An interpretive policy analysis of bullying law and the development of bullying policy in a central Florida school district

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An Interpretive Policy Analysis of Bullying Law and the Development of Bullying Policy
in a Central Florida School District

by

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A dissertation submitted in partial fulfillment of the requirements for the degree of
Doctor of Education
Department of Educational Leadership
College of Education
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Dedication

This dissertation is dedicated to my family; thank you for standing by me throughout this journey. To my wife, thank you for pushing me to earn this degree, something we had talked about for a long time. To my kids, thank you for supporting me as I spent many evenings typing away at my desk. Without the three of you, I would not have been able to complete this degree. I love you all very much! You are the inspiration behind my greatest works!
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A Study of Bullying Law and the Development of Bullying Policy in a Central Florida School District

Scott D. Richman

ABSTRACT

Bullying has been an issue in schools and became a major concern for school leaders over the past two decades. Olweus (1993) defined three characteristics of bullying behavior: intent to harm another, repeated offenses, and a perceived or real power imbalance. This study examined the law’s provisions concerning bullying in schools; specifically examining the Florida Jeffrey Johnston Stand Up for All Student Act (2008), and the required policy implemented in Hillsborough County Public Schools (HCPS). Discourse theory framed the study, as defined by Habermas (1996) and the derivative Interpretive Policy Analysis was used to analyze the district policy, as defined by Yanow (2000). The study utilized four research questions to examine bullying law and policy: what constitutional, statutory, and case law said about bullying; bullying policies in literature; development of bullying policy and how closely it matched law. Constitutional law laid the foundation of the school system. Statutory law provided more details and at the state level, defined requirements concerning bullying. Bullying laws existed in 44 states, the majority addressing one or more of Olweus’ components. HCPS developed its
bullying policy in the fall, 2008, closely following requirements of Florida bullying law. The district had a student conduct policy prior to new requirements and a violence prevention committee (VPC) met monthly. The VPC formed a smaller committee including administrators, teachers, parents, students, and law enforcement members, to develop the policy. The committee examined each component of the state model policy, and either used the item verbatim or added additional information specific to HCPS. The district exceeded state requirements for some items such as extending the definition of bullying to include employees and visitors. Overall, bullying laws were designed to protect students from harmful behaviors. The district policy was designed to achieve this task; however, it was also seen as a means to avoid lawsuits and to protect the district’s interests. Implications included the need to update laws/policies continually to reflect the current times, such as new technologies, and the interpretation of laws and eventual implementation in schools. In addition, the interpretive policy analysis process used in this study could be applied to other studies examining the policy development process.
Chapter 1 - Introduction

The public education system serves as the foundation of the Information Age; therefore, the public schools provide quality education to all students in a safe, caring, and orderly environment. The development of this environment is a key aspect of the responsibilities of teachers and administrators; students have difficulty learning in an environment where they do not feel safe. A major issue surrounding the safety of students is the prevalence of bullying. Florida Statute 1006.147 (3)(a) defines bullying as “systematically and chronically inflicting physical hurt or psychological distress on one or more students.” In 1994, Batsche and Knoff conducted one of the first empirical studies on bullying, and reported that twenty percent of all students had been bullied at sometime during their schooling. Recent high-profile incidents of school violence related to bullying have brought this issue into the public forefront. Bullying has also become a major political topic that caused state legislatures to enact anti-bullying legislation, those requiring school districts to implement policies to prevent and manage bullying behavior (Stein, 2007).

The process of bullying includes behaviors in which one student causes another student to feel inferior. Bullying occurs in all grade levels and it is possible that students experience this behavior either as the bully, victim, or a witness (Boyle, 2005). Educators and researchers describe three main types of bullying: physical, psychological and
cyberbullying. As the names imply, most bullying causes either physical or psychological harm to the victim (Aluede, 2008). The harm caused by bullying incidents has an effect on the overall functioning of the classroom and school. These incidents disrupt the normal functioning of the classroom and impact all students, even those that are not directly involved.

The prevalence of bullying behavior and its impact on schools is not easily measured. Bullying among school age children is not a new concern for educators and parents; Greene (2007) reported that this issue had been prevalent in England and Greece for centuries. The visibility of the media and the World Wide Web made the bullying issue prominent, spreading the news of major incidents across the globe in a matter of minutes (Flynt, 2004). This had been true of recent school shootings attributed to bullying such as Columbine (1999) and Virginia Tech (2007). Chapter 2 addresses these incidents.

States and school districts utilized different types of laws when developing and implementing anti-bullying policies, including procedures for constitutional, statutory, administrative/regulation and case law (Permutth, 2006). Each type of law presented a unique set of guidelines for educators to follow, beginning with the basic rights set forth by the United States Constitution. In this study, the researcher interpreted the impact each of these types of laws had on bullying and the requirements for schools. For example, the statutory laws of Florida guided districts to develop policies and procedures. Case law provided districts with guidelines for how to interpret the state laws and their own
policies. The courts ruled that school districts had to provide students with a safe environment for learning; Chapters 2 and 4 address these issues.

In 2008, Florida joined other states by enacting legislation to prevent and handle bullying behavior in schools. Florida Statute 1006.147, Bullying and Harassment Prohibited, required all districts to implement bullying policies and procedures by December 1, 2008 (FLDOE, 2009). As a result, bullying became a zero tolerance offense; however, prevention of bullying required a multi-faceted approach and involved teachers, administrators, parents, the community and students. Another issue associated with these policies involved how individual schools identified specific behaviors. Despite the policies implemented, numerous schools still determined which behaviors constituted bullying and violence. In some instances, incidents could have been underemphasized with the intention of improving the image of the school. It is important to note that while the Florida bullying law provided protection for both students and public school employees, the focus of this study was on student bullying prevention laws and policies.

Measuring the impact of bullying on schools required the examination and correlation of discipline data with the time on task in the classroom; it also was measured with student test scores. Although this aspect was not the focus of this study, it remained crucial to recognize the impact bullying had on student learning. Students engaged in bullying behavior, either in the hallways or the classroom, tended to be more distracted during instruction; thus, they often learned less. These incidents caused the victims to insulate themselves from further torment, also reducing their ability to learn (Aluede,
2008; Scarpaci, 2006). Ultimately, preventing bullying in schools limited this impact; therefore, this study examined the law and policy designed to do so in Florida.

*Interest in Bullying Law and Policy*

Bullying behavior presents a difficult problem for schools; the issue is extremely evident in the classroom where bullying affected the teacher’s ability to instruct students. Students, especially boys, begin the “battle” for playground supremacy in the early elementary grades, and this often silent war continues throughout high school. Girls tend to begin their bullying as a psychological process of social exclusion that often leads to the development of separate and specific cliques in high school. These behaviors, which begin in hallways, the cafeteria and on the playground, often spill over into the classroom. They definitely cause disruptions for the teacher (Greene, 2007; Harris, 2006). The classroom teacher then needs to determine the best course of action to prevent disruptions, creating a positive environment for learning.

The current research study began with a discussion with the legal council for the district that was being studied. The school board attorney was asked what the pressing issues were in current school law; he responded with “bullying.” He elaborated that the district was in the process of developing the state required bullying policy and before the end of 2008, it would be implemented. The development of bullying law and policies, and in general all laws and policies, presented a major challenge for states and school districts. They adhered to the laws and ensured safety of the students, even if these items tended to conflict. The process of interpreting the law—and developing a policy that
served the district while adhering to the requirements for the bullying law—provided an insight into how this was accomplished for other laws.

Statement of the Problem

The Federal and state governments develop laws to provide equal access for all students to a publicly funded education. School safety is a key component in the development of an environment conducive to learning. If students do not feel safe at school, they are not as focused on learning. School districts face multiple issues that threaten the safety of students such as pedophiles, domestic abuse, weapons, and bullying. School districts were somewhat sheltered from some of these threats through government actions. For example, Florida passed the Jessica Lunsford Act (2005) that required background checks on anyone who was on school grounds when students were present to include non-instructional personnel—those with no regular contact with students—and vendors. Additionally, instructional staff such as teachers and administrators, who have regular contact with students, are continually monitored under the Florida Fingerprint Law. Similarly, school districts have the ability to manage bullying behavior. Policies and procedures were implemented to help reduce the prevalence of bullying.

Bullying behavior causes major disruptions in schools and puts a strain on resources. Florida Statute 1006.147 (2) states that “bullying or harassment of any student or employee of a public K-12 educational institution is prohibited.” Formal research on the issue of bullying began in the 1970’s with Dan Olweus in Norway. The issue became more visible in the light of high profile school shootings attributed to bullying and/or
social exclusion. One key aspect of the bullying problem involved determining the overall prevalence in schools. Research estimated that 10-30% of all students were involved in bullying either as the bully, victim, or witness (Aluede, 2008; Isernhagen, 2004; Newman-Carlson, 2004; Sampson, 2002; Walton, 2005). Legislation was enacted to prevent bullying behavior in schools; the impact of these laws on districts and schools is not easily discernible.

In 2008, Florida enacted specific, but comprehensive anti-bullying legislation strictly prohibiting any type of bullying or harassment. In accordance with this legislation, Florida school districts developed policies and procedures to address bullying in all realms schools reached such as physical and virtual. These policies adhered to specific guidelines; however, each district had some leeway in the implementation process (FLDOE, 2008). The development and eventual implementation of anti-bullying policies had adverse effects on the district and its resources.

Bullying in schools presents an example of a triangulation of law, policy, and implementation to manage an issue. State and Federal Laws provide a framework for preventing and managing bullying in schools. School districts developed policies based on these laws with the goal of matching the original intent. The implementation process then attempted to put the policies into practice, again with the goal of fulfilling the intent, letter of the law, and policy writers. Embedded in the implementation process were challenges that had to be overcome such as in the 1920s issue: the Compulsory Education debate. Permuth and Mawdsley (2006) cited Pierce v. The Society of Sisters (1925), in which the Supreme Court ruled that states could require compulsory attendance but
parents had the right to choose between public and private schools. Translating the original law into practice, as done so by HCPS in 2008-2009, raised questions as to how closely the district policies matched the requirements of the both the intent and the letter of law.

Purpose of Study

As previously noted, a large number of issues affect the environment of the school and student capability in advancing academic achievement. One important area discussed above was that of bullying, with particular concern of how well a district provided policy consistent with law that enabled its students to achieve. The purpose of this study was limited. Yet it studied the standing student bullying policies of one district to describe and to assess the degree to which these policies conformed to the law.

Research Questions

In the study, the following research questions were addressed:

What did relevant constitutional, statutory and case law state about student bullying in schools?

What policies in the literature presently dealt with student bullying?

What policies did Hillsborough County Public Schools (HCPS) have in place regarding student bullying in schools and what process was used to develop them?

How closely did the student bully policies in HCPS match the intent and letter of the law, particularly in Florida?
Policy represents a broad category of statements designed to guide practice; these statements were made by both public and private entities. Permuth and Mawdsley (2006) stated that policy was “defined as a vision of where to go and guidelines for getting there” (p. 133). For example, the No Child Left Behind Act (2001) set the educational direction for the entire nation. Policy research then involved an examination of the total process of developing, implementing and monitoring of the policy. This included a study of the leadership responsible for this policy and any procedures that had been developed during the implementation process (Permuth, 2006).

The state of Florida enacted bullying legislation (Statute 1006.147 - Bullying and Harassment Prohibited) specific to students in 2008 as a means to help districts prevent bullying behavior from occurring, and also to manage such behaviors if and when they did occur. The law was specific, requiring districts to develop and to implement policies that met or exceeded specific components, ensuring the safety of the students. Chapters 2 and 4 address and analyze the components of these policies.

Theoretical Framework

This study was framed by the discourse theory that focused on an interpretive approach to using qualitative methods for examining research. Habermas (1996) stated that “Discourse theory explains the legitimacy of law by means of procedures and communicative presuppositions that, once they are legally institutionalized, ground the supposition that the processes of making and applying law lead to rational outcomes” (p. 414). The theory addressed whether the law did what it was intended to do and if it was
moral. The research in this study included three sections of bullying law: primary law, secondary law, and a district policy. Discourse theory aimed to deconstruct concepts including the texts that were reviewed and allowed the researcher to examine the law from a broader perspective, providing a more comprehensive view of the issue and how stakeholders fit into the puzzle (Frohman, 1992). This approach allowed the researcher to discover if a specific agenda existed in bullying law. One such agenda addressed the theoretical driving force behind the development of bullying legislation and policies.

Moreover, the discourse analysis framework of this study allowed the researcher to determine any shortcomings associated with the development and implementation of the district’s bullying policy. Discourse theory, as developed by Habermas (1996), focused on the legitimization of the law. According to Gray (1999), “a legal norm is ‘correct’ in the relevant sense if discourse about its legitimacy can reach consensus when carried out in ideal conditions” (p. 212). In the context of this study, legal discourse theory addressed the intent of the law, and in the case of the district, determined whether the policy was developed and implemented as stated in the law.

This study utilized an interpretive policy analysis to examine the law and district policy. The process, covered in Chapters 2 and 3, was a derivative of discourse theory. Yanow (2000) described an interpretive analysis using the example of a researcher expecting to find one item but instead found another. In practice, this involved the masses doing what the policy writers did, and not necessarily what the policy stated should have been done. Similarly, Frohman (1992) described a discourse analysis as the way objects were talked about, not necessarily written.
Significance of Study

This study was designed to examine bullying legislation and the development of a state required bullying policy in a Central Florida School District. The study provided significant research on two different, but still related fronts. First, as a policy analysis, the study focused on two key aspects: interpreting what the law said about bullying in schools and what the district did to comply with the requirements. Second, the study examined the bullying issue in schools as a driving force behind legislation and policies. Bullying served as the medium for studying the translation of law into policy in a district. This process potentially led to the “telephone game effect,” whereby the school implemented a plan that matched the legislative requirements, but was in line with the intent and letter of the law.

The first aspect of the significance of the study, interpretation of the law and district policies, used the underlying framework of the study, discourse theory. This aspect examined the intent and letter of the law, specifically, Florida’s bullying law, and determined whether it was a legitimate law. The second part examined the district policy, and determined how closely it matched the requirements of the law, both intent and letter. This part investigated whether the district had complied with the requirements in the law.

The second aspect of the significance of the study examined the medium of the study—bullying. Bullying is one of the behaviors that caused major disruptions in the classroom. This includes the overt behaviors the teacher witness, and also the covert behaviors that cause victims to insulate themselves, reducing overall engagement in learning. In this case, students had either been bullied recently or feared continued
bullying, possibly by another student in the classroom. In addition, bullies choose to intimidate their victims or misbehaved in other ways instead of paying attention to the lesson. Bullying that occurs outside the classroom has an effect on what occurred during instruction as well (Heinrichs, 2003; Limber, 2003; Orpinas, 2003). In this scenario, victims tended to underperform in the classroom because of an incident that occurred earlier in the day or on the way to class.

Student behavior continues to be an issue affecting learning in the classroom and throughout the school. How schools manage student behavior, especially bullying, influences the overall level of learning among students. Management of such behaviors begin with the administration and includes everyone associated with the education of children. Bullying behavior among students creates an environment where students do not feel safe, thus having a negative affect on their ability to learn (Heinrichs, 2003; Limber, 2003; Orpinas, 2003). While it was not part of this study, implementation of an effective plan to prevent and to manage bullying is essential to the success of the school.

**Limitations/Delimitations of the Study**

This study was designed to examine the law and district policies as they related to bullying in schools. However, limitations were inherent with the focus of the study. While bullying was not a recent phenomenon, it was a fairly new topic of legal consideration. Formal research on the topic of bullying began in the 1970’s; the legal aspect was of recent concern. Additionally, this study was focused on one state—Florida—and one district out of sixty-seven in that state; therefore, the results of this study were not necessarily applicable to all districts and states. The study examined bullying law in
general, but the focus was on Florida. The district policy analysis focused on what the target district developed, which by its nature, was limited.

Definition of Terms

Bullying—causing a person or people to feel intimidated, inferior or less able through a series of physical, verbal, or psychological attacks—included three elements: the intention of harm, repetitive behavior, and a difference in the perceived or real power of the individuals involved (Fitzpatrick, 2007; Jacobson, 2007; Limber, 2003; Olweus, 1993; Sampson, 2002).

Discourse Analysis - study of how an object or idea was used by various institutions (Frohman, 1992).

Discourse Theory of Law - theory in which law was legitimized as to whether it conformed to the “right” norms (Habermas, 1996).


Interpretive Policy Analysis - policy analysis process involving five steps that examined the artifact, interpretive community and how the community reacted internally, and to the artifact (Yanow, 2000).

Jeffery Johnston Stand Up for All Students Act - enacted in 2008 by the State of Florida and named for a student who committed suicide after being bullied; the act prohibited bullying of students or employees of public K-12 schools, and required all districts to implement a policy to prevent and address bullying (HB669, 2009).
Law - system of rules that governed a nation or any group of people; in terms of legal research, two types of law existed: primary and secondary sources. Primary sources included constitutional, statutory, administrative, case law and contract law; secondary sources included literature that interpreted and further defined law (Permuth, 2006).


Policy - included a vision of how the organization was forming, or what was to be accomplished and the method(s) for accomplishing this task (Permuth, 2006).

Policy Development - process of developing policy including five steps: initiation, definition, deliberation, enactment, and consequences (Cunningham, 1959).

**Summary**

In a master’s level school law class, the professor told the students that the law was not wise, the law was not just, the law was the law. The study of the law and how it was translated into policies in the district examined if the district had complied with the law. This included the examination of both the intent and the letter of the law. Through discourse analysis, researchers determined if the law was legitimized and did what it said it would do; this process did not address the morality of the law. District policies, particularly in the case of bullying, had to comply with the law and were examined through an interpretive policy analysis. The focus was on the expectations of the law and policy and how closely they were aligned.

Bullying behaviors among students create major issues in schools, detracting from the overall learning process. These incidents occur in the classroom and elsewhere in the
school; the effects of these behaviors carry over into and affect the instruction process. Bullying incidents have a wide range of effects, from distracting students to severe classroom disruptions. As schools attempt to increase overall student learning, managing and preventing bullying behavior becomes a major focus of teachers and administrators. However, in some high profile incidents, bullying and/or social exclusion were linked to deadly school violence. These tragedies focused the public eye on school behavior and violence, which led numerous states to enact legislation specifically targeting bullying.

Bullying in schools existed for centuries, and in the 1970s, was first studied in Scandinavia by Olweus. Through his research, he discovered that nearly fifteen percent of all students were involved in bullying (1988). The enactment of bullying legislation in Florida in 2008 required all school districts to enact bullying policies and procedures, specifically those designed to manage and prevent bullying behavior in schools. The state provided a “model” policy to assist districts in meeting the requirements set forth in the legislation. Hillsborough County Public Schools Bullying Policy was developed in the fall of 2008 as a means to control the current bullying problem, and also to prevent future incidents in schools. The focus of this study was to examine the impact of bullying legislation and case law in a large, urban school district. Knowledge of the laws assisted the development of policies and procedures to prevent and address bullying when it occurred.

Chapter 1 introduced the topic of study. Chapter 2 examines relevant literature concerning bullying in schools including legislation and policies. Chapter 3 reveals the methodology for the study and data collection. Chapter 4 lists the data and details of the
analysis. Chapter 5 discusses the significance of the data, and how bullying impacted education, and noted recommendations that developed from the results and potential future studies.
Chapter 2 - Review of Related Literature

Student safety in schools is a major concern for all educators. The National School Safety Center (1999), a partnership between the United States Departments of Justice and Education, provided students with a “quality education [that] requires safe, disciplined and peaceful schools” (para. 5). Bullying represents one safety issue that students often faced in school. Florida Statute 1006.147 (4) states that a “bullying and harassment policy shall afford all students the same protection regardless of their status under the law.” The establishment of a safe school—free from the fear of bullying, harm, harassment or other violence—allowed students to learn in a comfortable environment with the focus on the content, not safety. This was accomplished through a coordinated effort of teachers, staff, administrators, parents, and the community.

Bullying, the act of one person intimidating or being overbearing on another, had been a constant problem as long as schools existed and presented a unique issue today (Limber, 2003, Olweus, 1993). Batsche and Knoff (1994) examined school violence and found that nearly 20% of all students had been bullied, making it the most common form of school violence. Additionally, they found that students bully both their peers and teachers, as revealed in the intense coverage of high profile school violence incidents. The ability to report information almost immediately through the World Wide Web and other media, elevated this issue to a prime concern in schools (Flynt, 2004). However,
bullying was not a recent issue; it occurred in England and Greece for centuries (Greene, 2007). It had become obvious that bullying was an issue that occurred in all grade levels and in both the real and cyber realms. No one was immune to the effects of bullying; it affected students, teachers, administrators, parents, and community members. In extreme cases, bullying led to violence that altered the community forever such as the 1999 Columbine incident. These events influenced the enactment of several laws to help control and prevent incidents of bullying. Schools then implemented policies and procedures to prevent bullying and consequences for those who bullied others, which were in line with the intent and/or letter of the legislation.

Statement of the Problem

The Federal and state governments develop laws to provide equal access for all students to a publicly funded education. School safety is a key component in the development of an environment conducive to learning. If students do not feel safe at school, they are not as focused on learning. School districts face multiple issues that threaten the safety of students such as pedophiles, domestic abuse, weapons, and bullying. School districts were somewhat sheltered from some of these threats through government actions. For example, Florida passed the Jessica Lunsford Act (2005) that required background checks on anyone who was on school grounds when students were present to include non-instructional personnel—those with no regular contact with students—and vendors. Additionally, instructional staff such as teachers and administrators, who have regular contact with students, are continually monitored under the Florida Fingerprint Law. Similarly, school districts have the ability to manage
bullying behavior. Policies and procedures were implemented to help reduce the prevalence of bullying.

Bullying behavior causes major disruptions in schools and puts a strain on resources. Florida Statute 1006.147 (2) states that “bullying or harassment of any student or employee of a public K-12 educational institution is prohibited.” Formal research on the issue of bullying began in the 1970’s with Dan Olweus in Norway. The issue became more visible in the light of high profile school shootings attributed to bullying and/or social exclusion. One key aspect of the bullying problem involved determining the overall prevalence in schools. Research estimated that 10-30% of all students were involved in bullying either as the bully, victim, or witness (Aluede, 2008; Isernhagen, 2004; Newman-Carlson, 2004; Sampson, 2002; Walton, 2005). Legislation was enacted to prevent bullying behavior in schools; the impact of these laws on districts and schools is not easily discernible.

In 2008, Florida enacted specific, but comprehensive anti-bullying legislation strictly prohibiting any type of bullying or harassment. In accordance with this legislation, Florida school districts developed policies and procedures to address bullying in all realms schools reached such as physical and virtual. These policies adhered to specific guidelines; however, each district had some leeway in the implementation process (FLDOE, 2008). The development and eventual implementation of anti-bullying policies had adverse effects on the district and its resources.

Bullying in schools presents an example of a triangulation of law, policy, and implementation to manage an issue. State and Federal Laws provide a framework for
preventing and managing bullying in schools. School districts developed policies based on these laws with the goal of matching the original intent. The implementation process then attempted to put the policies into practice, again with the goal of fulfilling the intent, letter of the law, and policy writers. Embedded in the implementation process were challenges that had to be overcome such as in the 1920s issue: the Compulsory Education debate. Permuth and Mawdsley (2006) cited Pierce v. The Society of Sisters (1925), in which the Supreme Court ruled that states could require compulsory attendance but parents had the right to choose between public and private schools. Translating the original law into practice, as done so by HCPS in 2008-2009, raised questions as to how closely the district policies matched the requirements of the both the intent and the letter of law.

Purpose of Study

As previously noted, a large number of issues affect the environment of the school and student capability in advancing academic achievement. One important area discussed above was that of bullying, with particular concern of how well a district provided policy consistent with law that enabled its students to achieve. The purpose of this study was limited. Yet it studied the standing student bullying policies of one district to describe and to assess the degree to which these policies conformed to the law.

Research Questions

In the study, the following research questions were addressed:

What did relevant constitutional, statutory and case law state about student bullying in schools?
What policies in the literature presently dealt with student bullying?

What policies did Hillsborough County Public Schools (HCPS) have in place regarding student bullying in schools and what process was used to develop them?

How closely did the student bully policies in HCPS match the intent and letter of the law, particularly in Florida?

Policy

Policy represents a broad category of statements designed to guide practice; these statements were made by both public and private entities. Permuth and Mawdsley (2006) stated that policy was “defined as a vision of where to go and guidelines for getting there” (p. 133). For example, the No Child Left Behind Act (2001) set the educational direction for the entire nation. Policy research then involved an examination of the total process of developing, implementing and monitoring of the policy. This included a study of the leadership responsible for this policy and any procedures that had been developed during the implementation process (Permuth, 2006).

The state of Florida enacted bullying legislation (Statute 1006.147 - Bullying and Harassment Prohibited) specific to students in 2008 as a means to help districts prevent bullying behavior from occurring, and also to manage such behaviors if and when they did occur. The law was specific, requiring districts to develop and to implement policies that met or exceeded specific components, ensuring the safety of the students. Chapters 2 and 4 address and analyze the components of these policies.


Chapter Organization

Chapter 2 includes a review of related literature concerning bullying and the law that set forth the guidelines for managing the issue in schools. The review begins with the definition of bullying and a brief examination of the three types of bullying. The next section includes the characteristics of bullies and their victims and a summary of research on where and when bullying occurred. The next section focuses on the potential implications of bullying in the form of extreme school violence. This piece is followed by a description of the theoretical framework, discourse theory, an explanation of the interpretive policy analysis process used in this study, and the definition of the law sources. The next section includes an overview of bullying legislation in the target state and its neighbors. The last section examines the literature on bullying prevention policies, and includes a brief analysis of how closely one school district’s policies match the state’s requirements.

Definition of Bullying

The term bullying is defined in many ways based on the situation; however, there are several common descriptive aspects. According to the Merriam-Webster’s Online Dictionary (2008), the term “bullying” dated back to the seventeenth century and was defined as: “to treat abusively or affect by means of force or coercion.” This broad definition left room for open interpretation. Bullying generally includes three elements: the intention of harm, repetitive behavior, and a difference in the perceived or real power of the individuals involved (Fitzpatrick, 2007; Jacobson, 2007; Limber, 2003; Olweus, 1993; Sampson, 2002). These elements combined to form a series of repeated attacks—
physical, verbal, psychological—on the victims to cause them to feel intimidated and isolated. Even though bullying was commonly an easily identifiable incident, where one student physically or verbally intimidated another, many bullies chose to act in a more subtle fashion; this included having one of their peers pass a threatening note to the targeted victim (Limber, 2003). This type of bullying behavior was not easily identifiable and also allowed the bully to remain anonymous for a time.

In addition to defining the bullying process, an examination of the physical size and psychological ability of the bully and victim assisted in understanding the issue. Bullying did not include aggressive behavior or fighting between students of equal size or stature; instead, it occurred when there was a difference in size, strength, or other significant feature between the students. Bullying victims were generally much smaller or weaker than the aggressor and they had one or more physical characteristics that made them appear different from other students (Dake, 2003; Sampson, 2002). Size and appearance were only two factors that played a role in bullying; however, they shared a common theme that occurred in all bullying incidents. There was always a power imbalance, whether it was physical, psychological, or technological, meaning the bully was more technically knowledgeable, which was used to repeatedly cause harm to another (Heinrichs, 2003). This power imbalance changed the dynamics of the classroom and school, causing a perennial problem for teachers and administrators. Bullying prevention became a major focus for the staff and community.
Types of Bullying

Bullying occurs in numerous realms and has varying effects on students and the school. The intent of bullies was to cause harm to others different from themselves, often as a means to deal with their own problems (Aluede, 2008). This included physical harm, intimidation, emotional harm, or other means of threatening the victim. In general, bullying was easily observable, overt and physical, or more hidden, covert and psychological, all causing distress to the victim (Shariff, 2004). The Florida State Statutes defined two types of bullying, physical and psychological (Support for Learning, 2008). Smith, Cousins and Stewart (2005) referred to these two types of bullying as direct, including physical acts; and indirect, the isolation of students. Despite the terms used, these two types of bullying were prevalent in society and easily mistaken as “playing around”; however, the majority of “real world” bullying incidents were verbal rather than physical (Ditzhazy, 2003). Bullies often threatened their victims verbally, but rarely physically acted on their threats; the fear of being physically bullied was often sufficient to keep the victim silent. The third type of bullying referred to in literature as “cyberbullying,” became much more prevalent with the growth of the computer age. This type of bullying was generally defined as using any form of electronic communication (i.e. email, instant messaging, text messaging, message boards, social networks) to intimidate others and make them feel threatened or inferior (Juvonen, 2008). This bullying was directed at individuals or written about them on a forum or discussion board. Despite their inherent differences, all three forms of bullying caused the victim(s)
to feel inferior and powerless; generally, bullies took great pride in knowing they caused another to be in pain.

Physical bullying. Physical bullying, as it implied, referred to actual physical harm of a person or his or her possessions; it also included direct threats of physical harm including intimidation. This type of bullying usually occurred when one student was larger and/or stronger than another, creating an imbalance of power. Physical bullying involved hitting or shoving another student, sometimes resulting in visible harm to the victim (Fitzpatrick, 2007; Holt, 2007). Students involved in physical bullying missed school for reasons—suspension for the bully and serious injury to the victim. The fear of potential physical harm also caused students to miss school.

Physical bullying may have begun as a small, almost unnoticeable incident such as a bump or threat, but became a major problem in a school. This type of overt bullying included behaviors such as beating, kicking, shoving, and sexual touching; the behavior was easily observable, but occurred more often than educators would admit (Shariff, 2004). Students reported that they were often shoved or pushed aside in the hallways. To teachers this may have appeared as regular hallway behavior, but often students were battling for control of the corridor. Although teachers may not have recognized this behavior, they considered this to be a serious issue that affected their abilities to teach (Dake, 2003). Focusing on how to identify and prevent this type of behavior became a major concern.

All groups of students were susceptible to physical bullying in the hallways, on the playground, on the bus, and in the neighborhood. However, studies have shown that
this type of bullying was more common among boys than girls (Dake, 2003; Fitzpatrick, 2007; Holt, 2007; Olweus, 2003; Shariff, 2004). Boys tended to be more “hands on” when it came to bullying and they physically approached them to threaten and cause physical harm. This behavior was seen as open attacks on victims with the intent to physically attack (Aluede, 2008). Physical hurt inflicted on the victim included bruises or serious harm. Victims also were subject to bullying by other students who now viewed them as an easy “target.”

Psychological bullying. Psychological bullying was a broad category covering the majority of non-physical activities meant to intimidate or demoralize another person. This indirect form of bullying often included isolation from the peer group, or spreading rumors about victims that targeted their emotional health and well-being (Fitzpatrick, 2007). Instead of physically harming other students, the bully inflicted emotional distress on their victims, often causing more pain and suffering than physical bullying. In some cases, the bully remained anonymous and/or inflicted the pain through another accomplice.

Psychological bullying was covert in nature and included verbal harassment, gossip, stalking, and social exclusion. These behaviors were not always easily observable and could have occurred unnoticed for long periods of time (Shariff, 2004). The deliberate social exclusion of a student could have been mistaken as normal cliques that students form. This type of bullying also included humiliation of other students, both in isolation and in the presence of the peer groups (Aluede, 2008). This demeaning behavior served as a means to prevent students from standing up to the bully or retaliating.
Psychological bullying occurred in all grade levels and among all students. This was partially due to the fact that unlike physical bullying, psychological bullies did not necessarily have to be physically larger than their victims. In addition, psychological bullying was more often associated with girls. They were more likely to exclude students from their social groups because of differences (Fitzpatrick, 2007; Isernhagen, 2004). This indirect bullying was unprovoked and could have been equally as damaging as physical bullying (Aluede, 2008). All students were susceptible to psychological bullying due to the covert nature.

_Cyberbullying._ Cyberbullying was relatively new in the realm of bullying; however, unlike the other two major types of bullying, there appeared to be no boundaries for where it occurred. Anyone who had access to the Internet, used email, text messaging, or other form of electronic communication was a potential victim (Beale, 2007; Hummell, 2007). It included behaviors in which one student intimidated another through electronic means such as email, text messaging, message boards or “bash boards” (Beale, 2007). Cyberbullying represented a covert behavior where the perpetrator could remain anonymous but caused distress and hurt to the victim. The behaviors included threats, gossip and insults (Shariff, 2004). Due to the wide availability of the Internet, victims were susceptible to cyberbullying at all times.

Cyberbullying had more in common with psychological bullying than physical bullying. In the realm of cyberbullying, the bully did not need to be physically larger or stronger; they only needed the electronic means to intimidate their victims. This process allowed the spread of school gossip to a worldwide audience (Sampson, 2002). Websites
such as MySpace and Facebook, designed for friends to share information online, also allowed bullies to spread information quickly. However, the same technology that provided bullies access to their victims also provided victims with methods for protecting themselves from further bullying. Victims could block messages from the bully, and in the case of forums or message boards, they could report the misuse to the proper authorities (Juvonen, 2008). As with other types of victims, cyberbullying victims generally would not defend themselves and stand up to the bully.

The electronic nature of cyberbullying allowed bullies to remain anonymous, either using their own username or someone else’s name. This often allowed cyberbullies to be meaner and more demeaning than they would in a personal confrontation; they felt no accountability for their actions. The bully also did not have to see the reaction of the victim to their cruel treatment (Beale, 2007). This anonymity could actually make it easier for students to become bullies in the cyber realm. In addition, the ability for bullies to send vulgar and/or intimidating messages to others, using an alias or someone else’s email address, made the prevention of cyberbullying difficult, if not impossible (Hummell, 2007). Schools may not have been aware that students were being bullied; the effects of this carried over into the school and affected victims’ performance and well being.

Review of Literature on the Prevalence of Bullying

The prevalence of bullying in schools dated back as far as organized education; its publicity had grown over the past two decades as a result of the media’s ability to instantly report when major instances occurred. While the likeliness of serious violence in
a school was low, incidents of physical, psychological and cyber bullying in schools remained quite high. Approximately two out of five third grade students reported being the victim of bullying, and one in five reported being the perpetrator (Orpinas, 2003). In grades six through ten, nearly one in three students reported being involved in incidents of bullying either as the victim, bully, or both (Jacobson, 2007; Swearer, 2008). This was an alarming statistic that identified the severity of the issue.

Outside the United States, bullying was a recognized problem that schools addressed on a regular basis. Bullying among school age children had been studied extensively in Europe for the past four decades as compared to the recent studies in the United States over the past twenty years (Sampson, 2002). Olweus, a Norwegian researcher, was widely credited as conducting the first major studies of bullying in schools in the 1970s (Aluede, 2008; Isernhagen, 2004; Newman-Carlson, 2004; Sampson, 2002; Walton, 2005). Olweus (1988, 1993, 1994, 1996, 2003) found that bullying was common among students in Sweden and Norway. In a survey of more than 150,000 students in the two countries, approximately fifteen percent were regularly involved in bullying: either as the bully, the victim, or both.

Research in the past decade illustrated how bullying occurred and its effects on students. Scarpaci (2006) outlined four basic concepts that defined how bullying behavior occurred: 1) bullying included at least one person trying to intimidate or belittle another; 2) bullies liked to feel stronger or more powerful than others; 3) bullies enjoyed having a sense of power; and 4) used their power with the intent to hurt other people. These four concepts focused on what bullies did to their victims. The main issue was that bullying
had a direct impact on students’ perception of the school as a safe place (Sampson, 2002). Additionally, children who lived in poverty were more likely to be involved in bullying behavior, either as the bully or the victim (Dake, 2003). Before educators could prevent and deal with bullying in schools, they first had to understand characteristics of bullies and victims while discovering where and when incidents occurred.

*Characteristics of Bullies*

The process of describing bullies was complex and involved an examination of basic characteristics of students that included but was not limited to the physical/psychological development, home life, values, cognitive ability, teachers, experiences in the school, and other outside experiences. These aspects impacted growth and development and steered the child to become a bully. Bullies were generally popular students who were self-confident and made friends easily. The actual bullying behavior began when they were slighted by someone; thus, it manifested as a coping mechanism (Scarpaci, 2006). Bullies wanted the ability to control the situation and used whatever means necessary to achieve this goal.

The common description of a bully began with the physical size and psychological development of the child. Bullies tended to be more physically developed and also enjoyed being able to pick on other children (Batsche, 1994; Isernhagen, 2004; Olweus, 1988; Scarpaci, 2006). Bullies were generally much larger than their peers and often excelled at sports (Heinrichs, 2003; Olweus, 1988). Children who became bullies were more aggressive in nature and viewed fighting as the means to solve problems and gain friends. These students were more likely to cause disruptions in class and had a
negative attitude towards learning (Cole, 2006). Bullies also tended to show aggression towards adults and showed little empathy for their victims (Olweus, 1995); they were athletic children who used their strength to make others feel weak.

Children did not inherently develop into bullies; these behaviors needed to be taught and learned, a process that began in the home. Bullies tended to come from authoritarian homes where the parents often spanked or physically disciplined their children. Parents of these children were overbearing and inconsistent with the treatment of their children. In addition, children who developed into bullies were taught to hit back if someone hit them first (Batsche, 1994; Harris, 2006). This concept often caused additional issues for educators who attempted to teach students morals, and that fighting did not solve problems. Children who became bullies were often harassed at home by their parents or other family members (Scarpaci, 2006). They emulated the behaviors they personally observed most often as they matured.

The psychological and cognitive abilities of children contributed to their development into bullies. These children were generally physically strong, and most of this strength stemmed from the support of their peer group. They picked on weaker children who were less likely to resist the bullying (Aluede, 2008). Psychological strength allowed bullies to build confidence as they continued to tease other children. Bullies were often able to easily discern their victims’ vulnerabilities; therefore, they targeted specific victims (Heinrichs, 2003). This ability to determine others’ weaknesses stemmed from their psychological strength and cognitive development.
Bullies chose to intimidate and/or hurt other children for a variety of reasons. One of these reasons was that they wanted things to be their way. They threatened or physically hurt anyone who stood against them or contradicted their ideas (Heinrichs, 2003). This desire to be in control was a common characteristic of bullies; they tended to be quick-tempered and valued fighting as a means to achieve this power (Frisen, 2007). While both girls and boys bullied other children, they tended to attack their victim using different mechanisms. Male bullies tended to utilize physical means to intimidate their victims, whereas females tended to use verbal threats or social exclusion (Isernhagen, 2004; Sampson, 2002). This difference was observed in schools—boys tended to push and shove in the hallways, and girls tended to turn in the opposite direction when they wanted to exclude someone.

