

May 2012

SCHOOL BULLYING

Extent of Legal Protections for Vulnerable Groups Needs to Be More Fully Assessed



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Why GAO Did This Study

Millions of youths are estimated to be subject to bullying in U.S. schools. GAO was asked to address (1) what is known about the prevalence of school bullying and its effects on victims, (2) approaches selected states and local school districts are taking to combat school bullying, (3) legal options federal and selected state governments have in place when bullying leads to allegations of discrimination, and (4) key federal agencies' coordination efforts to combat school bullying. GAO reviewed research on the prevalence and effects on victims; analyzed state bullying laws, and school district bullying policies; and interviewed officials in 8 states and 6 school districts. States were selected based on various characteristics, including student enrollment, and their definitions of bullying. Also, GAO reviewed selected relevant federal and state civil rights laws, and interviewed officials from Education, HHS, and Justice.

What GAO Recommends

GAO recommends that Education compile information about state civil rights laws and procedures that relate to bullying, and inform complainants about state legal options; Education, HHS, and Justice develop information about bullied demographic groups in their surveys; and assess whether legal protections are adequate for these groups. Education disagreed with our first recommendation and we clarified it to address some of their concerns. Education is considering our second recommendation, agreed with our third, and provided information on efforts related to the last. HHS agreed with our recommendations. Justice did not provide a written response.

View [GAO-12-349](#). For more information, contact Linda Calbom at (206) 287-4809 or calboml@gao.gov.

SCHOOL BULLYING

Extent of Legal Protections for Vulnerable Groups Needs to Be More Fully Assessed

What GAO Found

School bullying is a serious problem, and research shows that it can have detrimental outcomes for victims, including adverse psychological and behavioral outcomes. According to four nationally representative surveys conducted from 2005 to 2009, an estimated 20 to 28 percent of youth, primarily middle and high school-aged youths, reported they had been bullied during the survey periods. However, differences in definitions and questions posed to youth respondents make it difficult to discern trends and affected groups. For example, the surveys did not collect demographic information by sexual orientation or gender identity. The Departments of Education (Education) and Health and Human Services (HHS) are partially addressing the issue of inconsistent definitions by collaborating with other federal departments and subject matter experts to develop a uniform definition of bullying that can be used for research purposes. However, gaps in knowledge about the extent of bullying of youths in key demographic groups remain.

According to Education, as of April 2012, 49 states have adopted school bullying laws. The laws in the 8 states that GAO reviewed vary in who is covered and the requirements placed on state agencies and school districts. For example, 6 of the states cover a mix of different demographic groups, referred to as protected classes, such as race and sex or gender, in their bullying laws, while 2 states do not include any protected classes. With respect to school districts, each of the 6 districts GAO studied adopted policies that, among other things, prohibit bullying and describe the potential consequences for engaging in the behavior. Also, school district officials told GAO that they developed approaches to prevent and respond to bullying. For example, several school officials said they implemented a prevention-oriented framework to promote positive school cultures. Both state and local officials expressed concerns about various issues, including how best to address incidents that occur outside of school.

Federal civil rights laws can be used to provide protections against bullying in certain circumstances, but certain vulnerable groups are not covered and therefore have no recourse at the federal level. For example, federal agencies lack jurisdiction under civil rights statutes to pursue discrimination cases based solely on socioeconomic status or sexual orientation. While some state civil rights laws provide protections to victims of bullying that go beyond federal law, federal complainants whose cases are dismissed for lack of jurisdiction are not always informed about the possibility of pursuing claims at the state level.

Three federal departments—Education, HHS, and the Department of Justice (Justice)—have established coordinated efforts to carry out research and broadly disseminate information on bullying to the public, including establishment of a central website and an informational campaign to raise awareness about bullying. In addition to these efforts, Education has issued information about how federal civil rights laws can be used to address bullying of protected classes of youths and is conducting a comprehensive study of state bullying laws and how selected school districts are implementing them. However, no similar information is being gathered on state civil rights laws and procedures that could be helpful in assessing the adequacy of legal protections against school bullying.

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Abbreviations

ADA	Americans with Disabilities Act
CCD	Common Core of Data
CDC	Centers for Disease Control and Prevention
CRT	Civil Rights Division
CSN	Children's Safety Network
ERIC	Education Resources Information Center
GLSEN	Gay, Lesbian and Straight Education Network
HBSC	Health Behavior in School-Aged Children
HHS	Department of Health and Human Services
HRSA	Health Resources and Services Administration
NatSCEV	National Survey of Children's Exposure to Violence
NCES	National Center for Education Statistics
NCVS	National Crime Victimization Survey
NIH	National Institutes of Health
OCR	Office for Civil Rights
OJJDP	Office of Juvenile Justice and Delinquency Prevention
PBIS	Positive Behavioral Interventions and Supports
SAMHSA	Substance Abuse and Mental Health Services Administration
SCS	School Crime Supplement
SEA	state educational agency
SS/HS	Safe Schools/Healthy Students Initiative
YRBS	National Youth Risk Behavior Survey

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United States Government Accountability Office
Washington, DC 20548

May 29, 2012

The Honorable Tom Harkin
Chairman
Committee on Health, Education, Labor, and Pensions
United States Senate

The Honorable Robert P. Casey, Jr.
United States Senate

The Honorable Al Franken
United States Senate

The Honorable Mark Kirk
United States Senate

It is estimated that millions of American youths have been bullied by their peers, including physical, verbal, and electronic attacks.¹ Some of these incidents, including some where bullying has been linked by the media to teen suicide, have received widespread attention, resulting in heightened awareness of bullying, as well as a wide range of actions at the federal, state, and local levels to address the behavior. Some of these incidents involved bullying based on personal characteristics, including race, religion, or sexual orientation, and have also raised questions about the role and availability of federal and state civil rights protections. Given the dynamic and rapidly changing nature of these efforts, governments at all levels, as well as the public, face a growing need for information about possible legal and practical approaches to combating bullying. In this context, you asked us to address the following questions:

¹For the purposes of this report, we use the term bullying to reflect behavior that is intended to inflict harm, repeated over time, and characterized by an imbalance of power between the perpetrator(s) and victim(s). Some sources refer to similar behavior as harassment, and may use the terms interchangeably.

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1. What is known about the prevalence of school bullying and its effects on victims?
 2. What approaches are selected states and local school districts taking to combat school bullying?
 3. When bullying leads to allegations of discrimination, what legal options do federal and selected state governments have in place?
 4. How are key federal agencies coordinating their efforts to combat school bullying?

To identify what is known about the prevalence of school bullying and its effects on victims, we interviewed knowledgeable federal officials, compared estimates and methodologies of four nationally representative surveys that captured information on bullying, and conducted a literature review of meta-analyses on the subject of the effects of bullying on victims.² The four surveys focused primarily on middle and high school-aged youths and were conducted by federal statistical agencies from 2005 to 2009. The results of the meta-analyses are not generalizable, but represent a systematic approach to summarizing or analyzing findings across studies included in the meta-analyses. To describe approaches that selected states and local school districts are taking, we reviewed relevant state bullying laws, regulations, guidance, and documents from eight selected states and conducted interviews with state education officials. We selected eight states—Arkansas, California, Illinois, Iowa, Massachusetts, New Mexico, Vermont, and Virginia—based on the following criteria: Each has bullying laws or regulations, and they vary with respect to bullying definitions and enumeration of protected classes, geographic variation, and student enrollment. Further, we selected three states—New Mexico, Vermont, and Virginia, which vary on the characteristics listed above—to review policies and guidance of six local school districts, two in each state. School districts and schools were selected to reflect a range of size and urbanicity (urban, suburban, and rural), as well as racial and socioeconomic diversity. Participation in the National School Lunch Program is used as a proxy for socioeconomic status. In these school districts, we conducted interviews with central administrators, principals, school staff, and parents. To identify legal

²Meta-analyses are reviews that analyze other studies and synthesize their findings, usually through quantitative methods.

options that federal and selected state governments have in place when bullying leads to allegations of discrimination, we reviewed relevant federal anti-discrimination laws, as well as state anti-discrimination laws for the eight states included for review. We also conducted interviews with officials in the Departments of Education (Education) and Justice (Justice), as well as with state education and civil rights officials, on anti-discrimination laws and complaint processes. Last, to identify coordination of efforts of key federal agencies to combat school bullying, we conducted interviews and reviewed documents from three federal departments: Education, Justice, and the Department of Health and Human Services (HHS). We analyzed coordination of efforts based on our professional judgment and relevance of selected key practices that we have previously identified as effective coordination practices.³

We conducted this performance audit from April 2011 through May 2012 in accordance with generally accepted government auditing standards. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. For more information on our scope and methodology, see appendix I.

Background

Although definitions vary, including definitions used by federal agencies, many experts generally agree that bullying involves intent to cause harm, repetition, and an imbalance of power. The pioneering research of Dr. Dan Olweus in Norway has defined being bullied or victimized as when a student “is exposed, repeatedly and over time, to negative actions on the part of one or more other youths” with an intent to harm.⁴ Notably, bullying is distinct from general conflict or aggression, which can occur absent an imbalance of power or repetition. For example, a single fight between two youths of roughly equal power is a form of aggression, but may not be bullying. When bullying occurs it may take many forms that can also be associated with conflict or aggression, including physical

³GAO, *Results-Oriented Government: Practices That Can Help Enhance and Sustain Collaboration among Federal Agencies*, [GAO-06-15](#) (Washington, D.C.: Oct. 21, 2005).

⁴Dan Olweus, “Annotation: Bullying at School: Basic Facts and Effects of a School Based Intervention Program,” *Journal of Child Psychology and Psychiatry*, vol. 35, no. 7 (1994).

harm, such as hitting, shoving, or locking inside a school locker; verbal name calling, taunts, or threats; relational attacks, such as spreading rumors or isolating victims from their peers; and the use of computers or cell phones to convey harmful words or images, also referred to as cyberbullying. Often bullying occurs without apparent provocation and may be based on the victim's personal characteristics. For example, youth may be bullied based on the way they look, dress, speak, or act.

There are several federal efforts under way to bring together federal resources that can be used to identify and address bullying. In particular, given their focus on education, health, and safety issues, Education, HHS, and Justice, along with other federal agencies, have been involved in efforts to help coordinate federal resources to identify and address bullying. Additionally, several bills have been introduced in the 112th Congress that relate to bullying.⁵ Among the various issues addressed in these bills are bullying policies, the collection and reporting of bullying data, and the prohibition of discrimination on the basis of sexual orientation or gender identity. Some of the bills would authorize federal grants to states and school districts for antibullying-related purposes. Although there is not presently a federal law directly targeted to address school bullying, several federal civil rights laws that prohibit discrimination based on protected characteristics of individuals may, under certain circumstances, be used to address particular incidents of bullying.⁶

With respect to states' efforts to address bullying, Education commissioned a two-part study that examines the elements of state bullying laws and the manner in which school districts are implementing the laws. The first part of Education's study, issued in December 2011, included a review of all state bullying laws and model policies in effect as of April 2011, including those of the eight states we reviewed, as well as policies from 20 large school districts. The second part of Education's study is scheduled for completion during fall 2012. It will include case

⁵See, for example, S. 506 and H.R. 1648, the Safe Schools Improvement Act of 2011; S. 540 and H.R. 1048, the Tyler Clementi Higher Education Anti-Harassment Act of 2011; S. 555 and H.R. 998, the Student Non-Discrimination Act of 2011; S. 919, the Successful, Safe, and Healthy Students Act of 2011; H.R. 83, the Bullying Prevention and Intervention Act of 2011; and H.R. 975, the Anti-Bullying and Harassment Act of 2011.

⁶Throughout this report we use the terms "civil rights laws" and "anti-discrimination laws" interchangeably.

studies of how 24 schools, selected from four states, implement their states' bullying laws.

Reported Levels of Bullying and Related Effects Are Significant

Federal Survey Data

Being bullied is a serious problem, as evidenced by four federally sponsored nationally representative surveys conducted from 2005 to 2009. Estimates of the national prevalence of bullying ranged from approximately 20 to 28 percent of youth reporting they had been bullied during the survey periods, which ranged from a couple of months to a year.⁷ However, differences in definitions and survey methods make it difficult to draw definitive conclusions regarding trends and affected demographic groups. Our analysis and similar work from HHS's Centers for Disease Control and Prevention (CDC), one of the sponsors of two of the surveys, showed that the surveys vary in the way they pose questions about being bullied and how bullying is defined, if at all.⁸ Officials at Education, the sponsor of one of the surveys, and HHS also told us that different survey questions and definitions of bullying lead to different results in estimates of prevalence.

While it is clear that bullying is a serious problem, it is unclear from the surveys the extent to which bullying affects certain groups of youths relative to other groups. Specifically, the surveys collected information on the percentage of youths bullied based on gender and race. However, the information showed varying results. For example, there was no significant difference in the percentage of boys and girls that reported being bullied,

⁷These estimates have a 95 percent confidence interval of within plus or minus 2.1 percentage points.

⁸CDC officials have documented the differences in the four nationally representative surveys, including estimates of prevalence, definitions and questions about bullying, and other differences in how the four surveys measure bullying. CDC, as part of a federal interdepartmental coordinating committee on bullying and its subcommittee on research, developed an analysis for internal purposes comparing the four surveys. According to CDC officials, the agency plans to post relevant information based on this analysis on its public website in the next few months. They added that CDC currently posts and updates some prevalence information on its public website on a fact sheet about bullying.

according to two surveys, while one noted that girls were bullied at a higher percentage. In two of the three surveys, white youths reported being bullied at a higher percentage than African-American youths, while one other survey found no significant difference.

