that:
- a. Are adapted to the particular needs of the school and community,
 - b. Contribute to maintaining school safety,
 - c. Protect the integrity of a positive and productive learning climate,
 - d. Teach students the personal and interpersonal skills they will need to be successful in school and society,
 - e. Serve to build and restore relationships among students, families, schools, and communities, and
 - f. Reduce the likelihood of future disruption by balancing accountability with an understanding of students' behavioral health needs in order to keep students in school.

C. Can Schools Be Liable for Bullying Committed by Students?

Bullying victims and their parents have filed lawsuits on various grounds, most of which boil down to a claim that even though the school had an anti-bullying policy or knew that the student was being bullied, the school encouraged, tolerated, inadequately addressed or ignored the bullying.

1. Federal Claims

a. Violation of Federal Antidiscrimination Laws

- i. Actions may be brought alleging violations of the following Federal antidiscrimination laws:
 - a) Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex;
 - b) Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color or national origin; and
 - c) Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act ("ADA"), which prohibit discrimination on the basis of disability.
- ii. To avoid violating federal antidiscrimination laws, districts should seek to ensure that their schools do not create a "hostile environment."
- iii. Harassment creates a hostile environment when the conduct is so severe, pervasive or persistent as to interfere with or limit a student's ability to participate in or benefit from the services, activities, or opportunities offered by a school. See OCR's *October 26, 2010 Dear Colleague Letter, attached as Appendix B.*
- iv. In *Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629 (1999), the Supreme Court held that schools which are aware of peer sexual harassment and fail to adequately respond to it will be liable for such harassment. However, the court noted that a single instance of severe peer-on-peer harassment was not enough to support damages against a school district.

In order to establish liability:

- a) Harassment must be severe, pervasive and persistent;
- b) Harassment must have a concrete, negative effect on the victim's ability to participate in or benefit from educational programs or activities;

- c) The district must have actual knowledge of the harassment; and
 - d) The district must have been deliberately indifferent to the harassment (failure to respond adequately and promptly to the situation; responses that are clearly unreasonable in light of known circumstances).
- v. The *Davis* standard has been applied to cases alleging the violation of federal antidiscrimination laws under various statutes, including Title IX, Title VI, and Section 504 and Title II of the ADA. See *Doe v. Rutherford Co.*, 2014 WL 4080163 (M.D. Tenn. 2014) (suit alleging hazing in violation of Title IX); *Estate of Lance v. Lewisville Indep. Sch. Dist.*, 743 F.3d 982 (5 Cir. 2014) (suit alleging bullying in violation of Section 504).
- vii. *Doe v. Board. of Educ. of Prince George's Co.*, 982 F.Supp. 2d 641 (D. Ma. 2013).

Facts

Plaintiffs in *Doe* asserted a student-on-student sexual harassment claim under Title IX on behalf of their son, J.D., whom they claim was sexually harassed and assaulted by another student ("Classmate"). Plaintiffs alleged that Classmate started to sexually harass J.D. in the fall of 2008, when Classmate allegedly called J.D. gay at least once. In October 2008, J.D. told the Vice Principal Kathleen Schwab that "someone had said something to him in the bathroom that was of a sexual nature." Schwab responded by telling J.D. that the students were supposed to respect each other and instructing him to immediately inform his teacher of any further such incidents. She also states informed J.D.'s mother of her conversation with J.D.

In December 2008, in the classroom library, Classmate allegedly exposed himself to J.D. Plaintiffs did not inform Schwab of this incident until late January 2009. In response, Schwab documented J.D.'s complaint in a contemporaneous log and reported it to then-school Principal Suzanne Johnson. Subsequently, at Johnson's orders, the classroom teacher rearranged her class so that J.D. and Classmate were as far away from each other as possible and that she could better observe them.

Approximately nine months later, on December 7, 2009, J.D. reported that Classmate had run into the bathroom partly nude and had tried to climb into J.D.'s stall a few

days earlier. In response, the school district interviewed two or three male students, all of whom apparently stated that they did not see J.D. and Classmate together in the bathroom at the time in question. J.D.'s father and a security officer watched video surveillance footage of the bathroom's entrance and found no conclusive proof that J.D. and Classmate were in the bathroom at the same time. Nevertheless, the school district implemented a sign-in/sign-out procedure intended to ensure that J.D. and Classmate would not use the bathroom at the same time. The school district also provided J.D. with a student escort to the bathroom. Shortly thereafter, J.D. refused to use the escort service, allegedly because other students teased him about it. After the bathroom stall incident, the record does not reflect that Plaintiffs reported any more incidents of sexual harassment to the school district.

