

Law Paper Class

There are many pressing issues besetting the educational field. However, the educational setting is one of the most important sectors that must be attended and focused, not only by those who are directly involved in education such as teachers, students and school administrators, but also by policy-makers, government authorities and other stakeholders due to the importance of education in the society. Throughout the U.S. educational establishments one of the most controversial and disturbing problems is bullying. Some scholars point to the fact that it is normal for teenagers to try being the part of the group and being considered as 'cool' or 'popular'. Those who do not fit in are usually bullied. It would be not correct to claim that bullying ends up in school, though in the educational institutions this problem usually has massive impact due to the age of individuals involved.

I am the part of the school where bullying and compulsory education are biggest problems. There are several examples when bullying gained massive forms. A vivid example illustrating the point had happened to one of the 8th grade students. In the eyes of his peers the boy lacked masculinity and manly features. It is a common situation among the teenagers to notice differences among the others and trying to eliminate such child from the group. The boy was usually picked up on being called a 'fag' or 'homo'. Being intimidated for a prolonged time, he had to leave the school. One of the biggest problems here is absence of reaction from the principle or any other educator involved to address the issue. This particular example and many more others happening across the country emphasize the problem of mistreatment of the issue by the administration of the educational establishments. To illustrate the issue better and to give proper recommendations, it is crucial to determine the roots of the problem. At the other side is compulsory education that has both its advocates and opponents, though its negative influence on children and development of a personality is targeted by many researchers.

Definition of bullying

Bullying has a deep and compelling social, emotional, and educational impact. Lhazarus & Phol (2010) define bullying as a condition when "a student is exposed repeatedly and over time to negative actions on the part of one or more persons" (p. 1). According to this definition, there are four essential elements of bullying, to wit: "1) there is an imbalance of power (physical, intellectual, or emotional); 2) the action is repeated over time; 3) the action is intentional – that is, the bully is trying to hurt or intimidate the targeted victim, and 4) there is an unequal display of emotion – that is, the bully experiences a positive emotion while the victim experiences emotional distress" (Lhazarus & Phol, 1993).

There are different ways to commit bullying. Some of those known acts of bullying include "assault, tripping, intimidation, rumor-spreading and isolation, demands for money, destruction of property, theft of valued possessions, destruction of another's work and name-calling" (Sampson, 2002, p. 2-3). In the United States, there are other recognized forms of bullying, some of which are even considered illegal under the law like sexual harassment (e.g. repeated exhibitionism, voyeurism, sexual propositioning and sexual abuse involving unwanted physical contact), ostracism based on the perceived sexual orientation and hazing. The example in my school reveals that the laws banning ostracism based on sexual orientation can be involved in this matter.

Legislation and policy issues on bullying

Bullying has been in the limelight for the enactment of school legislations and policies. In fact, bullying has been regarded as an extremely serious concern and often-neglected issue facing youths and local school administration (Swearer, Limber, & Alley, 2009). In the United States, government and legislators within the state level has become more aggressive in addressing the issues on bullying. As part of their efforts to combat or reduce the negative impacts of bullying, there are numerous policies, strategies and local legislation enacted in recognition of the severity of the issue. The U.S. Department of Education commissioned Stuart-Cassel et al. (2011) for the conduct of analysis of the school bullying laws and policies enforced within the different states of the country. According to a research conducted by Stuart-Cassel et al. (2011), it found out that "forty-six states have bullying laws and 45 of those laws direct school districts to adopt bullying policies, however, three of the 46 states prohibit bullying without defining the behavior that is prohibited." Moreover, it also emphasized that "thirty-six states include provisions in their education codes prohibiting cyber-bullying or bullying using electronic media and thirteen states specify that schools have jurisdiction over off-campus behavior if it creates a hostile school environment" (ibid). Additionally, it stated that "forty-one states have created model bullying policies, 12 of which were not mandated to do so under law. Three other states, including Hawaii, Montana, and Michigan, also developed model policies in the absence of state bullying legislation" (ibid).

State statutes are the greatest source of legislative power for the educators aimed to target bullying in the educational establishments. New Jersey is the state where the problems of bullying are addressed with the biggest concern. Harassment, intimidation, and bullying (HIB) are united into one concept aiming to target these issues in schools. The state provides regulatory, statutory, policy and program to prevent and address HIB in the educational establishments. New Jersey Anti-Bullying Bill of Rights Act created in 2011 aims to target "an act concerning harassment, intimidation, and bullying in the public schools" (Anti-Bullying Bill of Rights Act, 2011). It is an amendment to the