In addition, the four national surveys we identified did not consistently collect information about other demographic characteristics, making it impossible to determine percentages of bullying for these groups.⁹ For example, none of the surveys collected demographic information for youths by sexual orientation or gender identity.¹⁰ Researchers noted various challenges to obtaining such information, such as some schools may not permit questions on sexual orientation or gender identity status, potentially resulting in a sample that would not be nationally representative. Also, questions about sexual orientation or gender identity may be sensitive for youth respondents to complete, and researchers noted that such questions may not yield accurate information. Additionally, the surveys varied in whether or not they collected demographic information to allow for analysis based on religion, disability, or socioeconomic status, and two of the surveys did not include any questions asking specifically if youths had been bullied based on specific demographic characteristics. (See table 1.)

⁹The National Crime Victimization Survey, School Crime Supplement 2009, asks youths about hate-related words directed at students based on their sexual orientation.

¹⁰According to a 2011 publication of the National Academy of Sciences' Institute of Medicine, gender identity refers to one's sense of gender (such as male or female or another gender such as transgender), whether or not associated with a person's sex at birth.

Table 1: Coverage of Demographic Groups in Federal Surveys of Youth

	National Youth Risk Behavior Survey (YRBS) 2009	National Crime Victimization Survey (NCVS), School Crime Supplement (SCS) 2009 ^a	Health Behavior in School-aged Children (HBSC) 2005/2006	National Survey of Children's Exposure to Violence (NatSCEV) 2008
<i>Survey collected demographic information that allows for analysis to determine if differences in bullying exist between different demographic groups.</i>				
Sex	yes	yes	yes	yes
Race/ethnicity	yes	yes	yes	yes
Religion	no	no	no	no
Disability	no ^b	no	no	yes
Sexual orientation	no ^b	no	no	no
Gender identity	no ^b	no	no	no
Socioeconomic status	no	yes	yes	yes
<i>Survey included question(s) that specifically ask about bullying based on the following demographic characteristics</i>				
Sex	no	yes	yes	no
Race/ethnicity	no	yes	yes	no
Religion	no	yes	yes	no
Disability	no	yes	no	no
Sexual orientation	no	yes	no	no
Gender identity	no	no	no	no
Socioeconomic status	no	no	no	no

Source: GAO analysis of surveys.

Note: See appendixes I through IV for more information on the four surveys.

^aIncludes "hate-related" speech as form of bullying.

^bThe YRBS includes optional questions about disability, sexual identity, and sexual contacts that state and school districts may choose to use.

While federal agencies have not collected information on some demographic groups, other researchers have attempted to fill the void. For example, the Gay, Lesbian and Straight Education Network (GLSEN) conducted a survey in the 2008-2009 school year and received responses from more than 7,000 students between the ages of 13 and 21

who self-reported as not heterosexual.¹¹ Although not nationally representative, the results found, among other things, that 85 percent of students who responded to the survey said they were called names or threatened at some point in the past school year based on their sexual orientation, and 64 percent based on their gender expression; for example, for not acting “masculine enough” or “feminine enough”.¹² Forty percent of students who responded said they were pushed or shoved based on their sexual orientation, and 27 percent based on their gender expression.¹³

In addition to the fact that there are voids in information about demographic groups, Education and HHS officials said that researchers need a uniform definition to measure bullying. To better understand the prevalence of bullying, and given the different definitions used by bullying research instruments, CDC is leading an interdepartmental project to develop a uniform definition of bullying for research purposes. According to CDC officials, a report is expected to be issued in 2012 that contains a uniform definition along with information on other data elements to measure bullying, such as the frequency or types of bullying behavior. According to CDC, the project on the uniform definition is still under review, but may contain data elements for a number of demographic characteristics, including sex, race, ethnicity, disability status, religion, and sexual orientation.

Negative Outcomes from Bullying

Research, spanning more than a decade, has demonstrated that bullying is associated with a variety of negative outcomes for victims, including psychological, physical, academic, and behavioral issues.¹⁴ For example,

¹¹GLSEN used two approaches to invite lesbian, gay, bisexual, and transgender (LGBT) students to participate in the survey: outreach through community-based groups serving LGBT youth and outreach via the Internet.

¹²According to another publication by GLSEN, “gender expression” refers to how one appears and acts, which are socially defined as masculine or feminine.

¹³Joseph G. Kosciw et al., “The 2009 National School Climate Survey: The Experiences of Lesbian, Gay, Bisexual and Transgender Youth in Our Nation’s Schools.” Gay, Lesbian and Straight Education Network: 2010. Available at <http://www.glsen.org/cgi-bin/iowa/all/library/record/2624.html?state=research&type=research>, last accessed May 22, 2012.

¹⁴Some of the meta-analyses may refer to peer victimization. According to Education and HHS officials, peer victimization has substantial overlap with bullying.

a 2000 analysis of 23 bullying research studies found that youth who were bullied experienced higher levels of depression, loneliness, low self-esteem, and anxiety than their peers who had not been bullied.¹⁵ Similarly, a 2010 analysis of 18 research studies found that being bullied was linked to increased psychological issues later in life.¹⁶ A third analysis, of 20 studies, published in 2011, found that being bullied was associated with greater likelihood of being depressed later in life.¹⁷

A 2009 analysis of 11 research studies found that bullying victims had a higher risk for such physical health outcomes as headaches, backaches, sleeping problems, and bad appetite, as compared with their peers who had not been bullied.¹⁸ Additionally, a 2010 analysis of 33 research studies on bullying and academic achievement found that bullying is related to concurrent academic difficulties for victims. Academic achievement was assessed based on such measures as grade point averages, standardized test scores, or teacher ratings of academic achievement.¹⁹ Researchers have also linked bullying to increases in behavioral problems for victims over time, such as aggression, delinquency, and truancy.²⁰

¹⁵David S. J. Hawker and Michael J. Boulton, "Twenty Years' Research on Peer Victimization and Psychosocial Maladjustment: A Meta-analytic Review of Cross-sectional Studies." *Journal of Child Psychology and Psychiatry*, vol. 41, no. 4 (2000).

¹⁶Albert Reijntjes et al., "Peer Victimization and Internalizing Problems in Children: A Meta-analysis of Longitudinal Studies." *International Journal of Child Abuse & Neglect*, vol. 34 (2010).

¹⁷Maria M. Ttofi et al., "Do the Victims of School Bullies Tend to Become Depressed Later in Life? A Systematic Review and Meta-analysis of Longitudinal Studies." *Journal of Aggression, Conflict and Peace Research*, vol. 3, no. 2 (2011).

¹⁸Gianluca Gini and Tiziana Pozzoli, "Association Between Bullying and Psychosomatic Problems: A Meta-analysis." *Pediatrics*, vol. 123, no. 3 (2009).

¹⁹Jonathan Nakamoto and David Schwartz, "Is Peer Victimization Associated with Academic Achievement? A Meta-analytic Review." *Social Development*, vol. 19, no. 2 (2010).

²⁰Albert Reijntjes et al., "Prospective Linkages Between Peer Victimization and Externalizing Problems in Children: A Meta-analysis." *Aggressive Behavior*, vol. 37, no. 3 (2011). According to the authors, "[p]eer victimization can take various forms, including teasing, deliberate exclusion, being the target of malicious gossip, and experiencing physical threats or violence."

While researchers point out that the causes of suicide and violence are varied and complex, bullying has been identified as one risk factor associated with violent actions against oneself and others. For example, one 2011 analysis of 18 studies found that gay, lesbian, and bisexual youth were more likely to be verbally harassed and teased or physically and sexually victimized than heterosexual youth, and more likely to experience detrimental outcomes, such as suicidal thoughts and attempts.²¹ According to a federally sponsored website on bullying, specific groups have an increased risk of suicide, including American Indian and Alaskan Native, Asian-American, lesbian, gay, bisexual, and transgender youths. Their risk of suicide can be increased further by bullying. Bullying has also been linked to acts of violence against others. For example, a 2002 study by Education and the Secret Service reviewed 37 incidents of school attacks and shootings occurring between 1974 and the end of the 2000 school year, and reported out 10 key findings that could be used to develop strategies to address targeted school violence. One of those 10 findings was that nearly three-quarters of attackers were bullied, persecuted, or injured by others prior to the attack, and that in several cases the bullying was severe and long-standing.²²

Selected State Legislatures and Educational Agencies Are Taking Various Approaches to Reduce Bullying

State Laws Vary in How They Address Bullying

According to Education, 49 states had school bullying laws as of April 2012, including the 8 states that we reviewed. These 8 states' laws vary

²¹Alicia L. Fedewa and Soyeon Ahn, "The Effects of Bullying and Peer Victimization on Sexual-Minority and Heterosexual Youths: A Quantitative Meta-Analysis of the Literature," *Journal of GLBT Family Studies*, vol. 7, no. 4 (2011).

²²United States Secret Service and United States Department of Education, "The Final Report and Findings of the Safe School Initiative: Implications for the Prevention of School Attacks in the United States" (Washington, D.C.: May 2002).

in several ways, including who is covered and the requirements placed on state agencies and school districts.²³ For example, the 8 states' laws that we reviewed vary in whether and the extent to which they cover specific demographic groups, referred to as protected classes. Five states—Arkansas, Illinois, Iowa, New Mexico, and Vermont—identify race, color, sex or gender, national origin or nationality, disability, sexual orientation, gender identity, and religion as protected classes.²⁴ California includes all of these groups, except for color. Some states also prohibit bullying of other protected classes. For example, Illinois also includes as protected classes ancestry, age, and marital status. Virginia and Massachusetts do not include protected classes in their state bullying laws. According to Massachusetts officials, protected classes were intentionally omitted from the state's law to ensure that all youths were equally protected. Within Massachusetts' state educational agency (SEA), a specific office is designated to receive complaints, including from youths who have been bullied for any reason, such as obesity or socioeconomic status. Additionally, four of the states that identify protected classes—Arkansas, Illinois, Iowa, and New Mexico—provide that the list of classes is not exhaustive, so protection can be afforded to youths with characteristics not explicitly listed. For example, Iowa prohibits bullying “based on any actual or perceived trait or characteristic of the student.”²⁵ In contrast, California's bullying law is more exclusive and limits protection to only those groups that are listed in the law.

²³For the sake of simplicity, we refer to bullying laws throughout this section of the report. Such references, unless specified otherwise, are meant to broadly encompass such state provisions, whether they are found in state laws or regulations, and whether the state uses the terms “bullying,” “harassment,” or both. Vermont officials stressed to us that much of our discussion of their bullying laws applies to the provisions using the term “harassment,” which specify protected categories of students, as opposed to provisions using the term “bullying,” which do not specify protected classes. The bullying laws we reviewed include the following (with the relevant state in parentheses): Ark. Code Ann. § 6-18-514 (Arkansas); Cal. Educ. Code §§ 201, 234.1, 234.3, 32261, 32270, 32280, 32281, 32282, 48900, and 48900.4, Cal. Code Regs. tit. 5, § 4910 (California); 105 Ill. Comp. Stat. 5/10-20.14 and 5/27-23.7 (Illinois); Iowa Code §§ 280.12 and 280.28 (Iowa); Mass. Gen. Laws ch. 71, §§ 37H and 37O (Massachusetts); N.M. Stat. Ann. § 22-2-21, N.M. Admin. Code tit. 6, §§ 6.12.7.7 and 6.12.7.8 (New Mexico); Vt. Stat. Ann. tit. 16, §§ 11, 14, 164, 165, 565, and 1161a (Vermont); Va. Code Ann. § 22.1-279.6 (Virginia).

²⁴While New Mexico's law does not explicitly include gender identity, it does include sexual orientation, and according to a state official, these concepts were intended to be closely aligned.

²⁵Iowa Code § 280.28(2)(b).

We also found that state laws impose various requirements on SEAs. For example, laws in California, Massachusetts, Vermont, and Virginia require that SEAs develop model bullying policies as a resource for school districts.²⁶ Also, we found that while SEAs in Arkansas, California, and Illinois are required by law to review or monitor school district's bullying policies, the approach taken to do so is different from state to state.²⁷ For example, officials in Arkansas reported that as part of a broader effort to ensure that school districts' policies align with federal and state laws, they conduct on-site reviews every 4 years, and require school districts to forward information to the Department of Education for review every year, including information about discipline and bullying policies. Conversely, an Illinois official reported that little meaningful oversight is occurring, in part because of resource constraints.

In each of the states we reviewed, the laws require school districts to adopt bullying policies or plans, but the states differed in the specific requirements of what must be included in these policies or plans.²⁸ For example, of the 8 states' laws we reviewed, 6 states require school districts to set forth a process for receiving and investigating complaints, and 2 do not. Similarly, we found that 6 states' laws require district policies to identify the consequences for bullies, while 2 do not. Table 2 provides information about commonly required school district provisions in state bullying laws.

²⁶Model policies may be used by local school districts as a guide in developing their policies, and may include procedures for reporting and investigating bullying behavior. While not required to do so by law, SEAs in Iowa and New Mexico also make model bullying policies available to school districts.

²⁷Massachusetts and Vermont officials reported that they also review district policies, although not required by law to do so. Iowa officials review district policies as part of the state's school accreditation process. New Mexico officials checked to ensure that school districts had policies.

²⁸More broadly, Education's review of state bullying laws found that 39 states require school districts' policies to contain clear prohibitions against bullying.