Bullying behavior in schools was also described using additional characteristics. Studies in Europe and Scandinavia revealed that schools with higher percentages of disadvantaged students also had higher instances of bullying behavior (Sampson, 2002). These studies showed how the neediest students were also the ones exposed to the most instances of bullying behavior. In addition to physical aggression, bullies in all types of schools exhibited other problem behaviors such as property damage, theft, classroom disruptions, cheating, breaking the law, and a lack of respect for authority (Dake, 2003). They often did not follow school rules. Bullies also did not always act alone; two studies in the United Kingdom showed that more than one student participated in bullying in almost half of the cases. Group bullying included multiple students bullying one victim, or a group of peers watching and cheering for the one student who was bullying the
victim (Sampson, 2002). According to Beran (2006), the bullies acted in the presence of the peer groups 85% of the time, allowing them to demonstrate their dominance in the group. This group bullying made it difficult for victims to stand up to the bullies.

**Characteristics of Victims**

Students who became bullying victims were both boys and girls and they came from a variety of backgrounds. Children who were bullied were often classified into two distinct groups: insecure and passive in nature or provocative and aggressive. Passive victims were not confident in their academic or social abilities and were unlikely to defend themselves when bullied. In contrast, provocative victims were confident and often provoked the bully; they also retaliated on being bullied (Batsche, 1994, Heinrichs, 2003; Isernhagen, 2004; Olweus, 1988). Passive bullying victims were seen as the easy target; this was partly because they were physically weaker than the other students and were not as good at sports. Provocative bullying victims were often considered to be immature; surprisingly, they also tended to be aggressive even though they were weaker than the other students. Whereas the passive victim did not fight back at all during bullying, the provocative victim fought back, even if he/she was unsuccessful (Heinrichs, 2003). However, bullies targeted the specific weaknesses of their victims while inflicting their harm.

The majority of bullying victims shared similar characteristics that made them easy targets. They tended to have low self-esteem and were insecure (Olweus, 1995). Research showed that victims of bullying usually had similar personality characteristics and an overall physical weakness (Olweus, 1988, 2003). These students usually did not
hold themselves in high esteem and lacked confidence. The majority of victims were in the same grade level as the bully. Chronic bullying victims were often passive and were unable to defend themselves; this also prevented others to come to their aid (Sampson, 2002). Victims’ insecurity and inability to defend themselves caused the problem to become worse as the bullying continued.

Victims of bullying were exposed to physical, psychological and emotional trauma. Prolonged exposure to bullying caused the victim to feel distress and experience increased physical and/or emotional pain (Carney, 2008). Bullying had serious emotional consequences on the victim; this trauma lasted throughout the individual’s life (Orpinas, 2003). Victims of bullying also could have channeled their fears and trauma into violent rages such as the school shootings in the past two decades. Although there was no definitive research tying school shootings to previous bullying behavior, the majority of perpetrators reported that they had been bullied prior to the shooting (Limber, 2003). The rise in school shootings led to increased legislation related to school bullying and violence, discussed later in this chapter.

*When and Where Did Bullying Occur?*

The process of preventing and dealing with bullying behavior began by discovering when and where it occurred. Bullying most often occurred on playgrounds, in locker rooms, and in hallways (Greene, 2007; Harris, 2006). Bullying began in elementary school as students started to fit into their social positions (Green, 2007). The stronger students, both physically and psychologically, began to exert force on weaker students as the battle for playground supremacy ensued.
The extent and frequency of bullying behavior changed throughout the k-12 grades. Bullying behaviors were most prevalent in the upper elementary grade levels and tapered off as students completed high school (Chapell, 2006). The prevalence of cyberbullying among school-age children increased throughout elementary school, hit its peak in middle school, and tapered off in high school (Beale, 2007). Incidents of in-school and cyberbullying still occurred at all grade levels, but the battle for school supremacy occurred most often between fourth and eighth grades. However, it was apparent that the adults in the school were only aware of a small portion of the bullying that actually occurred (Frisen, 2007; Harris, 2006). Teachers were not able to see everything that went on in the school; therefore, it was clear that instances of bullying were higher where there was less adult supervision, showing an inverse relationship (Olweus, 1994; Sampson, 2002). This did not always refer to a lack of adult supervision; students often experienced bullying in the school lunch line while they jockeyed for position. A survey of ninth grade boys and girls revealed that boys most often experienced bullying in the lunchroom or during outside activities; girls most often experienced it during lunch (Harris, 2006). These two factors, supervision and the situation, contributed to the prevalence of bullying in the school.

Bullying incidents did not occur only in isolated areas such as an unsupervised hallway. They happened with other students present, identifying the behavior as a means to determine the social order of the peer group (Beran, 2006). Bullies liked to “show off” in front of their friends as a means of increasing their perceived power and also prevented resistance by the victim. Student reactions to bullying were a major factor in the
occurrence of future incidents. The support of the peer group and the submissive response by the victim encouraged the bully to continue the behavior (Brean, 2006). Studies in European countries showed that students were less likely to be victims of bullying when they had friends who would stick up for them (Sampson, 2002). This support from peers was something all bullying victims needed; however, sometimes it either came too late or not at all.

Juvonen and Gross (2008) conducted a study of the prevalence of cyberbullying by surveying 1454 adolescents ranging from 12 to 17 years of age. The researchers found that cyberbullying was more prevalent for individuals who were online more often. Cyberbullying victims were subjected to the same experiences as those bullied in the “real world;” however, they were often subjected to additional distress. These victims rarely told their parents about the incidents and they did not fully utilize the electronic tools available for prevention of cyberbullying. These bullying incidents affected the students at school and diminished their overall learning experience. In addition, whereas the majority of the bullies and victims of in-school bullying were boys, the majority of the bullies and victims of cyberbullying were girls. Girls tended to use the Internet as a means to verbally insult other girls (Beale, 2007). The tendency of girls to utilize name calling and social exclusion as means for bullying was well suited for the Internet.

Potential Implications of Bullying

In the current U.S. educational system, the potential implications of bullying were limitless; incidents of bullying affected all functions in a school, community and district. Violence, especially school shootings, caused schools to examine existing practices and
implement new policies to monitor and hopefully prevent bullying. Federal and state
governments have enacted legislation with a similar purpose and included violence
prevention training for educators (Greene, 2007). The purpose of legislation and policies
were to ensure educators established a safe, caring, and orderly environment in all
schools. Anyone in the school could have been subject to bullying without the
establishment of such an environment; the effects were biological, physical,
psychological, cognitive, and social. This put a strain on resources of the school. For
example, school counselors often had to spend a great deal of time working with students
who had been traumatized by bullying (Carney, 2008). Ultimately, federal and state
governments, districts, and schools attempted to create a learning environment where
students excelled.

Bullying, whether one single incident or a continuous series of attacks affecting
all who were involved, revealed the most visible effects on the victims. Psychological and
physical bullying often impacted the victims’ academic achievement and social
development. This pain and/or suffering caused by bullying also affected victims
throughout their lives (Fitzpatrick, 2007). This usually included diminished achievement
in school and even excessive absences. Carney (2008) stated that bullying in schools had
traumatic effects not only on the bullies and victims but also on the witnesses. Students
became troubled by being exposed to repeated, severe forms of both physical and
psychological bullying. Thus, bullying not only impacted the students directly involved,
it affected the entire school, and in some cases the community.
Even focusing on a small number of bullying incidents, the impact on the victims and even the bullies themselves could not have easily been predicted. Students who were subjected to repeated bullying tended to avoid similar situations, and this decision impacted academic performance (Carney, 2008). Students felt rejected and if the bullying continued, they eventually formed an insulating “barrier” to anyone, even if the intent was to help them. Continued bullying caused victims to experience low self esteem and/or depression that lasted into their adult lives (Sampson, 2002). Life-long effects of repeated bullying caused financial strain as well in the form of treatment and medication.

The recent incidents of school violence were credited to students seeking revenge for being bullied (Cole, 2006). This revenge was often targeted at the bullies themselves. Recent school shootings became a driving force behind bullying legislation. While bullying was not the only underlying cause of why students resorted to this type of violence, about two thirds stated that they had been bullied and/or persecuted before the attack (Heinrichs, 2003). These numbers illustrated how the bullying issue in schools became a severe problem, which involved numerous years for recovery.

Columbine

Tuesday, April 20, 1999, was an average, sunny morning at Columbine High School in Jefferson County, Colorado. The students were either in their classes or heading to lunch. After a year of planning, Eric Harris and Dylan Klebold arrived in their cars, parking in different parts of the parking lots. At 11:10am, they began an attack on their teachers and classmates that became the worst K-12 school shooting in U.S. history. The actual shooting began at 11:19am and lasted for only sixteen minutes. They began on the
grassy hill outside the school, moved to the cafeteria, and finished their rampage in the media center. When the shooting ended, twelve students and one teacher had been killed by the shooters. Twenty-one other students had been injured. Harris and Klebold also took their own lives, bringing the death toll to fifteen (CNN, 2008).

Pat Neville described April 20 as a normal day in Jefferson County, Colorado. He was a student at Columbine High School and he knew both Eric Harris and Dylan Klebold; however, he did not consider them to be his friends. Students were allowed to leave campus for lunch and Neville was going to get some food with his friends at the time the attack began. He remembered being shot at by the two students, and he and his friends ducked and ran to the nearest house to call the police. In addition, Neville’s older brother, Joe, had once been a student at Columbine; however, fortunately he left a year early to join the Navy (P. Neville, personal communication, July 2, 2002).

It had been a decade since that day. Although all students who survived the tragic events at Columbine High School on April 20, 1999, graduated and moved on with their lives, the community still mourned the loss and remembered the terror of that day. Authorities, educators, parents, and the community still sought answers as to why this event happened and what steps, if any, they could have taken to prevent it. The principal at Columbine High School was asked this question a year after the tragedy occurred. He answered that he did not know if anything could have prevented it; instead, he wanted to know what could have caused so much hate in these two boys to make them perform such horrendous acts. Gun control advocates continually used this tragedy as a means to promote stronger gun laws (Abel, 2008). This event in U.S. history sparked debates
concerning how and why it occurred. Most of all, educators needed to learn from the events at Columbine High School to prevent such a tragedy from occurring again.

**Similar Violent Acts**

The Columbine High School tragedy was not the only one to occur in the U.S. in the last twenty years. Shootings and other violent acts have occurred at other k-12 schools and universities, which continued to induce additional legislation. State legislators acted quickly in the last decade to enact laws focusing directly on preventing school violence, specifically bullying. These laws became the primary vehicle for addressing the bullying issues, issues which left unchecked could lead to more serious school violence (Limber, 2003). However, an examination of some key school violence incidents over the past two decades assisted in understanding how the current legislation on bullying came into effect.

On the morning of April 16, 2007, just four days before the eighth anniversary of the Columbine tragedy, another incident occurred. A lone student at the Virginia Polytechnic Institute and State University, also known as Virginia Tech, began a shooting rampage that took the lives of thirty-three people. The gunman, Cho Seung-Hui, began by killing two people in a dormitory. He then moved to a classroom building where he killed thirty-one others, including himself. He was described as a loner who was picked on, and he caused the deadliest school shooting since the Columbine shooting (Hauser, 2007). This incident brought colleges and universities into the same realm as the k-12 schools, trying to determine how such a tragedy could have occurred, and how they could have prevented it from occurring again.
In 1997, a student at Heath High School in Paducah, Kentucky, shot and killed three girls, and wounded five other students. The student was described as being physically small and immature. The principal said the student’s essays described a boy who felt weak and often picked on. He had also warned some of his classmates that something “big” would happen and they should not have been there that day (CNN, 2008).

In 2001, a fifteen year old student in Santee, California, first threatened to pull a “Columbine,” and then was dared to do it by some of his classmates who called him inappropriate names. He brought a gun to school and began shooting at 9:20 in the morning. Six minutes later, after firing thirty rounds, he had killed two students and wounded thirteen others. The student peacefully surrendered the fully loaded gun to police. He was neglected by his father and continually bullied by his classmates; his friends also taunted him at times. These events may have led him to take his hurt and anger out in a rage of violence (McCarthy, 2001).

In 2003, a student entered Ricori High School in Cold Spring, Minnesota, and shot two students, killing both of them. The student was bullied by one of the students and wanted to make him stop. He shot at the bully first, only wounding him. He then shot again, killing another student whom the shooter revealed was not an intended target. The shooter then chased the first student, his intended victim, and shot him in the forehead; the student died sixteen days later (USATODAY, 2008). In this case, an innocent bystander was killed.
In Hillsborough, on August 30, 2006, in North Carolina, a student shot and killed his father; he then wounded two students at his school. The student was obsessed with the Columbine tragedy, and even emailed the school principal with a message that it was time to remember the events at that school (FOXnews.com, 2008).

More recently, a high school student at Dillard High School in Fort Lauderdale, Florida, on November, 28, 2008, shot and killed her friend. The perpetrator told police, “I wanted her to feel pain like me” (Shah, 2008, para. 13). Investigators in this case thought that the shooter had been bullied. These and numerous other incidents led legislators and educators to seek ways to prevent future attacks, and ensure students were provided with a safe environment to learn.

**Discourse Theory, Policy Development and Analysis**

The study of law required a framework to provide structure to the analysis. Discourse theory encompassed a broad spectrum of processes, including the examination of “how writing, texts and discourses are constructive phenomena, shaping the identities and practices of human subjects” (Critical discourse theory, 2009, para. 11). The focus was on how the text could have been interpreted with reference to the target audience. Discourse theory provided an effective framework for this study by examining the legality of the law itself. According to this theory, law was not judged according to religious beliefs or morality. Instead, the law was the law—it could only have been legitimized by the interpretation of its meaning (Froomkin, 2003). According to Shabani (2009), Habermas’ discourse theory legitimized the law through communicative power.
Discourse theory, as outlined by Habermas (1996), was based on “presuppositions that, once they are legally institutionalized, ground the supposition that the processes of making and applying law lead to rational outcomes” (p. 414). This legitimization of the law was not subject to applied moral standards, but instead focused on if the law did what it was supposed to do. This process could have been applied to any law such as the current Florida bullying law or other scrutinized educational laws. For example, the No Child Left Behind Act (2001) had continually been questioned as to its legitimacy. The American Federation of Teachers (AFT, 2009) supported the notion of accountability for all schools; however, the organization questioned the legitimacy of the Adequate Yearly Progress (AYP) provision because it did not measure the progress of the same students from year to year.

Policy Development and Analysis

Policy development and analysis presented two different but related ideas about translation of law into action. Cunningham (1959) described the policy-making process as ongoing organizational evolution over time through five stages, and noted that these stages were similar to the scientific method. The first stage of the development—initiation—began with the discovery of a problem or issue. This was reported by a member of the organization or enacted by an outside governing body such as the recent bullying law in Florida. The recognition that a policy was needed began stage two—definition—in which the problem or issue was defined, and the unique circumstances of the situation were understood. Stage three involved the deliberation between the stakeholders on the policy development team or committee. This stage required several
refinements of the policy. The committee determined whether the current version of the policy met the organizational needs or if alternatives versions should be considered. Embedded in this stage were other factors that could have continued to change the policy throughout the process. This stage was often the longest due to the differing values of committee members.

Once the policy was determined, stage four of the development process began with the enactment of the policy into practice. In the case of a school district, it involved approval by the school board and was followed by the dissemination of the policy to all affected parties. While the school board was responsible for approving the policy, the district staff ensured it was enforced. The last stage of policy development addressed any consequences that could have developed as a part of the implementation. At this point, the policy was refined again based on feedback and observations of how well the policy addressed the issue/problem (Cunningham, 1959). The process was repeated in part or whole as needed.

Stage five of the policy development process also led researchers to conduct a policy analysis that could have led to changes in the original policy. Permuth and Mawdsley (2006) described the analysis process utilizing five steps. These steps began with preparation for the study that included the selection of the problem, identifying the issue including its history, examining any previous research on the issue, examining the process used to develop the policy, and synthesizing what was found. This step allowed researchers to discover key background knowledge as they began to study the policy. In the second step, conceptualization, the researcher developed the questions and methods
that were used in the policy analysis. In some cases, the researcher skipped the first stage of preparation and began with stage two; however, it was imperative that both stages were completed in the specified order. One key component of step two was to know which questions should have been asked, ensuring they could be answered; this was similar to the development of procedures in a scientific experiment.

Stage three, technical analysis, included collecting as much data as needed to answer the questions asked in step two. This part of the policy analysis was most similar to traditional legal research. Step four involved the analysis and recommendations derived from the technical analysis. This step included the formation of conclusions, similar to that of a scientific experiment. The researcher also provided recommendations for the organization as to whether the policy should have been modified. The last step involved the communication of the results to the organization and other stakeholders. This also included the publication of the study for others to review (Permuth, 2006). Thus, the policy analysis was a broad example that could be adapted to different situations or made more specific as in the interpretive policy analysis.

*Interpretive Policy Analysis*

Interpretive policy analysis was derived from discourse theory as the process provided insight into how the policy affected the target audience. This included an examination of not only what the policy meant, but how it was applied to specific situations. Interpretive policy analysis helped discover differences between the intended and actual meaning of the policy (Yanow, 2000). For example, in the current study, the state of Florida had specific intentions with the recently enacted bullying law; however, it
was possible that this legislation could have been interpreted and implemented using methods that differentiated the actual meaning from what was originally intended. The same could have been true of Hillsborough County Public Schools’ bulling policy that may have been implemented differently at each school from the original policy intent.

This policy analysis process was designed to read and interpret, not necessarily to find a fixed meaning. Within the framework, multiple perspectives may have been present (O’Connor, 2008). Yanow (2000) stated that these differences did not always mean that the wrong choice was selected. This allowed the researcher/analyst to determine if the policy was meeting the stakeholders’ needs.

Researchers utilized the interpretive policy analysis process to study a wide variety of laws and/or policies. Yanow (2000) described the process as a series of four steps followed by an intervention/action phase containing three additional steps. The first step involved the identification of the artifacts that were significant to the specific policy issue. The second step involved the discovery of the communities of meaning/interpretation that were significant to the policy being studied. Yanow (2000) pointed out that these first two steps were interchangeable, as each one led to the other. The intent was to discover the issue at hand and the stakeholders affected by it.

The third step in the interpretive policy analysis involved an examination of the relationship between the policy and stakeholders in the first two steps. Moreover, this step was often conducted in conjunction with the first two. The goal was to be able to discuss the values, beliefs, and feelings that were valued by the stakeholders in the particular community under study. The researcher needed to be aware that there could
have been multiple meanings in the same community and artifacts. In essence, the third step was designed to discover the varying artifact meanings in the specific community. The fourth step involved the identification of conflicts in the varying meanings discovered in the third step (Yanow, 2000). These four steps allowed the researcher to examine the policy, and interpreted its meaning based on preconceived knowledge.

While some researchers decided to stop at this point of the interpretive policy analysis, Yanow (2000) noted that the intervention stage was performed next. The intervention stage was different for each researcher and analysis, but generally included three steps. The first step was to examine the implications of the varying meanings discovered in step three on policy formation and/or action taken. One question asked in this step was if the conflicting views caused the policy to fail. The second step in the intervention stage recognized that differences were nothing more than multiple views of the same policy. The last step negotiated or mediated an understanding and bridged the differences. Yanow (2000) pointed out that although these steps seemed separate conceptually, they were actually intertwined. Even though a step was completed, the researcher could have returned to it for further analysis.

Law

Public services such as schools were guided by the law that outlined the requirements for each particular service. These requirements were general in nature, and in the case of schools, existed to ensure all children had an equal opportunity to an education in a safe and orderly environment. Laws designed to regulate specific items such as student safety, provided additional structure under which schools operated. An
examination of the types of law available to legal researchers provided an understanding of how schools were regulated.

**Sources of Law**

Legal research outlined five sources of law, also known as primary sources, which guided public education. The first source included the law of the land, or constitutional law. Statutory law included legislation enacted by the federal or state governments. Administrative law referred to policies and regulations set forth by the Executive Branch of the government or other local governments/agencies. Case law, also known as common law, referred to the interpretation of written laws by the judicial system. Contract law, also known as implied law, involved an agreement between two or more parties that was legally bound (Permuth, 2006).

The U.S. Constitution lays the foundation for all other laws. However, the Constitution affects the public education system indirectly as it does not mention education as a provision. Instead, public education, as with other services not mentioned, was delegated to the states under the Tenth Amendment. Each state’s constitution served as the framework for all functions. These constitutions generally outlined the requirements of the public education system (Permuth, 2006).

Statutory law was developed by the legislature either at the Federal or state level and then signed into law by the executive branch. This type of law was written to provide broad directives that were then interpreted at the lower levels of the government (Permuth, 2006). An example of statutory law in Florida was the recent bullying legislation requiring districts implement anti-bullying policies. The law itself provided
broad directives that each district implemented to meet the specific needs of the schools (FLDOE, 2009).

Administrative law included regulations and policies that were interpretations of the constitutional and statutory law (Permuth, 2006). For example, in 2003, Florida enacted legislation requiring all districts to offer an alternative teacher certification method for its employees. The State Board of Education put this requirement into practice, allowing each of the sixty-seven districts to offer the state program, develop its own program (as Hillsborough already had), or use a combination of the state’s and its own program (FLDOE, 2009). In this case, the actual interpretation of the law by the State Board of Education may or may not have been exactly in line with the original intention of those who developed the bill. The current anti-bullying legislation, which is discussed in the next section, was another example of a law being subject to interpretation; in this situation, the interpretation was left to individual districts.

Case law, also referred to as common law, was based on the judicial interpretation of written laws, policies, and regulations. This type of law established precedents that were then referred to in future cases. An example of this, as cited by Permuth & Mawdsley (2006), was Marbury v. Madison. In this case, the Supreme Court established the precedence that it had the authority to review the actions of the other branches of government. This precedence had been utilized in Florida recently with the State Supreme Court ruling that Governor Charlie Christ overstepped his authority in signing the gambling compact with the Seminole Tribe of Florida (Orlando Sentinel, 2008).
Contract law involved legally bound agreements between parties that generally required the delivery of goods and/or services. According to the American Bar Association, one key aspect of contract law involved the allocation of liability when entering into an agreement between private and/or public entities (Youraba, 2009). The contract became a legally bound document to which both parties complied.

**Bullying Legislation**

Perceived issues in society, and especially in education, instituted legislation designed to address the issue and provide a solution. Recent incidents of violence in schools led to additional legislation to help control the bullying problem. However, school bullying and violence were not recent issues, and both Federal and state governments developed legislation to ensure that schools were safe environments for children. Title IX of the Federal Education Amendments of 1972 states that any public school knowingly discriminating on the basis of sex or allowing harassment to occur would not have been eligible for federal funding (Title IX, 2008). While this legislation did not specifically address bullying, discrimination of students by the school and their peers was a major component of bullying; this issue was closely related to student safety. In a national scope, legislation designed to prevent bullying began with the federal government’s initiatives designed to address school violence. Two of these initiatives included the No Child Left Behind (NCLB) Act of 2001, and the more recent “Take a Stand. Lend a Hand. Stop Bullying Now” (Limber, 2003)! The Stop Bullying Now! Campaign was part of the United States Department of Health and Human Services Health Resources, and Services Administration (HRSA, 2008). These and other federal
initiatives provided a guide for state laws that dominated the landscape of bullying legislation.

As with most legislation, current anti-bullying laws were mainly the result of specific incidents and were enacted with a specific purpose. Most anti-bullying laws were broad and non-specific, providing a loose framework that schools interpreted (Stein, 2007). This interpretation varied among schools and districts. Two students at two schools exhibited the same “bullying” behaviors, but it could have been interpreted as bullying at one school but not at the other one. Additionally, the non-specific nature of the federal and state mandates allowed schools to suspend students and even expel them for continuous minor infractions, instead of working with them to eliminate and/or change the behavior (Stein, 2007). Educators needed to question whether suspending students from school prevented future bullying behavior.

The main intent of bullying legislation was to prevent such behaviors while making the school a safe learning environment. However, there were additional areas where districts and schools benefited. For example, in numerous states, legislation provided schools with additional resources such as school resource officers and counselors (Limber, 2003). This additional personnel helped schools create a safe environment and helped students cope with the consequences of bullying incidents. Anti-bullying policies also involved teaching students the skills required to co-exist with each other (Jacobson, 2007). These skills translated into real-life skills that the students needed throughout their lives.
Motivated by School Shootings 1990s

Incidents occurred in schools every year; some of these were publicized and drove legislation, others went unnoticed. Bullying legislation in Scandinavian countries such as Finland, was enacted partially due to concern for suicides in bullying victims. Schools in the U.S. began enacting similar legislation as a result of school shootings (Furlong, 2003). The majority of these state bullying laws were enacted since 2001, and resulted from the 1990s’ school shootings. Several perpetrators in these incidents reported that they had been bullied by their peers (Heinrichs, 2003; Limber, 2003). These laws tended to target specific behaviors as a means of preventing future attacks. In post-Columbine schools, districts have implemented zero tolerance policies for disruptive and/or violent behaviors. These policies also included bullying as behaviors that the school would not tolerate (Stein, 2007). Zero tolerance policies were designed to punish students for exhibiting the prohibited behaviors.

When repeated issues occurred that disrupt the overall functioning of the school, educators acted to prevent further disruptions. Anti-bullying laws and the policies they drive were designed to deal with problems and alleviate anxiety of students, parents, staff, and the community (Walton, 2005). This resulted from the desire to have safe schools for students. These laws were also directly influenced by the perceived threats in an area. States where school shootings occurred tended to have stronger, more formal anti-bullying laws (Furlong, 2003). Colorado and Virginia, which suffered from recent tragic events, were among the states with the strongest anti-bullying laws; however, the
majority of states recently added anti-bullying legislation to help combat the current problem and prevent it from escalating.

How was Bullying Defined in Legislation?

Legislation at both the state and national level defined bullying, and provided guidelines for districts and schools to prevent and deal with bullying behavior. Each state defined bullying using various terminology, focusing on different forms of intimidation. The majority of state bullying laws outlined procedures for preventing and dealing with bullying; however, less than two-thirds of them actually defined specific bullying behaviors. This left the interpretation of the law up to the department of education or individual school districts (Limber, 2003). Of the two-thirds group, some states defined bullying only as overt actions by one or more students on another with the intent to intimidate. Some states defined it as an act that caused distress to another through one of four avenues: written, verbal, physical, or gestures. A few states, such as Georgia, defined bullying only as a physical act of one student on another that caused injury and immediate harm to the body. Still others used the terms harassment, intimidation, and bullying synonymously (Limber, 2003). This wide variety of definitions made it difficult to compare the numbers of incidents across states. However, an examination of a region of states, namely Florida, Georgia, North Carolina, and South Carolina, provided some insight into how these states defined and dealt with bullying.

In an attempt to prevent bullying from occurring, states along the southeastern Atlantic coast enacted legislation that provided a specific definition of bullying. The Florida State Statute 1006.147 defined bullying as:
systematically and chronically inflicting physical hurt or psychological distress on one or more students and may involve: teasing; social exclusion; threat; intimidation; stalking; physical violence; theft; sexual, religious, or racial harassment; public humiliation; or destruction of property. (Support for Learning, 2008, p. 1).

This definition targeted bullying on students covering many aspects allowing broad interpretations. South Carolina’s Safe Schools Act (2006) defined bullying as:

   a gesture, an electronic communication, or a written, verbal, physical, or sexual act that is reasonably perceived to have the effect of: harming a student physically or emotionally or damaging a student's property, or placing a student in reasonable fear of personal harm or property damage; or insulting or demeaning a student or group of students causing substantial disruption in, or substantial interference with, the orderly operation of the school. (p. 2)

Georgia House Bill #84 (1999) defined bullying as:

   any willful attempt or threat to inflict injury on another person, when accompanied by an apparent present ability to do so or any intentional display of force such as would give the victim reason to fear or expect immediate bodily harm. (p. 83)

North Carolina House Bill 1366 (2007) defined bullying as:

   any pattern of gestures or written, electronic, or verbal communications, or any physical act or any threatening communication, that takes place on school property, at any school sponsored function, or on a school bus, and that: places
a student or school employee in actual and reasonable fear of harm to his or her person or damage to his or her property or creates or is certain to create a hostile environment by substantially interfering with or impairing a student's educational performance, opportunities, or benefits. For purposes of this section, "hostile environment" means that the victim subjectively views the conduct as bullying or harassing behavior and the conduct is objectively severe or pervasive enough that a reasonable person would agree that it is bullying or harassing behavior. (pp. 1-2)

Florida, Georgia, North Carolina and South Carolina defined bullying using similar common terms: threats, intimidation, causing harm, stalking, or creating a hostile environment. These similarities pointed to each state’s desire to provide a safe environment where all students were able to learn and reach their potential. However, in all four states, districts and schools were left to interpret the meaning of the legislation and put it into practice.

What were the Directives to Schools in Legislation?

The federal and state governments provided directives to schools on what they were required to do concerning bullying behavior. Most states enacted legislation that required schools to provide a safe environment for children and protect them from harm. School Boards developed policies from these directives that included the prevention of aggressive, violent and disruptive behavior (Limber, 2003). The common element in most state laws was the requirement that school administrators implemented policies strictly prohibiting bullying. The establishment of a safe environment was one key factor
required for learning to occur. Limber and Small (2003) noted that some states such as Vermont, asserted that students would not be subjected to intimidation or other forms of bullying. The responsibility for developing bullying policies was split among the states; some required the district school board to set the policy while others required the school staff to develop it. Colorado required the principal to submit this policy to the school board for approval. However, the effectiveness of any bullying program was dependent not only on how the policies were written, but also how well they were implemented and followed by the staff (Limber, 2003). Ultimately, state laws provided a means to prevent bullying and potential violence from occurring in the schools.

The directives from the Florida Legislature concerning bullying policies were in line with providing a safe environment for students to learn. The state’s statute began with a clear statement of prohibition of bullying; “Bullying or harassment of any student or employee of a public K-12 educational institution is prohibited” (Support for Learning, 2008, para. 2). By December 1, 2008, each district was required to develop and implement a policy complying with this requirement for both bullying and harassment. This policy provided all students with the same protection despite their individual characteristics, and included the following information: prohibiting statement, definition of bullying, description of expected behavior, consequences for committing an act of bullying or harassment, consequences for a false accusation, procedures for reporting and investigating acts of bullying, instruction for all stakeholders on appropriate behavior and procedures for publicizing the policy. The state of Florida developed a model policy to assist districts with this development; on October 1, 2008, it was released to the districts.
The Florida Statutes outlined the requirements for the districts; Chapter 4 addresses how closely one district’s policy matched these guidelines.

The Georgia Legislature provided directives for its districts in a more precise manner. The law only targeted the bullying of one student by another student in grades six through twelve, middle and high schools. It required districts to implement a policy that was also included in the Student Code of Conduct. One of the key differences from Florida was the clear definition of consequences for repeated offenses; students who committed three offenses of bullying in a school year were reassigned to an Alternative School. Districts also communicated their policy and procedures to the parents. Schools that failed to comply with these mandates did not receive state funding (Georgia House Bill #84, 2008). Georgia’s bullying laws were more stringent than those in Florida; however, bullying at the elementary level was not addressed.

Similar to Florida, the North Carolina School Violence Prevention Act prohibited bullying and harassing of a student or school board employee by another student or board employee. By December 31, 2008, each local school administration unit was required to have an anti-bullying and harassment policy in place. The policy included information similar to what Florida required: a prohibition statement, description of bullying and harassment, the type of behavior expected, consequences and remedial action, procedures for reporting and investigating incidents of bullying, a statement preventing retaliation, and a method for sharing the policy with parents and the community. The state requirement also included publishing the bullying and harassment policy in all student and employee handbooks. School administrative units used allocated funds to provide
training in reference to the policy for both students and staff (North Carolina House Bill 1366, 2008). North Carolina’s anti-bullying legislation provided guidance to schools but allowed some freedom in the actual design and implementation.

South Carolina’s Safe Schools Act (2006) prohibited any person from engaging in bullying, harassment, intimidation, retaliation or false accusation. Similar to Florida and North Carolina, the requirement was directed at all stakeholders in education, not just students in middle and high school as in Georgia. By January 1, 2007, each school district was required to implement a policy prohibiting these behaviors. Again, as with Florida and North Carolina, the policy included a statement of prohibition, definition of bullying, appropriate behaviors, consequences and remediation, procedures for reporting and investigating, information about retaliation and false accusation, and how the policy was publicized. Similar to Florida, the state developed a model policy for school districts to follow. However, the state also implemented standards on identification and prevention of bullying in its teacher preparation programs. The law also protected school employees and volunteers from any liability, if they reported incidents of bullying in compliance with the district’s policy. South Carolina students were protected from bullying under state law; teachers received training on bullying prevention while in school and after they began teaching.

Case Law

The possibility of violence associated with bullying behavior brought this issue to the forefront of school safety discussions, especially when examining recent tragedies in schools. Courts were continually asked to interpret the meaning of laws enacted by the
government. Seeing the consequences of not acting, the courts were hearing these cases in an attempt to set a precedent and prevent further suffering by students (Shariff, 2004). Several prominent cases have helped to shape interpretation of these laws.

A landmark case in sexual harassment was often cited concerning the liability of a school district for the actions of its employees. In Gebser v. Lago Vista Independent School Dist. (1998), the United States Supreme Court ruled that the school district was not liable for the behaviors of a teacher. In the case, a student sued the district because of sexual harassment and a sexual relationship she had with a teacher. She claimed that the school district was liable for actions of the teacher due to a lack of a procedure for reporting such incidents, and that students often did not separate the authority of the school district and its teachers. In addition, the student feared that she would have missed out on opportunities offered through her relationship with the teacher if she ended the sexual relationship. In a split decision, the Supreme Court ruled in favor of the school district that knowledge of the relationship was not evident until authorities intervened. In addition, the lack of an effective grievance procedure did not constitute liability. This case had been reviewed in several other judgments on both sexual harassment and bullying in which the plaintiff proved that the school and/or district knowingly ignored the behavior and considered it “simple playing.”

One such case to reference Gebser v. Lago Vista Independent School Dist. (1998), in its judgment was Megan Donovan et al., v. Poloway Unified School District et al. (2008); the plaintiffs claimed severe harassment concerning sexual orientation from their peers on a regular basis. The harassment included death threats, spitting, name calling of
a sexual nature—dyke, faggot—and vandalism of personal property. The plaintiffs had spoken with the principal and district superintendent concerning the incidents before filing the law suit; the district claimed it responded adequately and that the plaintiffs had not provided enough information on specifically who was harassing them. In this case, the Fourth Appellate District Court of California, referring to the precedent in Gebser, felt that the school and district had adequate knowledge of the situation and did not act to protect the students as it should have done, affirming the decision of the lower court. In this case, the court made it clear that schools had the responsibility for protecting the students and providing a safe environment for learning.

In 2004, the U.S. Court of Appeals for the Third Circuit, Shore Regional High School Board of Education v. P.S., on Behalf of P.S., overturned a decision by the U.S. District Court for the District of New Jersey. It concerned the provision of a free appropriate public education for all students under the Individuals with Disabilities Education Act (IDEA). The state administrative law judge (ALJ) contended that the student’s local school district failed to provide such an education, and exposed him to excessive bullying and harassment throughout elementary and middle school. The parents requested the student attend a neighboring district’s high school, one offering programs that appealed to him and his needs. The state ALJ granted this request, requiring the home district to provide the parents with funding to cover costs associated with this placement. The student began thriving in the new school, but the home school district appealed the decision to the district court. The District Court overturned the ALJ’s decision stating that failure of the middle school to protect the student from undue harassment did not mean...
the high school would be unable to control the bullying. The Third Circuit Court reversed this decision, citing that the District Court failed to give proper consideration to the ALJ’s determination.

In 2005, a Federal jury in Kansas ordered a school district to pay a student $250,000 in damages for prolonged bullying and harassment suffered over a five-year period. The student was continually called a homosexual and various names; the suit claimed that school and district did not attempt to stop this behavior. The prosecuting attorney stated that this is a “wake up call” for districts, meaning they had to protect students or be subjected to litigation. The student dropped out of school but has since received his GED (ABCNews, 2008).

In February of 2007, the New Jersey Supreme Court, in L.W. v. Toms River Regional Schools Board of Education, A-111-05., ruled that students should be protected from biased-based bullying and harassment that led to discrimination. In their decision, the court wrote that students in the classroom were entitled to the same protection under the law as adults in the workplace. The student in this case was continually harassed with anti-gay messages due to his perceived sexual orientation. The court ruled that schools were required to implement preventative and remedial measures, including those addressing one student being accused of sexual harassment on another student. This case presented a major victory for students’ rights in cases of harassment and discrimination, especially those related to sexual orientation. Chapter 4 reviewed this case in more detail.
Implementation and Effect of Anti-Bullying Policies in Schools

Since their inception, formal schools have attempted to provide a safe, caring and orderly environment for students. Bullying had become a real problem in all types of schools; it was not limited to elementary school playgrounds where students tended to battle for control (Sampson, 2002). It was an issue that spanned all grade levels, even into college; it occurred on school grounds, buses and at bus stops. However, bullying incidents tended to happen more often on the school grounds than while the students were traveling to or from the campus (Sampson, 2002). While the majority of states enacted anti-bullying legislation, the effectiveness of the policies was dependent on the implementation and enforcement by the school (Furlong, 2003).

Some states and districts required specific anti-cyberbullying policies to help protect students from potential harm. As a result of such policies, administrators were no longer forced to hesitate about issues concerning freedom of speech when they intervened (Beale, 2007). For example, schools in the York City School District, PA, had until January 2009 to implement policies to prevent cyberbullying along with their existing anti-bullying policies. According to the state Department of Education, schools had greater control over cyberbullying with these new policies—including incidents such as text messages sent from one student to another—even off campus (Shaw, 2008). These policies extend each individual school’s ability to protect its students.

A major component of anti-bullying legislation and policies was knowledge of when and how often the bullying incidents actually occurred. One of the obstacles to these bullying prevention programs in schools included that numerous victims were too
afraid to report bullying incidents to the teachers and/or administrators for fear of repercussions from the bully or his/her friends. This fear was also present in several witnesses who did not want to become bullied or seen as the “snitch.” It was generally understood that the person who stood up to the bully became his or her next victim (Beran, 2006; Sampson, 2002). Therefore, it was difficult for schools to intervene in incidents and stop behaviors of which they were unaware. A climate was developed in schools where students, both victims and witnesses, felt comfortable talking about incidents of violence and bullying in the school.

