

MAINE'S NEW ANTI-BULLYING LAW: PROTECTING EQUALITY IN EDUCATION

– LESSON OUTLINE –

This lesson, created by the ACLU of Maine, addresses the new anti-bullying law that was passed by the Maine Legislature in 2012. Teachers and presenters are encouraged to view it as a guideline, rather than a precise action plan. The activity at the core of the lesson allows students to craft their own version of the anti-bullying law and then compare it to the actual version passed by legislators.

NOTE: The student handout is included at the end of this lesson plan.

OBJECTIVES:

This lesson has several complementary goals:

- 1.) **Educate students about Maine's new anti-bullying law** so that they are aware of its protections and are more comfortable asking school officials for help when their rights have been violated.
- 2.) **Frame the new bullying law in a larger context** of America's history of anti-discrimination laws, particularly with relation to the 14th Amendment and its guarantee of "equal protection of the laws."
- 3.) **Give students a chance to experience lawmaking firsthand** by allowing them to craft their own legislation and then compare it with the actual law as written by the Maine legislature.

Teachers wishing to focus on one of these goals more specifically are encouraged to adjust this outline to their needs. Specifically, if the focus is solely to be on the anti-bullying law, consider shortening or even eliminating Part One of this lesson, which deals with the history of equal protection and previous legislative efforts to that end. If the focus is on the 14th Amendment, consider expanding on those areas while shortening, or even eliminating, the student activity in Part Two.

BACKGROUND INFORMATION – Before starting this lesson, you’ll want to make sure you have a basic grasp of the new anti-bullying law so that you can guide students in the right direction and answer any questions that come up. Here are the basics:

Maine’s anti-bullying law was passed in May 2012, but it wasn’t an easy process. It took two years, two Education Committee votes, two Appropriations Committee votes, and thirteen different votes in the Senate and House. However, when the bill eventually passed it did so overwhelmingly and was quickly signed into law by Governor Paul LePage.

The ACLU of Maine played a key role in writing and passing this legislation, along with many other organizations including the Maine Women’s Lobby, GLAD, EqualityMaine, GLSEN, the Maine Children’s Alliance, the Maine Education Association, and many more.

At the heart of the legislation is a clear and direct prohibition on bullying in schools. Prior to this law, Maine did not have a uniform, easy-to-understand definition of bullying. Now, every public school in Maine must have an anti-bullying policy similar to a model policy that was put out by the Department of Education shortly after passage of the bill. And just as importantly, **schools must now investigate all incidents of bullying and keep records.**

One of the key concerns expressed by educators during the drafting of the anti-bullying bill was the proliferation of cyberbullying. While ten years ago a bully might only have been able to taunt a victim during school hours, the Internet and the widespread use of cellphones among teenagers has created many new arenas for bullying to take place – oftentimes after school hours and/or behind the mask of an anonymous name.

Maine’s anti-bullying law draws no distinction between bullying and cyberbullying, though there are some exceptions for bullying that takes place outside of school time and does not affect a student at school. (This is a complex area of the law that is explored further during the student activity. It’s also a great area to engage students in conversation and debate.)

[Full text of the anti-bullying law is available here.](#)

Teachers wishing to further refresh their memory or searching for another supplement for their students should consider reviewing these news articles:

[Despite early support, bullying bill set aside](#) (6/30/11 – *Portland Press Herald*)

[Anti-bullying bill wins late OK by Legislature](#) (5/22/12 – *Associated Press*)

[Thanks to new law, Maine schools equipped to tackle bullying](#) (11/14/12 – *Portland Press Herald*)

[Maine's new law not last word on bullying](#) (9/1/13 – *Portland Press Herald*)

PART ONE: Putting the Anti-Bullying Bill In a Constitutional Context

As previously mentioned, teachers have discretion over how much they want to explore these topics as part of this anti-bullying lesson. If time permits, it is useful to familiarize students with the 14th Amendment and get them thinking about the challenges posed by the guarantee of “equal protection under law.” If time is limited, either abbreviate this section or eliminate it altogether.

14th Amendment (~10 minutes) – To bring everyone up to speed, give a very brief history of the 14th Amendment to make sure students know its historical context:

- Passed in 1868, just a few years after the Civil War, the 14th was the second of the Reconstruction Amendments. (The others were the 13th Amendment, which ended slavery, and the 15th Amendment, which gave blacks the right to vote.)
- Though the 14th Amendment is long and covers a lot of ground, its first three clauses are the ones most important to remember:
 - 1) **Citizenship** – Most students will (at least vaguely) remember the Dred Scott Decision. Explain that the Citizenship Clause officially reversed that ruling, codifying in the Constitution that *all* people born in the United States are citizens both of the country and of their state.
 - 2) **Due Process** – This clause guarantees everyone a fair process when faced with denials of life, liberty and property. Students may better understand this if you explain that schools must provide due process too. (Common examples include notification of charges, a fair hearing if you’re suspended or expelled, and requirements that the punishment fit the crime.)
 - 3) **Equal Protection** – This is the most relevant clause to our subject, but it’s also one of the most hotly debated ones. The key point to stress to students is that the Equal Protection Clause in the 14th Amendment is the primary tool we use in court to ensure equality. Of course, like many phrases in the Constitution, there are differing views on how equal protection should be applied.