Act created in 2002 that changes the reasons for bullying. The alterations made on 2011 claimed that the bill protects all students despite the reason for bullying. The Act involves fiscal responsibility for the episodes of bullying and it also encourages the principals and the administration of schools to report the episodes of bullying and to address them more effectively. Part of the amendment represented in 2011 was Anti-Bullying Task Force providing the guidance to address the issue of bullying and presenting the recommendations to use certain means in addressing the issues. In addition, New Jersey has the Guidance for educator preparation programs on HIB where the teachers are engaged into training of how to reveal and target the problem of bullying. "Foundational research on HIB contributing factors and prevention strategies, including social-emotional learning, peer interaction, ecological issues, differentiated interventions, and individual characteristics related to bullying" (Guidance for educator preparation programs on HIB, 2011). The state has made a great effort trying to safeguard those who are bullied, though it did not help the boy who had to leave the school in cause of the bullying. The main reason for this is absence of reaction of the principal and the administration of the school.

The challenges posed by the issue is certainly difficult and definitely requires the joint and cooperative effort of all the stakeholders, especially the parents and school administrators, if bullying is sought to be avoided. There are many ways by which bullying maybe addressed within the school setting. One way of addressing bullying is through strengthening the educational system which will divert the focus of the students to the learning process instead of devoting their time to some other unworthy activities such as bullying. To do this, schools may implement challenging academics and extra-curricular activities focusing more on school-related activities and in addition having "understanding teachers and coaches and a focus on future help keep the victimized children engaged in their education" (Bausell, 2011). In this manner, encouraging and engaging the students to attend and participate in the school activities will surely mitigate the negative consequences that a victim may feel or suffer.

Seeley et al. (2011) have an opinion that "when schools provide a safe learning environment in which adults model positive behavior, they can mitigate the negative effects of bullying" (p. 1). Hence, as can be gleaned from these findings, it is very important that school provides a mechanism wherein students will be encouraged to devote their time to learning, thereby focusing their effort to students' welfare and engagement in school activities so that bullying can no longer have a place in the school and victims may be able to cope up and deal with the consequences of bullying.

Taking into account the fact that New Jersey state has a strong legal background to target the bullying, the main question remains why the principal decided not to interfere. It could have happened for many reasons, though one of them is the fact that the boy had put himself in trouble in various occasions. It seems like the principals so as the school administration tends to omit the problem if the victim is not perceived as a 'good child'. Such attitude often accumulates the incorrect pedagogical approach escalating the problem to its maximum. In this example, the principle had to do several steps in order to address the problem. Next segment of the current research will view several scenarios involving the current example.

Ways of targeting the problem of bullying

Before analyzing the current example I have to admit that one of the most common problems of bullying in the school where I am attending is thru verbal bullying. Verbal bullying happens when the student-victim suffers or is subjected to verbal attacks, including insulting words, invectives and other threats of different kinds.

If I were the principal in the school, I will certainly focus on creating activities and programs that will seek to eliminate cases of bullying in school because of its negative effects, not only to the students-victim but also it may tarnish the reputation of a school for failure to act on bullying incidents in the school. But in order to respond quickly to the case at hand and prevent the further dropping-out of the student-victim in the example given above, if I were the principal, I will also immediately intervene and require any person, including the supervising teachers and the classmates to report to me directly any incidents of bullying so that immediate action may be taken. In the event that prompt report has been received by the principal, I will call the attention of both the student-victim as well as the bullies to report to the office for the conduct of the proper counseling to the parties. If I shall determine after the initial interview that there is the need to call for the parents of those involved, I will certainly summon them. In this manner, the issue of bullying is properly and promptly addressed by the office. This is the short-term goal and obligation of the principal, which is to provide the necessary actions as soon as cases of bullying arose within the school setting.

It is also possible to involve the New Jersey legislature to target the bullies and their families. As the Anti-Bullying Bill of Rights Act involved fiscal punishment and the ability to exclude the bullies from school on certain term, the principle can pursue this strategy. At first, the bullies have to be detected and their families are informed. After that the principle and the parents of the victim can use New Jersey Anti-Bullying Act to address the issue more effectively. Anti-Bullying Task Force can be involved into the situation for creating an effective strategy of addressing the current problem and eliminating the possible scenarios in future.

Educational Issues: Compulsory Education

Compulsory education has been observed in many jurisdictions in the world because of its perceived positive outcomes. In the United States, the policy about compulsory education has its historical roots. With the persistent problems of school drop-outs for American students, the requirement for compulsory education has been highly recommended policy. The law on compulsory education generally provides for a compelling power to the state to compel children between specific ages to attend school which can be enforced thru different ways, such as: “1) by criminal prosecution of parents for child neglect; 2) by judicially ordering children to return to school; 3) by court removal of a child from a parent’s custody; and 4) by placing truants in custodial schools” (Lunenburg F., 2011). In fact, the policy on compulsory education has resulted into various litigations, both within the federal and state level. There are those who questioned the legality of the policy, however, the courts have always affirmed the legality of compulsory attendance laws on the basis of the doctrine of *parens patriae*, or the authority given to the state to protect the welfare of the people. *Parens patriae* is a doctrine wherein a government or state is given the full power and authority to “to protect, care for, and control citizens who cannot take care of themselves” (Clark N., 2000, p.381-382).