Prevention Activities

As in the classroom, prevention of disruptive behavior across the school, including bullying, was the most important aspect of an anti-bullying policy. What occurred in numerous schools was the exact opposite: school administrators and teachers reacted to varying incidents of bullying and violence. When implemented properly, prevention programs were effective at reducing the overall prevalence of bullying in a school (Olweus, 1995). This involved investigating the problem as a whole, and examining what was done to prevent bullying from occurring. The prevention of bullying in schools began with the principal; he or she was committed to addressing and dealing with the issue. Additionally, a multifaceted, school-wide approach was utilized to prevent bullying; there was no single method that worked successfully in isolation. School policies included prevention techniques and guidelines for staff and parents, addressing what steps to take when bullying occurred (Sampson, 2002). Teachers needed to follow the leadership of the principal in the prevention of bullying.
In the process of developing a bullying prevention program in a school, the principal led by example and the other staff members followed in suit. Prevention of bullying posed a difficult task; however, effective school policies began with a structured classroom management plan and regular, open class discussions (Heinrichs, 2003; Olweus, 1993). Effective teachers spent approximately seventy-five percent of their classroom management time on prevention techniques (Albert, 1996). This process promoted positive behaviors and served as a strong reminder to students that they should not misbehave. Classrooms with stronger teachers using effective management techniques had less bullying instances (Sampson, 2002). Teachers helped prevent bullying by modeling appropriate behaviors, implementing effective classroom management techniques, and providing instruction in social skills for potential bullies. The practice of open conversation in the classroom helped to prevent bullying, as bullies relied on the silence of their victims (Rowan, 2007; Scarpaci, 2006). All of these elements combined assisted in the prevention of unwanted behaviors, allowing students to feel safe in the classroom.

Outside the classroom, the staff needed to provide an environment that deterred bullying behaviors and rewarded students for displaying appropriate behaviors. As an example, students bullied each other jockeying for position in the school lunch line (or other similar lines). Schools implemented line management policies that assisted in reducing these instances of bullying (Sampson, 2002). These policies were taught on the first day of school and then reinforced regularly as needed. In addition, school administrators ensured that the students had adequate supervision in high-risk areas such
as hallways, playgrounds and other “hidden” areas (Heinrichs, 2003). These areas were prime locations for bullying, and in some instances, the school’s design required additional staff to monitor all areas. In the 1960s, one such school in the Central Florida District examined was built. The school featured a pod structure with each one housing four classrooms downstairs and four upstairs. The issue surfaced as the pods were not aligned, leaving numerous hidden hallways that needed monitoring at all times (HCPS, 2008).

Professional development for teachers provided an opportunity to foster an effective bullying prevention program in schools. Teacher preparation programs assisted schools and districts in the battle to prevent bullying by focusing on three areas: knowledge, skills and confidence. Pre-service teachers needed the knowledge and skills to be successful in the classroom, not only for teaching the curriculum, but also for dealing with student behaviors. The acquired knowledge included how and when bullying occurred. Skill sets focused on how to deal with specific behaviors and how to diffuse a situation. This included practical experiences in real classrooms where they were faced with real issues and incidents of bullying (Beren, 2006). Pre-service and active teachers received regular instruction and updates on using proactive classroom management techniques, which looked for issues as they arose instead of reacting when they occurred (Rowan, 2007). Once teachers moved into the classroom, participation in professional learning communities (PLCs) and other training assisted in the prevention process. Ongoing discussions through PLCs were essential to prevent disruptive, bullying, and violent behavior (Heinrichs, 2003). These discussions allowed teachers to share common
experiences with students and see they were part of a team, one that would help students to reach their potentials.

The prevention of cyberbullying both on and off school grounds presented a significant challenge to teachers and administrators. Today’s children grew up in the computer age; they used them as an educational tool even before they entered kindergarten. In several households, children were far more computer literate than their parents (Beale, 2007). They were also more computer literate than their teachers, who in some instances, had no knowledge of what children could and were doing on the Internet. Teens often stated that their parents did not understand the vital role the Internet and other electronic communication methods played in their social lives (NYTimes, 2008). Teachers and parents needed to become more aware of what the students were involved in on the Internet and other electronic communications.

Despite this lack of knowledge in parents and educators, schools took steps to help prevent cyberbullying. These steps began with the examination of the extent of occurrences at schools and students’ homes. In addition, staff learned about the scope of the issue and effects on victims (Beale, 2007). Knowledge of the extent of the problem influenced the direction and depth of the prevention program. Districts began to prevent cyberbullying by establishing acceptable use policies (AUPs) for electronic equipment such as computers and Internet access. These policies were well researched and explicitly outlined procedures for use and consequences for misuse. In addition, policies were enforced equally among all students (Hummell, 2007). Policies only worked with careful monitoring of students while they were on the computer.
Teachers and parents were not solely responsible for the prevention of cyberbullying; the students also needed to take an active role as part of a combined effort. As in other forms of bullying, one of the best techniques to prevent cyberbullying was to educate students, providing them with knowledge of how to avoid inappropriate behavior, even in cyberspace (Beale, 2007; Hummell, 2007). Some students were not aware that they were involved in cyberbullying and that participation in such activities was against school rules. Other preventative techniques included professional development for staff and parents, involvement of the local police, coordination with feeder pattern schools, and the creation of a school climate conducive to open communication (Beale, 2007). The ultimate goal was to ensure the safety and emotional well-being of students.

A review of related literature demonstrated that bullying prevention was a major topic among elected and school officials. Most schools implemented some form of bullying prevention; however, there was no clear research on whether these policies were working to reduce incidents of physical and psychological aggression (Orpinas, 2003). This did not mean that these prevention techniques were not effective at reducing instances of bullying in schools. For example, school-wide prevention programs implemented by Olweus (1994) in Norway and Sweden proved to be highly successful in reducing bullying behavior. Policies that targeted specific bullying behaviors showed a modest reduction in bullying incidents. Universal programs designed to address decision making and conflict resolution had mixed results in reducing bullying in schools (Orpinas, 2003). One of the key aspects of an effective anti-bullying program was the focus on the individual teacher taking charge. Instead of sending potential bullies to the
school counselor, the teacher became the first line of defense against bullying behavior. (Newman-Carlson, 2004). This process was in line with the development and implementation of a classroom management plan to deter students from exhibiting such behaviors (Albert, 1996; Rowan, 2007). As a result of their study in Alberta, California, Beran and Shaprio (2005) stated that schools also needed to examine what the students knew about bullying before implementing prevention policies and procedures. Policies then were developed based on the needs of the students and the community.

*School and Teacher Interventions in Bullying Incidents*

In response to bullying behavior, school interventions depended on the situation and needs of the school; this process began with teachers. Schools provided information and training for staff, parents, and the community on how to recognize and deal with bullying when it occurred (Sampson, 2002). This was a significant move to ensure that proper actions were taken. Districts and schools prevented cyberbullying by establishing acceptable use policies (AUPs) for electronic equipment such as computers and Internet access. These policies were well researched and outlined procedures for use and consequences for misuse. In addition, the staff of the school routinely monitored what students were doing (Hummell, 2007). Schools implemented formative consequences for all bullying behaviors that were enforced when infractions occurred (Heinrichs, 2003). These consequences were fair, consistent, and appropriate for the infraction; however, the interventions were also targeted at improving student behavior and not simply suspending the student from school. Teachers played a crucial role in prevention of bullying. While the majority of teachers reported that they intervened when bullying occurred, students’
perceptions were that less than a third of their teachers actually did this; most of them simply ignored the behavior (Yoon, 2004). Educators needed to be aware of the behaviors occurring throughout the school and work to prevent bullying.

Yoon (2004) studied the level of intervention of teachers into bullying incidents, examining three factors: empathy, self-efficacy, and perceived seriousness. The results of the study signified that the three factors heavily influenced teacher actions concerning bullying behavior. The perceived seriousness of the incident had the greatest impact on the teacher’s decision to intervene; however, none of the factors seemed to impact the level of intervention, only whether or not the teacher decided to intervene. He found that teacher education on the implications of bullying increased the likelihood that they would intervene, and as a result, prevented further bullying.

Working directly with students was important part of bullying interventions. Schools intervened in and helped prevent bullying incidents by teaching social skills to all students, bullies and their victims (Heinrichs, 2003). These lessons focused on modeling appropriate behaviors and provided some form of incentive for students who changed their behaviors. Moreover, bullying policies addressed the needs of victims in addition to dealing with bullies. Passive victims required training on how to be more assertive, preventing future bullying incidents from occurring. Provocative victims needed training on anger management, preventing them from escalating future incidents (Batsche, 1994). Addressing the individual needs of both groups of students was a key element to prevent further incidents.
Bullying interventions in schools included the parents as an effective means to deal with and curb inappropriate behaviors. Including parents of both the bully and victim assisted the school when dealing with bullying incidents (Heinrichs, 2003). This provided parents and students with ownership of the situation. As a majority of cyberbullying occurred away from school, parents also needed to be involved and educated as to the dangers the Internet posed for their children, both as bullies and potential victims (Beale, 2007). In this case, parents helped monitor what students were doing outside of the normal school day. In both types of bullying, the inclusion of parents into the intervention process benefited school staff as they dealt with situations.

Recent Lawsuits Against Individuals, Schools and School Districts

Recent court cases involving students who were subjected to bullying continued to influence the way bullying legislation was interpreted. The mother of two twin girls at Newport Middle School in Kentucky—who were continually bullied in sixth grade—filed a suit against the district for not protecting her daughters. The alleged case involved a group of boys and girls harassing the twins, including threats to cut their hair and attack them after school. The mother claimed that a school board member told she should take care of it herself and work it out with the other students’ parents. The state legislature was currently developing House Bill 91 that made all forms of bullying and harassment in schools illegal (Noll, 2008).

In 2007, a Hillsborough County, Florida jury awarded four million dollars in damages to a student who was bullied and then had his arm broken when he was a student at a private school. In this case, it was determined that the school did not provide
adequate supervision for students; as a result, the bullied student has permanent damage. The Hillsborough County Public Schools’ Assistant Superintendent for Administration sounded a warning for all public school principals; if they did not take action to prevent such bullying in their schools, they would be held liable for any harm that came to students (Jenkins, 2007).

In 2008, a mother in Missouri was convicted of charges related to cyberbullying, the first case of its type. She impersonated a sixteen-year-old boy on MySpace.com, which she did to retaliate against a student for supposedly spreading rumors about her own daughter. The mother posed online as a boy, to first befriend the teen. Eventually, she sent a message that the world might be better without the female student. The teen eventually committed suicide. The irony in this case is that the jury acquitted the mother of three felony charges in the case. Instead, she was found guilty simply of misdemeanor charges related to her violation of the Terms of Service of the Internet site (Adams, 2008).

Litigation against schools and individuals was not limited to the United States. In 2001, Japanese court ruled in favor of the plaintiff and ordered a school, town, and bullies to pay a total of $350,000 in damages to the parents of a boy who committed suicide over repeated bullying. The student had been hazed and harassed for a long time, including having chalk dust and thumb tacks placed on his seat. The school called the alleged bullying simply “playing” by the students. However, one day the student went home after being bullied all day and hanged himself in a closet (Reitman, 2001).
In compliance with the Jeffrey Johnston Stand Up for All Students Act (Section 1006.147, F.S.), Hillsborough County Public Schools (HCPS) developed formal policies to prohibit and deal with bullying behavior in schools, at school-sponsored activities, or on school buses. The district developed this policy through the collaborative effort of students, parents, teachers, administrators, community members, and local law enforcement. On December 9, 2008, the policy was approved by the School Board of Hillsborough County. The HCPS’ Policy Against Bullying and Harassment provided guidelines for district employees, schools, and other stakeholders in reference to bullying behavior. As mandated by the state, the policy prohibited bullying or harassment of any kind and provided equal protection for all students despite their backgrounds. Bullying and harassment were defined, and examples were provided for physical, psychological, and cyber bullying. These examples were in addition to the minimum requirements set forth by the state. The policy provided the expected behavior for students and school employees requiring that they “conduct themselves appropriately for their levels of development, maturity, and demonstrated capabilities; this included a proper regard for the rights and welfare of others” (p. 2). This statement was subject to the interpretation of teachers and administrators.

Also, HCPS’ anti-bullying policy outlined consequences for all types of bullying. Specifically, it stated that the location or time of a cyberbullying incident did not serve as a defense in the case of disciplinary action. The policy then outlined the procedures for reporting and investigating incidents of bullying, and one for immediate parent
notification. Also included were the three methods for referring students to the appropriate level of counseling based on the situation and needs of the student(s). The district had clear guidelines for reporting data concerning incidents, specifically coding the following actions as bullying: arson, battery, breaking and entering, disruption on campus, major fighting, homicide, kidnapping, larceny, robbery, sexual battery, sexual harassment, threat/intimidation, vandalism, and weapons possession.

While the district policy for bullying provided detailed information concerning the majority of the state mandates, there was one section for which the policy did not provide adequate details. The section covering training and instruction for all stakeholders stated that this information was provided; however, a description of what information was included and how it was distributed to parents, students, teachers and the community was not included. This communication of information was one of the key aspects of a bullying prevention program. As cited previously in this chapter, instruction for students on topics such as civility, assisted in the prevention of bullying. By closely matching the state requirements, the HCPS Policy Against Bullying and Harassment provided a strong framework for the district to follow. However, as cited previously, the enforcement of this policy determined how effective it was at preventing bullying.

Conclusion

Although school safety and bullying were not new problems, they became prime concerns in schools in the U.S., mainly due to high-profile events such as the recent Columbine and Virginia Tech shootings. The review of related literature illustrated how the current bullying legislation developed as a result of such incidents over the past two
decades. Furlong, Morrison, and Greif (2003) revealed that bullying laws in Finland and other Scandinavian countries were enacted as a result of the number of victim suicides. They stated that school shootings in the U.S. were the major driving factor behind legislation to prevent bullying. Many perpetrators in these incidents claimed that they had been bullied, and even though it was not the only reason behind their action, being bullied did contribute to their decision (Heinrichs, 2003; Limber, 2003). These incidents tied into legislation enacted by each state to control and hopefully prohibit bullying in schools.

States with the most prominent shooting events tended to have the most stringent bullying laws; however, other states continued to enact legislation to protect students. In this chapter, the laws in Florida, Georgia, North Carolina and South Carolina were examined and compared. Each state defined bullying in a similar fashion utilizing common terms such as intimidation, threats, harassment, and hostility. One of the key differences existed in Georgia where the bullying laws only applied to students in grades six through twelve. The Georgia Legislature did not include provisions to deal with bullying at elementary grade levels. This was in stark contrast to research that stated that bullying began on the playgrounds of the elementary schools (Greene, 2007; Harris, 2006; Heinrichs, 2003). Bullying legislation in Florida, North Carolina, and South Carolina provided protection to all students in public schools. The effectiveness of this legislation was dependent on how well it was written and implemented (Limber, 2003). In addition, legislation in all four states left interpretation of the best methods to prevent
and deal with bullying up to individual school districts. This led to inconsistencies in the enforcement of anti-bullying policies across the region.

While researching the prevalence of bullying in schools, the literature reviewed referred mainly to the survey of students and teachers. In these types of studies, researchers constructed a survey through a multistage process; the goal was for the instrument to address the specific issues outlined in the study. In addition, the researcher determined how he/she sampled the target population (Permuth, 2006). However, these methods relied on accurate self-reporting by the participants; this represented their perception of the prevalence of bullying. The research reviewed in this paper did not address actual discipline data comparing the number of reported incidents over a several year period. This data, in addition to survey data, provided a better overall depiction of whether bullying legislation had a positive effect on schools. The literature reviewed in this paper did not present a definitive case as to whether legislation and policies that were implemented to reduce the overall prevalence of bullying and harassment in schools had been successful. Olweus (1988, 1993, 1994, 1995, 1996) worked with schools in Norway and Sweden to implement prevention programs that had been successful at reducing instances of bullying. However, other studies showed that broad based preventative measures only had mixed results (Orpinas, 2003). Limber and Small (2003) pointed out that not all legislation designed to reduce violence in schools had been successful. Effective classroom management techniques tended to reduce bullying behavior (Rowan, 2007; Sampson, 2002). The success of anti-bullying programs began in each classroom where the teacher set the climate; he or she created a warm environment where students
felt safe and could learn (Albert, 1998, Orpinas, 2003). This safe environment became part of other classrooms and the overall school.

Compliance with state mandates concerning bullying was an important task for school districts. As stated in this chapter, Hillsborough County Public Schools complied with the mandates of the State of Florida and the School Board recently approved the policy. However, the effectiveness of this policy depended on how well the district put it into practice (Furlong, 2003; Limber, 2003). Further studies of this district would have been required to determine if the district implemented the policy as stated and how effective it was a reducing bullying.

After reviewing the literature on bullying for this chapter, two additional questions arose that should have been addressed. The first of these dealt with the effectiveness of bullying policies in schools. Had these policies helped to reduce the amount of bullying incidents or had they just brought more attention to this issue? A second, more critical question focused on how bullying and harassment incidents were coded and/or addressed. Would bullying and harassment legislation and the negative connotation associated with this type of behavior have influenced administrators to code these incidents differently for reporting purposes? To address these questions, additional research should be conducted to study the effectiveness of bullying legislation and prevention policies. Unfortunately, this still may not have provided clear answers to these questions.
Chapter 3 - Methods

Chapter 3 discusses the methods used in the study beginning with a reiteration of the problem, and purpose of the study including the research design. The focus then shifts to the role of the researcher and any biases inherent in the study. The next section of this chapter discusses the research process used in this study and the data collection procedures. This chapter concludes with the procedure for the analysis of data and discussion of the limitations of this study.

The present study was conducted during the fall semester of 2009, examining both Federal and state laws and district policies regarding bullying and overall school safety. These laws included Constitutional Law, Statutory Law, Case Law, and Administrative Law in particular. Permission was obtained from the target district, Hillsborough County Public Schools (HCPS). In Florida, the terms district and county were used interchangeably, as the state constitution defined each of the sixty-seven counties as its own district. Due to this design, Florida had some of the largest districts with over two hundred thousand students and some of the smallest districts with over one thousand students in the nation. This district was the third largest in a state of diverse school systems, ranging in size from over one thousand to over three hundred thousand students. During the 2008-2009 school year, HCPS served approximately two hundred thousand students and had over twenty-five thousand employees.
Statement of the Problem

The Federal and state governments develop laws to provide equal access for all students to a publicly funded education. School safety is a key component in the development of an environment conducive to learning. If students do not feel safe at school, they are not as focused on learning. School districts face multiple issues that threaten the safety of students such as pedophiles, domestic abuse, weapons, and bullying. School districts were somewhat sheltered from some of these threats through government actions. For example, Florida passed the Jessica Lunsford Act (2005) that required background checks on anyone who was on school grounds when students were present to include non-instructional personnel—those with no regular contact with students—and vendors. Additionally, instructional staff such as teachers and administrators, who have regular contact with students, are continually monitored under the Florida Fingerprint Law. Similarly, school districts have the ability to manage bullying behavior. Policies and procedures were implemented to help reduce the prevalence of bullying.

Bullying behavior causes major disruptions in schools and puts a strain on resources. Florida Statute 1006.147 (2) states that “bullying or harassment of any student or employee of a public K-12 educational institution is prohibited.” Formal research on the issue of bullying began in the 1970’s with Dan Olweus in Norway. The issue became more visible in the light of high profile school shootings attributed to bullying and/or social exclusion. One key aspect of the bullying problem involved determining the overall prevalence in schools. Research estimated that 10-30% of all students were
involved in bullying either as the bully, victim, or witness (Aluede, 2008; Isernhagen, 2004; Newman-Carlson, 2004; Sampson, 2002; Walton, 2005). Legislation was enacted to prevent bullying behavior in schools; the impact of these laws on districts and schools is not easily discernible.

In 2008, Florida enacted specific, but comprehensive anti-bullying legislation strictly prohibiting any type of bullying or harassment. In accordance with this legislation, Florida school districts developed policies and procedures to address bullying in all realms schools reached such as physical and virtual. These policies adhered to specific guidelines; however, each district had some leeway in the implementation process (FLDOE, 2008). The development and eventual implementation of anti-bullying policies had adverse effects on the district and its resources.

Bullying in schools presents an example of a triangulation of law, policy, and implementation to manage an issue. State and Federal Laws provide a framework for preventing and managing bullying in schools. School districts developed policies based on these laws with the goal of matching the original intent. The implementation process then attempted to put the policies into practice, again with the goal of fulfilling the intent, letter of the law, and policy writers. Embedded in the implementation process were challenges that had to be overcome such as in the 1920s issue: the Compulsory Education debate. Permuth and Mawdsley (2006) cited Pierce v. The Society of Sisters (1925), in which the Supreme Court ruled that states could require compulsory attendance but parents had the right to choose between public and private schools. Translating the original law into practice, as done so by HCPS in 2008-2009, raised questions as to how
closely the district policies matched the requirements of the both the intent and the letter of law.

Purpose of Study

As previously noted, a large number of issues affect the environment of the school and student capability in advancing academic achievement. One important area discussed above was that of bullying, with particular concern of how well a district provided policy consistent with law that enabled its students to achieve. The purpose of this study was limited. Yet it studied the standing student bullying policies of one district to describe and to assess the degree to which these policies conformed to the law.

Research Questions

In the study, the following research questions were addressed:

What did relevant constitutional, statutory and case law state about student bullying in schools?

What policies in the literature presently dealt with student bullying?

What policies did Hillsborough County Public Schools (HCPS) have in place regarding student bullying in schools and what process was used to develop them?

How closely did the student bully policies in HCPS match the intent and letter of the law, particularly in Florida?

Policy

Policy represents a broad category of statements designed to guide practice; these statements were made by both public and private entities. Permuth and Mawdsley (2006) stated that policy was “defined as a vision of where to go and guidelines for getting
there” (p. 133). For example, the No Child Left Behind Act (2001) set the educational direction for the entire nation. Policy research then involved an examination of the total process of developing, implementing and monitoring of the policy. This included a study of the leadership responsible for this policy and any procedures that had been developed during the implementation process (Permuth, 2006).

The state of Florida enacted bullying legislation (Statute 1006.147 - Bullying and Harassment Prohibited) specific to students in 2008 as a means to help districts prevent bullying behavior from occurring, and also to manage such behaviors if and when they did occur. The law was specific, requiring districts to develop and to implement policies that met or exceeded specific components, ensuring the safety of the students. Chapters 2 and 4 address and analyze the components of these policies.

Section of Target District

Hillsborough County Public Schools (HCPS) Tampa, Florida, was selected for this study due to its large size, the researcher’s access to it, and the diverse population. Moreover, HCPS was a large district serving approximately 200,000 students; this made it the third largest district in Florida and the eighth largest in the nation. The district also had approximately 25,000 employees, 14,000 of whom were teachers. Students attended one of 235 of schools: 136 elementary, two K-8, 45 middle, 27 high and 27 other schools such as career and exceptional centers. In addition, 116 of the schools were classified as Title I or high poverty. Schools were organized into feeder patterns in seven regions, each overseen by an Area Director. Each Area Director met with his or her school principals on a regular basis, to share information and discuss methods for dealing with student
behaviors and increasing student achievement. Each principal then shared this information with staff, developing a plan for implementation (HCPS, 2009). The researcher served as a supervisor in the district’s Staff Development Office. This position provided access to key district personnel involved in the development and implementation of the bullying policy.

HCPS served a diverse group of students. The population in the county mirrored that of the state of Florida, and was similar to the U.S. as a whole. According to the 2007 U.S. Census, the nation’s population included 66% non-Hispanic single-race white, 15.1% Hispanic, 13.5% Black, 5% Asian, 1.5% Native American or Alaskan, and 0.3% Native Hawaiian or Pacific Islander. In 2006, the population in Florida was 61.3% White, 20.2% Hispanic, 15.8% Black, 2.2% Asian, 0.4% Native American or Alaskan, and 0.1% Native Hawaiian or Pacific Islander (Florida Census). Also, in 2006 the population in Hillsborough County was 57.9% White, 22.1% Hispanic, 16.5% Black, 3% Asian, 0.5% Native American or Alaskan, and 0.1% Native Hawaiian or Pacific Islander (Hillsborough County Census).

Role of the Researcher

The role of the researcher in this study first was to develop a deeper understanding of the law concerning bullying and student safety in schools. This included the examination of both the primary and secondary sources of law and the bullying policies of one school district. Student safety in the classroom was one of the key elements of providing an environment conducive to learning. The researcher used the
interpretive policy process to analyze the law and policies to determine if the intent and letter of each were in line with the concept of providing a safe environment for students.

A key aspect of this study included the procedures that the target district utilized in the development of the policy to meet requirements in Florida, and how closely the policy matched the state requirements. As a component of this aspect, the researcher gathered information concerning the development of the bullying policy through interviewing key personnel in the district. Each interview consisted of the same questions that were compared in determining how closely the district’s policies matched the intent and letter of the state law. During this aspect of the study, the researcher attempted to keep bias at a minimum through the steps outlined in the next section.

Bias

As in any study, some biases were inherent in this study due to the high profile nature of the topic. The researcher worked in the target district and experienced the potential for subjective interpretation in a qualitative study. Bullying and school safety were issues that have received a great deal of coverage recently in the media due to high profile school shooting incidents. These incidents tended to cause reactions to try to stop similar reoccurring behaviors. The current study focused on an analysis of law and the development of policy from law, utilizing bullying as a medium to study the process. Therefore, bias related to the subject of bullying was minimized through a focus on policy development and compliance with the intent and letter of the law.

As stated previously, the researcher’s position in HCPS afforded access to the district. This access and potential subjective interpretation could also have been sources
of bias. The district personnel who were interviewed in this study did not report to the researcher and worked in different divisions. The nature of the interviews was to gather information about the development and implementation of the bullying policy. The researcher accomplished this by using a similar set of questions that were reviewed by school law experts, providing each individual with a copy of the topics and sample questions prior to the interview. Each participant was also given the opportunity to answer the questions freely, and his or her answers guided the interview process. The researcher examined overall trends in the responses as opposed to examining the responses individually. The researcher also sent the transcribed responses to the interviewees to ensure accuracy and validity through member checking. Through this process, the members who participated in the study reviewed the information and conclusions drawn by the researcher to determine if they accurately reflected their intentions. The participants also aided the researcher in correcting any mistakes that were made during the translation process (Angen, 2000). This was critical to establish credibility in the study and aided in preventing personal bias from being included (Lincoln, 1985). An outside validator also reviewed the processes and conclusions to ensure that bias had been minimized. This process included an ongoing dialog and review of the researcher’s writing to reduce bias. The outside validator was a professor at Stetson University in Florida and served as a evaluator for several district grants across the state. The validator provided a statement (see appendix B) that the researcher implemented procedures to minimize bias.
The study utilized the interpretive policy analysis process as described by Yanow (2000) to minimize the subjectivity of its interpretation. She argued that it is impossible for an analyst to stand outside of the policy issue studied and not be connected to it in any way. Background experience played a major role in the analyst’s ability to make sense of any situation. Yanow (2000) did not see this as an impediment to the interpretive policy analysis process, but rather a tool the researcher utilized to analyze the law/policy and desires of the interpretive community. The interpretive approach did not seek to contest realities but instead to understand and develop meaning for the social processes that guided the approach. The researcher did not simply examine facts, but instead compared the varying interpretations made by the stakeholders.

Trustworthiness

Trustworthiness in qualitative research is an essential component for the researcher to add credibility to his or her work. In qualitative research, it was sometimes referred to as “good science” (Hoepfl, 1997). Lincoln and Guba (1985) described comparison terms to those traditionally found in quantitative research. Internal validity was compared to credibility; external validity was compared to transferability. Basically, these two components dealt with how well the study complied with what the researcher said it would be, and determined if the results were being used throughout the field. The focus was on the quality of the information gathered and the researcher’s ability to analyze the information (Hoepfl, 1997). Reliability in a qualitative study was compared to dependability; were the results repeatable? The last term, objectivity, was comparable to confirmability; did the results display empathic neutrality demonstrating independence
as in quantitative studies? In this case, the key was for the research to be as neutral as possible throughout the study (Lincoln, 1985).

In the current study, the researcher established trustworthiness to reduce bias through the following measures. Credibility was established through the quality of the information gathered and utilization of the interpretive policy analysis method to analyze and determine the intent and letter of the law and policies. Transferability was established through the design of the study to examine the translation of law into policy using bullying as a medium. This study provided a method for other districts in Florida to examine the bullying policy in place. It also provided a broad method for analyzing policy in general as related to law. Dependability was established through the review of the content of the interviews by district personnel. Confirmability was established by the researcher taking a neutral stance in the research. Although the researcher worked for the target district, every effort was made to remain objective, using the district as a means to study the development of the policy.

Research Design

The design of this project involved an interpretive policy analysis through the examination of three key components related to the intent and letter of bullying law and policies. The first component included an analysis of primary sources of law as they related to bullying and school safety. Primary sources of law reviewed included constitutional, statutory, and case law. The second component involved examining secondary sources of law, including articles and other related literature that examined current bullying policies in other parts of the United States. The last component involved
an analysis of the bullying policy developed by Hillsborough County Public Schools, comparing it to the state requirements.

The interpretive policy analysis process used in this study involved three steps: identifying the key components, stakeholders (interpretive community), and how these components were interrelated (Yanow, 2000). This analysis was initiated in the theoretical framework of discourse theory that examined the legitimacy of the law. The discourse theory process stemmed from the assumption that actions, objects, and practices all had underlying social meanings. Interpretation of these meanings was often shaped by social and political differences and opinions. Discourse demonstrated how the actions, objects, and practices were interpretively constructed (Mathur, 2009; Sherrer, 2009). The nature of discourse theory placed limits on the range of outcomes in a given situation; thus, it tended to simplify the complexity of the social world (Mathur, 2009). This process developed into the interpretive policy analysis that examined the artifacts—actions, objects, practices—and interpretive communities—social and political differences and opinions—looking to discover the varying interpretations and any conflicts that impeded progress (Yanow, 2000).

Permuth and Mawdsley (2006) stated that policy research included traditional legal research such as studying a specific court case; however, it also was applied to the study of specific policies implemented by a school board or other educational entity. The process in this study focused on the interpretive policy analysis that allowed the researcher to examine the intent of the law, court decisions, and district policy (Yanow,
This included a critique of the selected district policy to determine its compliance with state law.

The policy analysis process involved five key components that allowed the researcher to carefully study the issue using different aspects. The first of these involved preparation as the researcher gathered all information available concerning the topic. The review of literature served as a foundation for the study and provided the researcher with background information to assist in shaping the study (Permuth, 2006). In this study, the researcher reviewed literature on bullying behavior and laws in schools. Recorded incidents of bullying dated back hundreds of years in England and Greece (Greene, 2007). However, formal research on the topic did not begin until the 1970s with Olweus in Scandinavia. Researchers found that the prevalence of bullying was far greater than many expected, as high as 30% of all students (Aluede, 2008; Isernhagen, 2004; Newman-Carlson, 2004; Sampson, 2002; Walton, 2005). Many high profile incidents of school violence such as Columbine (1999) and Virginia Tech (2007) had been attributed to bullying and/or social exclusion. The federal government and individual states had since enacted legislation to prevent bullying, including strict measures for those who still committed acts. Florida enacted bullying legislation in 2008 that required all district to have a comprehensive policy for preventing incidents. Hillsborough County Public Schools developed such a policy in 2008 for full implementation during the 2009-2010 school year.

The second aspect, conceptualization, posed research questions and the methods that were used to discover the answers. This aspect was addressed throughout this
chapter. The third aspect of the policy analysis, technical analysis, involved the analysis of data and was similar to traditional research. Data were also reported in an organized method; Chapter 4 covers this aspect. The fourth aspect, recommendations analysis, required the researcher to draw conclusions based on the analysis of the data. The researcher then made recommendations based on the conclusions; Chapter 5 addresses this aspect. The last aspect, communication, shared the results of the study with other professionals (Permuth, 2006). This aspect was accomplished through the publication of this study.

Primary sources of law constituted the basis for schools and other government entities to operate. These sources served as the law of the land. Constitutional and Statutory Law merely acted as guidelines that were subject to interpretation by the courts and local governing body. In this study, these sources of law were examined to determine their overall impact on a public school system addressing safety, and more specifically, bullying. Several questions were addressed related to primary sources of law. These questions began with what the law actually said in reference to school safety and student bullying. For example, the specificity of the requirements stated in the U.S. Constitution and the Florida State Statutes differed. The courts also interpreted these laws and ruled on issues related to school safety. For example, a student at a Tampa private school was injured by his classmates. The court ruled that the school was liable for his injuries due to a lack of proper supervision. This interpretation now applied to similar cases and other districts were affected by this decision. In addition, legislation was also driven by court decisions.
Secondary sources of law began the legal interpretation process with authors writing about the law as it related specifically to schools. As reviewed in Chapter 2, the literature examined the primary sources of law and provided either a reiteration of the law or a scholarly analysis of its meaning or intended use (Permuth, 2006). Examining secondary sources provided additional perspectives into the intent of the law. Secondary sources also provided examples of student bullying policies used in other school systems in the U.S. and around the world. For example, anti-bullying policies developed by Olweus in the 1970s and 1980s have been implemented into schools in Norway and Sweden to manage the issue.

The third part of the study included interviews of key district personnel involved in the development of the bullying policy in Hillsborough County Public Schools. The individuals selected for this study included the following personnel with a brief job description. The Assistant Superintendent for Administration oversaw all school administrators and sites. The Director of Administration oversaw the development and implementation of the policies and procedures in the schools. The Director also served as the site administrator or principal for the main district office. The Supervisor of Psychology Services oversaw various functions in the school district related to student ability and placement. The supervisor also served as the Chair of the District’s Violence Prevention Committee. The school board attorney was a private practitioner retained by the School Board of Hillsborough County as legal counsel. The attorney provided legal advice and interpretation when called on by the school district (HCPS, 2009). Each interview used the same topics (see appendix A) and was designed to examine the process.
of developing the bullying policy in Hillsborough County Public Schools. This included a
discussion of any conditions or incidents that impeded the development of the policy, and
noted what the district did to overcome them.

Table 1

*Interview Participant Demographic Information*

<table>
<thead>
<tr>
<th>Position</th>
<th>Race</th>
<th>Gender</th>
<th>Years in Position</th>
<th>Years in District</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assistant Superintendent for Administration</td>
<td>Black</td>
<td>M</td>
<td>4-6</td>
<td>25+</td>
</tr>
<tr>
<td>Director of Administration</td>
<td>White</td>
<td>F</td>
<td>1-3</td>
<td>25+</td>
</tr>
<tr>
<td>Supervisor of Psychology Services</td>
<td>White</td>
<td>F</td>
<td>4-6</td>
<td>15-20</td>
</tr>
<tr>
<td>School Board Attorney</td>
<td>White</td>
<td>M</td>
<td>4-6</td>
<td>25+ (private firm)</td>
</tr>
</tbody>
</table>

*Case Study Design*

The case study was designed to examine the law and how it became policy in one
school district in the state of Florida. The design utilized the interpretive policy analysis
as a method for studying law and policy development, which used the state’s bullying law
as a medium for the study. In 2008, Florida enacted a specific anti-bullying law that
prohibited the behavior and required districts to develop a policy that complied with the
requirements of the law. Hillsborough County Public Schools developed the policy
during the fall of 2008, and this process served as an example of the policy development process.

Five steps were used in the design of the case study for Florida and Hillsborough County Public Schools. The first step involved the gathering of data from all sources including primary sources of law, secondary sources of law, the district bullying policy and the process used to develop the policy. The second step involved organizing the information into a logical sequence that told the story of how the laws and policies were first developed. This included any events that influenced the law/policy development process. In the third step, a narrative was developed integrating all three parts of the study. The fourth step included validation and was essential to the third part of the study. The researcher ensured that the transcription of interviews accurately reflected the perception of what occurred in the development of the policy. Interviewees were asked to review the researcher’s transcription to ensure accuracy, again through member checking. The last step searched for any themes or patterns that emerged from the study (McNamara, 2008). These steps allowed the researcher to examine the process of translating the law into policy while revealing any elements that helped to shape the policy.

The discovery of themes and patterns from the interviews was a complex, inductive process that began with the transcription of each interview (Patton, 1990). This process continued with open coding requiring the researcher to develop conceptual categories to group phenomena into a framework for analysis. The researcher then grouped similar words, phrases and/or events into the same category for further analysis.
The next step involved examining each category through axial coding and discovering linkages between categories. The axial coding process was designed to help the researcher piece together the puzzle through using the same names for similar items. An important aspect of this process was the determination of whether data existed to support the current interpretation. The last step required the researcher to translate the model into a story for reporting purposes (Strauss, 1990).

*Interview Topic Development*

The interview topics and sample questions for this study were developed by the researcher with intent to examine the policy development process in Hillsborough County Public Schools. The researcher began with the broad categories that addressed the overall development process, the interviewee’s role, roadblocks/challenges, and the evaluation of the process. These four topics provided a picture of how the district complied with the intent and letter of the law in Florida. The researcher expanded on each topic by adding sample questions to guide the interviews, allowing the interviewees to expand on their answers when necessary.

*Assumptions*

The nature of qualitative research methods required that the researcher recognized certain assumptions and accounted for them in the research process. The first assumption was that the researcher was more concerned with the process of developing the policy than the outcome of the policy. The second assumption placed the researcher in a role where he was interested in the meaning of the policy, how it related to the stakeholders. The third assumption placed the researcher as the instrument of the research process.
Despite the data coming from other sources, he interpreted it. The fourth assumption was that the qualitative research involved field work; the researcher physically went to the people or setting involved. The fifth assumption involved the descriptive nature of qualitative research; process, meaning, and understanding were gained through pictures and/or words. The last assumption placed qualitative research as an inductive process; the hypothesis was developed from the research, unlike quantitative research where the hypothesis was supported/not supported by the research (Creswell, 1994; Merrian, 1988).

The current research study utilized the following assumptions as the researcher collected the data. The researcher examined the process of translating the law into a policy in Hillsborough County Public Schools and then compared the end result to the requirements stated in the law. The study also examined how those involved in the development of the policy worked within the requirements of the law and the needs of the district. This study was not concerned with the implementation of the policy or whether it actually worked. The third assumption placed the researcher in the role of the instrument. He ultimately interpreted the law, policy and information gathered from the bullying policy committee and interviews. The last two assumptions were addressed together as the researcher drew meaning from the text through the interpretive policy analysis.