Table 2: Examples of Provisions Commonly Required by State Bullying Laws

	Notification of policy to parents and youths	Consequences for engaging in bullying behavior must be articulated	Require that school employees report incidents or that schools have reporting procedures	Process for receiving and investigating complaints	Complainant will be protected from retaliation or reprisal
Arkansas	X ^a	X	X	X	X
California	X			X	X
Illinois	X				X
Iowa	X	X	X	X	X
Massachusetts	X	X	X	X	X
New Mexico	X	X	X	X	X
Vermont	X	X	X	X	X
Virginia	X	X			

Source: GAO review of relevant state bullying laws and regulations for the 8 states included in our review.

^aSchool district policies must require notice of what constitutes bullying, that bullying is prohibited, and the consequences of bullying be provided. Ark. Code Ann. § 6-18-514(e)(2)(G).

States are also making changes to their bullying laws, as evidenced by 4 of our 8 selected states amending or enacting bullying laws since we began our study in the spring of 2011.²⁹ For example, Arkansas, among other things, amended its law to include protected classes based on actual or perceived characteristics. Vermont amended its law to include protections against cyberbullying and incidents that do not occur during the school day on school property, or at school-sponsored events.

Selected School Districts' Antibullying Policies and Programs

The six school districts we reviewed in New Mexico, Virginia, and Vermont have all adopted policies, plans, or rules, and implemented a range of approaches, to combat bullying. Among other components of the bullying policies and rules, each prohibits bullying and describes potential consequences for the behavior. Also, the school districts in New Mexico and Vermont developed policies and procedures covering the reporting and investigation of bullying behavior.

School district officials explained that they have developed several approaches to prevent and respond to bullying. For example, in five of the six school districts we visited, central administrators or principals said

²⁹These states are Arkansas, California, New Mexico, and Vermont.

they conduct student surveys that include questions about bullying to determine the prevalence of the behavior, and two administrators said the surveys are used to develop strategies to address the behavior. Also, officials from four of the six school districts said that several or all of their schools utilize the prevention-oriented framework Positive Behavioral Interventions and Supports (PBIS) to improve overall behavior in schools (see text box).³⁰ Additionally, several school districts and schools use curricula that help youths develop interpersonal skills and manage their emotions, such as Second Step, a classroom-based social skills program for youths 4 to 14 years of age, and Steps to Respect, a bullying prevention program developed for grades three through six. Several central administrators and principals mentioned that antibullying-focused events have been held at their schools, such as Rachel's Challenge and Ryan's Story. Rachel's Challenge is a program that seeks to create a positive culture change in schools and communities and begins with video/audio footage of Rachel Scott, the first person killed during the 1999 Columbine High School incident. Ryan's Story is a presentation that recounts the factors that led to the 2003 suicide of Ryan Halligan, a victim of both bullying and cyberbullying.

³⁰PBIS is used by educators to improve overall school environments. PBIS' focus on improving behavior, teaching social skills, and supporting academic achievement can help reduce bullying behavior.

The Positive Behavioral Interventions and Supports framework utilizes evidence-based, prevention-oriented practices and systems to promote positive and effective classroom and school social cultures. According to Education's Office of Special Education Programs, PBIS steps to addressing bullying behavior at school include the following:

- examining discipline data to determine, for example, the frequency, location, and timing of specific bullying behaviors;
- examining the extent to which staff members have, for example, actively and positively supervised all students across all school settings, had high rates of positive interactions and contact with all students, and arranged their instruction so all students are actively engaged, successful, and challenged ; and
- teaching students and staff common strategies for preventing and responding to bullying behavior, such as intervening and responding early and quickly to interrupt bullying behavior, removing what triggers and maintains bullying behavior, and reporting and recording when a bullying behavior incident occurs.

Students whose bullying behavior does not improve are considered for additional supports. For example, on the basis of the function of a student's behavior, students would (1) begin the day with a check-in or reminder about the daily expectations; (2) be more overtly and actively supervised; (3) receive more frequent, regular, and positive performance feedback each day; and (4) conclude each day with a checkout or debriefing with an adult.

Source: National Technical Assistance Center on Positive Behavioral Interventions & Supports.

In addition to mentioning efforts focused on youths, several central administrators and principals said that teachers receive some bullying prevention guidance or training. Information about bullying prevention is also shared with parents during workshops and forums. For example, one official mentioned that Rachel's Challenge includes a session with parents and community leaders. A parent said that his school district hosted a national speaker to share information with parents about bullying.

State and Local Officials Cited Concerns That Hinder Antibullying Efforts

Both state and local officials expressed concerns about various issues associated with implementing state bullying laws, regulations, and local policies and codes of conduct. For example, administrators and principals reported that determining how to respond to out-of-school incidents, such as cyberbullying, is challenging. Administrators and principals said that sometimes they are not informed of incidents in a timely manner, resulting in a delayed response. Additionally, some parents discourage school officials' involvement in out-of-school incidents. However, administrators and principals agreed that when out-of-school incidents affect school climate, the behavior has to be addressed.

Another issue of concern for both state and local officials is that parents and youths can confuse conflict with bullying. According to the state and local officials that we spoke with, they spend a lot of time on nonbullying

behavior and more could be done to educate parents and youths on the distinction between bullying behavior and other forms of conflict. On a related matter, state and local officials said that it is important to train teachers and staff to prevent, identify, and respond to bullying behavior. However, according to these officials, because of state budget cuts and the elimination of some federal funding that could be used for bullying prevention activities, there is little funding available for training. State officials specifically cited the loss of funding from Title IV, Part A of the Elementary and Secondary Education Act of 1965, as amended, which among other things could be used to prevent violence in and around schools. According to federal officials, funding for this program was eliminated in 2009.

Federal and State Civil Rights Laws Offer Some Protections against Bullying, but Vulnerable Groups May Not Always Be Covered

Federal Civil Rights Protections

When bullying rises to the level of discrimination, federal civil rights laws may be used to provide redress to individuals in legally protected groups. Federal civil rights laws protect against discrimination based on sex, race, color, national origin, religion, or disability. However, federal agencies generally lack jurisdiction to address discrimination based on classifications not protected under federal civil rights statutes. For example, federal agencies lack authority to pursue discrimination cases based solely on sexual orientation.

Additionally, federal civil rights laws do not cover all youths in all educational settings, and as a result, where a student goes to school could affect the student's ability to file a claim of discrimination with the federal government. For example, Title IV of the Civil Rights Act of 1964

(Title IV) prohibits discrimination in public schools and institutions of higher learning.³¹ Since Title IV is the only federal civil rights law addressing religious discrimination in educational settings, only youths at public schools and public institutions of higher learning, where Title IV applies, could file such a claim. Youths who attend public schools or other schools receiving federal education funding and who belong to other federally protected classes may have the option to file a complaint with Education, Justice, or both departments, depending on which agency has enforcement authority.³² See table 3 for the relevant federal civil rights laws, protected classes, and agency enforcement authority.

³¹42 U.S.C. §§ 2000c, 2000c-6.

³²Persons in protected classes who have been bullied or harassed and believe they are victims of discrimination may be able to file a complaint with Education or Justice. According to Education officials, their department investigates all complaints it receives for which it has jurisdiction. Justice officials stated that because they have far fewer staff than Education, they must use their available resources in a targeted way. According to Justice officials, the department is not statutorily required to investigate every complaint and thus evaluates complaints they receive to identify those that involve pressing matters or novel legal questions requiring government involvement. When either an Education or Justice investigation determines that civil rights violations have occurred, they first try to work with the institution to develop a voluntary resolution—Education through resolution agreements and Justice through negotiated settlements. When Justice enters into a settlement agreement, it can do so in conjunction with or following the filing of a complaint in federal court, or the settlement can be entered into out of court. Resolution agreements and settlements may require that, among other things, school districts revise their policies and publicize them to schools and communities, conduct training of staff and students, and/or collect and report data. In instances where resolution agreements and settlements are not reached or complaints are not otherwise resolved, Justice could engage in litigation in federal court. According to Education officials, since they have a high level of voluntary compliance, they generally do not need to refer complaints to Justice for litigation. As an alternative to initiating litigation, Justice may also intervene in a private lawsuit or file amicus briefs on behalf of the United States.

Table 3: Relevant Federal Civil Rights Laws, Protected Classes, and Agency Enforcement Authority

Protected class	Applicable federal law	Settings where discrimination is prohibited	Agency with enforcement authority
Sex	Title IX of the Education Amendments of 1972 (Title IX) ^a	Education programs and activities receiving federal financial assistance.	Education and Justice
	Title IV of the Civil Rights Act of 1964 (Title IV) ^b	Public schools and public institutions of higher learning.	Justice
Race, color, or national origin	Title VI of the Civil Rights Act of 1964 (Title VI) ^c	Programs and activities receiving federal financial assistance.	Education and Justice
	Title IV of the Civil Rights Act of 1964 (Title IV) ^b	Public schools and public institutions of higher learning.	Justice
Religion	Title IV of the Civil Rights Act of 1964 (Title IV) ^b	Public schools and public institutions of higher learning.	Justice
Disability	Section 504 of the Rehabilitation Act of 1973 (section 504) ^d	Programs and activities receiving federal financial assistance or conducted by an executive agency (such as Education).	Education and Justice
	Titles II and III of the Americans with Disabilities Act of 1990 (ADA) ^e	Title II prohibits discrimination by public entities, including public schools. Title III prohibits discrimination by places of public accommodation, including private schools.	Education (Title II) and Justice (Titles II and III)

Source: GAO analysis of relevant federal laws and information from Education and Justice.

^a20 U.S.C. § 1681 et seq.

^b42 U.S.C. § 2000c et seq.

^c42 U.S.C. § 2000d et seq.

^d29 U.S.C. § 794.

^eTitle II: 42 U.S.C. § 12131 et seq.; Title III: 42 U.S.C. § 12181 et seq.

In addition to those groups explicitly enumerated in federal civil rights laws, protections have been applied to other classes of youth in some situations. For example, Titles IV and IX, which prohibit discrimination based on sex, have been interpreted, in certain circumstances, to apply to discrimination based on gender identity. However, Titles IV and IX have not been used to address discrimination based solely on sexual orientation. Justice officials explained that youths who are discriminated against based on gender identity are generally protected under Titles IV and IX, as discrimination based on gender identity is a form of sex discrimination. They explained that sexual orientation, on the other hand, is not covered under Titles IV or IX. According to Education and Justice officials and some court decisions, however, youths bullied on the basis of actual or perceived sexual orientation may have some protection under

Titles IV and IX if there is overlapping gender-based discrimination.³³ For example, in *Montgomery v. Independent School District No. 709*, the U.S. District Court for the District of Minnesota addressed the issue of sexual orientation discrimination in the Title IX context.³⁴ In *Montgomery*, a male student claimed that he was verbally and physically abused by other youths because he did not meet their stereotyped expectations of masculinity and because they perceived him to be gay. The court held that the student's claim of sexual orientation discrimination was not actionable under Title IX because sexual orientation is not a protected characteristic under Title IX.³⁵ On the other hand, however, the court found that a discrimination claim based on a failure to meet gender stereotypes was permissible under Title IX.³⁶

Little is known about the extent to which students belonging to various demographic groups not covered by federal civil rights laws are being discriminated against because they either do not file claims or, when they file claims, information about those claims is not routinely collected or tracked. Victims of bullying who are members of a protected class and feel that they have been discriminated against can generally file a complaint with Education or Justice. According to Education's guidance, individuals must generally file complaints with Education within 180 days of the latest incident, whereas no time limitations apply for filing complaints with Justice.³⁷ Education and Justice differ in their approaches to processing complaints and levels of staff resources to investigate complaints of discrimination. In general, Education resolves complaints through a formal administrative process, and while both Education and Justice investigate complaints, Justice negotiates and, if necessary, litigates in federal courts. According to Education and Justice officials, an important difference in their approaches to handling discrimination

³³According to Justice officials, all students, including LGBT students, are protected from gender-based discrimination, including discrimination based on gender stereotypes.

³⁴109 F. Supp. 2d 1081 (2000).

³⁵*Id.* at 1090.

³⁶*Id.* at 1092.

³⁷According to OCR's case processing manual, a complaint must be filed within 180 calendar days of the date of the alleged discrimination, unless the time for filing is extended by Education's Office for Civil Rights for good cause shown under certain circumstances.

complaints is partly due to Education's greater staff resources. Education's Office for Civil Rights has roughly 400 staff, and Justice's Civil Rights Division, Educational Opportunities Section, has about 20 attorneys. According to departmental officials, Education investigates all complaints it receives for which it has jurisdiction. Conversely, Justice selects a limited number of complaints to review based on such factors as the severity of the complaint and whether the federal government has a special interest in the case. Additionally, officials from Education and Justice told us that they collaborate closely. Generally, Justice and Education share information about complaints because they may have overlapping jurisdiction, and try to coordinate efforts where feasible.

Education and Justice do not currently have a systematic approach for tracking information about the number of cases related to various demographic groups that they do not have jurisdiction to address. The U.S. Commission on Civil Rights, in a 2011 report on the protections of federal anti-discrimination laws relating to school bullying, recommended that Justice and Education, among other things, track dismissed civil rights claims by various demographic characteristics. However, Education and Justice officials told us that as part of their complaint review processes, they focus on collecting information to establish federal jurisdiction, and as a result neither department collects information in a way that would allow them to routinely assess the demographic characteristics of cases where they lack jurisdiction. Thus, they do not plan to address the commission's recommendation. Additionally, according to officials from both departments, attempting to track such information would be problematic because of difficulties in ascertaining demographic information. They also believe the information could be misleading. According to Justice officials, they dedicate significant resources to outreach designed to educate communities on their jurisdiction, and this may impact the number of complaints they receive from demographic groups that fall outside of their jurisdiction.