Federal vs. State: Generally speaking, the importance of the 14th Amendment in redefining the power of states relative to the federal government is not an area worth exploring in this lesson. However, with older students (particularly an AP Government class) it could be a good idea to cover this in more depth. Explain how the 14th Amendment has been slowly used to *incorporate* the Bill of Rights to state governments and how it reshaped the constitutional requirements that states must meet. Ask students to weigh the pros and cons of requiring all states to abide by the Bill of Rights. (Is it a good thing because it guarantees more uniformity of rights across all states, or is it a bad thing because it infringes on states’ rights?)

Explain “protected classes” to students. As we will see later on when we examine the anti-bullying law, legislation often explicitly protects certain groups of people to ensure that they receive “equal protection under the law” and are not the victims of discrimination. These groups are usually called “protected classes” (or “suspect classes” in some legal contexts.) Common examples include race, religion, and sex, but plenty of other characteristics could be made into a protected class too.

→ Students often have strong opinions on protected classes. Frequently they find them to be a bad idea. The activity at the end of this lesson will give students a chance to create their own list of “protected classes” and provides an opportunity for discussion, so don’t feel pressured to debate the pros/cons here, though if you have time and students seem eager to share their thoughts it may be beneficial.

Plessy and Brown: After introducing the 14th Amendment, a quick recap of the cases of *Plessy vs. Ferguson* and *Brown vs. Board of Education* is a good way to illustrate the hypocrisy that often accompanies the interpretation of new laws. (As a reminder, *Plessy* was the case in 1896 that upheld segregation on the grounds of “separate but equal.” *Brown* was the landmark decision in 1954 that struck down segregated schools on the argument that “separate educational facilities are inherently unequal.”) The best practice here is to ask students to volunteer and recap these cases if possible. Apart from getting them more involved, this will also help you understand where the class’s knowledge base is.

DISCUSSION:

If time permits, end this section on the 14th Amendment with a discussion of the real-world implication of “equal protection.” Here are a few possible questions to get students thinking:

- What does the phrase “equal protection under the law” mean to *you*?
- Using your knowledge of U.S. history, how would you say the United States has fared in our quest to bring about “equal protection under the law”? Has the last decade been any better than previous ones?
- Is it ever OK to treat people differently? If so, how do we know when it’s OK to do so? (Some easy examples of differential treatment: Voting age, Bathrooms, Insurance premiums, Sports, Drinking Age, etc.)
- Are any of you willing to share an experience when you were discriminated against? If you can, try to think of how it might relate to the Equal Protection Clause and whether or not any law was broken.

Legislating “Equal Protection” (5-10 minutes) – There are countless examples of laws that aim to protect equality. Ask students to name a few that come to mind. Here are three noteworthy ones that exemplify the types of things that legislatures can do to bring about equal protection of the law:

1. **Civil Rights Act of 1964** – One of the most far-reaching pieces of civil rights legislation in history, this act outlawed discrimination in hotels, restaurants, and theaters, as well as other places of public accommodation. Make sure students note the year and draw on their knowledge of U.S. history to consider how legislation like this might be passed in *response* to a protest movement. Would we have this law if not for the Civil Rights Movement?
2. **Maine Human Rights Act (1971)** – Maine’s major anti-discrimination law, which is similar to the Civil Rights Act of 1964.
 - a) Protects against discrimination in: Employment, Housing, Access to public accommodations, Extension of credit, Education.
 - b) Specifically protects against “Unlawful Educational Discrimination.”
 - c) Specific “protected classes”: Race, color, ancestry, national origin; Religion; Sex; Physical or mental disability; Age or familial status. Sexual orientation was finally added to the list by Maine voters in a 2005 referendum, a good example of how laws can change along with society.
3. **Title IX (1972)** – Though best known for its impact on sports, it was originally passed with the much larger goal of ending discrimination based on gender in public schools. Title IX made it illegal to discriminate in the areas of curriculum, extracurriculars, counseling, financial aid, and other student services.
 - Depending on the nature of the lesson, you may not want to expand on Title IX. If you do, consider engaging the adults in the room, particularly if they are in their late 50’s or above. Ask them what school was like back in their time for boys and girls. Oftentimes students today don’t realize how different things were just a few decades ago, not only for sports but with gender-specific “home ec,” “shop class,” etc.
 - One of the most common criticisms of Title IX is that it leads to less funding for male sports. If a student expresses this opinion, politely explain that this is largely a myth. While cuts are occasionally made to male programs as a result of Title IX, this is not the intent of the act and in fact it is strongly discouraged. Administrators who go that route have simply made a bad choice in how to comply with the law.