Data Collection Procedures

Data in this project were collected through artifacts and interviews. The first part of the study included the examination of constitutional, statutory, and case law that were recorded as the information was reviewed. The researcher referred to the U.S. Constitution and the Florida Constitution for the basis of school laws and safety in the
schools. Statutory Law was referenced in the appropriate law registers. Case Law was referenced as both a primary and secondary source through the examination of the court decisions. All three types of law were researched using Internet search engines and databases such as FindLaw and WestLaw available to the University of South Florida. Case Law was addressed at the Appellate or Supreme Court level. The researcher focused on “a systematic investigation involving the interpretation and explanation of the law” (Permuth, 2006, p. 6). This included a historical method of data collection that allowed the researcher to draw conclusions based on what was written in the law and court decisions in related cases. The researcher utilized a computer filing system of folders to organize artifacts collected from the law search. This system separated cases into local, state, and federal level.

The review of secondary sources of law, particularly scholarly articles, provided an interpretation of the law and were sometimes used by the courts in their decisions (Permuth, 2006). Literature was searched using the Education Full Text and ProQuest databases available through the University of South Florida Library. Search terms included bullying law, bullying prevention, bullying policies and policy development. This aspect involved a careful analysis of what the literature revealed and how it had been applied by the courts and in school systems. As in the review of primary sources of law, the researcher utilized a computer filing system of hierarchical folders to organize artifacts collected from the law search. This system included two aspects: policy development and similarities among policies.
The review of the district bullying policy included two aspects of data collection. The first involved examining the policy as written in December of 2008 and comparing it to the state requirements. This aspect looked at each requirement in the law to determine if the district policy had a corresponding item. The school district provided this policy to the researcher. The second part of the data collection included an examination of interviews with selected district personnel. This aspect investigated the actual development of the policy, examined each step, and noted any discrepancies and/or changes to the policy as it was developed. The researcher asked each participant a set of questions guided by these topics. The participant then had the opportunity to answer freely and the researcher asked follow-up questions based on the responses. Each interview was digitally recorded and then transcribed to allow for analysis.

Data Analysis

Data were analyzed using the interpretive policy analysis for the three aspects of the study: examination of what the law said about school safety and bullying, reviewing the literature on bullying law and policies and analyzing the development of the bullying policy of a school district. The interpretive policy analysis process, as described in Chapters 1 and 2, included four basic steps. The first two were interrelated and involved the identification of key artifacts and interpretive community (Yanow, 2000). The artifacts in this study included the primary and secondary sources of law, the school district bullying policy, and any events that affected the development of the policy. The interpretive community included the state, district and the community served by the district. District staff and stakeholders interpreted the state law and developed a policy
from it. Yanow (2000) stated that these two steps were normally conducted at the same time and often led to multiple interpretations of the law.

The third part of the interpretive policy analysis examined the discourses of the interpretive communities to reveal how the stakeholders talked about the law and policy. This step examined the values and beliefs of the interpretive community in reference to the state law and district policy (Yanow, 2000). Data gathered through the interviews of district staff provided insight into the issues promoting legislation and policy. The policy development process in Hillsborough County Public Schools included an examination of who participated, what informed decisions, social perspectives discussed and integrated, internal interests and external interests influenced, and potential impact. These elements were revealed through the interviews of district personnel. The fourth part of the interpretive policy analysis was directly related to the third, and involved the identification of different and conflicting views of the stakeholders in the interpretive community (Yanow, 2000). Knowledge of conflicts was essential in the final analysis of the law/policy, and when making recommendations to the interpretive community.

The fifth part of the interpretive policy analysis included three parts, only one of which was used in the data analysis in this study. Part A examined the implications of the differing and sometimes conflicting views had on the development and eventual implementation of the policy (Yanow, 2000). The key aspect of this part of the policy analysis was to determine what blocks existed for the development and eventual implementation of the law/policy. Parts B and C of the fifth part conveyed the information from Part A back to the interpretive community. While the researcher
provided recommendations, the study itself did not fulfill this aspect of the interpretive policy analysis.

The parts of the interpretive policy analysis were then combined to gain an overall picture of bullying legislation, case law, and district bullying policy. This picture was examined to determine how well law was developed into policy and how the courts ruled in relation to the original law. The final piece of this analysis looked at the potential implications of this study and provided suggestions for additional studies based on the findings.

Limitations of This Study

Bullying/harassment have developed into a major challenge for schools. Educators worked effectively to manage bullying behavior for decades; however, recent advances in technology allowed information about school violence to be transmitted worldwide in seconds. This publicity led to the implementation of legislation designed to prevent and manage bullying behavior in schools. The major limitation of this study stemmed from bullying legislation being a recent occurrence. Legislation concerning school safety dated back to Title IX in 1972; the majority of bullying laws were enacted in the last decade. Florida’s anti-bullying legislation was enacted in 2008, and by December of the same year, required districts to implement bullying policies. The recent addition of this legislation pointed to a lack of long term research and case law regarding the topic. Therefore, in reference to bullying legislation, this study was limited mainly to information from 2000 through the present available research.
Delimitations

The delimitation in this study was the selection of one district in Florida to use as the subject of the study. While this district was selected due to its large size and the researcher’s access to it, the methods utilized to develop and implement bullying policies were specific to this district. Each Florida district followed specific guidelines; however, these guidelines allowed for interpretation that varied from district to district. The researcher designed the methodology so that the study could be repeated in other districts.

Summary

Chapter 3 presented the methodology of this study, explaining the process the researcher used to examine bullying law and policy. The first part of the chapter reviewed the statement of the problem, purpose of the study, and research questions addressed in the study. The main purpose was to examine law related to bullying and harassment in schools, and then determine the adherence of a district policy to the requirements of the law. The chapter then discussed the selection of the target district and the role of the research in this study. The researcher worked in the target district allowing access to district personnel, but also requiring measures to prevent bias in the study. Bias was eliminated through the use of the interpretive policy analysis process, a review of the interview transcripts by district personnel and a review of the research by an external evaluator.

The next part of the chapter focused on the research design. In this study, the researcher examined three components utilizing the interpretive policy analysis: primary sources of law, secondary sources of law, and the bullying policy developed by the target
district. The policy analysis was designed to examine if it complied with the intent and the letter of the law at both the federal and state levels. The case study focused on Hillsborough County Public Schools, Florida, and the policy recently developed and implemented in compliance with the Jeffrey Johnston Stand Up for All Students Act. The researcher examined the development process and then analyzed the policy’s adherence to the state requirement. The interview topics were developed by the researcher based on the four research questions that guided the study. These topics were then further refined to include sample questions used in the four interviews. Assumptions were also included in this section.

The last part of Chapter 3 focused on data collection and analysis procedures and limitations of the study. The researcher collected artifacts (law and policy) and interviews for the purpose of analyzing the law and policy related to bullying/harassment. These items were all stored electronically on a secure computer. Data analysis was conducted using the interpretive policy analysis process described by Yanow (2000). The purpose was to gain an overall understanding of how policy was developed from the law. Although bullying had become a major topic in the United States, research on the law and policies was a recent occurrence and a major limitation of this study. In addition, the use of one district in the study served as a delimitation of the study.
Chapter 4 - Results

Florida Statute 1006.147 (4), Bullying and harassment prohibited, states that “each school district shall adopt a policy prohibiting bullying and harassment of any student or employee of a public K-12 educational institution.” The problem addressed in this study involved two distinct but related parts related to the Florida bullying law. The first part of the problem addressed the policy development process as specified by law. The policy development process in a school district was dependent on many factors; however, the basis of the policy must comply with the law. This study examined bullying law and more specifically, the recent Florida bullying law and how closely Hillsborough County Public School’s policy complied with the intent and letter of the law. The second part of the problem related to overall student safety and the development of an environment conducive to learning through the development of the bullying policy. According to Urbanski and Permuth (2009) the first key component of a successful bullying prevention policy was to ensure it complied with state law and other district requirements. This study did not examine the effectiveness of the policy or the actual level of safety in the classroom; instead, this study measured the adherence of the policy to law and published models as addressed in the four research questions.

The purpose of this study was to conduct an interpretive policy analysis of bullying law and the policy developed by Hillsborough County Public Schools. The
policy analysis examined intent and letter of the law at both the Federal and state level and the school district policy developed as required by Florida Law. The interpretive policy analysis, as described by Yanow (2000) involved a five-step process designed to examine the policy development process. The first three steps included identifying the artifacts, the interpretive community and how these two elements interacted. The artifacts in this study included the laws, court decisions and policies. The interpretive community represented the stakeholders responsible for interpreting the artifacts to be implemented in the district. These stakeholders included staff, students, parents, and community members. The fourth step examined the interactions to determine if conflicts existed. The fifth step determined if the conflicts inhibited the implementation of the policy and made recommendations to the interpretive community on how to proceed; this step was not completed as part of this study. The components in this study included the law, the stakeholders and how they responded to the requirements of the law. This process revealed potential and actual conflicts that were present during the development of the policy and whether they ultimately inhibited the effective implementation of the policy in the schools.

One component of the district bullying policy analysis included interviews of four key staff members involved in the development of the policy. These district staff members included the Assistant Superintendent for Administration, Director of Administration, Supervisor of Psychology Services and school board attorney. They were selected based on their involvement in the development and implementation of the policy. The interview topics addressed the district policy development process and were
developed by the researcher based on the research questions that were addressed in the study. The four topics included development of bullying policy, involvement in the development of the policy, challenges and roadblocks, and evaluation of the development process. The researcher developed clarifying questions for each topic to guide the interviews (See Appendix A). The purpose of the interviews was to discover the influences behind the policy development process in the district, what changes were made during the process, if any, and why they were made.

Chapter Organization

This chapter presents the results of the interpretive policy analysis of bullying law and the Hillsborough County Public Schools bullying policy. The first part of the chapter includes a brief description of the research questions addressed in the study and what the researcher was looking for in each question. The next section includes a brief overview of discourse theory and the interpretive policy analysis process. The analysis is then categorized by each of the four research questions. Each research question section is further separated based on the items studied in the section including an analysis of the interviews. The final section of this chapter includes a summary of the analysis conducted in this chapter.

Research Questions

The research questions in this study focused on the law and district policy as they related to the subject of student bullying. The focus of the questions was to first examine the broad picture of bullying/harassment law on the national level and then examine the more specific details of the Florida law. One of the key components examined the
development of the bullying policy in Hillsborough County Public Schools and how closely the policy matched the intent and letter of the Florida Bullying Law. This study examined the following:

What did relevant constitutional, statutory and case law state about student bullying in schools?

This question examined bullying as described in three of the five types of law. Constitutional and statutory laws described the requirements as defined by the legislature. Case law provided the court’s interpretation of the law. The researcher interpreted both the intent and letter of these types of law to gain an understanding of what was expected of schools. The examination of case law also revealed precedents that could have been applied in other interpretations of the law at both the Federal and state level. The purpose of this question was to address the broad category of bullying law and determine what states and school districts were required to do by law. Administrative and contract law were not addressed by this research question.

What policies in the literature presently dealt with student bullying?

This question addressed relevant literature that described and interpreted bullying policies in other districts, states and/or the world. The purpose of this question was to compare the target district and state with others to determine if similar policies requirements existed. This question did not address each individual state law or district policy, but instead examined what was written about them in the literature. The majority of the literature addressed bullying laws and policies in a broad sense, not specific to any one state or district.
What policies did Hillsborough County Public Schools (HCPS) have in place regarding student bullying in schools and what process was used to develop them?

This question examined the existing student code of conduct and the bullying policy developed by HCPS including the process that was followed. The process was an important aspect, as the policy could have changed over time through its development, and was influenced by factors in addition to the state law. Interviews with key district personnel and a review of committee documents assisted the researcher in understanding the policy development process followed in the target district.

How closely did the student bully policies in HCPS match the intent and letter of the law, particularly in Florida?

This question compared the HCPS bullying policy to the Florida law to determine if the policy met the requirements. This question also examined if the district’s policy exceeded or just met the state requirements for any of the components. The policy exceeded state requirements if it contained additional details or other information that: provided protection for students and other stakeholders, clarified and made the policy easier to understand/follow, and/or further defined requirements for students and staff. The policy was also compared to a bullying policy template in a recent publication by Urbanski and Permuth (2009), case law and the other laws/policies addressed in question two. The HCPS bullying policy is addressed more specifically later in this chapter.

*Discourse Theory and Interpretive Policy Analysis*

Discourse theory, defined by Habermas (1996), was a process that examined the legitimacy of the law to determine if the law did what it intended to do. Discourse
analysis involved examining the meaning of text and how it related to the stakeholders affected. The interpretive policy analysis in this study, derived from discourse theory, examined both the meaning of the law, district policy, and the relationship with the stakeholders charged with carrying out the law through the development of the anti-bullying/harassment policy. This analysis began with constitutional, statutory, and case law; then it transcended into the district policy. As stated by Yanow (2000), the first two steps of the interpretive policy analysis, identifying the artifacts and stakeholders, were interchangeable in their order and were often conducted at the same time. The third step, examining values and beliefs of the interpretive community as they related to the artifact, could have been conducted in unison with or after the first two steps. The fourth step and first part of the fifth step of the analysis examined any conflicts that arose during step three and determined if these conflicts hindered the eventual implementation of the policy. This study focused on the first three steps of the interpretive policy analysis and then determined if conflicts could arise based on the various artifacts the interpretive communities were examining. For example, the state as an interpretive community could possibly interpret NCLB Title IV differently than a school district interpreting the Florida Bullying and Harassment Prohibited Law.

**Question One Analysis: What did relevant constitutional, statutory and case law state about student bullying in schools?**

**Constitutional Law**

The United States Constitution is the law of the land, and its words either directly or indirectly guide all government actions at the federal, state and local levels. On initial
examination of the Constitution, the document did not mention public schools or bullying/harassment/student safety. However, the basis for each of these items was embedded within broader sections of the law. In the Tenth Amendment, ratified on December 15, 1791, all powers not given to the federal government were delegated to the states. This section of the Constitution provides states with the ability to run public schools; as a part of this right, the Constitution also provides for the safety of the students. Based on the interpretive policy analysis process, the artifact in this case was the Tenth Amendment and the interpretive communities were the states. The Constitution delegated running public schools to the states; hence, no apparent conflict existed in the discourse. In this case, the letter of the law of this amendment was to allow the states to have freedom to educate children; however, the Federal government still retained indirect and coercive control over what the states did, as was seen with the enactment of NCLB in 2001 and the potential impact on Federal school funding. Aside from this Amendment, the Constitution had no direct impact on bullying law or policies.

Under Article IX, the Florida Constitution defined a system of public education. The article briefly described the public school system, including publicly funded state universities. Section 1 of Article IX called for the establishment of “a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education” (Florida Constitution, 2009). This provision, which included the establishment of safe schools, represented the artifact. The interpretive communities named in Article IX were the State Board of Education and local School Boards. In this case, conflict arose as to what was needed to provide students with a safe environment for
learning. The intent of the law was to provide a uniformly and efficiently safe environment. The letter of the law was subject to interpretation by the State Board of Education and each local School Board; this interpretation developed the potential for conflict. Although the 67 Florida districts abide by the same regulations, each district interpreted the requirements differently both based on the beliefs of the interpretive community and the needs of the community. However, the state had further refined this requirement through the K-20 Education Code and additional enacted laws that were discussed later in this chapter.

_Federal Statutory Law_

Statutory Law at both the Federal and state level addressed the issue of bullying. This treatment of the issue was sometimes explicit and at other times, included in the overall safety of students. At the Federal level, the primary law that addressed student safety and violent behavior was Title IV, Part A of the No Child Left Behind Act of 2001. Part A of the law, called the Safe and Drug-Free Schools and Communities Act, supported programs that provided a safe environment and fostered student achievement. Through this act, the Federal government provided financial assistance to states and local school districts to work with local agencies to develop programs to prevent violence and maintain drug-free schools. The artifact was Title IV and the creation of a safe environment for students; the interpretive communities were the state and local educational agencies (LEA) that were required to provide the safe environment. Provisions in the act included allowing students who were victimized at one school to move to another, requiring states to report school safety information and requiring the
LEA to develop and implement a plan for keeping schools safe. While these requirements were more detailed than those in the U.S. and Florida Constitutions, the legislation left room for interpretation at both the state and local level. This again led to the potential for conflict between the intent and letter of the law and what the state and LEA actually implemented. Since the law was tied to Federal funding, states could have chosen to not comply with the regulations and forfeit the funding. This part of NCLB addressed both school violence and drugs; however, only the portion referring to violence was examined in this section.

**Grant awards and authorized use.** Section 4112 of NCLB discussed the reservation of funds by the chief executive officer of the state. As part of this section, the officer was able to award grants based on the quality of the safe school programs districts implemented. The section also referenced Section 4115 concerning the effectiveness of the program, addressed in the next paragraph. Section 4113 discussed the application process for each state. In the application, each state included a description of how the intended activities promoted a safe, violence (and drug) free campus. In addition, the application contained the results of a needs assessment determining the prevalence of school violence and other factors. Bullying could become a violent act (Olweus, 1993; Small, 2003). Section 4114 covered the LEA application process with little specific reference to the actual program requirements.

Section 4115 described the requirement that LEAs used funds authorized in this act to implement programs that would foster a safe learning environment conducive to learning. These programs were designed to prevent or reduce violence while creating a
well disciplined environment. This process also required LEAs to find ways to increase parent involvement and distribute information to all stakeholders concerning the programs. LEAs were authorized to utilize activities that were age appropriate, addressed the consequences of school violence, and promoted individual responsibility. Professional development was provided to students, staff and community members concerning the identification of and intervention into school violence. This training was modified for each specific stakeholder group. Violence prevention activities in the school included community wide prevention activities, developing/implementing school security measures, conflict resolution programs, alternative education programs, counseling; and other measures. Florida’s Bullying and Harassment Prohibited Law, addressed through question four later in this chapter, required similar items.

*Reporting procedures.* Section 4116 discussed reporting requirements for states and LEAs. States were required to submit a report every two years, on the odd year, to the United States Department of Education (USDOE) concerning the implementation and performance levels of their efforts concerning school violence as defined in previous sections. In addition, the state included information concerning prevention efforts. Each LEA receiving funds under this program also reported its activities to the state before the required Federal reporting time. For both the state and LEAs, information in the report was made available to the public.

*Violence prevention.* Section 4121 of Title IV discussed Federal activities designed to assist states and LEAs in preventing violence and drug use in schools. The provisions in this section called for the establishment of programs to support the states
and LEAs in the identification and prevention of school violence including training, information and the development of “model” programs. Section 4122 required a biennial evaluation of the programs supported by this law. The evaluation examined similar aspects of the state and local reporting requirements. Section 4123 discussed the requirements for hate crime prevention, which was related to bullying, but was a more severe offense. Section 4124 established the Safe and Drug Free Schools and Communities Advisory Committee that was charged with assisting the Secretary of Education with the implementation and monitoring of this program. Section 4128 established the National Center for School and Youth Safety that included the anonymous student hotline allowing students to report violent activity. Section 4141 outlined the Gun-Free Schools Act, prohibiting firearms in schools.

Section 4151 of Title IV provided definitions for the items described in the law. Violence prevention was described as the promotion of school safety to ensure that students and staff were free from violence. This included sexual harassment, prejudice, and intolerance at any school related function. Schools needed to be free from weapons in addition to fostering a sense of responsibility and respect for oneself and others.

Impact of NCLB. NCLB had a major impact on public schools with the basic intent of improving the education system and fostering student achievement. Title IV of the legislation specifically targeted school safety. The interpretive communities included all states and every school district in Florida. Each district determined how the requirements of Title IV and the larger NCLB were implemented. Conflict arose in this process as some districts and states felt that the requirements of NCLB, and thus the
Federal funds attached to the legislation, were not reasonable and worth the effort of implementing them. For example, in 2005, Governor Jon Huntsman signed legislation that placed Utah’s education standards above the Federal Government’s, potentially forfeiting $76 million in funding (MSNBC, 2005). In other states, where the Federal Title I budget approached $100 million for some districts, non-compliance was not an option and the state and districts found ways to meet the Federal requirements. Specifically looking at the school safety aspect of NCLB, the Federal government put additional stipulations on the funds provided to districts through the general welfare clause of the Constitution even though states were still responsible for ensuring student safety in schools. The Florida Bullying and Harassment Prohibit Law, as reviewed in question four, fulfilled the requirements of NCLB Title IV through the provisions for a safe environment for students that included training and communication with all stakeholders, especially parents.

*Discrimination prevention.* Title IX of the Education Amendments of 1972 provided a broad range of protection for students from various forms of discrimination. The heart of the legislation was the provision that all students were entitled to a free and appropriate public education (FAPE). The law was broken down into eight sections and only the parts that dealt specifically with student safety were reviewed in this section. Section 1681 prohibited discrimination of students on the basis of sex in the realm of any educational program or activity that received Federal funds. This section did not include specific organizations fulfilling a specific purpose such as an educational institution controlled by religious organization. Violation of this section generally occurred in
harassment or social exclusion cases. Section 1687 interpreted the meaning of the program or activity referring to a multitude of groups or activities associated with the school. For example, the law was applied to an incident occurring in a hotel room at a time after the school dance ended. This aspect addressed the fine line of where the school jurisdiction ended, an issue bullying law also had to focus on.

Until the recent enactment of bullying and harassment laws in states across the nation, the majority of cases brought to the courts cited bullying/harassment as a violation of the rights set forth in Title IX of the Education Amendments of 1972. This piece of legislation was intended to ensure students were free from discrimination in schools. As with NCLB, states and school districts found ways to implement the requirements to continue receiving Federal funds. Conflicts arose when states and districts felt the requirements of the law were not reasonable. Two cases reviewed later in this section focused on Title IX violations of students’ right to a FAPE. These decisions had serious consequences as the courts ruled that school districts were liable for damages if they knew about the harassment but did not do enough to protect the students.

*Florida Statutory Law*

Statutory Law at the state level in Florida included two pieces of legislation, one broad and one specific, each requiring school districts to provide a safe environment for students. The first of these was the broader K-20 Education Code, which provides guidelines for the establishment of public schools. The second, more specific, was the 2008 Jeffrey Johnston Stand Up for All Students Act, part of the K-20 Education Code, that strictly prohibited bullying and harassment by anyone in a Florida public school.
These two pieces of legislation formed the basis for the development of the Hillsborough County Public Schools Bullying Policy that was analyzed as part of question four later in this chapter.

Student safety and discipline. Title XLVIII of the Florida Statutes contained the K-20 Education Code that provided the guidelines for public schools in the state. This title covered both K-12 and post-secondary education and expanded on the general guidelines found in Title IX of the Florida Constitution. General guidelines concerning school safety were spread throughout the fourteen chapters of the education code. For example, Chapter 1002.20 (5) discussed the topic of safety for students who had been the victim of certain felonies, zero tolerance offenses such as weapons or firearms, by another student, ensuring they were not in the presence of the perpetrator. Chapter 1003.02 (1)(c) required all districts to establish a code of conduct for students to ensure safety. Chapter 1003.32 confirmed the authority of the teacher to establish a system for controlling students in the classroom. Chapter 1003.32 (2)(c) specifically stated that the teacher would maintain a classroom environment that was orderly and disciplined; the positive classroom environment also promoted effective learning strategies to maximize learning and minimize disruption. Chapter 1006, section C, outlined the requirements for establishing procedures for controlling and disciplining students. These requirements served as the basis for providing all students with an equal opportunity to learn in a safe, caring and orderly environment. Each of these subsections provided specific guidelines for the various interpretive communities and led to the bullying and harassment prohibited section.
Chapter 1006.07 presented student discipline and school safety requirements for the school boards of the 67 counties in Florida. According to the statute, each school board established rules to control and discipline students including suspension and expulsion. Students who had been previously expelled from a school or district had to disclose this information to the new school/district. Under Chapter 1006.07 (2), each school district established a code of conduct for each level of school (elementary, middle/high school) and distributed it to all stakeholders at the beginning of each school year. The code of conduct was required to be discussed with students, at school advisory council meetings and at parent-teacher association meetings. The code of conduct represented the discipline plan in HCPS prior to the enactment of the Florida Bullying and Harassment Prohibited Law. This plan was still in place and complemented the district bullying policy.

Chapter 1006.08 presented student discipline and school safety requirements for school superintendents. The superintendent was required to recommend the student code of conduct to the school board for approval. He/she was also required to support the ability for principals, teachers, bus drivers and other personnel to remove students who did not follow the board approved code. The superintendent was required to ensure that the school board’s policy was implemented across the district. These provisions did not specifically reference bullying and/or harassment, but instead focused on developing and maintaining a safe environment for students.

Principal’s role. Chapter 1006.09 (1) described the role of the principal in student discipline and safety. He/she was required to have policies in place to delegate the control
and direction of students to appropriate instructional staff and/or bus drivers. As part of this delegation process, the principal supported the authority of the instructional staff and bus drivers to remove students who acted inappropriately, uncontrollably, or disrupted the classroom or bus, provided an appropriate alternative setting was available. The statute also stated that the principal or designee was required to give full consideration to the referral writer’s recommendation for discipline, before making a decision on disciplinary action for the student. Section 1 of the chapter covered the requirements for suspension of students; most notably that a good faith effort was made to involve parents before the suspension and to notify them within 24 hours of the suspension. Expulsion procedures were also included in this section, requiring the principal to recommend the student to the superintendent for expulsion. Expulsion procedures were applicable to students who falsely accused a school board employee of an offense that could have led to termination. In addition, the school analyzed its suspensions and expulsions as part of its annual school progress report. This chapter placed the principal as the key person responsible for ensuring safety of students and authorized him/her (or designee) to take action as allowable by state statute.

Severe offenses. Chapter 1006.09 (2) dealt primarily with discipline for students committing a felony, delinquent act, or possessing/using a controlled substance on school grounds. This requirement was in line with Federal requirement in Title IV of NCLB that stated that LEAs had to implement methods for the prevention of drugs and violence in schools. Section 3 provided the principal with the right to suspend or to expel a student for illegal possession of a controlled substance. Section 4 related more closely to the
bullying law by making the principal liable for protecting students from further victimization from a student who had previously victimized them in a violent crime. In this case, the school district could be sued for financial damages and the principal may have his/her teaching certificate revoked. However, if the school had not been properly notified of the previous crime, the principal was not held liable. Section 5 required the principal or designee to consider a student’s disability when making a suspension or expulsion recommendation. Sections 6 and 7 referred to the required reporting of school safety and discipline to the State Board of Education each year using standardized forms. These data were included in the state’s report to the U.S. DOE. Section 8 required school personnel to report the suspected use or possession of controlled substances to the principal for action to be taken. Section 9 provided the principal or designee with the right to search students’ lockers or other storage spaces in the school when he/she had a reasonable suspicion that the student had an illegal or controlled substance. While Chapter 1006.09 did not refer specifically to bullying and/or harassment, it served as part of the state statutes that were designed to establish a safe environment for students and faculty.

*Safety of school busses.* Chapter 1006.10 referred specifically to the safety and discipline of students on school buses. Since the school bus was considered an extension of the school campus under state law, this chapter extended the guidelines for school safety set forth in Chapter 1006.09. Basically, the school bus driver was required to maintain an orderly and safe environment while operating the bus. The chapter specifically provided drivers with the right to not operate the bus if one or more students
posed a danger to its safe operation. In other words, the bus driver was allowed to stop the bus whenever needed to ensure student safety. This chapter extended the school grounds to include the bus and bus stop. As with Chapter 1006.09, this chapter was also an important part of the establishment of a safe environment for students and faculty.

**Zero tolerance.** Chapter 1006.13 formed the foundation of a safe learning environment by establishing zero tolerance policies for specific behaviors that seriously impeded the safe running of a school. The purpose of this legislation was to protect students and staff from any conduct that threatened their safety while providing the alternatives to the traditional expulsion and/or referral of the offender to law enforcement. Section 2 of the chapter required each school district to develop and implement a zero tolerance policy including definitions of both serious and petty acts. The goal was to minimize the victimization of students and/or staff. Section 4 defined the state mandated zero tolerance offenses that required the expulsion of the student for a term of no less than one year; these offenses included bringing a weapon or firearm on school grounds and making threats or false reports. Sections 5-8 included guidelines for working with law enforcement, juvenile justice and disciplining students who violated the zero tolerance policy. Zero tolerance policies focused on extreme circumstances that seriously threatened the safety of the students. This was an important part of the code since many cases of school violence were attributed to bullying (Aluede, 2008).

**Student hazing and secret societies.** Chapter 1006.135 addressed hazing in high schools with students in grades 9-12 including prohibition of hazing; the statute’s requirements are similar to the bullying and harassment law. Section 1 defined behaviors
that constituted hazing; sections 2 and 3 outlined the punishments students were subjected to if they committed hazing, from a first degree misdemeanor for a risk of serious harm to a third degree felony if a serious injury or death occurred as a result of the hazing. Section 4 required students convicted of hazing to complete a four hour hazing education course. Section 5 outlined items that were not used as a defense in a hazing case such as consent from the victim. In certain forms, hazing was actually treated as bullying if it met the criteria set forth in the Jeffrey Johnston Stand Up for All Students Act. These components included repeated offenses and an apparent imbalance of power that occurred in repeated hazing incidents. These components are part of the state definition of bullying.

Chapter 1006.14 addressed the prohibition of secret societies in public K-12 schools, which was also interpreted as social exclusion, a component of bullying. Secret societies were defined as organizations that included K-12 students as members and acceptance into the group was decided by the members rather than providing all students with equal access if they met the qualifications. This chapter did not include clubs or organizations sponsored by the school where set criteria determined membership such as scholarship, citizenship and leadership. By law, students were suspended or expelled for pledging to or joining secret fraternities/sororities. Hazing also became a component of secret societies if potential members were required to complete dangerous and inappropriate tasks before they were accepted. These two chapters were related to bullying and the provisions in law to prevent them were similar in nature.
Safe environment. Chapters 1006.141 and 1006.145 were short but specific statutes that further enhanced the safe environment provided for students. The first chapter established the school safety hotline allowing students to anonymously report activities that affected the safety of the students and/or staff. Unlike other programs like Crime Stoppers, no monetary reward was associated with this program and it required that school administration report actionable offenses that posed a serious threat within a reasonable amount of time. The second provided that anyone that disturbed a school function but was not subject to school rules was charged with a second degree misdemeanor and punished as allowed by law. These two aspects were related to and played a role in the bullying prevention process.

Interpretive Analysis of the K-20 Code

The statues in Chapters 1006.07 through 1006.145 of the Florida K-20 Education Code provided for the safety and well being of students and staff. Each piece of legislation was interpreted by the State Board of Education using the intent and/or the letter as it was written; in some instances, this could have been an identical meaning for both. It was then left up to the interpretive community (local government, school district/administration, courts) to further interpret the law and determine how each portion of law was implemented into practice. In each of the sections reviewed, the intent of the Florida Legislature was to establish a safe, caring and orderly environment for students to learn. The letter of each of these components aligned with this overall intent but also allowed for loose interpretations that could have deviated from the intent. The interpretive community (State Board of Education, School District and school administration) played
a major role as the law was translated into practice in the schools. The State Board of Education was charged with translating the written legislation into policies for districts to follow. Districts and schools then had to implement the requirements of the policies. Conflict could have arisen between the letter/intent of the law and the beliefs of the interpretive community or internally in the community itself. The Florida Legislature tied general school funding to many of the mandates as was also done with the Florida Bullying and Harassment Prohibited Law reviewed in the next section. School districts that do not comply with state requirements could have their funding reduced.

*Florida Bullying and Harassment Prohibited*

Chapter 1006.147 contained the Jeffrey Johnston Stand Up for All Students Act that defined the bullying and harassment procedures in Florida. It was named in honor of Jeffrey who took his own life at the age of 15 after being bullied both at school and through the internet for over two years. Jeffrey had been an “A” student and loved computers (Chang, 2008). Jeffrey’s mother lobbied the Florida Legislature for three years until in 2008, the law was finally passed. The law contained several components that were categorized into three main goals: defining bullying/harassment and prohibiting these behaviors, school district policy requirements, and items to protect individual’s rights. In addition, the law covered the realm of cyberbullying, an area schools were not able to address through the existing K-20 Education Code when Jeffrey Johnston was being bullied (Scott, 2007). This section examined each of the three goals of the law individually before analyzing the law as a whole. The intent of this section was to gain an
understanding of the requirements of the law for later application when analyzing the
district policy.

*Basic information and definitions.* The first three sections of Chapter 1006.147
provided basic information and definitions of bullying and harassment. Section 1 simply
named the law in memory of Jeffrey Johnston. Section 2 prohibited bullying or
harassment of employees or students in a public K-12 institution. This section extended
the jurisdiction of the school to include any program sponsored by the school both on
school grounds—including school buses—and off grounds. This piece was interpreted to
include, but was not limited to, a banquet hall where the school prom was held or a hotel
where the football team was staying during the state finals. Part c of section 2 brought the
cyber realm under the jurisdiction of the school to state that bullying or harassment
through the computers and/or network of a public K-12 institution was prohibited.
However, this part of the law specifically covered public K-12 computers; based on this
part of the statute, schools had little jurisdiction if one student was cyberbullying another
through Facebook or another social networking site using a private computer or other
mobile device off school grounds.

Section 3 of the law defined the terms bullying and harassment and included
stalking. The law specifically stated that for bullying to occur, it had to be systematic and
chronic, causing physical hurt or psychological distress on other students. The definition
included the three components outline by Olweus (1993): intent to harm, repeated
offense, imbalance of power. These behaviors included, but were not limited to, teasing,
social exclusion, threats, intimidation, physical violence, theft, sexual/religious/racial
harassing, and/or destruction of property. Harassment was defined as threatening, insulting or dehumanizing another. It also included the use of any computer, written or physical conduct towards a student or employee that made the person feel they were subjected to harm, interfered with the educational opportunities of the person, or disrupted the orderly flow of the school. An interesting point was that while section 2 of Chapter 1006.147 limited the jurisdiction of the school to school computers and networks, in defining what constituted bullying and harassment, section 3 extended that jurisdiction to include any computer activity that threatened a student. This aspect became a source of conflict in many districts as they determined where to draw the line on their jurisdiction over student behavior. One case in Beverly Hills, reviewed later in this chapter, will set a precedent as to how much control schools have over students when they are not in the school. Subsection d further defined bullying and harassment to include retaliation against an individual who in good faith reported a claim of bullying or if an individual made a false claim of bullying or harassment. Behaviors such as incitement, coercion, using a computer to threaten/harm in the scope of the school system, or acting in a manner similar to bullying behavior were also prohibited under this law.

Section 3 of the Jeffrey Johnston Stand Up For All Students Act extended the scope of the district’s ability to protect students. However, even though the law provided strict guidelines for defining bullying and harassment, districts still had some ability to interpret the law and implement the definition as such. The interpretation of the law and ensuing development of a policy based on the state definition led into the second part of
Yanow’s (2000) interpretive policy analysis, examining the different meanings among the stakeholders. These meanings were addressed later in this chapter while examining question three and the development process in the district. In the first part of the law, the intent and letter of the law were closely matched, both focusing on establishing a uniform definition of bullying and harassment and prohibiting these behaviors in schools.

_District policy requirements._ Section 4 of the Jeffrey Johnston Stand Up For All Students Act covered the requirements for districts as they developed and implemented a policy to prevent and manage bullying and harassing behavior. This section provided the basic minimum requirements for district bullying prevention policies. Failure to comply with the law resulted in the withholding of safe school funds from the state DOE. The section began with a requirement that each district adopt a policy that strictly prohibited bullying and harassment by December 1, 2008, in accordance with state guidelines and the DOE’s model policy, released in October of 2008. The law provided all students with the same rights regardless of their status; however, the district was allowed to establish additional policies regarding discrimination. The committee that developed the policy had to include students, parents, teachers, administrators, other staff, volunteers, community members and law enforcement. The policy had to be implemented and adhered to throughout the school year and aligned with the discipline policies and other violence prevention measures at both the state and Federal level, as addressed previously in this section.

Section 4 also provided the description of the 14 minimum requirements all district anti-bullying policies were required to contain. The first two requirements (a and
b) included a statement that prohibited bullying and harassment and a definition of each term that included the state definitions, listed in section three. Item c required districts to describe expected student and employee behavior. Items d and e provided the consequences for students/employees who committed an act of bullying/harassment or wrongfully reported/accused someone of committing an act of bullying/harassment. Item f described the procedures for reporting an act of bullying including the ability to report anonymously; however, it stated that disciplinary action was not enforced solely from an anonymous report. These first six items of the state requirements outlined the basics of the policy and what the district did to educate its students on the definitions of bullying/harassment and expected behaviors, consequences for committing an act of bullying/harassment and procedures for reporting an incident.

In items g, h and i, the investigation process was outlined by the state including proper notification of the parents. The district policy had to outline the procedures for a prompt investigation and included the positions that were responsible for carrying out the investigation. Any school related issue, including bullying/harassment on the bus, was investigated when the incident had been reported to the designated school personnel. If the act of bullying/harassment was not within the jurisdiction of the school, procedures were in place for reporting the act to the proper authorities. The district policy also included procedures for notifying the parents of the victim and the perpetrator; if the act was criminal, it was also reported to the proper authorities.

Item j outlined procedures to refer both victims and perpetrators to appropriate counseling. Item k covered the procedures for reporting incidents of bullying/harassment
in the school’s safety and discipline data report. The report had to include detailed information about each reported incident including the results of the investigation and consequences. Item I required the school district to provide instruction to all stakeholders on how to identify, prevent and/or respond to bullying/harassment incidents. Item m required districts/schools to have procedures in place for informing parents of bullying/harassment victims of measures in place to protect their children. Item n required districts to have procedures written into the bullying/harassment policy for publicizing policy along with including them in the student code of conduct and employee handbooks. As outlined by these items, each district policy would be similar; however, districts also had the opportunity to add items to meet the particular needs of the stakeholders, as reviewed for HCPS through question four.

*Items to protect individual’s rights.* Section 5 of the bullying/harassment law stated that the Florida Department of Education provided a sample policy for districts to follow as of October 1, 2008. Section 6 provided immunity from damages for anyone who in good faith reported an act of bullying/harassment to the proper authorities, even if appropriate action was not taken to remedy the situation. Section 7 stated that people accused of cyberbullying could not use the location or time of access as a defense. This section exempted people who were using computers within the scope of their normal job responsibilities or if they were investigating violations of computer usage.