State Civil Rights Protections

We found that some states' civil rights laws extend beyond the protections afforded at the federal level, but information about the possibility of pursuing claims at the state level was not always provided to federal complainants. For all eight states we reviewed, state anti-discrimination laws, like federal civil rights laws, provide protections for individuals who are discriminated against on the basis of sex, race,

national origin, religion, and disability, and in all but Arkansas, color.³⁸ Thus, in these eight states, for these protected classes, legal action can generally be taken at the federal, state, or both levels.

The majority of the eight states that we reviewed include in their anti-discrimination laws protections for various groups of people who are not explicitly covered at the federal level. For example, six of the eight states we reviewed prohibit discrimination on the basis of sexual orientation,³⁹ and five of the eight states prohibit discrimination on the basis of gender identity.⁴⁰ Beyond these protected classes, most states we reviewed also prohibit discrimination on the basis of other personal characteristics, such as marital status. California is unique among the states in our review in that its anti-discrimination laws explicitly protect individuals on the basis of citizenship, gender-related appearance and behavior, and individuals who are associated with a person with (or perceived to have) a protected characteristic.⁴¹ However, because some characteristics are not explicitly protected under anti-discrimination laws at either the federal level or in the states we reviewed, youths in these states who are bullied on the basis of one of these characteristics would have no recourse under civil rights law at either level. For example, state education and civil rights officials mentioned that anti-discrimination laws generally do not apply to youths who were bullied based on their socioeconomic status or obesity.

Education officials told us they sometimes provide information on state civil rights laws to complainants on an informal basis, but not as a matter of routine. For example, these officials said that a federal complainant

³⁸The state civil rights laws we reviewed include the following (with the relevant state in parentheses): Ark. Code Ann. §§ 16-123-101 through 16-123-108 (Arkansas); Cal. Educ. Code §§ 200 et seq., 210 et seq., 220 et seq., and 260 et seq. (California); 775 Ill. Comp. Stat. 5/5-102, 5/5A-102, and 5/1-103 (Illinois); Iowa Code § 216.9 (Iowa); Mass. Gen. Laws ch. 76, § 5, ch. 71B, § 2 (Massachusetts); N.M. Stat. Ann. § 28-1-1 et seq. (New Mexico); Vt. Stat. Ann. tit. 9, §§ 4500-4507 (Vermont); Va. Code Ann. § 2.2-3900 et seq. (Virginia). In some of the states these laws apply only in the education context, while in others they apply more broadly. We only analyzed these laws in the education context, and make no assessment of how they might apply in other areas.

³⁹The six states are California, Illinois, Iowa, Massachusetts, New Mexico, and Vermont.

⁴⁰The five states are California, Illinois, Iowa, New Mexico, and Vermont. In addition, Massachusetts recently passed a law prohibiting discrimination based on gender identity, and that law will take effect in July 2012.

⁴¹Cal. Ed. Code §§ 210 et seq., 220.

who withdraws his or her complaint may be informed in a phone discussion about legal options at the state level. Also, officials said that if a complaint reaches the stage of a dismissal, Education's letter to the complainant sometimes suggests that the claimant might have a claim under state civil rights law, along with the name and address of the relevant state agency. However, according to Education officials, when the agency lacks jurisdiction, it does not presently notify complainants about the availability of possible recourse under state law on a routine basis. As a result, individuals who file complaints with Education may not be fully aware of their legal options. On the other hand, according to Justice officials, department officials routinely share with complainants that they may have legal options available to them through their state's civil rights laws. While not specific to particular states and their laws, Justice provides a general notification in letters to complainants for complaints they do not pursue.

Coordinated Federal Antibullying Efforts Are Under Way, but Assessment of Legal Remedies Is Incomplete

Federal Coordination Efforts

Education, HHS, and Justice have established coordinated efforts to carry out research and broadly disseminate information on bullying. Education has also provided key information about how federal civil rights laws can be used to address bullying and is conducting a study of state bullying laws and how selected school districts are addressing bullying. Three federal efforts, in particular—formation of a coordinating committee, establishment of a central website, and an informational campaign—have provided the public with a range of information about bullying, through a variety of media.

Coordinating Committee to Promote Collaboration on Bullying across the Federal Government

The Federal Partners in Bullying Prevention Steering Committee serves as a forum for federal agencies to develop and share information with each other and the public. The committee was created in 2009 and is composed of the Departments of Education, HHS, Justice, Agriculture,

Defense, and Interior, along with the Federal Trade Commission, the National Council on Disability, and the White House Initiative on Asian Americans and Pacific Islanders. Among other activities, the coordinating committee helped to plan a conference on bullying in March 2011 hosted by the White House, as well as annual conferences of the coordinating committee in August 2010 and September 2011. Following each annual conference, the committee has developed priorities and formed subcommittees to address those priorities. For example, after identifying a need for better coordination of bullying research, a research subcommittee was created after the August 2010 conference. Following the September 2011 conference, this subcommittee's activities in the upcoming year will also include identifying best practices for training teachers as well as drawing attention to programs that could help youths develop interpersonal skills and manage their emotions.

Central Website to Provide
Consistent Federal Information
to the Public

The three federal departments, along with the White House, established a central federal website (www.stopbullying.gov, last accessed May 22, 2012), launched in March 2011 at the White House conference on bullying. The central website sought to consolidate the content of different federal sites into one location to provide free materials for the public. Hosted by HHS, with content and technical support from the Health Resources and Services Administration (HRSA), the website aims to present a consistent federal message and features content arranged by target audience, such as teens, along with sections on special topics such as cyberbullying.

Informational Campaign to
Raise Awareness about
Bullying

HHS through HRSA launched the informational campaign called Stop Bullying Now! in 2004. Federal departments outside HHS that assist with the campaign include the Departments of Education, Justice, Agriculture, Defense, and Interior. The campaign is designed for youth and adults to raise awareness, foster partnerships, and disseminate evidence-based findings to help prevent and intervene in instances of bullying. The informational campaign offers a variety of free materials, including a DVD with 14 cartoon episodes, 30 tip sheets based on research and evidence-based practices, public service announcements, posters, brochures, comic books, and kits for youth leaders and adults. According to data from HRSA as of August 2011, recipients of materials in mass mailings included, among others, all 66,000 public elementary and middle schools in the country, 17,000 libraries, relevant state health and education agencies, offices serving Indian and military youth, 4,000 Boys and Girls Clubs, relevant state health and education agencies, schools on military bases worldwide, and offices serving American Indian youth. (See app. V for more information on the campaign.) However, according to HHS

officials, the campaign and its online content are currently in a period of transition, as they adapt to the new interdepartmental website and its governance.

While these efforts are still evolving, we found that they are consistent with key practices that we determined can help or sustain coordination efforts across federal agencies.⁴² Specifically, we found that in each of these three efforts that key agencies reached agreement on roles and responsibilities. For example, the roles and responsibilities of the federal agencies responsible for stopbullying.gov are spelled out in a governance document, and the lead agency, HHS, for this website has executed agreements to provide funding for the maintenance and operation of the website. Similarly, we found that these agencies worked to establish compatible policies and procedures, and to develop mechanisms to monitor progress for these coordinated efforts. Appendix V provides more information on federal coordination efforts on bullying.

In addition to these collaborative agency efforts to share information about bullying, Education has disseminated information about federal civil rights laws that can be used to address bullying, and key components of state bullying laws. In October 2010, Education sent a letter to state and local education officials outlining how federal civil rights laws can be applied to bullying. The letter stated that student misconduct may trigger school responsibilities under federal civil rights laws and provided examples of behavior that may meet the threshold for violating the laws. In December 2010, the department issued another letter that summarized several key components of state bullying laws, such as specifying prohibited behavior, development and implementation of school district policies, and training and preventive education. As previously discussed, following up on this letter, the department commissioned a study of state bullying laws to determine the extent to which states and school districts incorporate the key components into their laws and policies. In December 2011, Education issued the first part of this two-part study on state bullying laws.⁴³

⁴²GAO, *Results-Oriented Government: Practices That Can Help Enhance and Sustain Collaboration among Federal Agencies*, [GAO-06-15](#) (Washington, D.C.: Oct. 21, 2005).

⁴³U.S. Department of Education, Office of Planning, Evaluation and Policy Development, Policy and Program Studies Service. *Analysis of State Bullying Laws and Policies* (Washington, D.C.: 2011).

No Assessment of State Civil Rights Laws and Procedures Has Been Performed

While Education, HHS, and Justice have initiated several efforts to better inform the public about how to utilize federal, state, and other resources to better address bullying, none of these efforts include an assessment of state civil rights laws and procedures for filing complaints. Since some states' civil rights laws provide protection for groups not named in applicable federal civil rights laws, collection and dissemination of such information could assist in better understanding how these laws vary in coverage and in the procedures states have in place for filing complaints. For example, five states in our review—California, Illinois, Iowa, Massachusetts, and Vermont—have established processes and procedures for resolving civil rights complaints, and have empowered a statewide organization with the authority to hold schools and school districts accountable when discrimination is found, according to state officials. Specifically, according to a state official, California's Uniform Complaint Process empowers its Department of Education's Office of Equal Opportunity to ensure compliance with state and federal civil rights laws. California's state code also requires uniform complaint procedures that each school district within the state must follow when addressing complaints of discrimination against protected groups, according to a state official. The complaint process allows up to 60 days for an investigation and decision to be rendered at the district level, unless a child is directly in harm's way and the school district is unresponsive, in which case a complaint can be filed directly with the state. In Vermont, the state's Human Rights Commission acts as an independent agency focused solely on the protection of civil rights, and if its investigation determines unlawful discrimination occurred, the agency assists the parties in negotiating a settlement. Human Rights Commission officials told us if a settlement cannot be reached, the agency may choose to take the case to court. However, they said that this usually does not happen because cases are generally settled. The Massachusetts Department of Elementary and Secondary Education has a formal process called the Problem Resolution System that handles complaints that allege a school or a district is not meeting legal requirements for education, including complaints of discrimination. In each of the five states with established processes and procedures for resolving civil rights complaints, the SEAs include information on their websites about the civil rights complaint process, including where to file, required information, and time frames.

According to their respective state officials, Arkansas and New Mexico offer only limited legal options for protected classes with complaints of discrimination based on school bullying because they lack a state entity with the authority to investigate and hold school districts accountable for such complaints. Although Arkansas has an Equity Assistance Center

within its Department of Education that can serve as an intermediary between the complainant and the school district, its decisions lack the authority to discipline a school district, according to state officials. New Mexico has a human rights commission that receives and investigates complaints of discrimination based on protected classes, but the commission is focused on employment issues and does not address discrimination complaints related to education. As a result, the state lacks formal processes and procedures to address complaints of discrimination stemming from instances of bullying, according to state officials. Therefore, according to state officials from these two states, if an individual cannot afford an attorney to file a private right of action related to complaints of discrimination because of school bullying, the individual's only legal option is to file a federal complaint.

By not incorporating an assessment of state civil rights laws and procedures into their various bullying prevention efforts, federal agencies are overlooking a potentially important source of information. Building on information from Education's study of state bullying laws and the letters they issued on federal civil rights laws, information on state civil rights laws and procedures would provide a broader and more complete perspective of the overall coverage of federal and state efforts to prevent and address bullying.

Conclusions

Students who are bullied may seek recourse through a number of avenues—local and state educational policies, state bullying laws, state civil rights laws, or federal civil rights laws. However, the nature and extent of protections available to them depend on the laws and policies of where they live or go to school. Education and Justice have taken important steps in assessing how federal civil rights laws can be used to help combat certain instances of bullying of protected classes of youth for which they have jurisdiction. And Education has completed a study of state bullying laws and is conducting another study looking at how school districts are implementing these laws. However, neither Education nor Justice has assessed state civil rights laws and procedures as they may relate to bullying. Many of the states' civil rights laws we reviewed extend protections to classes of individuals beyond the groups protected at the federal level, but states vary in the groups that are explicitly protected; therefore, whether bullying victims have any recourse through civil rights laws can depend on the state in which they live or go to school. Also, states vary in their procedures for pursuing civil rights claims, which could also affect the ability to pursue a bullying-related discrimination claim. State civil rights laws, just like federal civil rights laws and state bullying

laws, can play an important role in addressing this important issue. More information about state civil rights laws and procedures is a key missing link and is needed by administration officials and decision makers alike, to understand the potential overall legal protections available to students who have been bullied.

Federal claimants would also benefit from knowing that options may be available to them at the state level. This is particularly key when cases are dismissed at the federal level because of a lack of jurisdiction. While Justice routinely informs individuals when their complaints are dismissed because of a lack of jurisdiction of possible recourse under their state civil rights laws, Education does not. Routinely making this basic information available would be another key step in helping ensure that bullying victims are aware of some of the legal options available to them.

Multiple efforts to collect information about bullying have been under way for several years; however, the prevalence of bullying of youths in certain vulnerable demographic groups is not known. A greater effort by key federal agencies to develop more information about the extent to which a broader range of demographic groups are subject to bullying and bullying-related discrimination would better inform federal efforts to prevent and remedy bullying. Understanding the prevalence of bullying by demographic groups would help administration officials develop additional actions targeted at the greatest areas of need. This information, together with an assessment of federal and state legal protections, could also aid policymakers in determining whether additional actions are needed to protect vulnerable groups of youths who are subjected to bullying.