At the same time, the compulsory education has a great number of opponents. According to some researchers, compulsory education kills the personality within a child. Gray (2009) state that compulsory education foster shame, interferes with development of cooperation and personal responsibility, connects the process of learning with fear, destructs diversity of skills, and prohibits a critical thinking. From the one side, compulsory education has its advantages, though from another point of view, standardization of education omits the importance of personality and original point of view towards the world. In the other words, creativity resting within a child can be easily suppressed by the standards of the compulsory education.

Legislation and policy issues on compulsory education

Whitehurst & Whitfield (2012) observed that “according to the National Association of Secondary School Principals, 13 states were considering legislation to raise the compulsory school attendance age to 18 in 2010. Passing such legislation is hardly automatic.” (p. 1). As early as the case of *Pierce v. Society of Sisters* (1925), the United States Supreme Court affirmed the mandate of compulsory school attendance. The Court also established the role of parochial and private schools in satisfying the state’s requirement that children receive schooling (Lunenburg, 2011). In essence, this landmark Supreme Court decision affirmed that “parents do not have the right to determine whether their children are educated, but they do have the right to determine where such education takes place” (ibid, p. 2). Since then, the government, both at the federal and the state level, continues to explore mechanisms and policies in order to ensure carrying out the desired outcomes of compulsory education.

In order to have the compelling power, violations of compulsory education were subjected to not only civil but as well as criminal penalties. A student who willfully refuses to attend school is truant and may be subject to a truancy petition (*Matter of Welfare of B.A.B.*, 1998). The objectives of the imposition of the civil and criminal liabilities on the violators, including parents, etc., are geared towards the successful implementation of the compulsory attendance laws. Notwithstanding however, there are opposing views still emerging regarding the propriety of compelling parents and citizens to abide by the provisions of the compulsory education. Accordingly, regardless of the presence or absence of the law, it does not cure educational problems such as drop-outs, poor quality of education, nor does it increase the number of graduates.

New Jersey statute Title 18A Education requires “Every parent, guardian or other person having custody and control of a child between the ages of six and 16 years shall cause such child regularly to attend the public schools of the district or a day school in which there is given instruction equivalent to that provided in the public schools for children of similar grades and attainments or to receive equivalent instruction elsewhere than at school” (N.J.S.A. 18A:38-25). Under this law all children from six to sixteen are required to attend educational establishments on regular basis.

The effects of compulsory education

Many educational research and studies have been conducted to determine whether compulsory education delivers the perceived positive outcomes benefiting the educational system. Accordingly, there is evidence that can prove that compulsory schooling laws are effective in compelling, albeit small proportions only, a group of students to remain in school until they attain the legal drop-out age (Angrist & Krueger, 1991). Of course, if indeed legislation of pushing compulsory education to 18 years of age will be passed it will further increase the number of students because it will cover an additional population.

Compulsory education however, poses both positive as well as negative consequences. One of the perceived outcomes of compulsory education is to reduce large numbers of drop-outs in schools. In the study of Mackey & Duncan (2013), it was revealed that “seeking to reduce student dropouts, truancy, and disciplinary actions, some states have raised the compulsory school attendance age. But there is insufficient evidence to build a case for or against doing so.” (p. 3). As the laws of the state require all citizens to be educated respectively, the principle cannot go against the laws, though some things can be done to improve the situation. At first, it is possible to create positive atmosphere in the school involving different approach to the education and new techniques that base not on the oppression, but on

promotion of motivation among the students. There are a lot of innovative techniques that can be used by the educators to improve the process of learning, like using various information and communication technologies or the form of discussion of interesting facts with the class, etc.

Conclusion

As time changes, there are many issues that go along with it. In the educational field, and more particularly in our school, the most persistent problems are those dealing with bullying and compulsory education. As it was indicated, the main problem with bullying is not in the absence of preventive measures, but in inability of using them. In the case of my school, the principle simply closed his eyes on the problem letting the victim-student go away. It shows lack of competence and inability to for problem-solving among the present administration of the school. There are a lot of methods of target the problem in New Jersey as the state has powerful legislature and several programs targeting bullying. Compulsory education is also one pressing concern, especially in the American setting, where recognition of the individual's rights and freedom is greatly cherished and treasured. Compulsory education, though, affects the youth and the welfare of the state, may have both positive and negative outcomes. As such, the state should continue to address the problems taking into consideration other factors that will positively address the concerns in the educational setting.

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