Section 8 of the bullying/harassment law focused on the distribution of safe schools funds by the state to each school district. These funds were part of the 2009-2010 General Appropriations Act and were paid to each district only after the Department of
Education approved each district’s bullying/harassment policy. The DOE then certified that each policy conformed to the model policy provided. For the 2010-2011 school year and beyond, safe school funds would be distributed based on each district’s compliance with the reporting procedures in the bullying/harassment law. Section 9 required the Commissioner of Education to report the status of the implementation of the bullying/harassment law to the governor, President of the Senate and Speaker of the House on or before January first of each year. This report included the information gathered from the reports of the 67 districts. Section 10 stated that the provisions in this law were not allowed to infringe on the rights provided in the First Amendment of the U.S. Constitution. Students still retained those rights such as free speech as decided in Tinker v. Des Moines Independent Community School District, 393 U.S. 503 (1969).

Effect of Jeffrey Johnston act on stakeholders. The Jeffrey Johnston Stand Up for All Student Act was intended to protect students from bullying and harassing behavior; however, the effects of this law were different for each of the stakeholder groups. The HCPS bullying/harassment policy was compared to the state statutes when addressing research question four later in this chapter. The first group included administrators at both the district and school level. At the root of their roles, district and school administrators intended to protect students from harm as they helped them reach their potential. In the recent climate of litigation against schools, administrators were also looking to avoid such situations. The bullying/harassment policy was a means to help avoid law suits against the school district by having requirements in place for reporting, investigation and managing bullying behavior when it occurred. Site administrators were also required to
investigate each reported bullying/harassment incident; this process took time, something administrators often lacked. The new law provided both a positive and negative aspect for school administrators; as a positive, it protected them from litigation if they complied with the regulations and thoroughly investigated each reported incident. However, this investigation took additional time, something most administrators lacked.

Teachers represented the second group of stakeholders affected by the new law. As with administrators, teachers generally entered the field with the goal of positively influencing students to help them grow. In the light of recent cases of bullying in Hillsborough and other districts, teachers also had to follow the new policy to ensure they were not held liable if bullying occurred under their watch. The law empowered and restricted them at the same time. Teachers were empowered to now report bullying/harassment incidents to the administration for further action. However, recent incidents in HCPS and other districts across the nation highlighted the fact that supervision of students was an important factor in preventing bullying and harassment, also restricting them and potentially making them liable, which could result in the forfeiture of their teaching certificate. Teachers played a major role in supervising students and could be accused of negligence in such cases.

Students represented the third group of stakeholders impacted by the bullying law. This impact occurred on two separate but related fronts. First, the policy was designed specifically to help protect students from bullying and harassing behavior. Jeffrey Johnston’s mother worked for three years to influence legislators to enact legislation so children would not be tormented as her son was. The second impact dealt with the
reporting of bullying behavior either as a witness or victim. Even though the policy provided protection for those who reported bullying, students may have feared retaliation from the bully (Juvonen, 2008; Olweus, 1995). In addition to the ability to report bullying online, students also needed to find a trusting adult they could confide in. Parents represented the last group affected by the bullying policy. Although the law was enacted by the legislation, the driving force behind it was a mother’s love for her child. HCPS administrators stated that although anyone could report bullying/harassment, the majority of early bullying reports were from parents.

*Case Law*

Case Law represented the courts’ interpretations of Constitutional and Statutory Law that shaped future decisions made by educational leaders. Law books were full of cases in which one of the courts made a ruling that changed the face of education. Two highly cited examples were the landmark Brown v. Board of Education of Topeka, 347 U.S. 483 (1954) stating that separate but equal schools were not truly equal and Tinker v. Des Moines Independent Community School District, 393 U.S. 503 (1969) confirming students’ First Amendment rights to free speech and expression, even while at school. Both cases went before the United States Supreme Court and eventually helped to shape the school system today.

*Smith v. guilford board of education.* Although many incidents of bullying have been reported throughout the United States, no cases concerning bullying laws have yet made it to the Appellate or Supreme Court. In 2007, Smith v. Guilford Board of Education was heard by the U.S. Court of Appeals, Second Circuit. The student in the
case was at the time a ninth grader, small for his age, and had been diagnosed with
Attention Deficit Hyperactive Disorder (ADHD). The plaintiffs, his parents, alleged that
he was harassed and bullied repeatedly by his classmates and eventually forced to
withdraw due to repeated bullying. School employees were aware of some or all of the
behaviors occurring, depriving the student of a free and appropriate public education
(FAPE). The parents claimed that the board failed and refused to train its employees on
effective techniques for teaching students with disabilities and thus, violated his rights
under the Individuals with Disabilities Education Act (IDEA). In addition, they stated that
the school district deprived their son of his due process and equal protection rights. Under
Connecticut state law, the parents also claimed that the school board was negligent in its
dealings with their son. The original case was heard in the District Court of Connecticut
in November and decision was granted in favor of the defendants. The district court
reconsidered the case three months later but adhered to its original decision. The
plaintiffs then appealed the case to the Court of Appeals.

The U.S. Court of Appeals heard five of the original accounts that the U.S.
District Court of Connecticut ruled in favor of the defendants. The Court of Appeals
considered count one claiming that the student’s due process and equal protection rights
under the Fourteenth Amendment were violated and his statutory right to a FAPE,
covered under IDEA. The decision of the court was to affirm the district court’s dismissal
of the due process claim citing San Antonio Independent School District v. Rodriguez and
Handberry v. Thompson stating that education was not one of the rights explicitly
protected under the Fourteenth Amendment of the Federal Constitution. Thus, public
education was not protected as a substantive fundamental right. The court’s decision also stated that the amended complaint by the parents claimed the student was not able to enjoy friendships due to the repeated bullying. This claim did not allege that the school board in its inaction infringed on his right to a free public education.

The Court of Appeals affirmed the district court’s dismissal of count two that was based on the state of Connecticut’s common-law conspiracy claims. In this argument, the plaintiffs claimed that district employees purposefully failed to act to protect him, and acquiesced to the behavior of the other students. According to the court, the state common-law conspiracy claims were based on the due process and equal protection claims, already dismissed in count one. Since the court ruled that the school district did not infringe on his rights, this claim against the school district also failed.

Count one of the plaintiffs’ argument also alleged that under IDEA, the district deprived the student of his right to a FAPE. In its review of the lower court’s decision, the Court of Appeals vacated the dismissal of the claim and remanded the district court to further consider the case. The grounds for this decision stemmed from how the district court approached the case and viewed the student’s rights. For example, the district court only considered the student’s right to a FAPE under the due process requirement of the U.S. Constitution while failing to consider his statutory rights under IDEA. In addition, the Court of Appeals disagreed with the lower court’s finding that the student withdrew from school voluntarily when the parents’ argument stated he was forced to withdraw. The last issue dealt with the lower court’s assumption that to claim wrongdoing, the student had to have his rights permanently deprived. In the remand to the lower court,
two items needed to be addressed and reconsidered. The first dealt with the jurisdiction of
the IDEA claim and whether administrative procedures of the law were exhausted prior to
the claim being brought to the court. The second issue referred to whether the student’s
small stature or ADHD developed the supporting argument for the application of IDEA.
The plaintiffs’ complaint referred to his small stature while the argument of their counsel
stated it was his ADHD. The district court should consider this issue if it determined it
had subject matter jurisdiction over the case.

Although it was not specifically attributed to bullying, this case sent a message to
school districts that they had to act to protect students once they were aware of harassing
behaviors. The underlying message was that schools developed a safe environment for
students and that students had the right to a FAPE. Although not directly attributed, this
case also had similar repercussions to Title IX, requiring schools to protect the students
and the entitlement to an education.

*Patterson v. Hudson area schools.* In 2008-2009, the U.S. Court of Appeals, Sixth
Circuit, reviewed the case of Patterson v. Hudson Area Schools, Michigan, concerning a
case of repeated harassment of one student, known as “DP” by his classmates. The
plaintiffs brought three claims to the district court; the first was the Title IX violation by
the school district. The other two claims were that the district violated DP’s equal-
protection rights and that the Superintendent did not ensure that school district staff was
properly trained to deal with harassment. The Appellate Court reviewed one of the
plaintiff’s claims that the district violated Title IX; the District Court for Eastern
Michigan granted a summary judgment, a judgment without a trial, for the school district on all three claims.

In their review of the Title IX claim, the Appellate Court reexamined the original case and ruling by the district court; DP had been bullied and harassed beginning in the sixth grade; these incidents included name calling (queer, faggot, pig) and physical acts such as being pushed into lockers. The victim reported this to the school and was told that middle school kids act this way as if it was normal behavior. He also began receiving psychological treatment to help him cope with the situation. The bullying/harassment continued into seventh grade with additional name calling (fat, gay, man boobs), and students also began referring to him as Mr. Clean due to his purported lack of pubic hair. In addition, DP tried to stop a female student from harassing another student and in response, she slapped him. One teacher stated she would take care of it and never did. Another teacher asked DP how it felt to be hit by a girl, embarrassing him in front of the class. After this incident, the principal offered to mentor DP, but due to many circumstances, it did not last long.

During the summer between seventh and eighth grade, DP was evaluated for special education services and it was determined that he was emotionally impaired. One of the elements in DP’s individual education program was the assignment to a resource room for one period of the day. DP had a successful eighth grade year due in part to the resource room. However, in ninth grade, the principal did not allow DP to utilize the middle school resource room, which was on the same campus. DP also was not placed in a resource room at the high school, although his parents begged the school to continue the
resource room. During his ninth grade year, DP again experienced continued harassing behaviors and was called many names. Each time DP reported the harassment, the school dealt with the issue but additional harassment was brought on by other students. Students also broke into his locker, defacing it and ruining his belongings. The final incident occurred in 2005 when after a baseball game, another student stripped his own clothes off and proceeded to rub his genitals on DP; another student made sure DP could not escape. After the incident, the students were still allowed to be in school; eventually, the perpetrator was suspended, but still allowed to attend the end of the year banquet. The baseball coach also made a statement that players should not joke around with people who could not take a man joke. DP completed the remainder of his schooling at other campuses or through college placement at the local college.

The Appellate Court ruled with a split decision in favor of the plaintiffs on the count of violating Title IX. The opinion of the court was that the Pattersons had established a clear doubt as to whether the district was deliberately indifferent to the harassment suffered by the student. Therefore, the court reversed the summary judgment and remanded the case back to the district court for further proceedings. Although the school district continually dealt with perpetrators and tried to help DP, the court felt that the school district did not stop the harassment. The dissenting judge stated that he disagreed with the opinion of the court because the district would have to refuse to take action to help the student for it to be deliberate indifference. In his dissent, he cited Gebser v. Lago and Davis v. Monroe as cases in which it has been established that indifference meant the district knew what was occurring and made no effort to end the
harassment. In his opinion, the school district did not deliberately ignore the bullying/harassment.

This case set an additional precedent where the district was held liable for not protecting a student from excessive harassment/bullying. Title IX, as reviewed earlier in this chapter, guaranteed all students a free and appropriate public education (FAPE). In this case, the appellate court ruled that this Federal right had been infringed on by the school district and thus, set a precedent for future interpretations of the legislation at all levels.

_Fitzgerald v. Barnstable School Committee._ In January of 2009, the U.S. Supreme Court heard the case of Fitzgerald v. Barnstable School Committee, where the plaintiffs filed a claim that the school committee and superintendent violated Title IX and the Equal Protection Clause as the student was subjected to student on student sexual harassment. The U.S. District Court for the District of Massachusetts Senior District Judge initially dismissed the claims. A completion of discovery by the District Court later ruled in summary judgment for the defendants. The United States Court of Appeals for the First Circuit affirmed the summary judgment of the lower court. The United States Supreme Court granted certiorari, and in December of 2008, argued the case.

The case involved the kindergarten daughter of the Fitzgeralds, who during the 2001-2002 school year, began to experience sexual harassment from another student on the bus. She told her parents that a third grade boy bullied her into pulling up her skirt whenever she wore one. On reporting the incident to the school principal and meeting
with him the following day, the harassment was not halted. The principal interviewed the alleged perpetrator and other students on the bus and the claim was unfounded.

The child then reported additional details to her parents. The boy also coerced her to pull down her underpants and spread her legs for him. The principal again scheduled a meeting with the parents and questioned the boy and other students. The local police also conducted an independent investigation and neither found sufficient evidence against the boy. The principal suggested two possible remedies for the situation: transferring the girl to another bus or placing several empty rows between the kindergarten and other students. The parents did not like either of these suggestions, as they felt that they both served as a punishment to their daughter instead of the boy. They suggested transferring the boy to another bus or putting a monitor on the bus to watch the behavior. The school superintendent did not act on either proposal by the parents. The parents chose to drive their daughter to school for much of the rest of the school year to avoid further bullying, but she still experienced additional incidents at the school. Their daughter also had a large number of absences during this time. In April of 2002, they filed suit in district court.

In its opinion, the U.S. Supreme Court cited Title IX stating that under Title IX, a plaintiff could have established that a district was liable if he/she showed that at least one school administration could have taken corrective action but responded to the harassment with deliberate indifference. The court also stated that to claim §1983 violation of the Equal Protection Clause, the plaintiff must have shown that the harassment was due to the district’s customs, policy, or practice. The Fitzgeralds noted that none of the lower courts addressed the merits of their claims. The court decided that since they normally did
not act in issues that were not decided on below, they also would not make judgment on this instance. The court instead reversed the Court of Appeals decision to affirm the District Court’s dismissal of the case and remanded it for further proceedings.

Although this case was not specifically addressed as bullying, it also served as another example of the relationship between bullying and harassment in schools. In its remanding of the case, the U.S. Supreme Court set an additional precedent in the protection of students and their Title IX rights. Schools were responsible for taking action once they were aware of reported bullying/harassing behavior.

Other Cases

As many states enacted laws to prohibit bullying and harassment, additional suits were filed each month. One of the major themes was school district liability for bullying/harassment that occurred on the school grounds or at a school sponsored activity. In the cases reviewed in this section, the major question addressed was what constituted district liability and as in previous cases, how deliberate indifference was established. Some of these cases simply began the litigation process, but their outcomes will shape the future of education law and policy development.

The New Jersey Superior Court wrote a unanimous opinion in the case of L.W. v. Toms River Regional Schools Board of Education (A-111-05), in which a student was exposed to repeated harassment of a sexual nature from fourth grade on. In fourth grade the student, L.W., was continually taunted in the form of name calling including gay, homo and fag. The harassment continued and then worsened in seventh grade when the aggression became more physical in nature. The school responded by talking with the
students, warning them of future consequences if the behavior continued. The harassment continued and the offenders were punished; however, L.W. missed several days of school due to the humiliation he felt. L.W. had a better eighth grade year. During L.W.’s time at the middle school, officials provided the student handbook to parents and students. The handbook discussed the district’s anti-discrimination policy, but it did not specifically refer to affectional (romantic) or sexual orientation. The school did not reinforce the policy during assemblies or in letters to parents/students. In high school, the attacks on L.W. began again and they included two physical attacks. These attacks prompted him to withdraw and move to another school, at the expense of the original district.

L.W.’s mother filed suit against the district with the Division of Civil Rights under the state’s Law Against Discrimination (LAD). The case was heard by the Office of Administrative Law (OAL) and a decision was made by the Administrative Law Judge (ALJ). The ALJ concluded that the case should not have been heard as a violation of the LAD, but instead it should have been measured against the Title IX standard. The Director of the Division of Civil Rights reviewed the decision and rejected the ALJ’s course of action stating that the LAD covered hostile environments as in the case of L.W. The Director determined that the school district was liable under LAD and awarded the $50,000 to the student and $10,000 to his mother. The district was also required to adopt district-wide remediation for the issue, pay a $10,000 penalty and the court costs of the plaintiff. The district appealed the decision to the Appellate Division, which affirmed in part, reversing the compensation to the mother and the need for district-wide remediation. The district then appealed to the Superior Court which heard the case in 2005 and
concluded that the LAD was correctly used as the measuring stick instead of the broader Title IX. In addition, the Court affirmed the Appellate Division’s decision as modified, remanding the case back to the OAL for further proceedings consistent with their opinion.

Bullying incidents have occurred in all types of communities utilizing all types of mediums. One afternoon in Beverly Hills, a group of middle school girls gossiped about friends a few blocks from their school. They focused on one girl referring to her as a slut and spoiled brat. One of the girls uploaded the conversation to YouTube, which became an issue for the school. School officials had to walk the fine line between the well being of a student and their authority over what occurred on the web. The school decided to suspend the student who uploaded the comments citing it was cyberbullying. The girl and her family filed suit in the Los Angeles Federal District Court claiming the district violated her First Amendment right to free speech. Her attorney stated in the suit that this was not the student’s speech and it could not be regulated by the school district (Kim, 2008). This case has not been decided yet, but the eventual decision will provide additional guidance for other school districts as they grappled with the issue of cyberbullying and where to draw the line.

A thirteen-year-old boy and his parents filed suit against the San Francisco Unified School District in February of 2007, due to an incident that occurred while he was enrolled in middle school. The student claimed that two students sodomized him with the handle of an umbrella while he was clothed. The student was apparently victimized so violently the second time that the handle of the umbrella broke off (Cote,
2009). This court’s decision in this case and subsequent appeals will provide precedence as to the district’s liability in such a case where students bullied/harassed each other including physical violence.

The bullying issue also reached the smaller communities across the United States. The Venturella family moved to the town of Fair Haven, Vermont, in 2003, from Staten Island, New York; they enrolled their four children in the public school system. The two boys, Frank (11) and Vincent (8) were bullied continually during the 2003-2004 school year. This included being shoved into lockers, called names, and having their books knocked from their hands to the floor. The bullying did not happen at first, but due to their New York accent and the younger brother’s speech impediment, other children began bullying them including throwing a dodge ball at one boy’s face that broke a capped tooth. The parents moved the family after the school year and no additional bullying incidents occurred at the new school. The parent’s attorney informed the court and jury that the school staff failed to witness and stop the bullying and this constituted negligence and a breach of the harassment policy. The District Attorney stated that the district responded reasonably to the bullying (Curtis, 2009). Upon the decision in this case, the question of school liability in this case, as in others, will set an important precedence concerning school district liability that continues to guide how bullying is dealt with in schools.

*International court case.* In Norway, where researchers were at the forefront of bullying prevention, it was rare for a case to come before the courts due to the extremely high cost of litigation. In the case of Lena, a Norwegian girl who was bullied during her
first ten years in school, Rornes (2009) chronicled the story of how she was pushed to the brink, attempting to commit suicide several times in her young life. While she seemed to enjoy school during her first year, she remembered not having anyone to play with and only being allowed to socialize with her one year older sister and her friends because of this. Until the time she was twelve, Lena was bullied in many ways such as being called a fat cow. Teachers noted her tendency to withdraw from the other children in her classes but often felt this was part of her personality and not social exclusion. At the age of 12, Lena could not take it anymore and decided to take her own life. She tried to commit suicide several times, unsuccessfully, and was now leading a more successful life and about to get married. Her case was brought to the District Court in 2007 and the court ruled 2-1 in favor of Lena, holding the local school authority liable for damages due to the economic loss she suffered from being bullied and made to feel inferior to others. The local authority appealed to the Court of Appeal, which reversed the judgment in a 6-1 decision stating that although it was clear that Lena was bullied, the school could not be blamed if they did not notice the behavior or intervene. Lena appealed her case to the Supreme Court, but the court agreed with the Court of Appeal and dismissed the case. This case was in stark contrast to what occurred in the United States; districts were held liable for bullying as cited previously in this chapter.

*Question Two Analysis: What policies in the literature presently dealt with student bullying?*

Bullying law and subsequent policies became a major aspect of the educational agenda in state and Federal government. Forty-four states had laws that specifically
prohibited bullying behavior among students. States that did not have specific anti-bullying laws were Montana, Hawaii, Wisconsin, Massachusetts, North Dakota, South Dakota and the District of Columbia. The state laws mandated the requirements to each of the districts, including the development of policies and procedures to manage the bullying problem (Walker, 2009). Florida was considered to have one of the strongest bullying laws and subsequent district policies (Peterson, 2009). This section examined selected policies that were implemented in other states and other countries to prevent and manage bullying behavior in schools. According to Limber and Small (2003), schools were governed by both Federal and state laws; however, the majority of the policies concerning student behavior were developed at the state and local level. Common elements among state laws included bullying prohibited statements, definitions of bullying, requirements for districts including consequences and reporting procedures.

Georgia, like Florida, was known for having one of the strongest bullying laws; however, this law applied only to students in grades six through twelve (Walker, 2009). This law was not applicable to an eleven year old fifth grade student from the Atlanta area who committed suicide after repeated bullying from other students. The Georgia Law did require that each district develop a policy consistent with the state law and any student that committed any three acts of bullying was transferred to an alternative school. School systems that did not comply with the requirements of the law forfeited state funding. However, the state only tracked broader events such as fighting and threats (GADOE, 2009; Walker, 2009).
Temkin (2009) reviewed the anti-bullying laws in twenty-nine states to compare the language used in each state. Seven of the states did not specifically define bullying and left the definition up to each individual district. Arizona and California did not define bullying nor did each state provide guidance as to who should have defined it. This could have allowed school districts to define bullying differently and potentially skew the data. This could have caused some districts to “look” worse than others. The majority of the other twenty states reviewed utilized one or more of the components of the Olweus’ (1993; 1995) bullying definition including intent, repeated offense and imbalance of power. Georgia and Tennessee limited the definition to include only physical behaviors. Along with Missouri, none of the three states’ definitions indicated that bullying was a repeated offense. Alaska, Rhode Island, Texas and Washington also included verbal and written behaviors to their respective definitions of bullying. Indiana and Nevada had expanded definitions that were interpreted to include social aggression. The variety of definitions among the twenty-nine states reviewed demonstrated the disparity also found among individual district policies.

The Safe Schools Summit, conducted by the Ohio State University, provided a perspective of the school safety policies in the state of Ohio. According to the study, the state currently had statutes to ensure a safe environment for students to learn including: zero tolerance for violent/disruptive behavior, planning for crises, and establishing anti-harassment and bullying policies. The State Board of Education fully backed these policies to ensure accountability for all those involved with the public education system. The summit also provided elements that assisted in the prevention of bullying/harassment
and other violent behavior: a strong policy, training for stakeholders, communication of the policy and creating a positive climate (Strickland, 2009). The recommendations of the summit were included in the Ohio Department of Education Anti-Harassment, Anti-Intimidation and Anti-Bullying Policy (ODE, 2009).

In a 2005 article in Kappan, Kathy Christie reviewed the requirements of several state and local school districts with regard to bullying policies. Most states required districts to develop and implement policies designed to manage and prevent bullying behavior on school grounds and at school functions. In Arkansas, the state DOE reviewed each district policy and recommended any necessary changes. In Rhode Island, New Jersey and West Virginia, the state provided districts with a model policy to follow in developing the policy. Connecticut provided competitive grants to help districts meet goals and work towards eliminating student bullying. Each district policy included intervention strategies schools utilized when dealing with bullying. Vermont required similar provisions for its districts. Oklahoma provided districts with a list of research-based programs approved for usage in schools.

The State of Illinois required all districts to develop and implement a policy that addressed bullying. Each district defined the term bullying for use, as delegated by the state. MacLeod (2007) surveyed secondary school administrators and found that only seventy-four percent said their district had developed such a policy and implemented it as part of the school discipline code. He also found that only a small percentage of the district bullying definitions in Illinois contained all elements described by Olweus; less than fifteen percent included power imbalance as a defining characteristic.
The Wisconsin Department of Public Instruction produced the Bullying Prevention Policy Guidelines document in 2007 to assist districts in the development of policies to manage and prevent bullying behaviors in schools. These guidelines included five components for effective policies: definition, prohibitions, complaint procedures, sanctions and support and disclosure and public reporting. The document was designed to advise school districts instead of directing what they did (Burmaster, 2007). In South Carolina, studies showed that the implementation of a strong and comprehensive anti-bullying policy caused a reduction in the number of reported incidents by twenty percent. In Pennsylvania, the implementation of anti-bullying policies reduced the number of reported incidents by seventeen percent and more students reported they liked school (Urbanski, 2009).

International Policies

Anti-bullying policies were also prevalent outside the United States. In the United Kingdom, the School Standards and Framework Act of 1998 required all schools to have procedures in place to prevent bullying. The procedures were discussed with staff, students and parents. TeacherNet provided a model anti-bullying policy that was adapted to the specific needs of schools. The policy outlined three forms of bullying: physical, verbal and indirect. The model policy outlined steps the school should have taken when suspected bullying incidents occurred, including support for the bully and victim (TeacherNet, 2009).

In Ireland, schools were provided with a nine component process for developing a school policy on bullying. Schools developed strategies for promoting equality and the
positive aspects of each person and his/her contributions. At the school, training was provided so all staff members were aware of their roles. This included a clear understanding of inappropriate behaviors. The policy required staff to report incidents even if the victim did not want it reported. Schools worked on using preventative measures instead of reacting to the behavior. When incidents did occur, procedures for reporting complaints, responding and remedying the behavior were established; this included any disciplinary actions. The last two components dealt with recognizing and accounting for factors that gave rise to bullying such as ineffective leadership and what to do after the bullying occurred (O’Toole, 2009).

Question Three Analysis: What policies did Hillsborough County Public Schools (HCPS) have in place regarding student bullying in schools and what process was used to develop them?

The Bullying Policy in Hillsborough County Public Schools (HCPS) represented a new addition in the district’s attempt to provide a safe, caring and orderly environment for students to learn. However, the district had policies and procedures in place to curb student behaviors such as harassment, for some time. Interviews with the Assistant Superintendent for Administration, Director of Administration, Supervisor of Psychology Services, and the school board attorney revealed that all four individuals felt that HCPS had a strict harassment policy for many years that also covered bullying incidents. According to the school board attorney, this existing policy prepared the district to meet the state mandate for an anti-bullying policy. In the interview, his opinion was that HCPS was “ahead of most counties in the field because of our rules on harassment.” With the
enactment of the Jeffrey Johnston Stand Up for All Students Act, the district had to combine its existing policy on harassment with the state requirements to develop a new comprehensive policy that addressed both bullying and harassment. This section utilized the interviews and other artifacts from the bullying policy development committee to discover the policy development process in the district.

According to Urbanski and Permuth (2009), several elements comprised an effective anti-bullying policy. The first of these elements involved targeting the policy for the entire student population, not just at victims and perpetrators. The policy/program provided a means for increased awareness, knowledge and prevalence of bullying. Several groups were involved in the process of developing the policy including staff, parents, students and the community. Not only were the consequences of bullying behavior outlined, the policy included expected behaviors, such as how to act appropriately, for students, staff and visitors to the school. Two important and related elements were support/protection for victims and a means to empower bystanders to act by reporting bullying behavior. When completed, Urbanski and Permuth (2009) stated that the bullying prevention policy should include at least twelve specific details; these details were similar to the Florida requirements that were reviewed later in this chapter and included: statement prohibiting bullying; definition including three elements outlined by Olweus; non-inclusive list of bullying behaviors; acceptable and unacceptable behaviors; consequences; enforcement details; reporting procedures; retaliation information; immunity for reporting in good faith; investigation; data collection; and publication of the policy.
Development of the Policy

The Hillsborough County Public Schools Policy Against Bullying and Harassment was developed in the fall of 2008 using the state model policy as a guide by a committee. The district had a violence prevention committee of 50 people in place prior to the requirements of the Jeffrey Johnston Act; the committee met monthly. When the state enacted the new requirement for districts, the Assistant Superintendent for Administration stated that “we just tapped into that existing committee” and formed a subcommittee of twenty people representing the larger violence prevention committee to develop the policy. The Supervisor of Psychology Services stated that the committee members volunteered and included stakeholders “who had a special interest in bullying.” The bullying policy committee included: four parents, three teachers, seven district and school administrators, two other school staff (support personnel), a school social worker, and three members of law enforcement agencies.

The district policy included elements that both complied with state laws and met or exceeded the recommendations of the state. The design of the policy, as instructed by the state, was to account for multiple facets of bullying/harassment in the school allowed it to be adapted to changing needs. However, due to the strict state requirements written into the state law that required specific minimum requirements, not all committee recommendations were included in the final policy, limiting its overall representation of the stakeholders’ beliefs. The school board attorney stated that “the policy is taken almost entirely from a template provided by the Department of Education and that’s the way I think the law intended.” This could affect process legitimacy of district policy as it did
not include all stakeholders’ ideas but instead dictated the requirements to districts, only allowing for additions and terminology changes specific to the district. The school board attorney added that “the Department of Education provided this because they did want to make it uniform and wanted to have a standard that everyone would follow.” In some instances, the district policy elements were copied from the state model policy verbatim as in part a, the statement prohibiting bullying. Each required part of the policy was analyzed through question four later in this chapter. The committee then recommended the completed policy to the Assistant Superintendent for Administration who recommended it to the Superintendent for approval by the School Board before the completed product was sent to the state.

Part of the process of developing the bullying prevention policy in HCPS was the examination of the letter and intent of the state law. The school board attorney provided the legal aspects of this interpretation. His understanding was “that it’s intended to be a comprehensive law that’s part of the school code that’s designed to address the problem that the legislature sees and a lot of people see with respect to bullying in the school setting.” It was designed to address the issue of bullying behavior in the school setting. The law lowered the threshold of acceptable behavior and established uniform procedures and reporting processes. The school board attorney’s opinion was that “sometimes dangerous stuff that happens in the context of sports that now clearly may be considered bullying when back then it was just playing around.” These behaviors were often ignored; if severe enough, they were treated as inappropriate behavior instead of bullying. He continued to summarize that this order and standardization of procedures in Florida’s
sixty-seven counties made it easier for the state to study the issue; these requirements also kept the Florida law in line with the requirements of NCLB. The interpretation of the intent and letter of the state requirement then shifted to the bullying policy committee that used the state requirements and interpretation by the school board attorney to develop the policy for the district.

The committee was composed of members of the Violence Prevention Committee that volunteered to be part of this sub-committee. They met bi-monthly over a four month period to develop the HCPS bullying prevention policy. The policy was formed through several steps. According to the Assistant Superintendent for Administration, HCPS “already had a process in place” for dealing with bullying and harassment “that has been in our student handbook for some time.” The committee began with the model policy provided by the state. The existing code of conduct and each component of the policy were examined and modified based on several aspects. According to the Supervisor for Psychology Services, the committee “reviewed the policy and addressed areas that were specific to Hillsborough County and added areas we felt needed to be added.” According to the Assistant Superintendent for Administration, one of the major components the existing district code of conduct “did not have in place was the actual mandatory counseling for both the victim and the perpetrator.” The provision of counseling for bullies was a new element for the district and provided a new tool that intended to help reduce bullying/harassment.

When asked about changes to the HCPS bullying policy during the development process, the Director of Administration stated that “the policy itself hasn’t changed.”
Once items were written or copied verbatim from the state policy, they remained static due to several reasons stated by the four district officials. According to the Supervisor of Psychology Services, the state requirements were “so detailed that it was almost like a procedure because it was very specific”; therefore, the committee used the state model policy as a foundation and the major goal was the development/implementation of a policy that met the needs of the district and its students. The Director of Administration noted that the major changes came in the daily operating procedures that were separate, but developed from the state approved district policy. She stated that these daily operating “procedures change almost on a daily basis” as the district adapted to the needs of the students, administrators and schools. The example given by the Director of Administration was that if one of the daily operating procedures did not seem to work or allow for the communication of information, they would be changed; the new procedures would still be in line with the district policy and thus, state law. This occurred as the district changed the online form used for reporting bullying to ensure it served the intended purpose of reporting incidents that met the three requirements of intent, repeated offense and imbalance of power. Before the change in the online form, site administrators received bullying complaints on a daily basis and had to investigate and determine if each claim was founded or not. These bullying/harassment reports were submitted by students, staff and parents via a paper form and/or the online form. Both methods allowed for anonymous submission consistent with district policy and state requirements for investigation and consequences.
Challenges and Roadblocks

Challenges were generally inherent in the policy development process and HCPS was not immune to these challenges. All four district officials cited time as the number one challenge the district faced in the development of the policy. The district wanted to develop an effective and comprehensive policy, but the state released the model policy in October and wanted the district to have its policy completed by December. The Supervisor of Psychology Services stated that “in a district this size, it’s not only getting folks together, which can be difficult when you’re trying to make sure you have a representative group of school board members and law enforcement and such.” The process of getting all stakeholders together to discuss the policy posed a challenge in the time frame allotted by the state due to several factors. One factor was the schedules of committee members who were district employees and had taken on additional responsibilities due to the budget crisis in the state; the district also did not generally take teachers out of their classrooms on Monday or Friday when it was more difficult to provide a substitute. In addition, members of the committee brought their own ideas and beliefs to the table based on prior experience with bullying and these had to be combined into one vision for the district that still met the specific state requirements, which in many cases resulted in the copying of the state model policy verbatim. However, the committee could add additional elements specific to HCPS, as addressed by research question four, making the policy exceed state requirements. These additions allowed for the committee to include the individual ideas of each member where appropriate.
A second roadblock, as stated by the Director of Administration, was due to “the media hype about bullying.” The district had been dealing with a barrage of questions from concerned community members worried over information shared through the media concerning severe incidents of bullying. As incidents occurred at schools, the information was available through the media only a short time later. Due to this hype and the publicity of the new policy, district schools received a barrage of phone calls and online reports of bullying incidents. The Director stated that “everyone thinks that their child is being bullied,” and called the school to report it, even though by policy definition, they were not being bullied. The school then had to spend a great deal of time investigating each report of bullying/harassment and then communicate with the parents. This roadblock did not affect the development of the district policy as these reports of bullying came in as a result of the media hype and publicity of the new required policy. The district administration then chose to adjust the daily operating procedures developed from and in compliance with the state approved policy. This adjustment would also help the district to avoid any potential lawsuits by continually adapting the daily procedures to meet the needs of the students.

Another roadblock encountered by the district dealt with change, a change in the procedures previously followed at the school site. This change occurred on many fronts from the classrooms in the schools to the district office and how information was disseminated to the public and the state. As discovered in the interviews, bullying was often dealt with and reported as inappropriate behavior before the bullying policy was implemented. This did not always include a thorough investigation of the incident and
allowed the administrator to make a professional judgment. Due to the new policy requirements, the demands on the school principal and other administrators had become overwhelming due to the need, under state law and the district policy, to thoroughly investigate each reported claim of bullying. The Assistant Superintendent for Administration stated that if a principal “can handle one hundred cases, but that one hundred and first case you don’t handle, then people are going to say you didn’t do your job.” The district office informed principals, through training, to investigate all of the reported incidents. According to the school board attorney, many incidents that were once thought of as a rite of passage for students were now considered bullying and had to be handled as such. Even though the principal may have designated another administrator to investigate the report of bullying, he/she was still ultimately responsible for ensuring policies and procedures were followed as mandated by state law.

One of the change aspects of the law and new HCPS policy involved the common definition of bullying/harassment. Before the enactment of the law, bullying/harassment incidents were dealt with under the district’s harassment policy that dealt with differences in race, gender, etc. According to the school board attorney, the new law and common definition lowered the threshold and bullying/harassment was now based on anything that was exclusionary in nature. He stated that the new law was a “more aggressive way of dealing with bullying.” Before the law, one student could have been disciplined for mistreating another; the incident was reported as inappropriate behavior. The school administrator had the ability to determine the severity of the behavior and make a professional judgment. According to the school board attorney, under the new policy, the
student was now labeled as a bully and that label had “pretty high connotative value now that it didn’t have before” and “now to be labeled as bullying takes on a lot of aspects very much to the akin of harassment.” The procedures developed from the district policy included guidelines for principals to follow in their interpretation of the law/policy as they conducted investigations (see Appendix E). These interpretation procedures were more detailed than what was found in the previous discipline plan. These new procedures were not required by state law to be in the policy but were designed to make the interpretation and investigation process more objective, providing protection for students, the school board and its employees.

*Interpretation of the District Policy*

Once the policy was implemented, the interviews revealed that interpretation of the district bullying policy as it related to student behavior took place simultaneously at different levels in the school district. This interpretation began with teachers and moved up to principals, area directors, other district staff, and eventually, the school board attorney. To assist with the interpretation of the policy at the school site, the district office developed a flowchart (see Appendix E) for principals to follow as they conducted each investigation. The flowchart provided specific tracks for the administrator to follow based on the type of reporting (formal or informal) and the information discovered during the investigation. The district developed this and other tools to leave the interpretation during the investigation up to the professional opinion of the educator. Site administrators followed the district developed procedures when investigating reported incidents but still determined if each incident is founded or not. Information from the interviews stated that
the general population of parents and students also interpreted the district bullying/harassment policy, but using a different lens than the school district. Whereas the site administrator interpreted the policy to determine if bullying/harassment had occurred and to protect its interests, parents and students interpreted the district policy only according to their interests. In some cases, as noted by the district officials, the interpreted definition differed between the parents and the school administrator. However, in these cases the school board attorney was consulted to determine if the district acted within the requirements of the new bullying/harassment policy.

Information gathered from the interviews revealed that the school board attorney provided the initial interpretation of the law as the committee began developing the policy. The Director of Administration and the Assistant Superintendent for Administration interpreted the policy from a district perspective as they worked to support the efforts of the schools and provided an environment where students felt safe and comfortable reporting incidents of bullying/harassment. To prepare for the eventual interpretation of the district policy at the school sites, all principals and assistant principals attended a mandatory training during the summer of 2009 that included two sessions focused on student safety and bullying. The Assistant Superintendent, Director, Supervisor and the School Security Chief all provided instruction at this training concerning the topics in general and how they applied to each individual school. The content included background information on bullying and how to implement the new bullying/harassment policy in the school (see Appendix E). The training was required in state statute, but the interviews revealed that ultimate goal was to emphasize that the key
aspect in the bullying issue was finding a way to help students to feel safe and prevent litigation against the district. Parents and students were informed of the policy and requirements as required by the state law/district policy such as the student handbook and the district web site.