Recommendations for Executive Action

To allow for a more comprehensive assessment of federal and state efforts to prevent and address bullying, we recommend the Secretary of Education, in consultation with the Attorney General, as appropriate, compile information in a one-time study—similar to its study of state bullying laws—about state civil rights laws and procedures, as they may pertain to bullying.

In order to better ensure that individuals are aware of their options to seek legal redress, especially in cases where their complaints to Education are not pursued because of a lack of jurisdiction, we recommend that the Secretary of Education develop procedures to routinely inform individuals who file complaints of discrimination stemming from bullying about the potential availability of legal options under their state's anti-discrimination laws.

To address gaps in knowledge about targets of bullying and discrimination, we recommend that the Secretaries of Education and HHS and the Attorney General work together to develop information in their future surveys of youths' health and safety issues on the extent to which youths in various vulnerable demographic groups are bullied.

To aid policymakers and program administrators at the federal and state levels in understanding more comprehensively what is being done to address bullying and discrimination, we recommend that the Secretaries of Education and HHS and the Attorney General, in conjunction with the Federal Partners in Bullying Prevention Steering Committee, assess the extent to which legal protections against bullying exist for vulnerable demographic groups. Such an assessment, to be comprehensive, should make use of information federal agencies have already compiled on state bullying laws and federal civil rights laws together with information from our recommendations above to compile information on state civil rights laws and collect more information on demographic groups in federal surveys of youth health and safety issues.

Agency Comments

We provided Education, HHS, and Justice an opportunity to comment on a draft of this report. Education and HHS provided written responses, which appear in appendixes VII and VIII, respectively. Each of the agencies provided technical comments, which we incorporated as appropriate. Justice chose not to provide a written response.

Education disagreed with our recommendation that it compile information about state civil rights laws and procedures as they pertain to bullying. Specifically, Education noted that it does not have jurisdiction over state civil rights laws, nor the appropriate expertise, to interpret and advise on these laws. The department stressed that its previous analysis of state bullying laws was limited to compiling a list of statutes or regulations and identifying key components of statutes and regulations. Further, Education suggested that compiling information about state civil rights laws and procedures would only be useful if kept current, and that undergoing such a time-intensive and costly survey and review of state's civil rights laws would not be an appropriate use of the department's limited resources.

We continue to believe that a one-time compilation of state civil rights laws and procedures would be beneficial, and provide a basis, along with other information, for analyzing the overall legal protections that are available for vulnerable demographic groups. Such an assessment would

help determine the extent to which states are positioned to respond to these types of civil rights complaints and to identify those instances where certain students are left with little recourse to pursue discrimination claims simply because of the state in which they reside or go to school. While we appreciate the work involved in any analysis of state laws, we believe that Education can develop a methodological approach that would limit the scope of their work and hone in on those aspects of civil rights laws that come into play when bullying leads to allegations of discrimination. For example, this review could be limited to compiling basic information about state civil rights laws, such as which protected classes are included and whether they apply in educational settings, and may not require an extensive analysis of state case law. In implementing a study of this type, Education may consider approaches similar to those they used in their previous work on state bullying laws. Alternatively, Education officials could choose to rely on the knowledge and expertise of cognizant state officials by conducting a survey or otherwise soliciting pertinent information, rather than undertaking the bulk of this work themselves. We acknowledge Education's concerns regarding keeping the information on state civil rights laws updated and have modified language in the report and our recommendation to clarify that this is meant to be a onetime effort.

Regarding our second recommendation, Education indicated that they are considering whether to develop procedures that would inform complainants whose complaints are dismissed for lack of jurisdiction that they may have possible recourse under state or local laws. We encourage Education to review the language that Justice currently includes in similar notification letters. As Education suggested, more detailed guidance regarding rights and procedures for seeking redress may then be provided by state and local agencies.

Both HHS and Education agreed with our recommendation that they develop additional information in their surveys about youths in various vulnerable groups who are bullied.

In response to our recommendation that Education, HHS, and the Attorney General assess the extent to which protections exist for various demographic groups likely to be the target of bullies, HHS agreed with the recommendation and Education cited many of its ongoing efforts to this end. We commend Education on its current efforts as well as other efforts we have discussed in our report. However, as we point out in our previous recommendations, more information is needed on state civil rights laws as well as about how various demographic groups are

affected by bullying. Utilizing all of the information at their disposal, including information we recommend be collected, Education, HHS, and Justice could work together to assess how well the available laws and resources address areas of need and identify measures that could be taken to help prevent bullying. We believe that it is an important step to assimilate information on resources and laws with research about areas of need in order to assist federal policy makers and agency officials in their efforts to address this important issue. Based on questions we received during discussions with Justice on our report, we modified this recommendation to clarify that such an assessment should make use of information from our previous recommendations in this report, as well as information that federal agencies have already gathered, and that the three agencies in our review could work through the Federal Partners in Bullying Prevention Steering Committee to conduct such an assessment.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to the Secretaries of Education, and Health and Human Services, and the Attorney General; relevant congressional committees; and other interested parties. In addition, the report will be available on GAO's website at <http://www.gao.gov>.

If you or your staff have any questions about the report, please contact me at (206) 287-4809 or calboml@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff that made major contributions to this report are listed in appendix IX.



Linda M. Calbom
Western Regional Director

Appendix I: Objectives, Scope, and Methodology

Analysis of Surveys and Literature Review

To obtain information on the prevalence of school bullying of victims in the United States, we primarily compared estimates and methodologies of available data on being bullied in four nationally representative surveys by federal statistical agencies conducted from 2005 to 2009. Specifically, we compared data on being victims of bullying from the Youth Risk Behavior Survey, the School Crime Supplement to the National Crime Victimization Survey, the Health Behavior in School-aged Children Survey, and the National Survey of Children's Exposure to Violence (see table 4). We selected these surveys based on interviews with officials at the Departments of Education (Education), Health and Human Services (HHS), and Justice (Justice), as well as the similar work of the Centers for Disease Control and Prevention (CDC) on this topic that compared the four surveys. We evaluated these federal surveys for methodological rigor, as well as to determine the extent to which the data could be used to offer a national perspective on bullying in schools. This included interviews with researchers, as appropriate. We determined that the data were sufficiently reliable for our purposes. Because the survey data were collected using generalizable probability samples, this sample is only one of a large number of samples that might have been selected. Since each sample could provide different estimates, we have used 95 percent confidence intervals to show the precision of our results. All percentage estimates used in this report have 95 percent confidence intervals of within plus or minus 2.1 percentage points, unless otherwise noted. In addition to sampling error, surveys are subject to nonsampling error, such as how respondents interpret questions, including any biases or tendencies to provide desirable answers or false answers. Although respondents self-reported being bullied in the surveys, this approach to measure the prevalence of bullying is viewed as valid and robust, according to some previous research on bullying. We also reviewed certain other relevant research as appropriate. Finally, we conducted interviews with officials at Education and HHS to obtain information about how different surveys and research define bullying and their efforts to develop a uniform definition of bullying for research purposes.

Table 4: Nationally Representative Surveys We Reviewed That Ask about Youths Being Bullied, among Other Topics

Survey	Sponsoring federal agency	Purpose	Age/grade of youth surveyed
Youth Risk Behavior Survey (YRBS) ^a	HHS's CDC	To monitor priority health risk behaviors that contribute to the leading causes of death, disability, and social problems among youth and adults in this country	Grades 9-12
National Crime Victimization Survey's (NCVS) School Crime Supplement (SCS)	Education's National Center for Education Statistics and Justice's Bureau of Justice Statistics	To collect additional information about school-related victimizations on a national level	Ages 12-18
Health Behavior in School-aged Children (HBSC) ^b	HHS's National Institutes of Health	To better understand the health behaviors of youths and their social context during early adolescence	Grades 6-10
National Survey of Children's Exposure to Violence (NatSCEV)	Justice's Office of Juvenile Justice and Delinquency Prevention and HHS's CDC	To examine past-year and lifetime exposure to violence of children age 17 and younger across several categories of violence	Ages birth-17

Source: GAO analysis and information from CDC.

^aWe reviewed the national YRBS rather than associated state and local surveys.

^bHBSC is an international survey. For the purposes of our work, we reviewed the sample used for the national survey rather than the sample used for the international data.

To describe the effects of school bullying on victims, we conducted a literature review. To identify studies on the effects of bullying on victims, we searched numerous databases—including MEDLINE, Embase, Education Resources Information Center (ERIC), ProQuest, PsycINFO, Sociological Abstracts, Social Services Abstracts, and WorldCat. We also consulted with officials at Education, HHS, and Justice to identify relevant studies. Because of the extensive available literature, we limited our review to meta-analyses, which analyze other studies and synthesize their findings. Additionally, we limited our review to articles published in peer-reviewed journals. Our literature search covered studies published from 2001 through July 2011. Subsequently, new meta-analyses were brought to our attention by agency officials, and we reviewed them to the extent they were consistent with our search criteria. We identified seven relevant studies. We reviewed the methodologies of these studies to ensure that they were sound and determined that they were sufficiently reliable. The meta-analyses synthesized the findings of studies of school-aged children in a variety of countries, including the United States. They were not designed to establish causal relationships, nor are the results of the meta-analyses generalizable.

States and Local School District Interviews and Document Review

To describe approaches that selected states and local school districts are taking, we reviewed relevant state bullying laws and regulations, as well as guidance and other documents from eight selected states and conducted interviews with state education officials. We selected eight states—Arkansas, California, Illinois, Iowa, Massachusetts, New Mexico, Vermont, and Virginia—based on the following criteria: Each has bullying laws or regulations, and they vary with respect to bullying definitions and enumeration of protected classes, geographic variation, and student enrollment. Further, we selected three of these states (New Mexico, Vermont, and Virginia), which vary on the characteristics listed above, to review policies and guidance of local school districts and conduct interviews with school officials. We selected a total of six school districts, two in each state—Albuquerque Public Schools, Rio Rancho Public Schools, Fairfax County Public Schools, Warren County Public Schools, Windham Southeast Supervisory Union, and Windham Southwest Supervisory Union. The six school districts were selected from the National Center for Education Statistics (NCES) Common Core of Data Public Elementary/Secondary School Universe Survey: School Year 2008–09. The Common Core of Data (CCD) nonfiscal surveys consist of data submitted annually to NCES by state educational agencies (SEA). School districts and schools were selected to reflect a range of size, and urbanicity (urban, suburban, or rural), as well as racial and socioeconomic diversity. Participation in the National School Lunch Program was used as a proxy for socioeconomic status. We held interviews with central administrators, principals, school staff, and parents. In several instances, multiple individuals attended an interview; for example six parents attended one parent interview. During the interviews, we asked about measures taken to prevent bullying, school officials' response to bullying behavior, and lessons learned. We analyzed narrative responses thematically.

Review of Laws and Discrimination Complaint Processes

To identify legal options that federal and selected state governments have in place when bullying leads to allegations of discrimination, we reviewed relevant federal and state anti-discrimination laws and regulations, selected federal court decisions, as well as guidance and other documents of the federal government and the eight states selected for review.¹ We also conducted interviews with federal officials in the

¹State court decisions were beyond the scope of our review, so we did not review such decisions.

Department of Education's Office for Civil Rights (OCR) and the Department of Justice's Civil Rights Division (CRT), Educational Opportunities Section, as well as with state officials. State officials were from various departments, including state educational agencies and human rights or civil rights commissions or departments.² During the interviews with federal and state officials, we asked about provisions, discrimination complaint processes, complaint resolutions, and legal mechanisms available to individuals who are not members of a protected class.

Interviews with Federal Officials and Document Review

To address how key federal agencies are coordinating their efforts to combat school bullying, we interviewed officials from Education, HHS, and Justice and reviewed relevant documents. These departments were represented with officials from many component agencies. For Education, we spoke to officials from the Office of Safe and Healthy Students (formerly the Office of Safe and Drug-Free Schools), OCR, and Office of Special Education Programs. For HHS, we spoke to officials from the Office of the Assistant Secretary for Public Affairs, Office of the Assistant Secretary for Planning and Evaluation, CDC, Health Resources and Services Administration (HRSA), National Institutes of Health, and Substance Abuse and Mental Health Services Administration (SAMHSA). For Justice, we spoke to officials from the Office of Community Oriented Policing Services, CRT, and Office of Justice Programs. We focused on these three departments, given their leadership roles on an interdepartmental coordinating committee and website (www.stopbullying.gov, last accessed May 22, 2012) on bullying. We analyzed coordination of efforts based on key practices that GAO has previously identified as effective coordination practices.³ For example, in our interviews and analysis, we asked questions about such effective coordination practices as agreeing on roles and responsibilities or establishing compatible policies, procedures, or other means to operate across agency boundaries. We focused on these practices, among those GAO has identified, based on our professional judgment and relevance

²Officials from the state of Virginia declined to speak with us about this component of our review.

³GAO, *Results-Oriented Government: Practices That Can Help Enhance and Sustain Collaboration among Federal Agencies*, [GAO-06-15](#) (Washington, D.C.: Oct. 21, 2005).

for the coordinated federal efforts regarding bullying.⁴ Related documents that we reviewed included plans, meeting agendas, conference materials, interagency agreements, and educational materials provided to the public. We also attended the second annual bullying prevention conference of the interdepartmental coordinating committee. In addition, we conducted interviews with Education, HHS, and Justice officials about efforts within their departments to combat bullying. We also reviewed relevant documents and agency websites.