The final instance of alleged sexual harassment became known in June 2010 when police responded to a report that Classmate had sexually assaulted J.D. Specifically, J.D. reported that Classmate "would corner him in either the library or bathroom at the school and force either oral or anal sex on him." J.D. conceded that he failed to inform school officials of these alleged sexual assaults. Likewise, J.D. admitted that he failed to tell his parents about these incidents.

The Prince George's County Police Department investigated Plaintiffs' report. A doctor performed a sexual assault exam on J.D. and found no signs of injury. In July 2010, police interviewed Classmate, who alleged that he and J.D. participated in three sexual encounters. Police interviewed J.D. in the same month and noted "several inconsistencies" in J.D.'s statements. Eventually, J.D. stated that his sexual acts with Classmate were "consensual." The police closed the case as "unfounded." J.D. later testified that the acts were not consensual, and that he lied to the police out of nervousness, embarrassment, or confusion. Plaintiffs asserted that the school's alleged failure to protect J.D. from Classmate's conduct harmed J.D., in that he experienced a recurrence of encopresis and was diagnosed with post-traumatic stress disorder (PTSD) as a result of the harassment. Plaintiffs further alleged that J.D.'s fear of returning to school was so severe that it compelled them to withdraw him from the district after fifth grade.

District Court's Analysis

Following discovery, school defendants filed for summary judgment. Applying the *Davis* standard, the court found

that a reasonable juror could conclude that Classmate's conduct stemmed from sexual desire. The court was not certain that a reasonable juror could conclude Classmate's conduct was sufficiently severe and pervasive to have a concrete negative effect on J.D.'s participation in a school program or activity, but it did not need to definitively decide this question because Plaintiffs did not establish a basis for institutional liability. The Court found that defendants' responses to the known incidents of harassment by Classmate were reasonable, and that they could not have acted in a clearly unreasonable manner in regard to unknown incidents. Because they lacked actual knowledge of the latter incidents, they had no duty to respond.

Plaintiffs argued that defendants displayed deliberate indifference by failing to transfer Classmate into a different classroom from J.D. The court was not persuaded, reasoning that transferring Classmate to another classroom would not necessarily have prevented the bathroom incidents and J.D. did not testify that any assaults took place in the classroom. The court also stated that such an argument called on it to micromanage defendants, when "*Davis* makes clear, however, that Title IX plaintiffs lack the 'right to make particular remedial demands.'" *Doe*, 982 F.Supp.2d at 657 (quoting *Davis*, 526 U.S. at 648).

The District Court granted defendants' summary judgment motion.

Fourth Circuit Appeal

Plaintiffs appealed to the Fourth Circuit, essentially requesting that the *Davis* standard be expanded, citing OCR's October 26, 2010 Dear Colleague Letter regarding harassment and bullying. The National School Boards Association and Maryland Association of School Boards filed an amicus brief supporting defendants' and urging the court not to expand *Davis*. Oral arguments are scheduled for December 10, 2014.

b. Constitutional Claims

i. Fourteenth Amendment – Substantive Due Process

- a) "A due process violation exists where governmental action has been arbitrary, conscience-shocking, or oppressive in a constitutional sense, not just incorrect or ill-advised." *Scruggs v. Meriden Bd. of Educ.*, 2007 WL 2318851 (D. Conn. 2007).

- b) Generally, the state has no affirmative duty to protect a citizen's life, liberty or property from deprivations by private actors. A failure to protect an individual from private injury does not violate that individual's substantive due process rights. Waubanascum v. Shawano County, 416 F.3d 658 (7th Cir. 2005).
- c) A limited exception – the “state danger exception”—exists where the state itself has created or increased the danger to an individual. Courts, however, will limit this exception to special relationships where the state has control over the victim (e.g. prisoners or individuals committed to state mental institutions).

The state danger exception does not apply to students attending public schools. J.O. v. Alton Cmty. Unit Sch. Dist. 11, 909 F.2d 267 (7th Cir.1990).

More importantly, in the context of school bullying and harassment, courts have held that schools have no duty under the Due Process Clause to protect students from assaults by other students, even where the school knew or should have known of the danger presented. Scruggs, 2007 WL 2318851 at 12 (quoting Santucci v. Newark Valley Sch. Dist., 2005 WL 2739104 at 3 (N.D.N.Y. 2005)).

ii. Fourteenth Amendment – Equal Protection

- a) The Equal Protection Clause requires all similarly situated persons to be treated alike, and its guarantees concern classifications.
- b) To establish liability under the Equal Protection Clause, a plaintiff must show that the school district acted with a nefarious discriminatory purpose and discriminated against him/her based on membership in a definable class. Werth v. Bd. of Directors of Public Schs. Of City of Milwaukee, 472 F.Supp.2d 1113 (E.D. Wis. 2007).
- c) Though a plaintiff may constitute a “class of one,” the plaintiff would need to show that he/she was intentionally treated differently from others who were similarly situated and that there is no rational basis for the difference in treatment. Werth at 1122.