Policy Evaluation

One of the key aspects of the policy development process was the evaluation of its effectiveness. While this study was not designed to examine the implementation and effectiveness of the policy, the creation of a plan to accomplish this task during the policy development process was essential. Under the new bullying/harassment policy, incident reports made using the online bullying/harassment form were received by the Director of Administration, the Supervisor for Psychological Services, the Area Directors and the site principal. The form was developed to send a copy to all of these individuals. For paper and call in reports of bullying made at the school sites, principals/designees inputted the information into the district mainframe, allowing the district administrators to monitor the reported incidents. The district administrators met regularly with the Assistant Superintendent for Administration to tweak the daily operating bullying/harassment procedures, developed from the state approved policy. These changes were then shared with site administrators. The school board attorney stated he would not play a role in the evaluation of the policy because the policy itself had been developed and approved by the state. The interviews revealed that the district did not believe changes to the policy would occur unless the state amended the law and requirements. It was seen as a static policy that once implemented, would not be changed. The Assistant Superintendent for
Administration stated that “we really can’t do that unless we go back and submit it to the state.” However, the district looked carefully at the data from the current school year to determine if its daily operating procedures for carrying out the district bullying policy needed to be modified for the next school year. Principals also provided feedback to the district office concerning the implementation of the policy and suggestions for changes. This involved the bullying policy committee that met regularly as the larger Violence Prevention Committee. The district then would plan a course of action to include new procedures and training as needed. These new procedures would have to be in compliance with the state approved district bullying/harassment policy.

*Analysis of Interviews*

The use of interviews to discover the policy development process also allowed the researcher to look for similarities, differences and other key components in these responses, as summarized in Table 2. The first part of the analysis, examination of similarities, flowed naturally as the researcher looked for common themes in the interview transcripts to determine the policy development process used by the district. All four interviews revealed that one of the main goals was to comply with the state law including the timeline, components of the policy and the make-up of the committee. The top two challenges/roadblocks were the time allotted by the state law and the change involved to comply with the new policy. The other major similarity was the responses concerning changing the policy if needed. All interview responses stated that the policy would not be changed unless the state mandated it and to do so otherwise would also
require state approval. Only the daily operating procedures developed from the policy, reviewed previously in this chapter, would be changed.

The second part of the analysis examined differences among the responses of the four interviews. While there were many similarities, key differences were also found in the analysis. The first of these concerned the interviewee’s participation in the development of the policy. The Assistant Superintendent for Administration and the Supervisor of Psychology Services were directly involved. The Director of Administration was only involved after she was appointed to her current position, in the middle of the development process. The last person, the school board attorney was only involved in the initial interpretation of the law; afterwards, he was not involved in the development process. The second major difference concerned involvement in the evaluation process. Only the school board attorney stated he would not be involved in the process. The last major difference led into the third part of the analysis concerning key aspects that stood out in the interview process.

The last part of the analysis examined key aspects of the interviews that stood out as significant, but were not reported as similarities or differences. The Assistant Superintendent for Administration and the school board attorney both vehemently proclaimed that the district had a strong student code of conduct prior to the enactment of the Jeffrey Johnston Stand Up for All Students Act. The Assistant Superintendent stated the district “had many of the requirements in place in terms of having a way to identify, a way to handle, and a way to conclude a case.” His answers were in line with what the researcher expected for a person in his position and politically correct. The school board
attorney spoke very freely about how the new law both limited the level interpretations administrators could make during the investigation and, at the same time, added additional requirements to their position. He also voiced his criticism from a lawyer’s point of view on how bullying had now become a negative label for some and in other instances where a kid was beaten to death, “to call that bullying really cheapens the fact that a murder occurred.” In contrast, the Director of Administration focused her answers more on what the district was doing to keep track of the bullying and harassment incidents, even though the questions focused on the development of the policy. It was evident that the majority of the tracking of incidents was under her responsibility, a possible cause for these responses. The Supervisor of Psychology provided the most detailed account of the development process since she was on the committee. Her main theme revolved around compliance with the law and putting together a good policy that met the district’s needs. She also developed the majority of the training, even though a group delivered it, to ensure all administrators were well versed on the new policy.
Table 2

Summary of Interview Data Analysis

<table>
<thead>
<tr>
<th>Participant</th>
<th>Perspective on Policy Development</th>
<th>Involvement in Development</th>
<th>Roadblocks/Challenges</th>
<th>Involvement in Evaluation</th>
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</thead>
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<tr>
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<td>Direct/oversaw process</td>
<td>Time/Change</td>
<td>Directly involved</td>
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<td>Minimal</td>
<td>Time/Change/ Media</td>
<td>Directly involved</td>
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<tr>
<td>Supervisor of Psychology Services</td>
<td>Compliance with state law</td>
<td>Direct/ Committee Chair</td>
<td>Time/Change</td>
<td>Directly involved</td>
</tr>
<tr>
<td>School Board Attorney</td>
<td>Compliance with state law</td>
<td>Minimal/initial interpretation of law</td>
<td>Time/Change</td>
<td>Not involved</td>
</tr>
</tbody>
</table>

Interpretive Analysis of the Policy and Impact on Stakeholders

Examining the policy development process from an interpretive policy analysis approach, the Jeffrey Johnston Stand Up for All Students Act and the state model policy were the artifact and the district, more specifically the bullying committee (representing the stakeholders in the district), served as the interpretive community. After reviewing the interview transcripts from the three district employees who were involved in the daily monitoring of the bullying/harassment policy and the school board attorney, it was evident from the district perspective that conflict existed during the interpretation of the law and ensuing policy development process. As indicated by three of the four
interviews, each of the committee members brought his/her own beliefs and agenda concerning how to best serve and protect the students of Hillsborough County. The committee format allowed each of the members to share his/her information and then review the policy as each component was written. Conflicts that arose included: the definition of bullying/harassment; incident reporting procedures; severity of punishments; and communication with parents. In this process, however, interview data revealed that conflict within the committee was generally overshadowed by the strict guidelines of the state law. Requirements of the law restricted what the committee was able to include in the policy and thus, reduced the policies overall representation of the committee’s beliefs. The committee was able to determine any additions once the policy met the state minimum requirements; these additions were reviewed through question four later in this chapter. The School Board of Hillsborough County and the Florida Department of Education approved the policy and the district implemented it.

The bullying and harassment policy in HCPS had an impact on many of the stakeholders in the district. For example, the time administrators spent investigating increased as a result of the new policy; this included an additional number of reported incidents due to the accessible methods for reporting bullying/harassment. They had to investigate each reported incident of bullying/harassment and then determined if it was founded. Teachers also had to become more aware of the behaviors that occurred in their classrooms. They needed to be the front line in the prevention of bullying. The policy (and state law) required that training was provided to teachers and students concerning the new policy. The district office trained all administrators during the summer of 2009.
and required them to provide similar training to staff and students. The district as a whole desired to protect students but also wanted to avoid any potential litigation or negative press. Students were now faced with the requirements of the new policy and had to be responsible for reporting incidents of bullying. They also had to conquer the fear of retaliation from bullies if they reported an incident, even though this was prohibited by the policy.

*Question Four Analysis: How closely did the student bully policies in HCPS match the intent and letter of the law, particularly in Florida?*

The Jeffery Johnston Stand Up for All Students Act, signed into law on June 10, 2008, placed new requirements on districts to prevent and manage bullying and harassing behavior in schools. Each district was required to develop and implement an anti-bullying/harassment policy based on the model policy released by the state in October 2008; the policy also had to meet minimum state requirements. The district policy could copy the state model policy verbatim, but this was not required. Hillsborough County Public Schools developed its policy during the fall of 2008 and implemented the policy for the 2009-2010 school year.

On December 9, 2008, Hillsborough County Public Schools’ anti-bullying policy was officially approved by the School Board. In the summary of the action item, the School Board’s approval allowed the district to establish procedures for reporting/investigating bullying/harassment, referring victims/perpetrators to counseling, establish consequences, provide instruction to all stakeholders and publicize the policy. These items were all part of the requirements of subsection 4 of Florida Statute 1006.147.
However, the School Board of Hillsborough County did not approve the anti-bullying/harassment policy until December 8, 2008, after the December 1, 2008, deadline set by the legislature in the law. This was because of when the School Board meetings were held and the required amount of time submissions had to be in before the meeting. In April of 2009, the state accepted the district’s policy.

Prohibition and Definition of Bullying/Harassment

Part a of subsection 4 of Statute 1006.147 required each district to develop a statement that prohibited bullying/harassment. The district policy fulfilled this requirement utilizing two statements. The first stated that the district would not tolerate bullying or harassment. The second stated that bullying and harassment as defined in the policy were prohibited. The district policy copied the state model policy verbatim for this item.

Part b of subsection 4 of the statute required the district policy to define bullying and harassment to include the definitions listed in subsection 3. The district included the state definitions for bullying and harassment, meeting the state requirement. The policy exceeded these minimum requirements in defining bullying. In addition to including the state definition of bullying as it related to students, the district also related the definition to employees and visitors of the school district. The policy further defined bullying to include unwanted and repeated written, verbal, or physical behavior that was expressed in a threatening, insulting, or dehumanizing way by students or adults. The behavior had to be severe enough that it created an intimidating, hostile or offensive environment; caused discomfort or humiliation; or interfered with performance or participation in school. The
district policy also included cyberbullying and cyberstalking as bullying behaviors, which was not required by the state. These items were all in addition to the minimum state requirements for defining bullying. The district’s definition of harassment was identical to the state definition as addressed by research question one including making another feel fear of harm or interfere with the education opportunities at the school.

Additional definitions of bullying and harassment such as retaliation and false reports were copied verbatim from the state model policy. However, the HCPS policy included additional items stating that bullying and harassment also included electronically transmitted acts using any electronic means that were directed at students or staff and either caused physical/mental harm or was severe and persistent enough to create intimidation or an abusive environment for others. The district also defined cyberstalking as in s. 784.048(1)(d), F.S., including the use of electronic medium to cause substantial emotional distress to a person. In this aspect of the policy, the district exceeded the state requirements by providing additional definitions and clarifying behaviors for those who interpreted the policy once implemented.

*Expected Behaviors and Consequences for Offenders*

Part c of subsection 4 of the statute required districts to describe the expected behaviors of students and employees in public schools. In the district policy, expected behaviors were broken down into three sections: basic expectations, standards and a reiteration of the prohibited bullying/harassing behaviors. The district expectation was that students and employees acted appropriately for their maturity, development and capabilities. Also included in the basic expectations was the provision that students and
employees respected the rights and welfare of others in the school system. The district
belief that the standards of student behavior developed from collaboration of students,
parents, staff and the community with the emphasis on students learning self-discipline
was embedded in this part of the policy. District staff was expected to display model
behaviors for the students to learn by example. The third part of the behavioral
expectations sections reiterated the district’s prohibition of bullying and harassing
behavior in the following situations: educational programs/activities conducted by a
school, school-related or sponsored program/activity, school bus or bus stop, through the
use of computers associated with the educational institution. In this section, the district
policy met the state requirement of defining expected behavior and reminded students/
staff of behaviors that were not tolerated. The policy copied the state model policy
verbatim for several aspects but also included elements specific to the district, as
specified by law.

Parts d and e of subsection 4 of the statute required districts to describe the
consequences for students and staff that committed acts of bullying/harassment or
wrongfully and intentionally accused someone of committing an act. The district policy
fulfilled these requirements in two parts, beginning with a statement outlining an
investigative process to determine if the policy against bullying and harassment had been
violated. In addition, the district included the statement from the state law that the
location or time of access for a computer related bullying/harassment incident could not
have been used in the defense against any disciplinary action. The student consequences
listed in the policy were not specific but provided a broad range from positive behavioral
interventions to suspension/expulsion, as stated in the student code of conduct. Employees who committed acts of bullying/harassment were disciplined according to district policies and procedures; certificated personnel could have sanctions taken against their certificates in accordance with state law. School visitors who committed acts were referred to law enforcement for further action. The second part of the consequences section revealed that the same consequences were applicable if a student, employee or volunteer wrongfully and intentionally accused someone else of committing an act of bullying/harassment. The district policy copied the state model policy verbatim for these two parts of the law.

Reporting and Investigating Bullying/Harassment

Part f of subsection 4 of the statute required the district to establish procedures for reporting acts of bullying/harassment, including an anonymous method. The district policy fulfilled this requirement in a three part section beginning with the designation of the responsible party at each site, the principal or his/her designee. School employees, students and visitors were required to report any violations of the policy to the principal/designee; students and visitors had the option of reporting anonymously. The second section of part f described how the principal/designee publicized the reporting procedures to all stakeholders. The procedures explained that victims, witnesses, or anyone with information about an incident should report it using the procedures set forth by the district; by reporting the incident in compliance with district procedures, the person was not held liable for any further damages associated with the incident. In addition, the policy stated that the act of making the complaint did not affect the person’s future
employment, grades, etc. The last statement in the section reiterated the state requirement that discipline administered in a bullying/harassment incident was not solely based on anonymous reports. The district policy copied the state model policy verbatim for most items in this part, slightly changing the wording as the term site administrator was included along with principal; some district sites have a site administrator instead of a principal.

Part g of subsection 4 of the statute called for the establishment of a procedure for prompt investigation of bullying/harassment incidents, including the responsible person. The state made it clear in this part that the investigation began as soon as the act was reported. The district policy began with a reiteration of this statement from the state statute and a school official was designated as the investigator of all reported acts. The district procedure began with separate and confidential interviews of the victim(s), alleged perpetrator(s) and witness(es). It was stated that the victim(s) and alleged perpetrator(s) were not interviewed together. The policy listed information the investigator(s) gathered, but was not limited to: description and context of behavior, how often it occurred, past incidents, relationship between parties involved, descriptors of parties (grade, age), identity of parties, location, if the conduct affected the educational environment, was there an imbalance of power, date and time all parents were contacted including the method. Once the investigation was complete, the school official made a determination, based on the facts, of whether the incident violated the policy. Then, he/she recommended steps to prevent further bullying/harassment and was required to submit a written report to the principal within ten school days of the report of the
incident. Through the establishment of these procedures, the district fulfilled the requirement of the law.

Part h of subsection 4 of the statute stated that the district established a process to determine if the bullying/harassment incident was within the scope of the school district and if not, how it was referred to the appropriate jurisdiction. The district fulfilled this requirement by breaking it down into three possibilities. If the investigator found that the incident fell within the scope of the district, he/she followed the established procedures set forth in the district policy. If the jurisdiction was outside the school system, he/she referred it to law enforcement for a criminal act or the parents/legal guardian if it was not a criminal act. The policy copied most of the state model policy verbatim, modifying specified terms the district uses such as referring to the individual investigating the incident instead of using the principal.

*Parental Notification and Referral to Counseling*

Part i of subsection 4 of the statute required districts to have procedures in place for the immediate notification of parents of both the victim(s) and perpetrator(s) in any case of bullying/harassment. The district policy stated that the principal/designee promptly notified the parents of all students involved in a bullying/harassment incident by telephone, conference and/or writing on the same day that the investigation began. This notification was in compliance with the Family Educational Rights and Privacy Acts of 1974 (FERPA). If the incident was a criminal act, the principal/designee informed the parents of the victim(s) by phone or first class mail concerning the Unsafe School Choice Option of NCLB that allowed the parents to choose another school for their child(ren) to
attend. Law enforcement was notified after the school-based investigation had been completed. For this part, the district complied with the state requirements. The policy copied the state model policy verbatim for this part of the requirements.

Part j of subsection 4 of the statue required procedures for referring victims and perpetrators in bullying/harassment incidents to counseling. The district policy exceeded the requirements of the law for this section by providing extensive details for referring students to appropriate counseling. The state statute simply required a procedure for the referral. The district policy broke this requirement down into three pieces. The first included a process for teachers/parents to request informal consultation with school staff to determine the severity of the concern and what needed to be done to address the concern. The second part included a procedure for referral to professional services through two avenues. School personnel and parents were able to refer a student to the school intervention team to determine if services were necessary. If a formal complaint or discipline was involved, the principal/designee referred the students to the school intervention team to determine the necessary support and/or interventions. At this point, the district policy required the parent to become involved. The third part of the counseling requirement involved the establishment of a school-based component to address intervention and assistance. This component included counseling and support specific to the needs of the victims and perpetrators. The school also needed to provide financial assistance to the parents if deemed necessary.
Reporting Requirements

Part k of subsection 4 of the statute required districts to include bullying/harassment data in the annual school report on safety and discipline. The district policy stated that the Florida School Environmental Safety Incident Reporting (SESIR) Statewide Report on School Safety and Discipline Data was utilized since it included bullying/harassment as an element code. The policy included a statement of how the SESIR defined bullying/harassment including the incident types listed in the definition of bullying section. The district recorded the data in the Student Discipline/Referral Action Report and Automated Student Information System. The last statement explained that the district provided the bullying incident, discipline and referral data to the DOE as requested through Survey 5 from Education Information and Accountability Services at the designated dates. The district policy fulfilled this requirement and provided adequate information as to how the district collected and reported information concerning incidents of bullying/harassment.

Training for Stakeholders

Part l of subsection 4 of the statute required districts to provide instruction to all stakeholders (staff, students, parents and community members) concerning methods to identify, prevent and respond to bullying/harassment. The policy fulfilled this requirement through two basic components. The first was the statement that the expectation of the district was that schools sustained a healthy, positive and safe learning environment, affirming the importance of climate and norms. The second stated that the district and schools provided annual resources and information to all stakeholders
concerning the identification of, prevention of and response to bullying/harassment. Although the district complied with the requirement of the law, additional information should have been provided concerning the conveyance of information. However, interviews with key personnel revealed that the district had further outlined this process in the daily operating procedures derived from the policy. These operating procedures were used by district and site administrators in the daily management of bullying and harassment.

Procedures for Continued Protection of Victims

Part m of subsection 4 of the statute required districts to have a procedure in place to continually inform victims’ parents of actions taken to protect the victims. The district policy stated that the principal/designee reported any incidents to the parent/legal guardian on the same day the investigation began. The parent/guardian was notified via telephone or writing concerning the actions taken to protect any previous victim from additional bullying/harassment. Again, notification complied with the FERPA requirements. As with part l, the district again fulfilled the basic requirements of the law in the policy. Similarly, the district further explained the process and requirements through daily operating procedures developed from the policy.

Publication of the Policy

Part n of subsection 4 of the statute required districts to have procedures in place to publicize the policy and place it in the student code of conduct and employee handbooks. The district policy stated that each year the Superintendent/designee provided information concerning the district’s student safety and violence prevention policy in
writing to all parties charged with the welfare of children. Each school was required to include the policy in the student code of conduct and employee handbook. The Superintendent also provided copies of the policy with all contractors who worked with the district. In this section of the policy, the district exceeded the requirement set forth by the state by providing information to contractors, something that was not required by the state statute. The state did not specify who the policy had to be shared with.

Adherence with other Federal, State and/or Case Laws

HCPS’ bullying and harassment prevention policy adhered to the letter of the Florida Jeffrey Johnston Stand Up for All Students Act as reviewed in the previous section. Since this act was part of the Florida K-20 Education Code, the HCPS bullying and harassment prevention policy also adhered to the Florida State Statutes. As stated in Chapter 1003.32 (2)(c) of the Florida Statutes, schools were required to maintain an orderly environment conducive to learning. According to the school board attorney, the district student discipline plan complied with the Florida K-20 Education Code requirements prior to the enactment of the Jeffrey Johnston Act. The HCPS bullying/harassment policy enhanced the district discipline plan, adhering to this requirement while intending to ensure students felt safe when they came to school. As reviewed in the previous section, the policy exceeded several state requirements that were part of the K-20 code including the Jeffery Johnston Stand Up for All Students Act.

The HCPS bullying/harassment prevention policy also adhered to the Federal laws reviewed in this chapter. Title IV of NCLB required that districts provide safe and drug free schools for the community. One of the two main aspects of this part of the law
involved violence prevention. Physical bullying is a form of violence; however, psychological and cyberbullying also led to school violence (Cole, 2006). The bullying policy, in compliance with the Florida bullying law, was intended to address these issues and prevent bullying from occurring in the schools. When bullying did occur, the district had procedures in place to manage the issue and provided counseling for the bully, victim and any witnesses. The HCPS policy also complied with the regulations set forth in Title IX, which stated that no student could be denied the benefits of any program receiving Federal financial assistance. By prohibiting any act that interfered with a student’s educational opportunities or benefits, the district complied with Title IX. Since the policy further defined and provided protection relative to the individual components of Title IV and IX, it exceeded the requirements of these two laws.

The HCPS policy exceeded the requirements of the precedents set forth in the three major cases reviewed through research question one. Each case dealt with some form of harassment of one student by one or more other students and demonstrated that schools were required to protect these victims, in particular when they were aware of harassing behavior. In following the requirements of the Jeffrey Johnston Stand Up for All Students Act, HCPS put elements in place that were intended to protect students from harassing behaviors, also including bullying. The policy was also designed to prevent litigation against the school district for liability in cases where bullying continued.

The HCPS policy also exceeded the requirements of several of the state laws reviewed in question two when compared to the model definition of bullying proposed by Olweus. Georgia, Tennessee and Missouri did not include all three parts of the definition
intent, repeated offense, imbalance of power) (Temkin, 2009); the HCPS policy included all three. The policy also exceeded the requirements in Georgia where bullying was only defined to occur in grades six through twelve (Walker, 2009); HCPS’ bullying policy, in compliance with state mandates, applied to all students in the K-12 school system. Arizona and California did not define bullying or state what entity should have defined it. By using a uniform definition based on the work of Olweus (1993), Florida provided additional information for its districts to assist with the determination of whether bullying occurred or not (Temkin, 2009). Although this study did not focus on the effectiveness of law and policy, it was important to note that the determination of the effectiveness of state laws and district policies would not be determined until sufficient data were collected.

Summary

The enactment of laws and subsequent policy development in a school district represented an important aspect of school management. In this study, the researcher examined law and policy development as they related to bullying/harassment, particularly in Hillsborough County Public Schools. Law as it related to school bullying was derived from four of the five sources of law: constitutional, statutory, case, and administrative law. Each of these types of law provided increasing specificity as to how school districts prevented and monitored bullying/harassing behaviors.

Constitutional law at federal and state levels provided broad guidance to districts and schools concerning the well being of students and the development of a positive learning environment. The U.S. Constitution delegated the responsibility of public
schools to the states through the Tenth Amendment. Since the Constitution also provided for the general welfare of the U.S. citizens, it protected the safety of students in schools. At the state level, Article IX of the Florida Constitution outlined the general requirements for public schools in the state. The intent and letter of the article required that each school district establish safe schools that provided an environment conducive to learning.

Statutory Law at both levels of government provided guidelines for establishing and maintaining a safe environment for students and more specifically, prevented bullying/harassment from occurring in the schools and at school sponsored functions. At the Federal level, this was accomplished mainly through Title IV of the No Child Left Behind Act of 2001 and the Title IX of the Education Amendments of 1972. Each of these laws provided protection for students against violence, harassment and discrimination. While the laws did not specifically target bullying as a behavior that should have been prevented and managed, it fit under the umbrella of schools providing an environment for students where they felt safe. These laws were tied to significant Federal funding that also encouraged states and districts to comply.

The Florida State Statutes provided the most detailed description, outside of the Jeffrey Johnston Stand Up for All Students Act, of how schools established the safe, caring and orderly learning environment. These details were found in the Florida K-20 Education Code that provided districts and schools with guidelines for establishing and maintaining the public school system. Chapter 1003.32 specifically discussed the establishment of an environment conducive to learning. In Chapter 1006, the state outlined procedures districts and schools followed in establishing the student code of
conduct, including procedures for disciplining students. The responsibilities for school personnel from the superintendent down to school bus drivers regarding student safety were also embedded throughout the chapter. These requirements were tied to the overall funding provided by the state.

The Jeffrey Johnston Stand Up for all Students Act, also known as Florida Bullying and Harassment Prohibited, was contained in Chapter 1006.147. This part of the education code provided broad but comprehensive protection for students from bullying/harassing behavior at all school related functions. The requirements were broken down into three main sections: prohibition and definitions of bullying/harassing behavior, requirements for the sixty-seven school districts, and other requirements of the law. The first section prohibited bullying/harassing behavior and provided a broad definition of what these two behaviors included. The second section required all school districts to develop and to implement anti-bullying/harassment policies based on the state model policy. The third section provided for creating a state model policy and discussed reporting and funding issues related to this legislation. The law provided specific guidelines to districts and again, compliance was tied to funding.

Court decisions further interpreted the various laws prohibiting harassment and discrimination, providing precedence for future application of these laws. In Smith v. Guilford Board of Education, the United States Court of Appeals, Second Circuit heard the case of a ninth grade student who was bullied and harassed, eventually withdrawing from the school. The parents of the victim claimed the school district violated his rights under IDEA and other state and Federal laws; the District Court dismissed these claims.
The Court of Appeals vacated the dismissal of the District Court and remanded the court to rehear the case and proceed accordingly. The Appellate Court felt that the plaintiff provided sufficient evidence that the district did not do enough to protect students.

In Patterson v. Hudson Area Schools, the United States Court of Appeals, Sixth Circuit reviewed the case of DP, a student who was continually harassed, including sexual, by other students. The parents claimed the district violated Title IX and was deliberately indifferent to the plight of their child. The court ruled in favor of the plaintiffs stating that the district did not do enough to stop the continued harassment and thus, violated the student’s right to a FAPE. Thus, districts were required to prevent future harassment once it was reported and founded.

In Fitzgerald v. Barnstable School Committee, the United States Supreme Court heard the case of sexual harassment of a kindergarten student by a third grade boy on the bus. In this alleged violation of Title IX, the court chose to not rule on the case. Instead, they reversed the dismissal of the case by the District Court and remanded it for further proceedings. Although the Supreme Court did not rule in this case, it set a precedent concerning the extent to which districts were required to act.

Other cases have been heard by varying courts across the United States in all communities. The important aspect of the decisions was how they shaped future interpretations of the laws and how school districts and states coped with the requirements. One of the key precedents set by the cases reviewed in this chapter was that districts were held liable for repeated bullying/harassment that occurred to students both on school grounds and at school sponsored functions. However, if the plaintiff(s) showed
that the district/school acted with deliberate indifference and did not do enough to stop
the behavior, the courts generally ruled in their favor.

Question two in this study examined literature for bullying/harassment policies
outside the state of Florida as a comparison. The majority of states had implemented anti-
bullying/harassment laws and required districts to enforce these laws and protect students
through the development of policies. Most states reviewed the district policies as was
done in Florida (Temkin, 2009). One of the benchmarks in the development of bullying
law/policy was the inclusion of the definition of what constituted bullying. Some states
defined the behavior while others left the definition up to the individual districts. Olweus
(1993) defined three types as physical, psychological and cyber bullying. His three
components of bullying were intent to harm, repeated offense and imbalance of power.
According to the literature reviewed, not all states/districts defined bullying as all three
types or using all three components. Policies against bullying also were prevalent outside
the United States, specifically in Europe. These policies generally followed the Olweus
model and as in the United States, intended to protect students from harm. However, as in
Florida, states and districts also wanted to avoid litigation.

Question three addressed the development of the Hillsborough County Public
Schools Policy Against Bullying and Harassment in accordance with the Jeffrey Johnston
Stand Up for All Students Act of 2008. The majority of the research in this section was
conducted through interviews with key district personnel and a review of the materials
developed by the bullying policy committee. Prior to the enactment of this requirement,
HCPS had an existing student discipline plan that complied with state requirements. The discipline plan included procedures for dealing with bullying/harassing behaviors.

The development of the bullying policy was accomplished by a subcommittee of the Violence Prevention Committee under the direction of the Assistant Superintendent for Administration. The committee examined the existing district policy and the new requirements set forth by the state and then modeled the new district bullying policy after the state’s sample policy. For each item required by the state, the committee examined the district’s particular needs and modified each item as applicable within the guidelines of the law. According to the personnel interviewed, conflicts arose along the way as each committee member wanted to ensure his/her ideas for the policy were included. However, the specificity of the state law resolved many of the conflicts without heated discussions. For half of the items, the district committee copied the state model policy verbatim. The only major roadblock was time as the state provided the model policy in October and each district had to develop a policy before December first. The district faced most of the challenges during the implementation of the policy as a result of change. School and district administrators, already strapped for time, now had additional responsibilities for investigating claims of bullying. The three district administrators noted that the specific procedures for carrying out the policy requirements were continually revised based on feedback and other information.

Question four addressed the adherence of the HCPS bullying policy to the requirements of the Jeffrey Johnston Stand Up for All Students Act and other relevant state and Federal laws. Comparing the policy to the state bullying law, the district
complied in the development of a policy that adhered closely to the intent and letter of the law for all requirements except for the deadline date. The School Board of Hillsborough County did not approve the policy until after the December 1 deadline set by the state due to the scheduling of School Board meeting dates. The district exceeded the state requirements in three areas such as providing a more detailed definition of bullying/harassment and counseling options for perpetrators and victims. All school administrators attended a comprehensive training on the new bullying/harassment policy and overall school safety during the summer of 2009. Administrators then trained site personnel on how to implement the policy in each school.

The HCPS bullying policy also complied with other state and Federal laws regarding school safety. The Jeffrey Johnston Act was part of the Florida K-20 Education Code; therefore, adhering to this act also ensured the district policy was compliant with the remainder of the code. The district policy also complied with Federal regulations found in Title IV of NCLB and Title IX. For Title IV, the district policy was designed to decrease violence in schools, part of this law. For Title IX, the policy prohibited and managed harassing behavior in schools, part of this law. The policy also exceeded the requirements of the case law and other state laws/district policies reviewed in this study.
Chapter 5 - Findings, Conclusion, Implications and Recommendations for Further Studies

Chapter Organization

Chapter 5 discusses the findings, conclusions, implications and recommendations for further studies. The first part of the chapter includes a summary of the entire study from chapters one through three. The findings section reviews the interpretive policy analysis conducted in the Chapter four. The conclusions section reexamines the four research questions from Chapter 1, providing an explanation of what the researcher concluded about the research conducted. The implications section examines potential uses for this study and suggests addressing issues raised during the study. The further studies section provides information concerning potential research that could be conducted as a result of this study. This chapter ends with a summary of the information presented.

Statement of the Problem

The Federal and state governments develop laws to provide equal access for all students to a publicly funded education. School safety is a key component in the development of an environment conducive to learning. If students do not feel safe at school, they are not as focused on learning. School districts face multiple issues that threaten the safety of students such as pedophiles, domestic abuse, weapons, and bullying. School districts were somewhat sheltered from some of these threats through
government actions. For example, Florida passed the Jessica Lunsford Act (2005) that required background checks on anyone who was on school grounds when students were present to include non-instructional personnel—those with no regular contact with students—and vendors. Additionally, instructional staff such as teachers and administrators, who have regular contact with students, are continually monitored under the Florida Fingerprint Law. Similarly, school districts have the ability to manage bullying behavior. Policies and procedures were implemented to help reduce the prevalence of bullying.

Bullying behavior causes major disruptions in schools and puts a strain on resources. Florida Statute 1006.147 (2) states that “bullying or harassment of any student or employee of a public K-12 educational institution is prohibited.” Formal research on the issue of bullying began in the 1970’s with Dan Olweus in Norway. The issue became more visible in the light of high profile school shootings attributed to bullying and/or social exclusion. One key aspect of the bullying problem involved determining the overall prevalence in schools. Research estimated that 10-30% of all students were involved in bullying either as the bully, victim, or witness (Aluede, 2008; Isernhagen, 2004; Newman-Carlson, 2004; Sampson, 2002; Walton, 2005). Legislation was enacted to prevent bullying behavior in schools; the impact of these laws on districts and schools is not easily discernible.

In 2008, Florida enacted specific, but comprehensive anti-bullying legislation strictly prohibiting any type of bullying or harassment. In accordance with this legislation, Florida school districts developed policies and procedures to address bullying.
in all realms schools reached such as physical and virtual. These policies adhered to specific guidelines; however, each district had some leeway in the implementation process (FLDOE, 2008). The development and eventual implementation of anti-bullying policies had adverse effects on the district and its resources.

Bullying in schools presents an example of a triangulation of law, policy, and implementation to manage an issue. State and Federal Laws provide a framework for preventing and managing bullying in schools. School districts developed policies based on these laws with the goal of matching the original intent. The implementation process then attempted to put the policies into practice, again with the goal of fulfilling the intent, letter of the law, and policy writers. Embedded in the implementation process were challenges that had to be overcome such as in the 1920s issue: the Compulsory Education debate. Permuth and Mawdsley (2006) cited Pierce v. The Society of Sisters (1925), in which the Supreme Court ruled that states could require compulsory attendance but parents had the right to choose between public and private schools. Translating the original law into practice, as done so by HCPS in 2008-2009, raised questions as to how closely the district policies matched the requirements of the both the intent and the letter of law.

Purpose of Study

As previously noted, a large number of issues affect the environment of the school and student capability in advancing academic achievement. One important area discussed above was that of bullying, with particular concern of how well a district provided policy consistent with law that enabled its students to achieve. The purpose of this study was
limited. Yet it studied the standing student bullying policies of one district to describe and to assess the degree to which these policies conformed to the law.

Research Questions

In the study, the following research questions were addressed:

What did relevant constitutional, statutory and case law state about student bullying in schools?

What policies in the literature presently dealt with student bullying?

What policies did Hillsborough County Public Schools (HCPS) have in place regarding student bullying in schools and what process was used to develop them?

How closely did the student bully policies in HCPS match the intent and letter of the law, particularly in Florida?

Policy

Policy represents a broad category of statements designed to guide practice; these statements were made by both public and private entities. Permuth and Mawdsley (2006) stated that policy was “defined as a vision of where to go and guidelines for getting there” (p. 133). For example, the No Child Left Behind Act (2001) set the educational direction for the entire nation. Policy research then involved an examination of the total process of developing, implementing and monitoring of the policy. This included a study of the leadership responsible for this policy and any procedures that had been developed during the implementation process (Permuth, 2006).

The state of Florida enacted bullying legislation (Statute 1006.147 - Bullying and Harassment Prohibited) specific to students in 2008 as a means to help districts prevent
bullying behavior from occurring, and also to manage such behaviors if and when they
did occur. The law was specific, requiring districts to develop and to implement policies
that met or exceeded specific components, ensuring the safety of the students. Chapters 2
and 4 address and analyze the components of these policies.

**Summary of the Study**

In this study, the researcher studied bullying law and the development of bullying
policy in Hillsborough County Public Schools. This topic presented two related issues
concerning public education: safety of students and the policy development process for
school districts. The current bullying issue school districts faced across the nation served
as a backbone to study the policy development process from law. The problem addressed
in this study focused on law as it related to bullying/harassment and how districts
developed policies to prevent and manage behaviors. Students learn best in an
environment where they felt safe; therefore, the role of the government and local school
districts was to create the safe environment where students could learn and did so within
a legal framework (Aluede 2008; Frondeville, 2009).

The school environment is affected by a large number of factors and bullying/
harassing behavior was a negative influence on this environment. This study addressed
four research questions related to the development of the bullying policy by Hillsborough
County Public Schools (HCPS).

What did relevant constitutional, statutory and case law state about student
bullying in schools?

What policies in the literature presently dealt with student bullying?
What policies did Hillsborough County Public Schools (HCPS) have in place regarding student bullying in schools and what process was used to develop them?

How closely did the student bully policies in HCPS match the intent and letter of the law, particularly in Florida?

This study was framed by the discourse theory developed by Habermas (1996). This theory examined the legitimacy of law, addressing whether the law did what it said it was supposed to do. For example, the Jeffrey Johnston Stand Up for All Students Act required all districts to develop and implement an anti-bullying/harassment policy. This part of the law was legitimized when each of the 67 districts had their policies approved by the state and subsequently implemented. This discourse process involved the reading and interpretation of text and led into the interpretive policy analysis process described by Yanow (2000). The interpretive policy analysis process examined how the interpretive communities (state, state board of education, school district, etc.) interacted with the artifacts (law) including the process of developing the policy. The process was designed to discover any potential and actual conflicts that existed and determined if these conflicts impeded the implementation of the policy.

Chapter 2 of this study included a review of related literature concerning bullying and policy development. This review provided background information concerning the history of bullying in schools, the effects of bullying, the development of laws concerning bullying and policies/programs developed to manage the bullying issue. One important finding in the literature concerned the three types of bullying (physical, psychological and cyber) and that all were addressed in an effective policy/program.
Bullying behavior was prevalent in schools today with an estimated 10-30% experiencing it as the victim, bully or witness (Aluede, 2008; Isernhagen, 2004; Newman-Carlson, 2004; Sampson, 2002; Walton, 2005).

The literature review in Chapter 2 addressed the definition of bullying. As stated by Olweus (1993), bullying behavior required three elements: intent to harm, a real or perceived power imbalance and the behavior must be repeated. These behaviors occurred most when adult supervision was at a minimum; however, bullying happened anytime two or more students were gathered together (Olweus, 1994; Sampson, 2002). This chapter also reviewed the possible reasons behind the development of the current bullying legislation. One of these was the school violence incidents in the 1990s. The most notable incident was the Columbine tragedy where two students injured many students and killed twelve classmates, one teacher and themselves. This incident, as in others, was attributed to bullying.

Chapter 3 of this study addressed the methods used by the researcher in examining the research questions. As stated previously, the researcher framed the study using the discourse theory defined by Habermas (1996) and used the interpretive policy analysis process described by Yanow (2000) in the examination of law and bullying policy. The first two steps of this process involved identifying the artifact(s) and the interpretive communities. The last three steps involved analyzing how the interpretive communities interacted with the given artifact(s) and the determination of how conflicts, if any, affected the eventual implementation of the policy.
The first part of the study included an examination and analysis of primary and secondary sources of law. The purpose of this section was to discover what the law said about bullying and what regulations were in place for school districts. The primary sources of law included Constitutional, statutory and an examination of related case law at the appellate level or above to determine how the courts had ruled in cases related to bullying. Secondary sources of law included the literature written about bullying law and policy. The second part of the study examined the process used to develop the bullying policy in Hillsborough County Public Schools. For this part, the researcher interviewed four district personnel to assist in developing a narrative that told the story of how the district policy was developed and how closely it adhered to the requirements of law. The four district personnel were selected due to their involvement with the interpretation of the law, development of the policy and implementation of the policy. The topics used in the interviews, based on the four research question, were developed by the researcher and intended to examine the district’s compliance with state and Federal law (See Appendix A). The last part of the study involved the comparison of the HCPS policy to the state requirements and model policy. This was accomplished by examining the each requirement in law relative to the corresponding policy component.

Chapter 4 of this study presented the results of the analysis. The results were organized according to the research question addressed beginning with the law analysis and ending with the district’s compliance with state and Federal law. The interpretive policy analysis, as described by Yanow (2000), was used to determine if the district
complied with the intent and letter of the law. This chapter was reviewed in the next section.