We conducted this performance audit from April 2011 through May 2012 in accordance with generally accepted government auditing standards. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

⁴As we have previously reported in [GAO-06-15](#), we recognize that there is a wide range of situations and circumstances in which agencies work together and that not all practices may be necessary or be as relevant for particular coordinated efforts. For example, during the course of our audit work, we determined that certain other practices that may promote coordination were not as applicable in this particular context, given competing priorities of departments or the new nature of the coordination.

Appendix II: Comparison of the Definition and Measurement of Bullying in Four Nationally Representative Surveys

Table 5 compares how four nationally representative surveys define and measure bullying.

Table 5: Selected Aspects of the Definition and Measurement of Bullying in Four Nationally Representative Surveys

	National Youth Risk Behavior Survey (YRBS) 2009	National Crime Victimization Survey (NCVS), School Crime Supplement (SCS) 2009	Health Behavior in School-aged Children (HBSC) 2005/06	National Survey of Children's Exposure to Violence (NatSCEV) 2008
Definition of bullying, if any	"When 1 or more students tease, threaten, spread rumors about, hit, shove, or hurt another student over and over again. It is not bullying when 2 students of about the same strength or power argue or fight or tease each other in a friendly way."	"What students do at school that make you feel bad or are hurtful to you"	"When another student, or a group of students, say or do nasty and unpleasant things to him or her. It is also bullying when a student is teased repeatedly in a way he or she does not like or when he or she is deliberately left out of things. But it is NOT BULLYING when two students of about the same strength or power argue or fight. It is also not bullying when a student is teased in a friendly and playful way."	No explicit definition is presented
Use of a question on overall prevalence	Yes, but no questions about types of bullying ^a	No, but overall prevalence is calculated based on affirmative answers to one or more types of bullying	Yes, and questions follow about types of bullying ^b	No, but there are questions about three types of bullying.
Use of questions about gender and race/ethnicity (see app. III for estimates) ^c	Yes	Yes	Yes	Yes
Use of questions about frequency of being bullied in the past year or couple of months	No	Yes	Yes	No
Age/grade of youth surveyed	Grades 9-12	Ages 12-18	Grades 6-10	Ages birth-17 ^d
Time period for question about being bullied	During past 12 months	During this school year	In the past couple of months	In the past year, over a lifetime.
Frequency of survey	Every 2 years	Every 2 years	Every 4 years ^e	Periodic

Appendix II: Comparison of the Definition and Measurement of Bullying in Four Nationally Representative Surveys

	National Youth Risk Behavior Survey (YRBS) 2009	National Crime Victimization Survey (NCVS), School Crime Supplement (SCS) 2009	Health Behavior in School-aged Children (HBSC) 2005/06	National Survey of Children's Exposure to Violence (NatSCEV) 2008
Purpose of survey	To monitor priority health risk behaviors that contribute to the leading causes of death, disability, and social problems among youth and adults in this country ^f	To collect additional information about school-related victimizations on a national level	To better understand the health behaviors of children and their social context during early adolescence ^g	To examine past-year and lifetime exposure to violence of children age 17 and younger across several categories of violence

Source: GAO analysis and information from CDC.

^aYRBS did not ask about types of bullying in the 2009 survey, but the 2011 survey included a question on cyberbullying.

^bThus, it is possible for the overall prevalence to appear less than the prevalence for certain types of bullying behaviors. According to one researcher at the National Institutes of Health (NIH) involved in the HBSC, respondents may be more inclined to respond affirmatively to a specific type of behavior rather than an overall, or general, question on bullying.

^cWe did not include estimates for NatSCEV in appendix III, as this survey did not provide an overall estimate but reported estimates of prevalence for certain types of behaviors in the past year. Estimates are for youth aged 0-17. They include school and nonschool settings and being victimized by a peer or sibling. See, for example, David Finkelhor et al., "Violence, Abuse, and Crime Exposure in a National Sample of Children and Youth." *Pediatrics*, vol. 124, no. 5 (2009).

^dFor NatSCEV, youth aged 10 and older were interviewed, while adult caregivers of youth under 10 were interviewed.

^eAccording to NIH officials involved in the HBSC, the future of the HBSC is uncertain, partly because of budget constraints.

^fWe reviewed the national YRBS rather than associated state and local surveys.

^gHBSC is an international survey. For the purposes of our work, we reviewed the sample used for the national survey rather than the sample used for the international data.

Appendix III: Selected Data on National Prevalence of Youth Who Report Being Bullied in School

This appendix provides estimates of the overall prevalence of youth who reported being bullied by sex and by race/ethnicity. Three of the four federal surveys that we reviewed present an estimate of overall prevalence of being bullied, and for these three surveys, the results of each are shown separately by sex and by race/ethnicity. Unless otherwise noted, all estimates in these tables have 95 percent confidence intervals of within plus or minus 2.1 percentage points.

The difference between boys and girls reporting that they were bullied was statistically significant in one survey (YRBS), with girls reporting a higher percentage of bullying, but was not statistically significant in the other two surveys (SCS and HBSC). See table 6.

Table 6: Estimates of Youth Who Reported Being Bullied by Sex in Three National Surveys

Sex	YRBS 2009	NCVS SCS 2009	HBSC 2005/2006
Male	18.7	26.6	28.0 ^a
Female	21.2	29.5	26.1

Source: GAO analysis of YRBS 2009, NCVS SCS 2009, HBSC 2005/2006.

^aThis estimate has a 95 percent confidence interval of within plus or minus 2.4 percentage points.

White youth reported being bullied at higher percentages than African-American youth in two of the three surveys (YRBS and HBSC), while the other survey found no difference. In two of the three surveys (YRBS and HBSC), differences between the overall prevalence for white compared with Hispanic youth and for African-American youth compared with Hispanic youth were not statistically significant.¹ In the other survey, Hispanics reported a lower percentage of bullying than whites or African-Americans. Asian-American youths reported a lower percentage of bullying in the one survey (NCVS) that captured information for that demographic group. See table 7.

¹We tested for differences using a significance level of 0.05.

Appendix III: Selected Data on National Prevalence of Youth Who Report Being Bullied in School

Table 7: Estimates of Youth Who Reported Being Bullied by Race/Ethnicity in Three National Surveys

Race/ethnicity	YRBS 2009	NCVS SCS 2009	HBSC 2005/2006
White non-Hispanic	21.6	29.3 ^a	28.6 ^{b,c}
Black non-Hispanic	13.7	29.1 ^{a,d}	22.7 ^{b,c}
Hispanic	18.5	25.5 ^{a,d}	26.4 ^{b,c}
Asian, not Hispanic or Latino	not applicable ^e	17.3 ^d	not applicable ^e
Other	not applicable ^e	26.7 ^d	28.6 ^c

Source: GAO analysis of YRBS 2009, NCVS SCS 2009, HBSC 2005/2006.

^aIn the SCS, these three racial or ethnic groups were labeled as (1) white, not Hispanic or Latino; (2) black, not Hispanic or Latino; and (3) Hispanic or Latino, respectively.

^bIn the HBSC, these three racial or ethnic groups were labeled as (1) Caucasian, (2) African-American, and (3) Hispanic, respectively.

^cThese estimates have 95 percent confidence intervals of within plus or minus 4.7 percentage points.

^dThese estimates have 95 percent confidence intervals of within plus or minus 9.0 percentage points.

^eData were not collected in this survey in this category.

Appendix IV: Selected Data on National Prevalence of Certain Types of Bullying Behaviors

This appendix provides estimates of the prevalence of being bullied for certain types of bullying behaviors. Three of the four federal surveys that we reviewed provide estimates of the prevalence of being bullied for certain types of behaviors, and the results of each are shown separately. Unless otherwise noted, all estimates in these tables have 95 percent confidence intervals of within plus or minus 2.1 percentage points.

These surveys also found that boys may be subject to somewhat different types of bullying than girls. For example, estimates from SCS and HBSC showed that a higher percentage of boys were bullied physically than girls, while girls were more commonly bullied than boys with rumors or social exclusion, which are examples of relational bullying, or bullying using interpersonal relationships.

Table 8: NCVS SCS 2009: Estimates of Youth Who Reported Being Bullied for Certain Types of Bullying Behaviors

Type of bullying	Estimate (percentage) for this school year
Overall prevalence of being bullied ^a	28.0%
Made fun of, called names, or insulted	18.8
Spread rumors	16.5
Pushed, shoved, tripped, or spit on	9.0
Cyberbullied	6.0
Threatened with harm	5.7
Excluded from activities on purpose	4.7
Tried to make do things they did not want to do	3.6
Property destroyed on purpose	3.3

Source: GAO analysis of NCVS SCS 2009.

^aA separate question on this survey asks about being cyberbullied. This estimate of overall prevalence therefore does not include being cyberbullied.

Appendix IV: Selected Data on National Prevalence of Certain Types of Bullying Behaviors

Table 9: HBSC 2005/2006: Estimates of Youth Who Reported Being Bullied for Certain Types of Bullying Behaviors

Type of bullying	Estimate (percentage) for the past couple of months
Overall prevalence of being bullied ^a	27.0
Spreading rumor: told lies or spread false rumors	31.9
Called mean names, was made fun of, or teased in a hurtful way	31.5
Social isolation: excluded from a group of friends or was ignored	25.6
Bullied with mean names and comments about race or color	13.1
Hit, kicked, pushed, shoved around, or locked indoors	12.8
Bullied with mean names and comments about religion	8.5
Bullied using a computer or e-mail messages or pictures	8.1
Bullied using a cell phone	5.7

Source: GAO analysis of HBSC 2005/2006.

^aAs separate HBSC survey questions ask about the overall prevalence and the prevalence of specific types of bullying behaviors, it is possible for the overall prevalence to appear less than the prevalence for certain types of bullying behaviors. According to one researcher at NIH involved in the HBSC, respondents may be more inclined to respond affirmatively to a specific type of behavior rather than an overall, or general, question on bullying.

Table 10: NatSCEV 2008: Estimates of Youth Who Reported Being Bullied for Certain Types of Bullying Behaviors

Type of bullying	Estimate (percentage) for the past year
Overall prevalence of being bullied	N/A
Teasing or emotional bullying	19.7
Physical bullying or intimidation	13.2
Internet harassment	1.8

Source: GAO analysis of NatSCEV 2008.

Note: For NatSCEV, youth aged 10 and older were interviewed, while adult caregivers of youth under 10 were interviewed.

Appendix V: Coordination Practices of Key Interdepartmental Federal Efforts on Bullying

In table 11 are selected coordination practices that we have previously found help to enhance and sustain coordination across federal agencies, as well as the ways that key interdepartmental activities against bullying reflect those coordination practices.

Table 11: Practices for Key Coordinated Federal Efforts Specifically on Bullying

Selected coordination practices	Federal Partners in Bullying Prevention Steering Committee	Central website (stopbullying.gov)	Stop Bullying Now! campaign
Agree on roles and responsibilities	<p>Education through its Office of Safe and Healthy Students has agreed to serve as chair. HHS through HRSA served as cochair until October 2011.^a On the one hand, these agencies have not developed a formal document that sets their overall roles and responsibilities, given the fluid nature and rapid evolution of the committee and its external environment.</p> <p>On the other hand, despite the committee's evolving organization, agencies can and in some cases have formally agreed on roles and responsibilities for particular projects. For example, the project to develop a uniform definition of bullying for research purposes features an interagency agreement between Education and CDC signed in 2011.</p>	<p>The roles and responsibilities of federal agencies are outlined in a governance document that serves as the framework for coordination across agencies and departments. For example, the participating federal agencies serve on the two governing bodies of the website: (1) the editorial board, which reviews and develops content for the website, and (2) the steering committee, which makes managerial decisions for higher-level planning and resources.^b</p> <p>HHS's lead agency, the Office of the Assistant Secretary for Public Affairs, executed agreements in summer 2011 with Education, HHS's Office of the Assistant Secretary for Planning and Evaluation, HRSA, and SAMHSA that provide funding to maintain and operate the website.</p>	<p>HRSA has collaborated and received funding from Education from the start of the campaign until fiscal year 2010. Unlike in prior years, in fiscal year 2011, Education and HRSA were unable to execute an interagency agreement because of time constraints. Instead, HHS's SAMHSA provided funding to reprint and disseminate informational materials for the campaign.</p>

**Appendix V: Coordination Practices of Key
Interdepartmental Federal Efforts on Bullying**

Selected coordination practices	Federal Partners in Bullying Prevention Steering Committee	Central website (stopbullying.gov)	Stop Bullying Now! campaign
<p>Establish compatible policies, procedures, and other means to operate across agency boundaries, including frequent communication</p>	<p>Education and CDC signed an interagency agreement for the project on the uniform definition of bullying for research purposes. The committee so far has used regular phone meetings, along with its conferences, to share information among federal agencies and potentially with the public. According to Education officials, monthly or even biweekly phone meetings as well as correspondence by e-mail have facilitated preparations for the three conferences in 2010 and 2011. Such internal communication, including electronic Listservs, has also promoted sharing information among federal agencies on upcoming opportunities that may be relevant to bullying, such as upcoming webinars, grant announcements, or recent research publications.</p>	<p>Four agreements provide for the maintenance and operation of the website. The governing bodies have so far operated with frequent communication. According to HHS officials, the editorial board meets approximately every 2 to 4 weeks and corresponds by e-mail, and the steering committee meets quarterly and as needed.</p>	<p>An agreement between HRSA and Education (more recently SAMHSA) has provided for the development, publication, and dissemination of informational materials of the campaign. HRSA has communicated across six federal departments. The campaign also relies on its more than 140 partner organizations to help disseminate materials, such as chapters of the American Academy of Pediatrics or Boys and Girls Clubs of America. One way that these government and nongovernment partners may communicate and provide input to HRSA's communications contractor is seven external work groups that have provided expertise and reviewed materials, especially when the campaign was designed.</p>