In other words, the claimant needs to show that he or she was singled out.

iii. First Amendment – Retaliation

- a) In *Wolfe v. Fayetteville School District*, 600 F.Supp.2d 1011 (W.D. Ark. 2009), a student asserted that the school violated his First Amendment rights by retaliating against him when he complained of bullying.
- b) In order to assert a First Amendment retaliation claim in the student speech context, the complainant must show that:
- He was engaged in a constitutionally protected activity;
 - The school district's actions would chill a person of ordinary resolve from continuing to engage in the protected activity; and
 - The protected activity was a substantial or motivating factor in the school district's conduct.

Wolfe at 1021 (quoting *Pinard v. Clatskanie Sch. Dist.* 6J, 467 F.3d 755, 770 (9th Cir. 2006)).

- c) Although the court in *Wolfe* stated that “mere inaction” by a school district cannot form the basis of a First Amendment retaliation claim, it found that affirmative acts of retaliation could. The student was permitted to go forward with his First Amendment retaliation claim because he alleged that a school district official told him not to “cry like a little baby” in front of the harassing student.

2. State Claims

a. Violation of Student Confidentiality

- i. In *Albers v. Breen*, 346 Ill.App.3d 799 (4th Dist. 2004), parents sued a school district and its special education cooperative alleging violation of the *Mental Health and Developmental Disabilities Confidentiality Act* (“MHDDCA”), 740 ILCS 110/1 *et seq.*, because the cooperative's social worker told a principal the names of students who had been bullying Albers. The principal, in turn, revealed Albers' complaint to the bullies. Parents alleged that because of these disclosures, Albers suffered

emotional distress warranting private counseling and causing Albers to attend a different school the next year.

Both the trial and appellate courts found the social worker was protected by Section 11 of the MHDDCA, which permits disclosures when a therapist, in his or her own discretion, determines disclosure is necessary to protect an individual against a clear, imminent risk of serious physical or mental injury or disease or death.

The courts also found the principal immune from suit based upon Section 2-201 of the *Local Governmental and Governmental Employees Tort Immunity Act* ("Tort Immunity Act," 745 ILCS 10/2-201) because his decision regarding how to handle the bullying allegation was a discretionary policy decision.

b. Negligence

i. Even though Illinois school districts are protected from negligence suits by the *Tort Immunity Act*, parents and victims continue to bring suits alleging willful and wanton misconduct.

ii. In *Hascall v. Williams*, 996 N.E.2d 1168 (4 Dist. 2013), the parent sued the school district on behalf of her daughter, C.H., alleging the district failed to appropriately respond to peer bullying. The district moved to dismiss Hascall's complaint under Section 2-615 of the Code of Civil Procedure for failure to state a cause of action, and under Section 2-619 based upon immunity granted by Sections 2-201 and 2-201 of the *Tort Immunity Act*. The trial court granted the district's motion to dismiss with prejudice.

On appeal, Hascall claimed that the school district's responses were ministerial acts to which immunity did not attach. The Appellate Court rejected this claim, finding the acts or omissions of which plaintiffs complained to be discretionary acts and policy determinations, not ministerial. Public policy decisions are "those that require the governmental entity or employee to balance competing interests and to make a judgment call as to what solutions will best serve each of those interests." *Hascall*, 996 N.E.2d at 1175, (quoting *Harrison v. Hardin Co. Comm. Unit Sch. Dist. No. 1*, 197 Ill.2d 466, 472 (2001)).

The Court reviewed the *Illinois School Code's* bullying policy requirements and the bullying policy the school district had adopted in compliance with the statute. The Court found that "although the policy imposes general duties on the superintendent, or his designee, in the

development and maintenance of a program, the policy does not mandate a particular response to a specific set of circumstances. The determination of whether bullying has occurred and the appropriate consequences and remedial action are discretionary acts under these facts.” *Hascall*, 996 N.E.2d at 1176.

Hascall also argued that Section 24–24 of the *Illinois School Code* trumps Section 2–201 of the *Tort Immunity Act* and, consequently, the school district was not immune from a claim alleging willful and wanton misconduct. The court disagreed, finding that Section 2–201 absolutely immunizes what the conduct which plaintiffs alleged to be willful and wanton, and affirmed the trial court’s judgment.