Findings

In this study, the researcher found that bullying law and the policy development process in a school district were a complex topic of increasing specificity. The four research questions employed in this study examined the law and how it addressed the bullying/harassment issue, other policies concerning bullying/harassment outside of Florida, the process used by HCPS in the development of the current policy and how closely this policy aligned with state and Federal laws. Interviews were conducted and then analyzed to provide background information concerning the development of the policy.

Question One - What did Relevant Constitutional, Statutory and Case Law State About Student Bullying in Schools?

Constitutional, statutory and case law provided guidance to Departments of Education and school districts concerning the safety and well being of the students they served. At the Federal level, little guidance was provided by the United States Constitution concerning the safety of students; it only delegated the ability to establish and maintain a public school system to the states through the Tenth Amendment. Statutorily, the Federal government specifically addressed student safety through two pieces of legislation that were tied to funding: Title IV of the No Child Left Behind Act of 2001 and Title IX of the Education Amendments of 1972.
Title IV of NCLB (2001) provided guidance to states and districts concerning the establishment of a safe environment for students. Part A of this law referred specifically to safe and drug free schools, providing financial assistance to states and school districts that complied with the regulations. Throughout this part of NCLB, the Federal government outlined expectations for states and districts that received Federal funds. These funds were utilized for the development and maintenance of programs that fostered a safe and caring (and drug free) learning environment for students. Districts were required to report information to the state concerning prevention efforts. States then reported to the U.S. DOE every other year concerning their overall violence prevention efforts. This legislation was significant since non-compliance with the requirements of NCLB Title IV could result in a loss of Federal funding for states/districts; this funding could include the lucrative Title I portion of NCLB that is worth up to $100 million for some districts.

Title IX of the Education Amendments of 1972 provided students with protection against discrimination. The law was targeted specifically at discrimination based on sex and was intended to protect students at all education related events. Title IX violations were typically harassment or social exclusion cases. However, this provision did not apply to religious organizations running a privately funded school. As with NCLB, Title IX legislation is significant since non-compliance with Title IX regulations could result in a loss of Federal funding. Both laws provide for student safety on the surface, but a closer look reveals that the Federal Government had tied significant funding to this legislation to ensure states and school districts complied with the regulations.
Florida laws. The Florida Constitution provided the general framework for public education in the state of Florida. Section 1 of Article IX provided a brief description of the public school system in Florida, including public colleges/universities. The law required the state and districts to establish a safe and secure environment for students to receive a high quality education. Specifics related to bullying and harassment were not included in these provisions; however, Florida law provided more specifics through the K-20 Education Code.

The Florida State Statutes (2008), and specifically the Florida K-20 Education Code, provided details for the establishment of public schools including the safety and well being of students. This code included several sections that addressed the safety of students. Chapter 1003 included the establishment of a code of conduct for students and required that teachers maintain an orderly and disciplined classroom. Chapter 1006 outlined school district responsibilities for student discipline and safety including the publication of the student code of conduct. This chapter also included regulations for student discipline on school busses and other district owned transportation. The entire chapter was focused on the provision of a safe environment for students to learn. Embedded in these chapters were the requirements of superintendents and school administrators. As with Federal laws, compliance with the K-20 code was tied to state safe school funding. In reviewing the case of Jeffrey Johnston, this code was not sufficient in preventing and managing bullying behavior among students. A mother’s love for her child, legislative action and an additional chapter were required to address the bullying/harassment issue.
Bullying and harassment prohibited. Chapter 1006 contained the Florida Bullying and Harassment Prohibited (1006.147) requirement, also known as the Jeffrey Johnston Stand Up for All Students Act. This part of the chapter represented one of the strongest and most comprehensive anti-bullying/harassment laws in the United States (Peterson, 2009). This was due to the strict requirements written into the legislation. The law was divided into three main goals: prohibition and definition of bullying, district policy requirements and other requirements of the law. The first goal contained the first three sections that named the law in memory of Jeffrey Johnston, prohibited and then defined bullying and harassment. Section 3, which included the definitions, also defined the realms of school jurisdiction to include any school sponsored activity and cyberbullying. These sections were significant and provided districts with a single definition for bullying and harassment, based on the work of Olweus (1993), and broadened the scope of where districts were responsible for protecting students from bullying/harassment. This broadened scope included the cyber realm that was not applicable in the case of Jeffrey Johnston.

The second goal of the law, Section 4, outlined the requirements for the sixty-seven school districts in Florida. The state provided a model policy that included the fourteen minimum requirements districts had to meet by December 1, 2008. By providing such a policy, the state also allowed districts to use this model as a template, copying the items verbatim. The committee that developed the district policy was required to
represent all stakeholders; the policy was allowed to modify terminology or exceed the state requirements if the district felt it was necessary. The first six items of the policy requirements outlined how districts provided stakeholders with information concerning the policy and definitions of bullying and harassment. These items also specified expected behaviors and consequences for committing an act of bullying/harassment. The next three items covered notification of parents and the investigation process for reported incidents of bullying/harassment. The next two items referred to counseling for all parties involved, including the purported bully, and the reporting requirements for districts. The last three items covered the requirements for publication of information regarding the policy and any incidents that may have occurred. These fourteen items addressed the areas the state felt were important components of the policy. Districts that interpreted these requirements as a need to strictly adhere to the state model policy limited the input of the policy development committee. The target district in this study interpreted the requirements in this fashion, as reviewed through question three.

The third goal of the law included sections 5-10 that covered various requirements that related back to the first four sections. Section 5 stated that the FLDOE provided a model policy for districts to follow. Section 6 provided immunity for those who reported bullying/harassment in good faith; they could not be held liable for damages once the report was submitted. Section 7 addressed the principle that the location and/or time could not have been used in defense in computer related bullying. This section also focused on the fine line of where district jurisdiction and liability ended. Districts could now address bullying that occurred off campus through electronic media under this
provision. Section 8 covered the distribution of safe school funds to districts complying with the law. For 2008-2009, districts received funds if the policy was submitted and approved by the state; for subsequent years, funds distribution was based on districts submitting required reports as outlined in the next section. Tying funding to this component of the law was a major reason for districts to comply. Section 9 outlined the state reporting procedures that districts complied with. Section 10 stated that this law was not allowed to infringe on the rights protected under the First Amendment of the United States Constitution. Overall, the intent of the Jeffrey Johnston Stand Up for All Students Act was to protect students. The letter of the law included a similar meaning but also utilized funding as a means to ensure strict compliance from districts.

Case law. While the United States Supreme Court had not heard a case concerning bullying behavior, three high profile cases involving harassment reached the appellate courts and the Supreme Court. The first case, Smith v. Guilford Board of Education (2007), involved a ninth grade male student who was repeatedly harassed and bullied by his peers, eventually forcing him to change schools. School employees were apparently aware of the situation and the parents claimed the school employees were not properly trained to help their son. The United States Court of Appeals, Second Circuit heard the case after the District Court of Connecticut dismissed in favor of the defendants. However, based on the case presented by the parents, the appellate court vacated the dismissal claim that the district violated the student’s right to a FAPE under IDEA and remanded the lower court to reconsider the case.
In Patterson v. Hudson Area Schools (2009), the United States Court of Appeals, Sixth Circuit reviewed the case of the repeated harassment of a student in middle and high school. The harassment in this case included name calling, defacing of his property and sexual harassment. The school was aware of the incidents and made efforts to help the student and stop the continued harassment. While the school stopped individuals from continuing to harass the student, new individuals continued to harass him. In his eighth grade year, the school found a solution by providing the student with a resource room. This option was removed when he entered the high school located on the same campus. The harassment continued and eventually the student was forced to take classes at other campuses. The appellate court ruled with a split decision in favor of the plaintiffs stating that there was reason to believe the district had been deliberately indifferent especially since the harassment continued across several grade levels. The case was remanded back to the lower court for further proceedings.

The case of Fitzgerald v. Barnstable School Committee (2009) was heard by the United States Supreme Court in 2009 concerning the violation of Title IX and the Equal Protection Clause by the school district. In the case, a kindergarten student was continually harassed sexually on the bus by a third grade student. The parents complained to the school and in each case, the school stated the claim was unfounded and took no action. After an additional incident, the school recommended moving the kindergarten student and the parents felt that was punishing her for being harassed. Both lower courts dismissed the case and the Supreme Court did not rule but based on the evidence presented, remanded the case back to the lower court for further proceedings.
The researcher also reviewed additional cases involving students being harassed and/or bullied. In New Jersey, L.W. v. Toms River Regional Schools Board of Education (2007) was heard by the state Superior Court concerning a student who was harassed sexually on a continual basis. The Superior Court affirmed the appellate court’s modification of original decision stating that the state’s Law Against Discrimination was applicable and remanded the case to the lower court for proceedings. Bullying occurred in the cyber realm in Beverly Hills where students were suspended for posting video of a conversation bashing another student. Pending the outcome of this case, the fine line of free speech and school jurisdiction will be decided by the courts.

_Significance of findings for question one._ The review of primary sources of law revealed that state and Federal governments put their mark on the topic of bullying prevention in schools. Constitutional law reviewed laid the groundwork for statutory and case law to provide specific requirements and interpretations for managing bullying and harassing behavior in schools. At the Federal level, statutory law required districts to provide a safe environment for students. Florida Statutes narrowed the scope of safety to prohibit specifically bullying and harassment. The Jeffrey Johnston Stand Up for All Students Act provided specific requirements for all school districts in Florida. This law, as interpreted by the target district, was intended to have a uniform definition for bullying/harassment and nearly uniform policies across the state. As with Federal Laws, this law was tied to a lucrative funding source, safe school funds. Case law developed the precedent that schools were liable for ensuring student safety. In the cases reviewed in this study, the school district was found liable when it knew about the behavior and either
did nothing to stop it or efforts were not sufficient. Other cases reviewed still have pending decisions, but they will set precedent concerning the jurisdiction of schools regarding the cyber realm.

*Figure 5.1*- Comparison of the Influence of Law on Bullying Policy in a School District

**Question Two - What Policies in the Literature Presently Dealt With Student Bullying?**

Anti-bullying/harassment policies were found in school districts across the nation and were required in forty-four states. While both Federal and state laws provided the framework for schools, the majority of bullying/harassment policies were addressed at the state and local level (Limber, 2003). Florida enacted a bullying law, requiring all districts to have a strict policy that adhered to the state’s model policy, but this section focused on other states (Peterson, 2009). Some common elements found in laws and
policies included: bullying prohibited statements, definitions of bullying, requirements for districts including consequences and reporting procedures.

In a study of twenty-nine state bullying laws, Temkin (2009) found that the majority of the states utilized one or more, but not all of the components of the Olweus (1993) bullying definition. Three of the states excluded the requirement of bullying being a repeated offense. Two of the states, California and Arizona, did not specifically define bullying at all and left the definition up to the districts. The research in this article demonstrated the disparity among state bullying laws and derived district policies. In Illinois, MacLeod (2007) found that only a small percentage of districts included all three elements recommended by Olweus.

Christie (2005) also reviewed the bullying laws/policies of several states and found that several required the DOE to provide a model policy for districts to follow, just as was done in Florida. Arkansas required the DOE to review each district policy and make recommendations. Connecticut provided competitive grants to help districts eliminate bullying. Vermont required districts to include intervention strategies in the policy. Oklahoma provided each district with approved programs that were authorized for use in bullying prevention.

The Wisconsin Department of Public Instruction provided guidelines for districts in the development of bullying prevention policies. District policies included the following components: definition, prohibitions, complaint procedures, sanctions and support and disclosure and public reporting. The document was designed to advise instead of impose (Burmaster, 2007). In South Carolina and Pennsylvania, studies
showed that the implementation of such policies reduced the number of reported incidents (Urbanski, 2009).

Bullying laws were in effect in forty-four of the states. Each state had different requirements; most were based on the Olweus (1993) definition requiring one or more of the three elements. Some states only included physical forms of bullying while others included verbal, psychological and cyber bullying as prohibited behaviors. Georgia only prohibited bullying in grades six through twelve (Peterson, 2009). These studies were significant due to the differences found in bullying laws and policies across the United States. Questions as to why some states included the Olweus (1993) definition and others did not could be raised in a future study comparing all state laws. In addition, the effectiveness of these laws and policies regarding the number of bullying/harassment incidents occurring had not been determined.

Figure 5.2 - Comparison of Grade Level Applicability of Bullying Law in Four States
International bullying policies. Bullying prevention policies were also in place in other countries. The United Kingdom School Standards and Framework Act of 1998 required schools to have procedures to prevent bullying. Schools were provided with a model policy to assist in the development (TeacherNet, 2009). Schools in Ireland had a nine component process for developing bullying prevention policies. Training was provided at all schools to ensure all students and staff were aware of the policy (O’Toole, 2009).

Question Three - What Policies did Hillsborough County Public Schools (HCPS) Have in Place Regarding Student Bullying in Schools and What Process was Used to Develop Them?

Hillsborough County Public Schools developed the bullying/harassment prevention policy in accordance with state law during the 2008-2009 school year. Through the interviews and review of committee documents, the researcher discovered that the development of this policy was defined by what the district had in place before the law was enacted and how the district built on the bullying/harassment policy template provided by the state by incorporating, where applicable, components of the existing policy and committee recommendations. Prior to the 2008-2009 school year, HCPS had developed and implemented a comprehensive student code of conduct that was used to address harassment and other inappropriate behaviors. Interviews revealed that this plan met the requirements of the Florida K-20 Education Code and also met many of the requirements of the new bullying/harassment law. The district also had an existing
violence prevention committee that met monthly to discuss student behavior issues across the district.

The interviews revealed that after the Jeffrey Johnston Act was enacted in 2008, the district began working on adapting the current plan to meet the new state requirements. This included forming a subcommittee of the violence prevention committee to work specifically on the new bullying/harassment policy. The new committee was representative of all stakeholders including teachers, parents, administrators, students, law enforcement and community members. The development of the new policy followed the state model policy and the committee examined each item in the policy, using it as a basis for the district policy. The committee added additional requirements or modified terminology as applicable for the district; however, it seemed the committee existed only because the state required it. Conflicts arose among committee members based on their individual views, but generally, they were overruled because of the district’s interpretation of the strict state requirements. The committee then recommended the completed policy to the Assistant Superintendent for Administration who submitted it to Superintendent for approval by the School Board. The district then submitted the completed policy to the state, receiving approval in April, 2009.

Roadblocks and challenges. During the development of the new policy and subsequent implementation, the district faced several roadblocks and challenges. The first of these was time. The state published the model policy in October of 2008 and districts were required to develop and approve a policy by December 1, 2009. HCPS was a large district and the interviews revealed that finding time to meet and discuss/review
development of the policy was difficult. The district also had to meet the deadlines for submitting items to the School Board for review and, thus, the policy was approved after the deadline set by the state.

The second major challenge the district faced was the result of the media frenzy concerning school bullying/harassment. In the shadow of high profile school shootings at Columbine High School and Virginia Tech, the media had also begun reporting bullying incidents occurring regularly in the schools. HCPS encountered one of these high profile incidents as the district prepared to implement the policy for the 2009-2010 school year. While the additional attention did not change the already state approved policy, the district did modify some of the daily operating procedures, developed from the state approved policy, school administrators followed when investigating reports of bullying. These changes were significant since they were made at the district level and did not include the full representation of the bullying committee. This further supported the finding that the committee was formed only because it was required.

The third challenge was the idea of change. Site administrators were continually inundated with responsibilities they had to complete each day. The additional task of investigating bullying incidents proved to be a challenge for administrators. As explained by district personnel, school administrators needed to investigate all reported incidents to determine if they were founded. Otherwise, they risked losing the trust of the community they served. Before this new policy, many reported incidents of bullying were reported as inappropriate behavior. The district office also experienced challenges with the development/implementation of the new policy to meet the reporting requirements of the
state. The Director of Administration stated she spent countless hours reviewing and organizing the reports that came in daily. These reports would be essential for the continued receipt of safe school funds.

*Policy development.* Since the bullying/harassment policy had just been developed and implemented in the past year, the district had not yet evaluated its effectiveness in the schools. The policy development process was considered effective in that the district was able to develop the policy and received state approval for implementation. The district interpretation of the state law was that the committee should use the state model policy as the template to build the policy. Additions were made to meet specific district needs; changes to the model policy were made to include district specific terminology. This limited the influence of the bullying/harassment policy development committee, making their participation in the process a symbolic gesture to meet the state requirement of a committee to develop the policy. The district administration continued to collect data throughout the 2009-2010 school year and at the end of the year the committee was to reconvene to determine if changes needed to be made to the daily operating procedures developed from the state approved policy. The interviews revealed that changing the policy required state approval and would not be done unless the state required it.

The policy development process used to develop the bullying and harassment policy in Hillsborough County Public Schools followed the model suggested by Permuth and Mawdsley (2006). The district formed a committee representative of the stakeholders and developed the policy in compliance with state requirements. However, the state
requirements in Florida were rigid and required specific components, allowing the district to add to, but not delete from the model policy. For many items, the district policy was copied verbatim from the state model policy. On several items, the committee either added to the state model policy or modified terminology specific to the district (see Figure 5.4).

Figure 5.3 - Organization of the Influence of Law on District Policies

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Question Four - How Closely did the Student Bully Policies in HCPS Match the Intent and Letter of the Law, Particularly in Florida?

The Hillsborough County Public Schools policy against bullying and harassing behavior was aligned with the requirements set forth in the Jeffrey Johnston Stand Up for All Students Act (2008). As reported in the previous section, the district committee used the state model policy as a template and examined each item, adding to it as needed. The Hillsborough County School Board approved the policy on December 8, 2008, and the state approved the policy in April of 2009.

District policy compliance with state requirements. As required by parts a and b of subsection 4, the district policy contained a statement that prohibited bullying and the terms bullying and harassment were defined using the state definition and additional items included by the district committee. The policy exceeded the state requirements for part b by extending the definition of bullying to include additional groups not required by the law, such as employees and visitors. In compliance with part c, the district policy outlined expected behaviors for students and employees in the public schools, already part of the district’s existing code of conduct. The district policy also complied with parts d and e, requiring the description of consequences for individuals committing bullying/harassment and for individuals that wrongly accused someone of committing acts. The district policy copied the state model verbatim for these items, only adjusting for district specific terminology.

The district met the requirements of part f by providing reporting procedures and designating the person responsible at each site. The district had also implemented an
online reporting tool allowing anyone to provide information concerning possible incidents of bullying. Several district officials and the school administrator received these reports. The district policy complied with part g by outlining a comprehensive investigation procedure for administrators to determine if reported acts of bullying/harassment were founded. Administrators began the investigation process as soon as the report was received; the district provided a flowchart (Appendix E) to assist with the investigation process. This was an example of the daily operating procedures developed from the policy. The investigative process also fulfilled part h as the administrator determined if the report incident lied within the scope of the school’s jurisdiction. Compliance with part i was also built into the investigative process as administrators notified the parents of all students involved in the incident.

Compliance with part j of the subsection 4 was a component not included in the previous district code of conduct and it included the required procedures for referring involved students, including bullies, for appropriate assistance. This part was significant because it mandated counseling for bullies in addition to the victims. The policy also included the required procedures for reporting the data annually. The requirements of part l were fulfilled in the policy and the district continued to provide training and information for all stakeholders including staff, parents, students and the community. This began with training administrators during the summer of 2009. The policy complied with part m by providing procedures for updating parents of actions taken to ensure the continued safety of victims. The district had also complied with part n by having procedures in place to
publicize the policy, an action already undertaken through the student handbook and other means.

Compliance with other laws and templates. HCPS’ bullying policy complied with other state laws and regulations. Since the Jeffrey Johnston Act was placed under the umbrella of the Florida K-20 Education Code and the policy adhered to the requirements of the act, it also complied with the remainder of the K-20 code. The policy followed the state model policy and included additional items specific to the district. The policy also complied with the requirements of Title IV of NCLB and Title IX of the Education Amendments of 1972 in that it provided for the safety of students and was intended to prevent bullying/harassing behavior in the schools.

Hillsborough County Public Schools’ Policy Against Bullying and Harassment also comported well to the template in a recently released publication. Urbanski and
Permuth (2009) provided a template that was utilized to develop a safe environment for students. It included the three elements defined by Owleus (1993) and defined various types of bullying behavior. The HCPS policy, as stated in the template, provided a means for the safe reporting of bullying incidents and provided elements consistent with research on effective methods for preventing and managing bullying behavior. The policy also complied with or exceeded the precedents set forth in the harassment cases reviewed in this study and the requirements of other laws and district policies such as Georgia, reviewed in Chapter two.

**Conclusions**

This study was designed to examine existing laws related to bullying/harassment and a district policy to determine its compliance with and adherence to these legal requirements. This process was accomplished through the four research questions that guided the study. Each question examined one part of the overall study, culminating with the comparison of the district policy to the law. The questions were re-examined individually below and then overall conclusions culminated the discussion. This study, by design, was limited due to several factors. The study only focused on one state’s bullying law and included only one district out of 67 in the target state. The study also utilized interview data, but these interviews only included district administrators and the school board attorney. This did not allow for the opinions of the other committee members to be revealed in the results. The study was also limited due to the time frame in which it was conducted. The study was conducted as the target district implemented the policy; therefore the effectiveness of the policy had not been determined.
Question One - What did Relevant Constitutional, Statutory and Case Law State About Student Bullying in Schools?

Question one addressed how constitutional, statutory and case law referenced bullying and harassment. Constitutional law provided no direct reference to bullying and/or harassment in schools. At the Federal level, the Constitution did not mention public schools and delegated this and many other rights to the states under the Tenth Amendment. At the state level, the Florida Constitution called for establishing safe and secure schools that provided high quality education. While bullying and harassment were not mentioned in the Florida Constitution, these items fell under the general umbrella of school safety, an indirect reference. The specifics of managing student behavior were left to statutory law and to the individual districts. The two constitutions examined focused on overall safety of students/citizens through the general welfare clause without specific measures for achieving this goal.

Statutory law. Statutory law provided a more direct reference to bullying and harassment, requiring states and school districts to prohibit these behaviors and to implement procedures to manage the behavior if and when it occurred. At the Federal level, Title IV of NCLB and Title IX of the Education Amendments of 1972 provided the requirements for states and districts receiving Federal funds. Title IV contained provisions that directly prohibited harassment and required states and districts to prevent this behavior and control it when it occurred. Title IX also referred to harassment in terms of prohibiting discrimination of students based on sex or race. Bullying was not directly referenced in either piece of legislation; however, the establishment of a safe learning
environment, as required by both titles, also indirectly included preventing bullying behavior that disrupted the normal order of the school. Federal statutory law allowed school administrators to interpret the law and to apply their professional judgment. The only consequences involved financial penalties to states/districts that did not comply with the Federal regulations, generally, Title I funds. The researcher interpreted these two laws to represent more of a ‘what the government would do if you did not ensure student safety’ than a ‘what the government would do to support schools in the goal of ensuring student safety.’

Florida statutory law contained the only direct reference to bullying and what school districts were required to do to prevent it. Title XLVIII contained the Florida K-20 Education Code that detailed the requirements of the state and sixty-seven school districts. The theme of school safety was embedded throughout the entire code, but the specifics of bullying and harassment were covered in the Jeffrey Johnston Act. As with Federal statutory law, many of the requirements were tied to general funding for school districts, a form of coerced compliance.

*Florida bullying law.* The Florida bullying law was comprehensive and included specific requirements for districts designed to prevent and to manage bullying behavior. However, as discovered through interviews with district personnel, the law outlined the creation of a policy that was more like a set of procedures than a policy. Each item was extremely detailed and strictly mandated, leaving little room for districts to modify the minimum requirements. Schools were required to comply with the requirements of this law or faced financial penalties, similar to the Federal statues. This law did provide
districts with tools to prevent and to manage bullying/harassment by specifying prohibited behaviors.

Based on information gathered through the interviews, the Florida bullying law raised the profile of bullying in two main areas: labeling students as bullies and potentially downgrading more violent crimes as bullying. For example, a student who continually acted inappropriately towards another student was labeled as a bully, a label that stuck with him/her for the remainder of the academic career. A student who bullied another student actually beating him/her to death after repeated bullying/harassment was also called a bully, a potentially less severe label than murder. The real question of whether the law and subsequent policies had helped reduce the prevalence of bullying could not be answered until data from the 2009-2010 school year was analyzed.

Case law provided interpretations of the law that directed how states and school districts reacted to given requirements of the law. The three high profile cases reviewed in this study dealt with cases of harassment in which the plaintiffs brought suit against the school district for not protecting their children. In each case, the lower courts ruled in favor of the school district or dismissed the case, stating that district personnel made a good faith effort to stop the harassing behavior. The higher court reversed or vacated each of these decisions, remanding the case to the lower court for further proceedings. These three cases set a precedent by holding the school districts liable for ensuring that students were safe while at school or school sponsored activities. School systems across the nation faced this dilemma of what constituted the limit of school responsibility. In each of the three cases reviewed, the school was repeatedly notified of the bullying/harassing
behavior and although each case was investigated and the school acted to protect the student, the plaintiff continued to be harassed. Failure to stop continued bullying/harassment put school districts in a difficult situation. Therefore, states and districts had to incorporate effective procedures to prevent and manage bullying/harassing behavior among students. These measures were also intended to protect the state/district from potentially costly litigation. However, the cases reviewed showed that the law was on the side of the victims if districts were unable to stop bullying/harassment completely.

Question Two - What Policies in the Literature Presently Dealt With Student Bullying?

The review of literature revealed that bullying policies were not prevalent in the literature. Bullying and harassment prevention laws were relatively new in the field of educational research. Common bullying definitions in state law and district policies included one or more of the three components specified by Olweus (1993): intent to harm, repeated behavior and a perceived or real power imbalance. These elements were included in the Florida law and subsequent district policies; however, it was apparent from the literature that much disparity existed across the United States with each state determining its own definition and requirements (Christie, 2005; Temkin, 2009; Walker, 2009). In Europe, countries tended to follow the Olweus model for bullying prevention.

While forty-four states required some form of bullying prevention in schools, research on such policies was not prevalent. In addition, great differences existed among the state requirements. Some states only required districts to have a policy and allowed the district to determine the definition of bullying. California and Arizona did not define bullying at the state level or specify what entity should (Temkin, 2009). Others were
similar to Florida, requiring strict policies and guidelines. Based on these findings, it was difficult to compare Florida’s requirements to other states. In addition, data was not yet available to determine the effectiveness of such policies. However, research did state that Florida and Georgia had two of the strongest anti-bullying and harassment laws. In comparing these two states, one major difference existed. The Florida law covered grades K-12; the Georgia law only applied to grades 6-12, unable to be applied to the case of an eleven year old boy who committed suicide (Walker, 2009). Research still needs to be conducted to determine the effectiveness of these laws, examining their ability to prevent and manage the bullying/harassment.

**Question Three - What Policies did Hillsborough County Public Schools (HCPS) Have in Place Regarding Student Bullying in Schools and What Process was Used to Develop Them?**

The Hillsborough County Public Schools Policy Against Bullying and Harassment provided the district with a comprehensive tool to attempt to prevent and to manage bullying/harassment in schools. The history of this policy predated the Jeffrey Johnston Act as the district had in place a comprehensive student code of conduct that was designed to address disruptive behaviors such as bullying and harassment. The existing district policy delegated much of the interpretation and coding of behaviors to the school sites. The administrator investigated the incident and then determined how it was coded. Many of the incidents that were now classified as bullying under the new law were coded as inappropriate behavior, a lesser offense. The new policy, developed in accordance with the state requirement and based on the state model policy, focused on
carefully investigating each reported incident of bullying to determine if the claim was
founded. The two main goals were to protect students and the interests of the district
against costly litigation or bad press.

The development process of the current bullying/harassment policy utilized a
representative committee to review the state requirements and to examine the model
policy. This committee then formulated the policy approved by the school board in
December of 2008 and the state DOE in April of 2009. The committee included a
representative group of stakeholders; each member brought his/her personal beliefs to the
table for discussion. Conflicts arose in this process but were generally overshadowed by
the district’s stringent interpretation of the state requirements. This was a negative aspect
of the process. Although the committee met over several months to discuss the new
policy, the district’s decision to closely follow the state requirements using the model
policy as a template limited the level of input the committee had on the final product.
This raised the question as to why the district had to form a committee to develop a
policy that was simply the state model policy with some district specific additions. The
state mandated the requirements of the district policy and and provided a model for
districts to follow. The district used this policy as its template and the few changes, as
reviewed in the next section, were additions to the minimum requirements designed to
meet the needs of or match the terms used by HCPS. The researcher concluded that the
district bullying/harassment policy committee had little input in development process.
The district may have chosen this route because it was easier to use the state model as a
template to ensure the district would receive the attached safe school funds. The
researcher interpreted this as the district following the requirements of the law since it was tied to funding and organizing the committee as a formality to meet the requirements.

Question Four - How Closely did the Student Bully Policies in HCPS Match the Intent and Letter of the Law, Particularly in Florida?

The Hillsborough County Public Schools Policy Against Bullying and Harassment adhered to state and Federal laws. This letter of the law was specific in the case of the Jeffery Johnston Stand Up for All Students Act in Florida. The district used the state model policy as a guide as the committee developed the policy. Therefore, the policy was copied verbatim from the state model policy for many of the required items and thus, aligned with the letter of the law. For the items where the district policy exceeded the state requirements, the state model policy was copied verbatim and additional elements were added or district specific terms were substituted, such as the official name of the district and the use of site administrator in place of principal. The district developed a policy that both met the state requirements and the district’s perceived needs. These needs included the protection of students and district interests. One goal was to avoid continued bad press and potential costly litigation. A recent publicized case of bullying in HCPS resulted in the district office’s decision to modify the daily operating procedures to prevent similar incidents from occurring in the future, bringing potentially bad press with them.

The new district policy utilized elements of the state definition of bullying. Prior to the new law, the definition of bullying was not standard across Florida. Based on the interviews conducted, children often complained that another student hit them or called
them a name and the parents immediately called the school because they perceived that their child was bullied. This scenario continued to occur with the new policy even though the definition of bullying stated that a power imbalance and repeated behaviors were required, two items the previous example was not clear on. These potentially false reports of bullying had a negative effect on the school by occupying the time of the administration and pulling them away from other responsibilities. Therefore, training on the definition of bullying was essential to ensure all stakeholders understood the requirements. However, the strict definition of bullying in Florida could also be seen as a weakness in the new policy. Parents could still feel their children were bullied even if the incident did not meet the definition. This could still lead to costly litigation regardless of whether the district acted within the requirements of the state law.

The interpreted intent of the Jeffrey Johnston Act was to establish an environment conducive to learning where students felt safe and were free from bullying and harassment. This was not necessarily identical to the letter of the law that required specific actions. For example, a district policy that met the requirements in the letter of the law was not guaranteed to establish an environment where students felt safe. It was possible for students to experience bullying and harassment at school, on the bus or at school sponsored activities even though the school had established a strict policy prohibiting such behavior (Christie, 2005; Elliott, 2002). In addition, as seen in the case of Fitzgerald v. Barnstable School Committee, the school interviewed the alleged perpetrator in the case but the claim of harassment was unfounded. Therefore, the purported behavior continued until the victim sued the school. This scenario could easily
have occurred in HCPS even though the district had a policy that required an extensive investigation.

Overall Study

Although this study specifically addressed the laws in Florida and the bullying policy in one district, other conclusions were drawn from the findings. First and foremost was the question of how states and districts conducted the policy development and analysis processes. In the development process, districts needed to take a formalized view of other policies instead of recreating the wheel (Permuth, 2006). In the analysis process, the district focus was on the effectiveness and the true need for the policy: how would the district best serve its students and other interests to avoid litigation and/or bad press? A second conclusion referred to the specificity of the Florida bullying law and questioned the benefits of the law as written. Since other states did not use all three of the Olweus (1993) components in the definition of bullying, the researcher questioned whether all three made the policy more effective. Bullying is a social construct and is therefore subject to changing perspectives and definitions. This would have been especially true in a case where a parent thought their child was being bullied, but since the incident did not meet all three criteria, such as in a one time incident, the investigation would be unfounded. This situation could bring litigation to the district. Policies and procedures often needed the same ability to be flexible and allow school administrators to use their discretion. The interview with the school board attorney revealed his perception of the strict nature of the law; it stifled the flexibility of the administrators to use their judgment in situations.
This study presented two intertwined aspects relative to a school district: bullying/harassment among students and the policy development process in Hillsborough County Public Schools. During this study, the researcher discovered two major conclusions through the text analysis and interviews. The first conclusion involved the specific requirements of the Florida Jeffrey Johnston Stand Up for All Students Act. The second conclusion referred to the implementation of the intent of this and other laws that target bullying behavior.

Figure 5.5 - Specificity of Bullying Language at Levels of Law
While examining the Florida bullying law and the development of the district bullying policy, the researcher examined the state requirements and what the district did to develop the policy. During this process, the researcher expected to find that the district formed a committee charged with developing a policy to meet the state requirements including elements specific to the stakeholders. The researcher thought that the committee members would have equal input into the development of this policy, including the ability to have their own beliefs and intentions incorporated in the policy. Instead, the researcher discovered that the policy development process, as the district interpreted as a mandate of the state law, was more of a closed process. The interviews revealed that the administrators and school board attorney interpreted the state law to mean that the district had very little input in the development of the policy. The district followed the strict requirements of the law by having the district committee copy the state model policy verbatim, adjust the model policy language to include district specific terms, or add elements specific to the district to exceed the state requirement. The committee was not allowed to omit any of the minimum requirements, even if they felt they were not applicable to the district. The school board attorney commented that he felt the state intended to limit the differentiation among the sixty-seven districts and instead ensure a more uniform product across the state. For this reason and the ease of copying the model policy, the district chose to use the state policy as a template and adjust it as needed.

The second conclusion the researcher made was based on the research and findings in the study. The literature revealed that the Jeffrey Johnston Stand Up for All
Students Act was enacted to protect students from being tormented by others. A driving force in Florida was a mother’s love for her child, not wanting to see another child suffer the same fate. While the intent of this law was to prevent bullying and harassing behavior in schools, the letter of the law and eventual implementation could lead to a different conclusion. Even though the state and district implemented a strong policy that strictly prohibited bullying/harassment, there is no guarantee that students will not be subjected to these behaviors (Christie, 2005; Elliott, 2002). In addition, students could be at school A where the administration strictly follows the policy or at school B where it is not followed. Simply put, student safety is at the mercy of the competence of the school staff. The interviews with the Assistant Superintendent for Administration and the school board attorney revealed that the district already had an existing code of conduct that was strict on harassment, treating bullying as harassment. Conducting research on the prevalence of bullying in the district before the new law could reveal that it was prevalent regardless of the policy. Several research studies stated that bullying occurred in many parts of the school where adult supervision was lacking (Green, 2007; Harris, 2006; Heinrichs, 2003; Small, 2003). It was alarming to discover that while the intent of the law was genuine, students could still be at risk due to poor implementation and execution.

Implications

The implications of this study included the aspects associated with: school safety; interpretation of law; policy development process; interpretive policy analysis; need to reexamine policies continually; and examining the bullying issue on a global stage. The first area revolved around the medium addressed in this study, bullying and harassment.
Student safety was a major public concern and affected all aspects of the school’s function (Heinrichs, 2003; Limber, 2003). If students did not feel safe, they were not as engaged in the learning process. In addition, the number of violent acts (murder, suicide, etc.) attributed to bullying/harassment was alarmingly high. The establishment of a safe environment free from bullying/harassment was key to facilitating the success of schools (Limber, 2003). While the law and policy provided an avenue for prohibiting certain behaviors, district administrators, school administrators, teachers and other staff members were charged with the task of establishing such an environment. Since law and policy alone could not accomplish this, schools continued to face safety concerns while educating students (Elliott, 2002; Limber, 2003).

In the context of this study, student safety and school safety were two terms used interchangeably. One of the main functions of laws was to ensure the safety and well being of the people. In the case of school bullying, if the law was not effective, the behavior continued or worsened. For example, the Georgia bullying law did not cover grades K-5 and thus, a child in 5th grade did not have such a law to protect him from bullying (Walker, 2009). In addition, an effective law could not solely prevent bullying from occurring (Limber, 2003). If the school district did not implement the requirements of the law and follow through with the procedures, bullying behavior continued or worsened. Although they were not specifically addressed as bullying, the three cases reviewed through question two all dealt with issues of schools not following through to stop the harassing behavior. Through prolonged exposure to bullying behavior, victims often chose extreme solutions, such as suicide or school violence, to cope with the hurt
they were feeling (Cole, 2006; Heinrichs, 2003; Sampson, 2002). As seen at Columbine, Virginia Tech and other incidents, this type of behavior had disastrous consequences and several innocent bystanders were injured or killed.

The second implication involved the interpretation of the law. Laws were written and enacted with two meanings, the intent and letter of the law (Letter and spirit of the law, 2009). In this study, the intent of the laws examined focused on ensuring schools established a safe environment for students to learn. The letter of the law was designed to accomplish this task; however, it may not have been written in a way that states and school districts were able to implement the intentions of the law. An example found in this study referred to the Jeffrey Johnston Stand Up for All Student Act. The law placed strict requirements on districts for developing a policy that prevented and protected students from bullying/harassing behavior. The letter in this case did not necessarily match the intentions of the law since additional regulations did not ensure student safety (Christie, 2005; Elliott, 2002).

The third implication involved the development of district policy from the law. While this study used bullying to examine the process of policy development, the findings in this study were applied to other areas. The policy development process, as outlined by Cunningham (1959), began at the state or Federal level with the enactment of legislation to address a specific problem. At the district level, as examined in this study, the main focus involved deliberation between stakeholders and subsequent policy refinement. This study found that the district bullying committee had ongoing discussions with each committee member bringing his/her own beliefs concerning the bullying issue,
even if they were not included in the final policy. This same scenario occurred during the policy development process using other topics. The last stage of the development process included a policy analysis to determine if the implemented policy met the requirements of law and needs of the district effectively (Permuth, 2006). The interpretive policy analysis utilized in this study could be applied to any policy analysis. This process of examining the artifacts, interpretive communities and potential conflicts could help researchers examine additional policies to determine their effectiveness.

The fourth implication of this study was derived from the interpretive policy analysis process used in this study. This process could be utilized by researchers to study the bullying law/policy issue in other states and countries as well as completing law/policy studies concerning other topics. Herein lay the dilemma of this process if it was utilized in a manner other than intended. As with other methods that were subjective in nature, the interpretive policy analysis allowed the researcher to interpret the findings based on his or her prior knowledge and/or experience. This could lead to bias in the study and misinterpreted findings and recommendations to the interpretive community (Yanow, 2000).