**Appendix V: Coordination Practices of Key
Interdepartmental Federal Efforts on Bullying**

Selected coordination practices	Federal Partners in Bullying Prevention Steering Committee	Central website (stopbullying.gov)	Stop Bullying Now! campaign
<p>Develop mechanisms to monitor, evaluate, and report results</p>	<p>The committee as a whole does not have formal mechanisms to monitor results.</p> <p>Specific projects within the committee, such as the project of the research subcommittee on the uniform definition of bullying, may have formal time frames and deliverable products. This project may help other efforts to monitor the extent of bullying and evaluate programs.</p> <p>Besides the uniform definition, another way that the committee and its research subcommittee are helping others to monitor and evaluate antibullying efforts is by sharing information on evaluation research. Because of funding constraints and stipulations, the research subcommittee has mainly focused its activities about evaluation research on participating in local conferences, understanding existing publications, and obtaining information from researchers, including any suggestions for additional research.</p>	<p>HHS and Education officials said they monitor metrics about the use of the website, such as the number of visits. From its launch in March 2011 to the end of December 2011, the website received more than 1.1 million visits, according to HHS data.</p> <p>HHS officials said that they plan to add a qualitative feature for feedback from users and conduct additional usability testing of the website as it continues to evolve in its second phase.</p>	<p>HRSA and its communications contractor track the distribution of the campaign's materials. According to data from HRSA as of August 2011, recipients of the materials in mass mailings included, among others, all 66,000 public elementary and middle schools in the country, 17,000 libraries, relevant state health and education agencies, schools on military bases worldwide, and offices serving American Indian youth.</p> <p>Nongovernment and government partners distributed roughly 92,000 additional materials from July 2007 to August 2011 through a variety of organizations.</p> <p>HRSA has received feedback on the materials from its government and nongovernment partners through the seven implementation working groups through e-mail and occasional phone outreach. Also, in structured discussions held with partner organizations three times since 2003, many organizations reported using the campaign's materials to raise awareness about the problem of bullying.</p> <p>HRSA officials said that the campaign's impact has not been formally evaluated because of funding constraints such that funding for an evaluation could divert resources from delivery of the campaign.</p>

Source: GAO analysis of information from Education, HHS, and Justice officials.

**Appendix V: Coordination Practices of Key
Interdepartmental Federal Efforts on Bullying**

^aPrior to September 2011, the Office of Safe and Healthy Students within the Office of Elementary and Secondary Education was a separate office, the Office of Safe and Drug-Free Schools. The organizational change followed funding reductions to the separate Office of Safe and Drug-Free Schools, including reductions to its grant programs.

^bThe first phase of www.stopbullying.gov relied on three governing bodies, which the governance document reflects. HHS officials said that, for the second phase, federal officials decided to eliminate one of the three bodies to streamline the management of the website.

Appendix VI: Additional Federal Programs and Services Are Available to Combat Bullying

In addition to supporting antibullying activities, the Departments of Education, HHS, and Justice support more broadly focused services and programs that may be used for bullying prevention. Generally, bullying prevention represents one of many allowable activities within these services and programs. Within each agency, officials identified a range of services and programs, including technical assistance, funding opportunities, information sharing, and research, that may include bullying prevention. For example, HHS provides funding for the Children’s Safety Network (CSN), a national resource center for the prevention of childhood injuries and violence. See table 12.

Table 12: Selected Services and Programs That Can Be Used to Support Bullying Prevention

Program or service	Description
<i>HHS</i>	
15+ Make Time to Listen–Take Time to Talk	An initiative to promote healthy child development and to prevent youth and school-based violence.
Safe Schools/Healthy Students Initiative ^a	Grants support school districts in the development of communitywide approaches to creating safe and drug-free schools and promoting healthy childhood development.
Children’s Safety Network	A national resource center for the prevention of childhood injuries and violence that, among other things, provides technical assistance on injury prevention planning, promotes child and adolescent health and safety, and disseminates injury prevention research.
Maternal and Child Health Services Block Grant	Provides funds to all 50 states, the District of Columbia, and 6 territories to promote the health of mothers and children.
<i>Education</i>	
Safe and Supportive Schools grants	Grants to states to measure school safety and to help intervene in those schools with the greatest safety needs.
Positive Behavioral Interventions and Support Technical Assistance Center	A national technical assistance center focused on improving student behavior to foster academic instruction.
<i>Justice</i>	
National Training and Technical Assistance Center	Provides technical assistance to individuals in the juvenile justice field on a range of topics, including webinars on bullying intervention and civil rights.
Secure Our Schools grants	Provides funding to state, local, or tribal governments to assist with the development of school safety resources.
Office of Juvenile Justice and Delinquency Prevention (OJJDP) bulletins	Describes statistics, research, training, technical assistance, and programs funded through OJJDP grants and contracts, and includes the Bullying in School series.

Source: Agency program information.

Note: Agency officials reported that it would be difficult to obtain specific spending information on bullying for these services and programs. Furthermore, it could be misleading to include total service or program amounts because it would misrepresent funding for bullying activities.

^aThe Safe Schools/Healthy Students Initiative (SS/HS) is a collaborative program supported by three federal agencies—HHS, Education, and Justice.

While these programs and services generally support a broader range of activities than just bullying, several of them have been used to directly address bullying. For example, several grantees have used Safe Schools/Healthy Students funding to implement bullying prevention programs. Also, in fiscal year 2010, 2 of the 11 SEAs awarded Safe and Supportive Schools grants devoted resources to bullying prevention. While these services and programs do not always exclusively focus on bullying prevention, officials across the three federal agencies—Education, HHS, and Justice—agreed that their emphasis on violence reduction and healthy behaviors can help prevent and reduce bullying behavior, even if the funds are not used specifically to address bullying.

Appendix VII: Comments from the Department of Education



UNITED STATES DEPARTMENT OF EDUCATION

WASHINGTON, DC 20202

May 11, 2012

Ms. Linda M. Calbom
Western Regional Director
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Ms. Calbom:

Thank you for giving the U.S. Department of Education (Department) the opportunity to review the U.S. Government Accountability Office's (GAO's) draft report entitled "School Bullying: Extent of Legal Protections for Vulnerable Groups Needs to Be More Fully Assessed" (GAO-12-349). The draft report assesses four issues: 1) the prevalence of school bullying and its effects on victims; 2) approaches taken by states and local school districts to combat bullying; 3) federal and state legal options available when bullying leads to allegations of discrimination; and 4) coordination efforts by federal agencies to combat bullying. The Department is pleased to provide the following response to GAO's draft report.

Bullying of any student is unacceptable. It is damaging to that student's ability to benefit from educational opportunities, and can poison the educational environment where the bullying occurs. Preventing bullying and protecting the safety of all students are priorities of the Department. The Department serves as a leader in the federal government's anti-bullying efforts, which are coordinated through the Federal Partners in Bullying Prevention Steering Committee. As the draft report notes, the Department commissioned an analysis of state bullying laws, and, as part of a federal-agency partnership, has made the results of that analysis available on an interagency Web site aimed to provide information about bullying, www.stopbullying.gov. The Department serves as the lead agency on maintaining the content of that Web site. Along with the other Federal Partners, we have coordinated two national bullying prevention summits, which explored a variety of topics related to bullying and sought to raise awareness about this issue.

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The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

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The Department has published extensive policy guidance on issues related to bullying and violence in schools.¹ In addition, the Department operates several other initiatives aimed at ensuring school safety more generally. In 2010, for example, the Department launched two programs to provide states and school districts with financial assistance to reduce inter-student violence. Under the competitive Safe and Supportive Schools program, the Office of Safe and Drug-Free Schools (the program is now housed in the Office of Elementary and Secondary Education) awarded \$38 million to 11 states to develop measurement systems for assessing school safety, building by building, and to implement programs in the schools with the greatest need for reform. The measurement systems will use survey data from students, staff, and parents to improve educational agencies' ability to assess and monitor the prevalence of inter-student violence and bullying. The Department's Office of Innovation and Improvement launched the Promise Neighborhoods Initiative, based on the experience of programs like the Harlem Children's Zone, to help communities plan and implement services that will support students from the cradle to college and career, improving academic performance, student health, and school safety.

In addition, the Department's Office for Civil Rights (OCR) has jurisdiction to investigate discrimination, including discriminatory harassment, on the basis of race, color, national origin, sex, or disability. Although people often use the terms "bullying" and "harassment" interchangeably, all "bullying" does not necessarily rise to the level of discriminatory harassment, which requires that unwelcome conduct based on race, color, national origin, sex, or disability be sufficiently serious that it interferes with or limits a

¹ For instance, the Department has issued the following reports and guidance related to school safety:

- a. Anti-Bullying Policies: Examples of Provisions in State Laws (2010): <http://www2.ed.gov/policy/gen/guid/secletter/101215.html>
- b. Reducing Behavior Problems in the Elementary School Classroom (2008): http://ies.ed.gov/ncee/wwc/pdf/practiceguides/behavior_pg_092308.pdf
- c. Unsafe School Choice Option, Non-Regulatory Guidance. (February 2004): <http://www2.ed.gov/policy/elsec/guid/unsafeschoolchoice.pdf>
- d. Safe and Drug-Free Schools and Communities Act, State Grants, Non-Regulatory Draft Guidance for State and Local Implementation of Programs (January 2004): <http://www2.ed.gov/programs/dvpformula/guidance.doc>
- e. Guidance Concerning State and Local Responsibilities Under the Gun-Free Schools Act (2004): <http://www2.ed.gov/programs/dvpformula/gfsafinaljan04.doc>
- f. Threat Assessment In Schools: A Guide To Managing Threatening Situations And To Creating Safe School Climates (2004): <http://www2.ed.gov/admins/lead/safety/threatassessmentguide.pdf>
- g. The Final Report And Findings Of The Safe School Initiative: Implications For The Prevention Of School Attacks In The United States (2004): <http://www2.ed.gov/admins/lead/safety/preventingattacksreport.pdf>

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student's ability to participate in or benefit from the school's educational program.² OCR has issued many guidance documents on schools' obligations to respond to discriminatory harassment and violence.³

The increasing number of complaints that OCR has received indicates that harassment continues to be a problem for many students. In fiscal year (FY) 2010, OCR received 837 complaints about harassment at the elementary, secondary, or postsecondary level. After OCR issued guidance in October of 2010 clarifying that a school may be obligated to respond to bullying that rises to the level of discriminatory harassment under federal civil rights law, the number rose 34 percent to 1,120 complaints in FY 2011.

OCR also combats harassment in school districts and postsecondary institutions through compliance reviews and directed inquiries that address systemic problems and seek systemic solutions. Since FY 2009, OCR has initiated 14 of these proactive investigations on all forms of harassment covered by the laws enforced by OCR. For example, OCR and DOJ conducted a joint investigation of the Anoka-Hennepin School District to determine whether students in that district were subjected to peer-on-peer harassment based on non-conformance with sex stereotypes in violation of Title IX. As a result of the investigation, the United States joined the lawsuit filed by student plaintiffs against Anoka-Hennepin School District alleging peer-on-peer harassment on the basis of sex. On March 5, 2012, the school district entered into a Consent Decree in the U.S. District Court for the District of Minnesota with private plaintiffs and the United States. Pursuant to the Consent Decree, the District has agreed to take all reasonable steps to prevent and eliminate sex-based harassment, and to respond promptly and appropriately to all reports of harassment.

² OCR enforces Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973 (Section 504) — which apply to all public and private educational programs (whether elementary, secondary, or postsecondary) that receive federal financial assistance — and shares enforcement with the Department of Justice (DOJ) of Title II of the Americans with Disabilities Act of 1990 (Title II), which applies to all public entities, including public schools.

³ For instance, OCR has issued the following guidance related to discrimination, harassment, and violence:

- a. Dear Colleague Letter: Sexual Violence (2011):
<http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf>
- b. Dear Colleague Letter: Harassment and Bullying (2010):
<http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>
- c. Sexual Harassment: It's Not Academic (Revised 2008):
<http://www.ed.gov/about/offices/list/ocr/docs/ocrshpam.html>
- d. Dear Colleague Letter: Sexual Harassment Issues (2006):
<http://www2.ed.gov/about/offices/list/ocr/letters/sexhar-2006.html>
- e. Dear Colleague Letter: Religious Discrimination (2004):
<http://www2.ed.gov/about/offices/list/ocr/religious-rights2004.html>
- f. Sexual Harassment Guidance (Revised 2001):
<http://www.ed.gov/about/offices/list/ocr/docs/shguide.html>
- g. Dear Colleague Letter: Prohibited Disability Harassment (2000) (with the Office of Special Education and Rehabilitative Services):
<http://www.ed.gov/about/offices/list/ocr/docs/disabharassltr.html>
- h. Racial Incidents and Harassment Against Students (1994):
<http://www.ed.gov/about/offices/list/ocr/docs/race394.html>

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Of course, many other cases of harassment are never reported to OCR, so local districts and schools, colleges, and universities must be the first line of defense against harassment. To this end, the implementing regulations of many of the federal civil rights laws require adoption and publication of grievance procedures that provide for the prompt and equitable resolution of complaints alleging discrimination, including harassment, based on certain characteristics.⁴ Designation of a responsible employee to coordinate civil rights compliance, including investigation of complaints, is also required.⁵

While the Department strives to protect all students from bullying and harassment, we appreciate GAO's focus on groups of students who may be especially vulnerable to bullying or harassment. Because students with disabilities — particularly those with intellectual or behavioral disabilities — are one such group, we were pleased that the draft report discussed protections available under Section 504 and Title II. We also appreciate the draft report's discussion of preventive strategies, including Positive Behavior Interventions and Supports (PBIS), Second Step, and Rachel's Challenge. PBIS is a special-education initiative that has school-wide applicability beyond its application to students with disabilities, and the Department's Office of Special Education and Rehabilitative Services has established the Center on Positive Behavioral Interventions and Supports to give schools capacity-building information and technical assistance for identifying, adapting, and sustaining effective school-wide disciplinary practices.