- iii. In *Malinski v. Grayslake*, 2014 IL App. (2d) 130685 (2 Dist. 2014), the plaintiff student sued the school district claiming it had willfully and wantonly failed to provide a safe environment from bullying, proximately causing him physical and mental injuries.

Citing *Albers v. Breen* and *Hascall v. Williams*, the Illinois Appellate Court held that the school district’s handling of the bullying fell within the realm of discretionary action. Thus, the school district was entitled to immunity under Section 2–201 of the *Tort Immunity Act*.

Though not at issue on appeal, school district had also successfully argued in the trial court that Section 3–108(b) of the *Tort Immunity Act* immunized its alleged failure to properly supervise Malinski’s interactions with other students.

- vi. See also *Eilenfeldt v. United C.U.S.D. #304*, 2014 WL 1228521 (C.D. Ill. 2014), which relied upon *Hascall* and the *Tort Immunity Act* to dismiss Plaintiff’s tort claims.

- c. Non-Compliance with the *Illinois School Code*

There is no cause of action pursuant to the *Illinois School Code*, but parents and victims may still allege failure to uphold its provisions in a lawsuit (as did the plaintiff in *Hascall*).

D. Bullying Prevention Resources and Strategies

- 1. Schools need to assess bullying, and may do so by:
 - a. Forming a bullying prevention committee;

- b. Administering an anonymous questionnaire to students to assess the nature, frequency and location of bullying;
 - c. Meeting with staff members to determine how they perceive the school climate and whether they are making any current efforts to prevent or address bullying;
 - d. Soliciting parent feedback (e.g. through surveys or meetings); and
 - d. Reviewing data regarding incidents of past misconduct.
2. Learn about effective bullying prevention programs. Resources include:
- Boston Public Schools' *Embedding Bullying Prevention in Core Curriculum: A Teacher's Guide K-12*, available online at www.bostonpublicschools.org
 - The National Center on Safe Supportive Learning Environments (NCSSE), online at <http://safesupportivelearning.ed.gov>, which is funded by the U.S. Department of Education's Office of Safe and Healthy Students to address issues affecting conditions for learning, including bullying and harassment.
 - www.stopbullying.gov - A federal government website managed by the U.S. Department of Health and Human Services that provides information from various government agencies on what bullying is, what cyberbullying is, who is at risk, and how to prevent and respond to bullying.
3. Provide in-service training to school staff so they can identify bullying behavior, learn what to do when they observe or hear about it and how they can help students who are bullied.
4. Coordinate with school resource officers and staff to ensure they monitor areas where bullying can be expected (such as isolated hallways, bathrooms, locker rooms).
5. When bullying is reported, schools should:
- a. Respond immediately;
 - b. Investigate thoroughly;
 - c. Ensure that the parents of all involved students are notified in a timely manner;
 - d. Make a written record;
 - e. Impose reasonable sanctions;

- f. If necessary, refer students involved in bullying incidents to the school's counselor, social worker or school psychologist; and
 - g. Follow up with students/staff/parents:
 - i. Did the disciplinary or alternative measures correct the bully's behaviors?
 - ii. Is the victim still being bullied?
 - iii. Are the victim and/or witnesses being retaliated against?
 - iv. Is there a pattern of harassment occurring in addition to the individual bully and victim incident(s) addressed by the school?
 - v. Upon reflection, are there better ways to deal with such incidents?
6. Consider alternatives or supplements to standard discipline.
- a. According to a 2009 guide for Illinois schools published by the Illinois Criminal Justice Information Authority, restorative justice is "a philosophy based on a set of principles that guide the response to conflict and harm". Restorative justice's three main goals are:
 - i. Accountability;
 - ii. Community safety; and
 - iii. Competency development.

See "Implementing Restorative Justice: A Guide for Schools", available at <http://www.icjia.state.il.us/public/pdf/BARJ/SCHOOL%20BARJ%20GUIDEBOOOK.pdf>
 - b. In addition, the Illinois School Bullying Task Force favors restorative justice/discipline, stating in its report that "discipline should include comprehensive efforts to help students learn alternative ways to handle conflict and relational aggression and the ability to practice those behaviors until fluency is gained."

See pages 23-24 of the March 1, 2011 School Bullying Task Force Report, available at: www.isbe.net/SBPTF/pdf/sbptf_report_030111.pdf
 - b. Restorative justice/discipline responses may include educational and/or behavioral consequences, and often bring affected parties together to resolve conflict through tools such as peacemaking circles, mediation, conferencing and peer juries.

7. If one response measure does not work in a particular situation, do not continue to use it. Instead, try an alternative measure.