The fifth implication of this study was derived from the need for the legislature and school leaders to review existing policies. The Federal government, states and school districts had existing policies designed to manage schools effectively and provide students with an high quality education. While the bullying legislation and policy examined in this study were relatively new, some laws, policies and procedures had been in place for decades and needed to be reexamined to determine if they were still
effectively serving the intended purpose (Cunningham, 1959; Permuth, 2006). For example, bullying laws and policies that were implemented more than ten years ago generally prohibited physical and psychological bullying. At that time, every student did not have a cell phone and instant messaging was still in its infancy; social networking sites were not the phenomenon they are today. In short, cyberbullying was not an issue schools faced on a daily basis (Wilde, 2009). If these existing laws were not adapted to include this new type of bullying, the policies and procedures could become dated and could not fully protect the students (FOXNews, 2007; NCPC, 2009). This same principle of examining the relevancy of existing laws and policies could be applied to other areas.

The final implication of this study expanded the topic of bullying to the international community, inviting them to discuss the issue across cultures. Bullying was an international issue and had been studied in Europe for decades (O’Moore, 2009). The research conducted by Olweus (1988, 1993, 1995) and others had been utilized in the United States and around the world. Several questions could develop when examining this issue on a global platform. While this study briefly covered policies in other countries as a comparison to states and districts, global communication on the subject could provide insights into the adherence of methods around the world, just as student achievement is often compared. Most states utilized some aspect of the Olweus (1993) bullying definition (Temkin, 2009). How did laws and policies concerning student bullying compare in these countries? Was the United States comparable to other counties concerning the methods used to prevent and manage bullying behavior in schools?
Further Studies

This study, by its nature brought rise to potential further studies. These potential studies could both examine further the bullying/harassment issue in schools and examine other areas of law interpretation and policy development/implementation/evaluation/analysis. The realm of bullying and harassment provided the basis for several potential future studies. Now that HCPS had implemented the policy, researchers could study the impact and perceptions of the impact the policy was having on the district, school administrators, teachers, students and/or the community. These studies could include the quantitative hard data of discipline reports or the more affective qualitative study examining the perceived impact the policy had on people. Several key questions could be addressed in such studies:

What perceived issues were involved in the implementation of the student bullying policy in HCPS?

How had the policy affected the perceived work load and/or stress level of district personnel?

How had the implementation of the policy affected schools’ perception of the policy?

How effective was the policy at reducing the perceived instances of bullying/harassing behavior?

Had the number of coded bullying/harassment incidents changed significantly due to the new requirements of the law? If so, how?
What was the perceived effectiveness of the bullying/harassment reporting system?

What perceived effect, if any, had the policy had on student achievement?

Further studies of bullying and harassment could also extend beyond HCPS to other districts in Florida and other states. Since all districts in Florida now had a bullying/harassment policy, the state could conduct a study of the overall effectiveness of the Jeffrey Johnston Stand Up for All Students Act (2008). This study could include a comparison of similar size and population districts, for example, Broward, Hillsborough and Orange counties. These results could be compared with smaller districts in Florida. The U.S. DOE could also conduct studies of bullying/harassment across the forty-four states that had anti-bullying/harassment laws. These potential studies could examine the country as a whole or by region and measure the overall effectiveness of the policies.

The interpretation of laws presented another area of potential studies arising from this study. Laws were interpreted continually on many fronts from the President down to individual teachers in classrooms. A study of how such laws were interpreted to drive the education agenda could provide insight into this process. The interpretive policy analysis would assist researchers in identifying conflicts that arose during the process and determine what effect, if any, these conflicts had on the overall outcomes of the process.

School policies presented a wide range of potential studies ranging from the development/interpretation/evaluation process to the actual analysis of the policy itself. The policy development and implementation process is applicable to almost any school policy and is not limited to those currently being designed or implemented or those
specified in the law. For example, a district could examine the perceived effectiveness of
the policies on teacher evaluation that had been in place for several years. HCPS had
recently completed such a study as it awaited final award notification from the Bill and
Melinda Gates Foundation, a grant designed to improve teacher performance and student
achievement.

Gender and age played a major role in the student culture in the school. A further
study of the prevalence of bullying between males and females at varying age levels
could provide additional insight into the psychology behind bullying behavior and when
it occurred most. This research could build on previous studies that estimated the
prevalence of bullying to be 10-30% (Aluede, 2008; Isernhagen, 2004; Newman-Carlson,
2004; Sampson, 2002; Walton, 2005). A study of the age and gender factors could answer
the following potential questions:

- Were males more prone to be involved in bullying than females?
- Which type of bullying (physical, psychological, cyber) was more common for
  males? Which was more common for females?
- What age did bullying begin and was it different for males and females?
- What age was bullying the most prevalent for males and females?
- What age did bullying behavior begin to curb for males and females?

Policies were implemented in schools for various needs on an annual basis. Once
these policies had been put in place, they needed to be examined and a determination
needed to be made concerning necessary modifications. Two potential studies that could
arise from this involved the needs assessment process conducted by the district and the
determination of when and how a policy would be modified. The first study deals with how the legislature and school leaders determined the needs of the schools. What process was used to study the current state of schools and how could future needs be anticipated? The second study addresses the ability to determine when a change was needed and how to implement the changes. This is a difficult process and leaders must walk a fine line between failing to make a change when one was warranted and implementing a change when one was not needed.

Students with disabilities (SWD) face many challenges at school each day. Bullying and harassment are two additional challenges these students are subjected to because of their differences. The potential study could address the prevalence of bullying among students with disabilities. A major focus could be to determine if these behaviors were more prevalent among students with an identified disability and those disabilities that are considered to be less severe or unidentified. An additional aspect could address the coping mechanisms often developed by SWDs to determine if these same mechanisms assisted in preventing and/or coping with bullies. Researchers could also study the impact of bullying behavior on the academic performance of SWDs or those not identified to determine if there was a direct impact on student achievement.

Summary

This study was designed to examine law and policy development using bullying as a medium. Chapter 1 in this study presented an overview of the study beginning with information on the current status of the bullying issue. The focus then shifted to the researcher’s interest in the bullying topic that stemmed from his experience as a
classroom teacher for ten years. Discussion with the legal council for the target district also revealed that he perceived that bullying was one of the major current topics in the field of education law. The statement of the problem followed this section and presented two issues being studied: overall safety of students and the development of a district policy from law. This section also included background information regarding the intent and letter of the law; these terms were examined in later chapters.

The next section presented the purpose of the study, to examine existing laws related to bullying/harassment and the development of a state mandated anti-bullying/harassment policy in Hillsborough County Public Schools. This section included the four research questions that focused on the following topics:

What did relevant constitutional, statutory and case law state about student bullying in schools?

What policies in the literature presently dealt with student bullying?

What policies did Hillsborough County Public Schools (HCPS) have in place regarding student bullying in schools and what process was used to develop them?

How closely did the student bully policies in HCPS match the intent and letter of the law, particularly in Florida?

Discourse theory, the theoretical framework used in this study, was developed by Habermas (1996) and focused on determining the legitimacy of the law. The major focus of discourse was to analyze the text to determine its meaning. The interpretive policy analysis used to analyze the law and policy was derived from discourse theory. The interpretive policy analysis, described by Yanow (2000), served as a means to examine
the intent and letter of the law and how the interpretive community addressed the issue.

The chapter closed with a description of the significance and the limitations/delimitations of the study. This study was significant because it addressed two major issues in education, bullying among students and the policy development process. A breakdown in either of these two elements caused severe disruptions in schools (Heinrichs, 2003). The limits on this study included the recency of research into bullying and policy related issues and the use of only one district in the study.

Chapter 2 of this study presented a review of related literature on bullying, law and policy development. Bullying was the act of one person intimidating or being overbearing on another (Limber, 2003, Olweus, 1993). According to the research, bullying was more prevalent than popular opinion believed, with 10-30% of all students experiencing bullying/harassment as the bully, victim or witness (Aluede, 2008; Isernhagen, 2004; Newman-Carlson, 2004; Sampson, 2002; Walton, 2005). It was not a recent phenomenon; it had occurred in other countries for centuries (Greene, 2007).

Three elements were generally required to identify behavior as bullying: intent to harm, repetitive behavior and a power imbalance (Fitzpatrick, 2007; Jacobson, 2007; Limber, 2003; Olweus, 1993; Sampson, 2002). Bullying behavior was divided into three types: physical, psychological and cyberbullying (Olweus, 1993; Owleus, 1995). The aim of each of these types of bullying was to make the victim feel inferior in some way. This behavior occurred in most parts of the school but was far more prevalent in areas where there was less adult supervision (Olweus, 1994; Sampson, 2002). The support of the peer group often assisted the bully in his/her goal to make the victim feel intimidated (Aluede,
The implications of this type of behavior varied based on the situation from as simple as a classroom disruption to as severe as the massacres at Columbine and Virginia Tech.

This next section of Chapter 2 focused on discourse theory, policy development and analysis. Discourse theory focused on the legitimacy of the law, determining if the law was doing what was intended. Personal beliefs were not included in this determination; the law was the law and it was examined to determine its meaning (Froomkin, 2003; Habermas, 1996). Policy development was an ongoing process that organizations followed when translating law into practice. The process followed five specific steps similar to the scientific method: initiation, recognition, deliberation, enactment and consequences. This last step led to the policy analysis process that analyzed the policy itself using an additional five steps: selection of the problem, conceptualization, technical analysis, analysis/recommendations and communication of results (Permuth, 2006). The interpretive policy analysis was a more specific process that examined the intent and letter of the law/policy. This process was also divided into five steps: identification of artifacts, interpretive communities, examining relationships, identification of conflicts and implications/recommendations (Yanow, 2000).

The last section of Chapter 2 examined the sources of law and what was actually written about bullying and harassment in the law. Researchers examined five primary sources of law: constitutional, statutory, administrative, case and contract. Each source provided unique attributes and some actually interpreted or applied other sources. For example, case law was generally the interpretation of the other four sources of law.
Bullying legislation, analyzed in Chapter 4, provided guidelines for states and school districts on how to prevent and manage such behaviors. Much of this legislation was developed as a result of the high profile nature of the school shooting incidents in the 1990’s (Furlong, 2003; Heinrichs, 2003; Limber, 2003). School districts utilized a variety of resources to prevent and manage bullying; many of these were developed from the work of Olweus (1988; 1993; 1994; 1995) in Scandinavia. One important aspect was training for teachers, staff, parents, students and community members.

Chapter 3 of this study presented the methods used in the analysis of law and bullying policies. This chapter reviewed the statement of the problem, purpose of the study and research questions addressed. The target district was selected due to the researcher’s ability to access personnel and documents; however, since the researcher was also employed by the district, measures were put in place to prevent bias. These included a review of interview transcripts by the interviewed personnel and a review of the research by an external evaluator (see Appendix B). The research design of this study was divided into four parts: examining primary sources of law for bullying/harassment requirements, examining secondary sources of law for other policies dealing with bullying/harassment, analyzing the policy development process used by HCPS and an analysis of the adherence of the district policy to the requirements of the law. Chapter 3 closed with the data collection and analysis procedures followed by the researcher. Law and policy were analyzed using the interpretive policy analysis as described by Yanow (2000).
Chapter 4 in this study included the presentation of the results. The results were organized by each of the four research questions addressed. Primary sources of law served as the guidelines for establishing safe public schools. Constitutional law at both the state and Federal level was vague concerning the topics of bullying and harassment. Statutory law provided the specifics used to guide the schools in the development of policies/procedures for preventing and managing these behaviors. Federal laws included Title IV of NCLB and Title IX of the Education Amendments of 1972. Florida laws included the Florida K-20 Education Code and the Jeffrey Johnston Stand Up for All Students Act, a subsection of the Florida code. These laws required the establishment of a safe environment free from bullying and harassment. Each of these laws was tied to funding to encourage districts to comply. Case law provided interpretations of the other types of law and three major cases were presented in this study. These cases focused on the responsibility of schools to protect students from bullying and harassing behavior.

The second analysis of Chapter 4 focused on bullying policies found in literature. Forty-four states had bullying laws that mandated districts to have a policy in place to prevent bullying/harassment. Most policies were based on one of more of the three components recommended by Olweus (1993); however, not all of them utilized all three. The requirements across the states varied but the common theme revolved around providing a safe environment for students (Temkin, 2009).

The third and fourth analyses in Chapter 4 focused on the development of HCPS’ policy against bullying and harassment and a comparison of the policy to the state and Federal requirements. The district formed the bullying policy committee as a
committee of the violence prevention committee. The committee met over several months to develop the policy but mainly followed the strict state guidelines, copying the state model policy verbatim for several items. Ultimately, the committee had little influence on the policy due to the district’s interpretation that they must follow the strict requirements of the state. The major challenges faced during the process were time allotted to develop the policy and the change staff, students and parents faced associated with the requirements of the new policy. The policy was approved by the school board and state DOE. The HCPS policy adhered closely to the state requirements. Many of the components were identical to those in the Florida model policy; others actually exceeded the requirements by adding additional elements or including district specific terminology. The policy also complied with Federal requirements, Case Law and other state’s requirements for establishing student safety.

Chapter 5 of this study presented the findings, conclusions, implications and further studies. The findings section restated the results of the analysis presented in Chapter 4. The conclusions were broken down according to the four research questions. Constitutional law provided generalized guidelines for running schools and ensuring the safety of students and staff. Statutory law provided specifics for preventing and managing bullying and harassment. Case law interpreted constitutional and statutory law to determine the meaning. The courts held that school districts were responsible for stopping harassing behavior. The literature reviewed did not provide a great quantity of information concerning bullying/harassment policies in other states. Forty-four states had
bullying laws (Walker, 2009). However, all policies generally included one or more the recommendations by Olweus (1993).

The development of the anti-bullying and harassment policy in HCPS involved bringing all committee members together and examining each component of the model policy. However, the state requirements were so strict that the district committee did not make any major changes. Instead, the group added additional items to the state model policy with the intent to protect the students further. The district policy adhered closely to the state requirement but the effectiveness of the policy was still dependent on the interpretations made by the site administrator.

This study dealt primarily with the process of translating law into policy. Bullying/harassment served as the medium and one district was used to study the process. Bullying/harassment was a major issue all schools faced and the new policy provided a means for dealing with such behaviors. However, the implementation of a new policy did not automatically ensure student safety (Christie, 2005; Elliott, 2002). It required the efforts of all stakeholders, not just those at the school. Further studies could potentially determine if these new policies have reduced the overall prevalence of bullying in U.S. schools. Implications of this study were widespread and include student safety, policy analysis and the interpretation of laws.
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Appendices
Appendix A

Topics for Interviews of District Personnel

• Development of the bullying policy
  • What process was used by the district?
  • How was the committee formed?
  • How has the policy developed over time? What has caused the changes?
• Interviewee’s involvement in the development of the policy.
  • What was your role in the development of the policy?
  • What role, if any, did you have in the changes made to the policy?
• Challenges and roadblocks encountered in the development process.
  • What challenges were inherent in the development?
  • What unexpected roadblocks arose in the process?
  • What has been done to move past the challenges and/or roadblocks?
• Evaluation methods for the development process.
  • How will the policy development be evaluated?
  • What role will you play in the evaluation?
  • How will the results of the evaluation be used?
To Whom It May Concern,

I have reviewed Chapters 3, 4, and 5 of Scott Richman’s dissertation and find the methods, results and findings to be without consequential bias.

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Appendix C

The 2009 Florida Statutes

Title X-VIII  Chapter 1066
K-20 EDUCATION CODE SUPPORT FOR LEARNING
1006.147 Bullying and harassment prohibited...

(1) This section may be cited as the “Jeffrey Johnston Stand Up for All Students Act.”

(2) Bullying or harassment of any student or employee of a public K-12 educational institution is prohibited:

(a) During any education program or activity conducted by a public K-12 educational institution;

(b) During any school-related or school-sponsored program or activity or on a school bus of a public K-12 educational institution; or

(c) Through the use of data or computer software that is accessed through a computer, computer system, or computer network of a public K-12 educational institution.

(3) For purposes of this section:

(a) “Bullying” means systematically and chronically inflicting physical hurt or psychological distress on one or more students and may involve:

1. Teasing;
2. Social exclusion;
3. Threat;
4. Intimidation;
5. Stalking;
6. Physical violence;
7. Theft;
8. Sexual, religious, or racial harassment;
9. Public humiliation; or
10. Destruction of property.

(b) “Harassment” means any threatening, insulting, or dehumanizing gesture, use of data or computer software, or written, verbal, or physical conduct directed against a student or school employee that:

1. Places a student or school employee in reasonable fear of harm to his or her person or damage to his or her property;

2. Has the effect of substantially interfering with a student’s educational performance, opportunities, or benefits; or

3. Has the effect of substantially disrupting the orderly operation of a school.
Appendix C: (Continued)

(c) Definitions in s. 815.03 and the definition in s. 784.09(1)(d) relating to stalking are applicable to this section.

(d) The definitions of “bullying” and “harassment” include:

1. Retaliation against a student or school employee by another student or school employee for asserting or alleging an act of bullying or harassment. Reporting an act of bullying or harassment that is not made in good faith is considered retaliation.

2. Perpetuation of conduct listed in paragraph (a) or paragraph (b) by an individual or group with intent to demean, dehumanize, embarrass, or cause physical harm to a student or school employee by:

   a. Incitement or coercion;

   b. Accessing or knowingly causing or providing access to data or computer software through a computer, computer system, or computer network within the scope of the district school system; or

   c. Acting in a manner that has an effect substantially similar to the effect of bullying or harassment.

(4) By December 1, 2008, each school district shall adopt a policy prohibiting bullying and harassment of any student or employee of a public K-12 educational institution. Each school district’s policy shall be in substantial conformity with the Department of Education’s model policy mandated in subsection (5). The school district bullying and harassment policy shall afford all students the same protection regardless of their status under the law. The school district may establish separate discrimination policies that include categories of students. The school district shall involve students, parents, teachers, administrators, school staff, school volunteers, community representatives, and local law enforcement agencies in the process of adopting the policy. The school district policy must be implemented in a manner that is ongoing throughout the school year and integrated with a school’s curriculum, a school’s discipline policies, and other violence prevention efforts. The school district policy must contain, at a minimum, the following components:

   (a) A statement prohibiting bullying and harassment.

   (b) A definition of bullying and a definition of harassment that include the definitions listed in this section.

   (c) A description of the type of behavior expected from each student and employee of a public K-12 educational institution.

   (d) The consequences for a student or employee of a public K-12 educational institution who commits an act of bullying or harassment.

   (e) The consequences for a student or employee of a public K-12 educational institution who is found to have wrongfully and intentionally accused another of an act of bullying or harassment.

   (f) A procedure for reporting an act of bullying or harassment, including provisions that permit a person to anonymously report such an act. However, this paragraph does not permit formal disciplinary action to be based solely on an anonymous report.

   (g) A procedure for the prompt investigation of a report of bullying or harassment and the persons responsible for the investigation. The investigation of a reported act of bullying or harassment is deemed to be a school-related activity and begins with a report of such an act. Incidents that require a reasonable investigation when reported to appropriate school authorities shall include alleged incidents of bullying or harassment allegedly committed against a child while the child is en route to school aboard a school bus or at a school bus stop.

   (h) A process to investigate whether a reported act of bullying or harassment is within the scope of the district school system and, if not, a process for referral of such an act to the appropriate jurisdiction.

   (i) A procedure for providing immediate notification to the parents of a victim of bullying or harassment and the parents of the perpetrator of an act of bullying or harassment, as well as notification to all local agencies where criminal charges may be pursued against the perpetrator.

   (j) A procedure to refer victims and perpetrators of bullying or harassment for counseling.
Appendix C: (Continued)

(k) A procedure for including incidents of bullying or harassment in the school's report of data concerning school safety and discipline required under s. 1006.09(6). The report must include each incident of bullying or harassment and the resulting consequences, including discipline and referrals. The report must include in a separate section each reported incident of bullying or harassment that does not meet the criteria of a prohibited act under this section with recommendations regarding such incidents. The Department of Education shall aggregate information contained in the reports.

(i) A procedure for providing instruction to students, parents, teachers, school administrators, counseling staff, and school volunteers on identifying, preventing, and responding to bullying or harassment.

(m) A procedure for regularly reporting to a victim's parents the actions taken to protect the victim.

(n) A procedure for publicizing the policy, which must include its publication in the code of student conduct required under s. 1006.02(2) and in all employee handbooks.

(5) To assist school districts in developing policies prohibiting bullying and harassment, the Department of Education shall develop a model policy that shall be provided to school districts no later than October 1, 2008.

(6) A school employee, school volunteer, student, or parent who promptly reports in good faith an act of bullying or harassment to the appropriate school official designated in the school district's policy and who makes this report in compliance with the procedures set forth in the policy is immune from a cause of action for damages arising out of the reporting itself or any failure to remedy the reported incident.

(7)(a) The physical location or time of access of a computer-related incident cannot be raised as a defense in any disciplinary action initiated under this section.

(b) This section does not apply to any person who uses data or computer software that is accessed through a computer, computer system, or computer network when acting within the scope of his or her lawful employment or investigating a violation of this section in accordance with school district policy.

(8) Distribution of safe schools funds to a school district provided in the 2009-2010 General Appropriations Act is contingent upon and payable to the school district upon the Department of Education's approval of the school district's bullying and harassment policy. The department's approval of each school district's bullying and harassment policy shall be granted upon certification by the department that the school district's policy has been submitted to the department and is in substantial conformity with the department's model bullying and harassment policy as mandated in subsection (6). The distribution of safe schools funds provided to a school district in fiscal year 2010-2011 and thereafter shall be contingent upon and payable to the school district upon the school district's compliance with all reporting procedures contained in this section.

(9) On or before January 1 of each year, the Commissioner of Education shall report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the implementation of this section. The report shall include data collected pursuant to paragraph (4)(k).

(10) Nothing in this section shall be construed to abridge the rights of students or school employees that are protected by the First Amendment to the Constitution of the United States.

History.--s. 1, ch. 2008-123.
Appendix D

THE SCHOOL BOARD OF
HILLSBOROUGH COUNTY, FLORIDA

Hillsborough County Public Schools
Policy Against Bullying and Harassment

It is the policy of Hillsborough County Public Schools that all of its students and school employees have an educational setting that is safe, secure, and free from harassment and bullying of any kind. The district will not tolerate bullying or harassment of any type. Conduct that constitutes bullying or harassment, as defined herein, is prohibited.

Definitions

“Bullying” means systematically and chronically inflicting physical hurt or psychological distress on one or more students, employees, or visitors. It is further defined as unwanted and repeated written, verbal, or physical behavior, including any threatening, insulting, or dehumanizing gesture, by a student or adult, that is severe or pervasive enough to create an intimidating, hostile, or offensive educational environment; cause discomfort or humiliation; or unreasonably interfere with the individual’s school performance or participation; and may involve but is not limited to:

A. Teasing  
B. Social Exclusion  
C. Threat  
D. Intimidation  
E. Stalking  
F. Cyberbullying  
G. Cyberstalking  
H. Physical violence  
I. Theft  
J. Sexual, religious, or racial harassment  
K. Public humiliation  
L. Destruction of property

“Harassment” means any threatening, insulting, or dehumanizing gesture, use of data or computer software, or written, verbal or physical conduct directed against a student or school employee that:

A. places a student or school employee in reasonable fear of harm to his or her person or damage to his or her property; or  
B. has the effect of substantially interfering with a student’s educational performance, opportunities, or benefits; or  
C. has the effect of substantially disrupting the orderly operation of a school

Bullying and harassment also encompasses:

A. Retaliation against a student or school employee by another student or school employee for asserting or alleging an act of bullying or harassment. Reporting an act of bullying or harassment that is not made in good faith is considered retaliation.  
B. Perpetuation of conduct listed in the definition of bullying or harassment by an individual or group with intent to demean, dehumanize, embarrass, or cause emotional or physical harm to a student or school employee by:  
   1. Incitement or coercion;
2. Accessing or knowingly and willingly causing or providing access to data or computer software through a computer, computer system, or computer network within the scope of the district school system; or
3. Acting in a manner that has an effect substantially similar to the effect of bullying or harassment.

"Harassment" or "bullying" also includes electronically transmitted acts (i.e., internet, e-mail, cellular telephone, personal digital assistance (PDA), or wireless hand-held device) directed toward a student(s) or staff member(s) that causes mental or physical harm or is sufficiently severe, persistent, or pervasive that it creates an intimidating, threatening, or abusive educational environment for the other student(s).

Cyberstalking as defined in s. 784.048(1)(d), F.S., means to engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose.

**Expected Behavior**

Hillsborough County Public Schools expects students and school employees to conduct themselves appropriately for their levels of development, maturity, and demonstrated capabilities, with a proper regard for the rights and welfare of other students and school staff, the educational purpose underlying all school activities, and the care of school facilities and equipment.

The school district believes that standards for student behavior must be set cooperatively through interaction among the students, parents/legal guardians, staff, and community members producing an atmosphere that encourages students to grow in self-discipline. The development of this atmosphere requires respect for self and others, as well as for district and community property on the part of students, staff, and community members. Since students learn by example, school administrators, faculty, staff, and volunteers will demonstrate appropriate behavior; treat others with civility and respect, and refuse to tolerate bullying or harassment.

The school district upholds that school-related bullying or harassment of any student or school employee is prohibited:

A. During any education program or activity conducted by a school sites educational institution;
B. During any school-related or school-sponsored program or activity;
C. On a school bus or bus stop of a school sites educational institution; or
D. Through the use of data or computer software that is accessed through a computer, computer system, or computer network of a school sites education institution.

**Consequences**

Concluding whether a particular action or incident constitutes a violation of this policy requires a determination based on all of the facts and surrounding circumstances. The physical location or time of access of a computer-related incident cannot be raised as a defense in any disciplinary action. Consequences and appropriate remedial action for students who commit acts of bullying or harassment may range from positive behavioral
interventions up to and including suspension or expulsion, as outlined in the Code of Student Conduct. A district employee found to have committed an act of bullying or harassment may be disciplined in accordance with district policies, procedures, and agreements. Additionally, egregious acts of harassment by certified educators may result in a sanction against that educator's state issued certificate. (See State Board of Education Rule 6B-1.006, FAC., The Principles of Professional Conduct of the Education Profession in Florida.) Consequences and appropriate remedial action for a visitor or volunteer, found to have committed an act of bullying or harassment shall be determined by the school administrator after consideration of the nature and circumstances of the act, including reports to appropriate law enforcement officials.

Consequences and appropriate remedial action for a student found to have wrongfully and intentionally accused another as a means of bullying or harassment range from positive behavioral interventions up to and including suspension or expulsion, as outlined in the Code of Student Conduct. A district employee found to have wrongfully and intentionally accused another as a means of bullying or harassment may be disciplined in accordance with district policies, procedures, and agreements. Consequences and appropriate remedial action for a visitor or volunteer, found to have wrongfully and intentionally accused another as a means of bullying or harassment shall be determined by the school administrator after consideration of the nature and circumstances of the act, including reports to appropriate law enforcement officials.

**Procedure for Reporting**

At each school, the principal or the principal’s designee is responsible for receiving complaints alleging violations of this policy. All school employees are required to report alleged violations of this policy to the principal or the principal’s designee. All other members of the school community, including students, parents/legal guardians, volunteers, and visitors are encouraged to report any act that may be a violation of this policy anonymously or in-person to the principal or principal’s designee.

The principal/site administrator of each school or site in the district shall establish, publicize, and prominently post (e.g., posters, student handbook, district website, school website) to students, staff, volunteers, and parents/legal guardians, how a report of bullying or harassment may be filed either in-person or anonymously and how this report will be acted upon. The victim of bullying or harassment, anyone who witnessed the bullying or harassment, and anyone who has credible information that an act of bullying or harassment has taken place may file a report of bullying or harassment. A district employee, school volunteer, student, parent/legal guardian or other persons who promptly reports in good faith an act of bullying or harassment to the appropriate school official and who makes this report in compliance with the procedures set forth in the district policy is immune from a cause of action for damages arising out of the reporting itself or any failure to remedy the reported incident. Submission of a good faith complaint or report of bullying or harassment will not affect the complainant or reporter’s future employment, grades, learning, working environment, or work assignments.

Any written or oral reporting of an act of bullying or harassment shall be considered an official means of reporting such act(s). Reports may be made anonymously, but formal disciplinary action may not be based solely on the basis of an anonymous report.
Appendix D: (Continued)

THE SCHOOL BOARD OF
HILLSBOROUGH COUNTY, FLORIDA

STUDENTS

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Procedure for Investigation

The investigation of a reported act of bullying or harassment is deemed to be a school-related activity and begins with a report of such an act. All complaints about bullying and/or harassment that may violate this policy shall be promptly investigated by a school official.

Documented interviews of the victim, alleged perpetrator, and witnesses are conducted privately, separately, and are confidential. Each individual (victim, alleged perpetrator, and witnesses) will be interviewed separately and at no time will the alleged perpetrator and victim be interviewed together. The investigator shall collect and evaluate the facts including, but not limited to:

A. Description of incident(s) including nature of the behavior; context in which the alleged incident(s) occurred, etc.;
B. How often the conduct occurred;
C. Whether there were past incidents or past continuing patterns of behavior;
D. The relationship between the parties involved;
E. The characteristics of parties involved (i.e., grade, age, etc.);
F. The identity and number of individuals who participated in bullying or harassing behavior;
G. Where the alleged incident(s) occurred;
H. Whether the conduct adversely affected the student's education or educational environment;
I. Whether the alleged victim felt or perceived an imbalance of power as a result of the reported incident; and
J. The date, time, and method in which the parents/legal guardians of all parties involved were contacted.

Whether a particular action or incident constitutes a violation of this policy requires a determination based on all the facts and surrounding circumstances and includes:

A. Recommended remedial steps necessary to stop the bullying and/or harassing behavior;
B. A written final report to the principal.

The maximum of 10 school days shall be the limit for the initial filing of incidents and completion of the investigative procedural steps. The highest level of confidentiality possible will be upheld regarding the submission of a complaint or a report of bullying and/or harassment, and the investigative procedures that follow.

Scope

The individual investigating the incident shall provide a report on results of the investigation with recommendations to determine if an act of bullying or harassment falls within the authority of the district.

- If it is within authority of district, move to Procedures for Investigating Bullying and/or Harassment.
- If it is outside authority of district, and determined a criminal act, refer to appropriate law enforcement.
- If it is outside authority of district, and determined not a criminal act, inform parents/legal guardians of all students involved.
Appendix E

Hillsborough County Public Schools
Bullying/Harassment Investigation Process

Complaint Received: Response to complaint shall not exceed 3 days

Informal Reporting
Only used with alleged incidents among students.

At the voluntary request of all parties, facilitate mediation process within 3 schoolwork days.

Resolution?

Yes

Make notation on Bullying Investigation Form. Notify parents immediately of status. No further action is needed.

No

Make notation on Bullying Investigation Form. Notify parents immediately of status.

Formal Reporting

Complainant, Accused, and parents (if applicable) notified of formal written complaint, and interviewed within 3 days. If allegations involve employer misconduct, contact Professional Standards. Consider the nature of the allegation and contact school security/SHO/SRO if deemed necessary.

Document all interviews using the Bullying Complaint/Witness Form.

No Finding of Bullying
Document all evidence related to investigation. Monitor and provide any needed supports. Notify parents.

Finding of Bullying
Document all evidence related to the investigation and actions taken. Notify parents. For cases involving adults, actions are taken pursuant to any applicable bargaining agreements and school board policies.

Allegation outside scope of district*
If deemed outside the scope of HCPS and deemed a criminal act, consult school security/SHO/SRO and/or determine need for referral to law enforcement.

Notify all parties in writing of the decision and their right to appeal. Enter data into SISIR.

Refer bully and victim to Student Services staff for consideration of individual counseling.

*If abuse is suspected, file a mandatory report with 1-800-96ABUSE.
Appendix F

Sample Interview Transcript

S - What do you know about the process the district used in the development of the policy?

J - The Legislature in the spring of 2008 passed the Jeffrey Johnston Stand Up for All Students Act and upon that act being passed, then districts were charged with developing their own policy. So there were a group of people within our district, administrators and teachers and such that started looking at the state policy and then writing our policy. Now our policy models the state policy. So our policy was developed and presented to the school board and passed in December of 2008 and then the state certified our policy in April of 2009, saying that we had a preponderance of evidence and that we were good to go by the state to say that we were in compliance.

S - How was the committee formed?

J - Well, all I know is what I’ve been told, is that my position is the head of the Violence Prevention Committee in the county and the Bullying Committee was a subcommittee of the larger committee and (Name) and (Name) were asked to work on writing the policy along with having input from school board members, parents, so its a smaller group that actually worked on the policy.

S - How was this policy developed or changed?

J - Well, the policy itself hasn’t changed, I would say the procedures have evolved from the policy. So the policy is in fact the same as it was when it was passed in 2008 here in the county. Learning that policy and finding out all the legal issues, now that has been the
Appendix F: (Continued)

challenge because just recently at a state meeting in Orlando about the legalities of the policy itself and whether our procedures are in place. So I wouldn’t say the policy has changed at all, the procedures change almost on a daily basis.

S - Can you give me an example of what you are talking about?

J - Because bullying is such a, it takes an administrator’s judgement to decide whether it is a bullying case or not, and I talk daily with administrators on cases that they have and they have to decide whether it is founded or unfounded. Sometimes there is a thin line and so with that, that’s how it changes because the definitions are clear. The other thing is getting an understanding from everyone of the definition of bullying that there is an imbalance of power and that it is repeated time and time again. So its a judgement call.

One of the things that the law says is that the parents must be notified, so is that notification verbal, is it written, is it online, is it a phone call? So those are things that we are still grappling with. We know the hard copy, we have that all in place, but when a child comes up and throws their arms around you and says so and so is bullying me, what do you do with that? Do you investigate it immediately or since bullying is such a carte blanche term now, everything is bullying and its not. So that’s really one of the issues.

The other one is that as the requirements change in the state, the form changes that he administrators are using and then their reporting system back to me and the resolution of the case and the way I was collecting data because I now know that the state wants to know all cases that are reported whether they are founded or unfounded and now the unfounded ones. What happened in the case and I have to give examples. So that took me
Appendix F: (Continued)

to a different way of recording it on my email and the reporting system. So again, I don’t
know that we’ll ever be at an end and have laws every day.

S - So then you are responsible for gathering the district data as part of our policy and the
state requirement?

J - Yeah, I have begun that because I know its going to come to me. I kinda took that on
as a responsibility because I am not sure who else would do that. The schools have their
data; the area directors have it, but collectively, it comes to me. A lot of the changes have
come in how we are interpreting the policy and not the policy itself.

S - What particular incidents are causing changes in the way we are looking at things?
Anything happening in particular?

J - Well, I think when you take a look at an incident, you have to consider the age of the
child. You have to look at each incident separately. There’s not any once incident that has
changed anything. Some of the cases that come across that I read are severe and involve
law enforcement. Most are just parent complaints right now. I was so excited because the
other day I got a genuine online bullying report from a student. It was the first one after I
had read about 10 or 15 of them from a kid and this is what it was intended to do. So
there is not one incident which makes a change.

S - What would you say you role, if any, has been in the development of the policy as it
stands today?
Appendix F: (Continued)

J - My role I didn’t have any development. I wasn’t involved at all with the development of the plan. Mine has been since January and has been with the implementation and the development of the procedures. That’s where I really fit in.

S - What role do you play in the changes to the policy?

J - Because of my role, I play a key part and (Name) does and also (Name). (Name) does a lot of parental aggression work. Tracy does a lot of the psychological part of the work and mine is the administrative and compliance. My role is to monitor, to give the information to principals in any simple manner that I can so they understand it. We’ve trained and we’ve trained and a lot of them still don’t get it. Its going to take a lot of time. So that’s a lot of my role too, to help them. I get so many calls every day for help and I want them to relax about it, because what they are doing is not any different than what they have done before, investigations with a procedure. That is what I am trying to make easier for them.

S - What challenges do you think were inherent in the development of the policy?

J - Well, I think right now all the media hype about bullying is a challenge. Like I said, everyone thinks that their child is being bullied. I thin the challenges are keeping people sane with this, keeping them in line so they understand that they don’t have to get all excited and bent out of shape. What I found too with our administrators is that they’re doing such a great job that they are overzealous and they write me epilogues of information and they are spending a great deal of time on it. While we want to spend time on it, we don’t want to over do it because we are only two weeks into the school year. So
Appendix F: (Continued)

I think that’s a challenge, the hype because we all want to make sure that we’re not in the news again. It’s not anything different than we’ve always done, it just looks a little different.

S - Any unexpected roadblocks that came up?

J - There are some political issues going on with this and political things going on within the bullying committee, the personalities and those kinds of things. I think we had to mesh through, cause you remember, I came in in the middle and so I came in as the director and so understanding everybody’s role, everybody’s background and what they had ownership of. That was more time consuming, but I’ve gotten through, but it has taken a little while to figure it out because this is a very personal issue for many of the members that are on the board and on the committee and when you go to the meetings, you hear over and over again their personal issues. So those kinds of things that you have to chew on and work through them so everyone has equal ownership. One story is not better than the other one or more important than the other one.

S - What kinds of things have you done to get past these challenges/roadblocks?

J - Learning, learning, learning. Getting to know people and being trained because I didn’t have any training, I just jumped right in. So what I have done is taken it upon myself to train so I know what I am talking about and I know what the interpretation of the law is, where we need to beef it up in our county. Even though we have a great policy, with wonderful procedures, we’re not ready yet. I mean we’re not 100% where we need to be.
About the Author

Scott D. Richman is a supervisor in the Staff Development Office of Hillsborough County Public Schools. He has been an educator for 14 years. He is co-author of the book *The Rewards of Teaching: Student Achievement is Exciting!* Scott was selected as an Emerging Educational Leader by Phi Delta Kappa, was awarded the Phi Delta Kappa Graduate Fellowship twice and was also awarded the USF Berbecker Scholarship twice. He has presented at national conferences concerning alternative certification and the Council of Great City Schools. He lives in the Tampa, FL area with his wife, Paula, who is an educator as well. They have two children, Jonathan and Hayley, a dog, Casey, and two cats, Alligator and Tigger. Scott and his family have traveled throughout the southern United States and to many countries in Europe.