In addition to the statutes identified in Table 3 ("Relevant Federal Civil Rights Laws, Protected Classes, and Agency Enforcement Authority") on page 18 of the draft report, federal protection for students with disabilities may also be available under the federal Individuals with Disabilities Education Act (IDEA). As noted in a 2000 guidance document (see footnote 3(g), *supra*), failing to prevent or address the effects of bullying may violate the IDEA if it diminishes the ability of students with disabilities to receive a free appropriate public education (FAPE). A student (or his or her parents) may address this denial of FAPE through IDEA's complaint or due process provisions. Thus, IDEA provides an important avenue for addressing bullying that the draft report does not address.

⁴ 28 C.F.R. § 35.107(b); 34 C.F.R. § 104.7(b); and 34 C.F.R. § 106.8(b).

⁵ 28 C.F.R. § 35.107(a); 34 C.F.R. § 104.7(a); and 34 C.F.R. § 106.8(a).

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The GAO draft report made four recommendations to which we respond in turn.

Recommendation: *To more comprehensively address the information needs of policymakers and others related to bullying, we recommend the Secretary of Education compile information about state civil rights laws and procedures, as they pertain to bullying.*

The Department shares GAO's interest in disseminating information about the protections available to students who are victims of bullying. The Department recognized that, because of the prevalence of bullying and the harmful effect it has on our nation's students, a single comprehensive resource on all state laws that specifically address "bullying" and related terms might be helpful to policymakers, students, parents, and educators. In an effort to address this need, as GAO's draft report notes, the Department commissioned a report entitled "Analysis of State Bullying Laws and Policies." The report compiled all state laws enacted through April 30, 2011, that address "bullying," regardless of how this term is defined by each state. That report, released in December 2011, is available to the public on the Department's Web site at <http://www2.cd.gov/rschstat/eval/bullying/state-bullying-laws/state-bullying-laws.pdf>. Additionally, updated information on these laws is available on an interactive map at <http://www.stopbullying.gov/laws/index.html>. The Department intends to continue updating the Web site's summary of state bullying laws.

GAO recommends that the Department undertake a survey of state civil rights laws and procedures, as they pertain to bullying, finding that, by not incorporating information about state civil rights laws and procedures in bullying prevention efforts, federal agencies are excluding a potentially important resource for parents, student, and others. For the reasons outlined below, the Department disagrees with this recommendation.

The Department, and OCR in particular, and the U.S. Department of Justice are charged with enforcing federal civil rights laws in the education context. The Department has no jurisdiction, nor the appropriate expertise, to interpret and advise on state civil rights laws. The Department's previous analysis of state bullying laws was limited to compiling a list of statutes or regulations and identifying key components of those statutes and regulations that explicitly made mention of student harassment, bullying, or cyberbullying. These laws predominately cover specific requirements that schools and local educational agencies have in developing anti-bullying policies and procedures, and, with rare exception, do not give specific legal recourse to victims of bullying. This required very little legal interpretation by the Department or its contractor. By contrast, it is often unclear from the text of state civil rights statutes whether they apply in the school context at all, much less to the peer-to-peer behavior that is the predominant form of bullying. Nor are the relevant procedures for enforcement always clear from the text of statutes and regulations. Thus, carrying out the recommended survey would require the Department to offer its own interpretations to the public of state civil rights laws and related state judicial decisions, which is not consistent with the Department's function, and which could result in providing interpretations that turn out to be inaccurate.

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Furthermore, such information would only be useful if it were kept current. Keeping the information current for all 50 States (plus the District of Columbia and other relevant political bodies) would require continually monitoring state law, which would require not only tracking and interpreting statutory amendments, regulations, and sub-regulatory guidance, but also would require a continual review of state judicial decisions. This level of monitoring could often be more essential here, as opposed to the targeted state bullying laws, because of the potential breadth and more general nature of state civil rights laws. Undergoing a time-intensive and costly survey and review of state civil rights laws, in an area in which it has no jurisdiction, would not be an appropriate use of the Department's limited resources. The appropriate interpretation of state civil rights laws, regulations, or procedures in specific contexts is more appropriately left to states, which can provide the most accurate and authoritative guidance on their own laws.

Recommendation: *In order to better ensure that individuals are aware of their options to seek legal redress, especially in cases where their complaints to Education are not pursued due to a lack of jurisdiction, we recommend that the Secretary of Education develop procedures to routinely inform individuals who file complaints of discrimination stemming from bullying about the potential availability of legal options under their state's discrimination laws.*

The Department understands GAO's concern that individuals might not be aware of their options to seek legal redress at the state level. The Department believes, however, that state or local agencies are better positioned to provide guidance regarding rights and procedures for seeking redress under state or local laws. To prevent any misunderstanding about the meaning of the Department's dismissal of a complaint, however, OCR is considering whether to develop procedures that would inform complainants whose complaints are dismissed for lack of jurisdiction that they may have possible recourse under state or local laws.

Recommendation: *To address gaps in knowledge about bullying and discrimination, we recommend that the Secretaries of Education and HHS, and the Attorney General work together to develop information in their studies of youths' health and safety issues on the extent to which youth in various vulnerable demographic groups are bullied.*

The Department, through its Institute of Education Sciences and the National Center for Education Statistics in particular, is willing to work with the Department of Health and Human Services (HHS) and DOJ to explore the possibility of adding additional demographic information (such as information on sexual orientation, gender identity, disability status, and religion) to the national data collections that include measures of bullying victimization. We understand that HHS will be including sexual orientation items in its 2013 National Health Interview Survey, and that HHS has experience with such items on the National Health and Nutrition Examination Survey and the National Survey of Family Growth. The Department looks forward to working closely with HHS on this issue, as HHS has extensively studied the measurement issues.

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The School Crime Supplement to the National Victimization Survey is another important source of information on student safety issues. The Department has historically funded the Supplement with funds appropriated for Safe and Drug-Free Schools National Programs. In FY 2012, because of a severe cut in the appropriation for Safe and Drug-Free Schools, the Department is using National Center for Education Statistics funding to support the Supplement. For future years, it is uncertain that the Department will be able to continue funding this data collection.

Recommendation: *To aid policy makers and program administrators at the federal and state levels in understanding more comprehensively what is being done to address bullying and discrimination, we recommend that the Secretaries of Education and HHS and the Attorney General use information on federal and state bullying and civil rights laws, as well as demographic information from studies of youth health and safety issues, to assess the extent to which protections exist for various demographic groups likely to be affected. Such an assessment should be designed to assess adequacy of coverage and would help identify opportunities to target resources and efforts at areas of potential need.*

The Department collects demographic information on students who allege bullying and discriminatory harassment in several ways. First, with respect to discriminatory harassment, OCR collects certain relevant demographic information when it opens a complaint for investigation. For instance, rather than simply coding a case as discrimination on the basis of race, OCR specifies the race that was the basis for the complaint if that information is available. Thus, for instance, OCR can compare the prevalence of complaints filed alleging discriminatory harassment against Asian or Pacific Islander students to complaints filed alleging discriminatory harassment against Hispanic students. This allows OCR to review data for patterns that may be a cause for concern, and to follow up with policy guidance, enforcement action or technical assistance or outreach.

Second, OCR began collecting information about the prevalence of harassment and bullying in its Civil Rights Data Collection (CRDC) for the 2009-10 school year, and will continue to do so in subsequent collections.⁶ The survey asks districts to report the number of allegations of harassment and bullying based on sex, race, color, national origin, or disability; the number of students reported to have been bullied or harassed on these bases; and the number of students disciplined for this type of harassment or bullying. The collection requests that the latter two categories of data be disaggregated by sex, race/ethnicity, and Section 504, IDEA, and limited English proficient status. Approximately 7,000 districts, which included over 72,000 schools representing 85 percent of the students in our nation's schools, responded to the survey.

⁶ The 2009-10 CRDC collection included the first of its kind school- and district-level reporting of bullying and harassment. However, many districts were unable to provide complete data on students reported to have been bullied or harassed, students disciplined, and incidents by type of bullying and harassment. As a result, these data may be underestimated.

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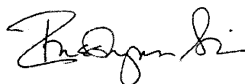
Third, the interactive map on StopBullying.gov provides information on the protected classes, if any, enumerated in each state’s bullying law.

Finally, in the second part of the report that the Department has commissioned — a series of case studies focusing on how state bullying laws and their legislative requirements are implemented by school districts and schools — we ask respondents (including district representatives, school administrators, teachers, special education teachers, physical education teachers, school counselors, transportation personnel, school resource officers (SROs), and yard supervisors) for their perception of how common it is for students to be bullied based on a variety of characteristics, including: gender; physical, emotional, or developmental disability; race or ethnicity; and sexual orientation. We also ask respondents: 1) if there are groups of students that are more vulnerable to bullying; and 2) if their schools take any specific steps to safeguard groups or classes of students who are frequent targets of bullying and whether there are any special procedures for communicating with families about bullying that involves a lesbian, gay, bisexual, or transgender student who may not be “out” to his or her family. We ask school administrators and SROs about the decision process for referring a bullying incident to law enforcement. From these data, and additional data from questions on topics such as communication about bullying policies, training for school personnel, reporting and monitoring, and investigations, the Department expects to begin to develop a better understanding of what schools are doing to address bullying of specific, vulnerable groups.

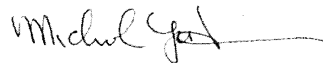
Notwithstanding the Department’s efforts in this area, it is clear that bullying continues to be a problem that threatens our nation’s students, and that certain categories of students are not receiving adequate legal protection. The Department supports legislative efforts to address this problem, specifically the Student Non-Discrimination Act introduced by Senator Franken and Congressman Polis and the Safe Schools Improvement Act introduced by Senator Casey and Congresswoman Sanchez.

In addition to this response letter, we have enclosed a list of technical comments and corrections. We remain available to assist you and your staff in clarifying any issues in the draft report.

Sincerely,



Russlynn Ali
Assistant Secretary for Civil Rights
Office for Civil Rights



Michael Yudin
Deputy Assistant Secretary of
Policy and Strategic Initiatives
Delegated Authority to Perform the
Functions and Duties of the
Assistant Secretary for Elementary
and Secondary Education

Appendix VIII: Comments from the Department of Health and Human Services



DEPARTMENT OF HEALTH & HUMAN SERVICES

OFFICE OF THE SECRETARY

Assistant Secretary for Legislation
Washington, DC 20201

MAY 11 2012

Linda M. Calbom
Western Regional Director
U.S. Government Accountability Office
441 G Street NW
Washington, DC 20548

Dear Ms. Calbom:

Attached are comments on the U.S. Government Accountability Office's (GAO) correspondence entitled: "SCHOOL BULLYING: Extent of Legal Protections for Vulnerable Groups Needs to Be More Fully Assessed" (GAO-12-349).

The Department appreciates the opportunity to review this draft section of the report prior to publication.

Sincerely,

A handwritten signature in black ink that reads "Jim R. Esquea".

Jim R. Esquea
Assistant Secretary for Legislation

Attachment

GENERAL COMMENTS OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) ON THE GOVERNMENT ACCOUNTABILITY OFFICE'S (GAO) DRAFT REPORT ENTITLED, "SCHOOL BULLYING: EXTENT OF LEGAL PROTECTIONS FOR VULNERABLE GROUPS NEEDS TO BE MORE FULLY ASSESSED" (GAO-12-349)

The Department appreciates the opportunity to comment on this draft report. HHS generally concurs with GAO's recommendations and respectfully submits the following general comments.

We support the recommendation of a survey to include the demographics of vulnerable groups. HHS and CDC continue to work with states to enhance Youth Risk Behavior Surveillance System (YRBSS) data collection. Specifically, HHS and CDC would like to increase the number of states and large urban school districts that include questions about sexual identity and/or sex of sexual contacts in their YRBS questionnaire.

Regarding the CDC inter-department project to develop a uniform definition of bullying for research purposes, HHS and CDC believe that nationally representative information on standardized elements (as appropriate for each survey system) to measure bullying will enhance our knowledge and ability to work collectively across HHS and other federal agencies to inform the development of specific interventions that address bullying and make school environments safer for all youth.

In summary, HHS concurs with GAO's recommendations surrounding the current availability of data on vulnerable groups, the need to better understand the extent to which they experience bullying, and the legal protections available to them.

Appendix IX: GAO Contacts and Staff Acknowledgments

GAO Contact

Linda M. Calbom, (206) 287-4809 or calboml@gao.gov

Staff Acknowledgments

Bryon Gordon (Assistant Director), Ramona L. Burton (Analyst-in-Charge), Susannah Compton, Alex Galuten, Avani Locke, Ashley McCall, Sheila McCoy, Jean McSween, Mimi Nguyen, Karen O’Conor, Kate O’Dea, Michael Pahr, Rebecca Rose, Regina Santucci, Matthew Saradjian, Ronni Schwartz, and John Townes made significant contributions to all aspects of this report.

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