PART TWO: Exploring Maine's Anti-Bullying Bill

Anti-Bullying Activity Lead-In (5-10 minutes) – Begin by giving a very broad overview of the anti-bullying law and a brief history of its passage so that students who are unaware of its existence will have some background before beginning the activity. Reference previous page for more in-depth information if desired, but at least cover these basic facts:

- The law requires every public school in Maine to adopt an anti-bullying policy and to keep records of all incidents of bullying. (In just a moment we'll see what some of the other pieces of the law are.)
 - Maine Legislature overwhelmingly passed the law in 2012 and Governor LePage signed it shortly after.
 - It took two years to get it passed, with multiple revisions and debates over exactly what it should say and how strongly worded it should be.
 - The ACLU of Maine helped write large portions of the law, and many other organizations and individuals (including students) were involved with the drafting of the bill and the lobbying of legislators.
- **Divide students into groups and distribute handouts to each student.**
An ideal group size is 4-6 students, but vary as needed. Smaller is better than larger, so don't allow students to form mega-groups of 7+.
- **Explain the activity to students:**
- The handout in front of you is an *exact copy* of the anti-bullying law as passed, except that a few of the key sections have been cut out.
 - Your job, as a group, is to complete those sections and craft a law that you believe will appropriately deal with the issue of bullying in schools. Draw on your own experiences and craft the law that *you* think will most effectively and fairly address the issue of bullying in school.
 - Your answers for each section do not need to be very long. It's much more important that you focus on the precise language you are using. Details matter greatly in legislation, so think carefully and try to envision potential problems that could arise.
 - You are welcome to use bulleted or numbered lists to fill in the sections – in fact, legislators did this in several of these sections as well!
 - On the border of each section you'll find a few tips, and you should feel free to raise your hand if you have any further questions.

Students Carry Out Activity (25-35 minutes) – The amount of time you have remaining should dictate how much you can allot for the activity itself. At a minimum, try to leave 10 minutes afterwards for discussion and debriefing. Ideally it would be best to leave 20-30 minutes for a full exploration of the issues, but make sure to at least leave time for students to share their thoughts after seeing what the actual law says. If time is very short, consider leaving out one of the blank sections on the handout that students are filling in. (“Alternative discipline” is probably the best choice.)

Students work in groups (15-25 minutes)

- a) Walk around and check in with each group to see how they are doing.
- b) If students are struggling with a particular section, you may want to suggest that they move on and come back later. It’s better that they at least attempt to work on each section as opposed to getting preoccupied with one at the expense of all the others. When it’s time for discussion, it might be instructive to ask students to explain why they struggled with a particular section. What was it that caused them concern? Were they balancing two different perspectives or was there something else that held them up?

Reconvene and share answers (~10 minutes)

- a) Begin with the first section and have students share their answers one group at a time. After each group has gone, display the actual text of the bill on the PowerPoint presentation or read it out loud. Point out obvious differences or similarities to students’ responses.
- b) Assuming time permits, it may make more sense to initiate a discussion on each section immediately after going through it, as opposed to going through all the sections and then circling back. (See the following step for suggested questions.) If time runs short, you may focus your discussion on one or two areas and simply show students what the actual law says on the other sections without going through the process of sharing answers and discussing.

USING POWERPOINT: This is the part of the lesson that PowerPoint is extremely helpful for. The presentation has been constructed so that the instructor may bring up the question on the screen and then cycle through and display the text of the actual bill after each group gives its response. Even if you are uncomfortable using PowerPoint for the rest of the presentation, it is advisable to use it here as it will make it much easier for students to see what the actual law says, and also easy for you to pause and go more in-depth with particular phrases or lines written in the law. However, if PowerPoint is unavailable, you may of course simply read the text out loud.

Discussion / Comparing Ideas (Remaining time) – Once each group has shared their answers for each section, take the opportunity to lead them in a discussion. Often the groups will take different approaches to their responses, so give them a chance to explain why they did it their way. If the students are talkative you may well be able to step back and let them discuss the section without much prodding. If the conversation doesn't lead in an obvious direction, here are some sample questions you could ask:

Protected classes

- a) What struggles did you encounter when trying to create your list of protected classes? Were there disagreements among your group?
- b) Are protected classes useful in ensuring equal protection? Why or why not?
- c) How did your group decide when to pronounce your list of protected classes complete? Do you think it's better to go with a long and exhaustive list or a short one that covers the most important characteristics?

Definition of bullying

- a) Did you find this task difficult? Why was it so hard?
- b) Was it tougher to avoid being overly narrow or overly broad?
- c) Do you think the actual law's definition is a good one? Does it provide clarity or simply make things more complicated? Were any of your groups' answers better or did the legislators hit the nail on the head?

Scope

- a) Should the school be involved with bullying that takes place off school grounds? (If so, under what circumstances?)
- b) How does cyberbullying differ from more traditional forms of bullying? How is it the same? Should the law treat both types of bullying equally?
- c) Where does the burden of responsibility for dealing with bullying shift from the school to the parent, and does it ever shift completely or are both groups always partially responsible?

Alternative discipline

- a) Is suspension an appropriate/useful punishment for bullying?
- b) How would you like to see your school handle bullies?
- c) Should physical bullying and verbal bullying be dealt with the same, or are they fundamentally different?
- d) Can discipline plans for bullying be set in stone or do they need to be flexible and embrace a more case-by-case approach?