

AN ANALYSIS OF CALIFORNIA ANTI-BULLYING POLICY EVOLUTION

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Master of Arts in Education

by  
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## Abstract

The purpose of the study was to examine and analyze policy making theory related to California's anti-bullying laws and major court cases to explain how state policy has evolved over time. Another aim was to apply policy making theories of windows, bureaucracies and framing to explain how entrepreneurs changed the state's anti-bullying policy. Qualitative methods were applied to analyze key legislative bills and court cases. The thesis focused on the process and analysis of how decision agendas are set within government. The principal conclusions were that trigger events and entrepreneurs played a predominant role in changing California's anti-bullying policy.

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## Chapter 1

“The children of this state have the right to an effective public school education. Both students and staff of the primary, elementary, junior and senior high school campuses have the constitutional right to be safe and secure in their persons at school.” (California Education Code, Section 35183). Yet bullying in any manner is becoming more prevalent and complex. More clearly defined laws will be needed to reflect a culture of increased tolerance which protects the dignity of the individual.

Bullying is a global epidemic which our nation is attempting to deter. As there is no existing federal law addressing bullying, it remains a state issue. As such, California enacted the Interagency School Safety Demonstration Act in 1985 which included the words, “bullying” and by “electronic means” in order to provide legal protections. Upon examination of policy changes in California, one must also look to the national level. On the national level, during the period of 1998-2012, there is evidence of serious criminal acts through bullying and cyber-bullying which have resulted in the loss of life. During the period between 1998 -2012 the state expanded its policy by further defining laws related to student safety, gender discrimination, harassment, intimidation and bullying.

The international research of Dan Olweus (1973) provided groundbreaking studies on bullying and explained that *bullying* is “*aggressive behavior* that is intentional, involves an *imbalance of power*, and is most often *repeated over time*.” With rapid changes in the youth culture, the use of the internet is becoming more ingrained and this is associated with the use of digital technologies. Nancy Willard, Director of the Center for Safe and Responsible Internet, described *cyber-bullying* as being cruel to others by sending or posting harmful material or

engaging in other forms of social cruelty using the internet or other digital technologies. In this manner, some bullying is not student-on-student in the traditional schoolyard sense but is acted out and communicated through electronic means. Smart phone usage and the Internet have created an electronic youth culture.

Significant policy change occurred in support of Lesbian Gay Bisexual Transgender population (LGBT) rights. Advocacy groups such as the American Civil Liberties Union (ACLU), Equal Rights Advocates (ERA) and the National Organization for Women (NOW) pushed for policy changes. Associated with the policy changes were significant court cases testing the new legal framework. The state continued necessary policy advances through the dedication of those who advocated for proposals. These individuals can be inside or outside the government system and are referred to as “policy entrepreneurs” (Kingdon, 1995). Through the passage of new laws and expanding language clarification on existing laws the state addressed issues of student safety, gender discrimination, harassment, intimidation and bullying.

The main findings of this study suggest that policy changes are affected by external events and situations. Additional findings suggest that policy advances can occur slowly or rapidly over time. Although advances are recognized there are areas which will continue to require additional support of the victim. In relation to other states, California laws lack fortitude particularly in the area of victim’s rights and counseling support. As a result, this directly impacts the problem and current policy for our state.

Furthermore, the research findings are significant as they created a unique historical, legislative and policy snapshot on the issue of bullying over time for California. The analysis,

from an historical perspective provides the lens with which to view public education policy on student populations and the broader social context.

This study is grounded on theories of policy making, framing and bureaucracies. It examined the forces involved in changing policy from 1998 to the present and analyzed the laws and major court cases. The guiding questions are: *What forces shaped California's anti-bullying policy within newly enacted laws and changes in education code regulations? How does policymaking theory explain the creation of a statewide anti-bullying policy?*

## Chapter 2

### **Conceptual Framework**

California's bullying policy has evolved through a dynamic means grounded with a confluence of national and state legislation. This study addresses the questions of the evolution of the state's bullying policy, the analysis of policy formation theories and creation of the current bullying policy and practice at the state and local levels. The chapter starts with John Kingdon's policy making theory and further discusses policy framing (Itkonen, 2009) and front line operators in bureaucracies (Wilson, 1989). Finally, the chapter examines California laws, education code and major lawsuits chronologically in order to answer how the bullying policy has evolved to its current status. Two questions guided this study:

1. What forces shaped California's anti-bullying policy within newly enacted laws and changes in education code regulations?
2. How does policy making theory explain the creation of a statewide anti-bullying policy?

This study is grounded on theories of policy making, bureaucracies, and framing. In this section I will discuss each.

### **Theories of Policy Making**

#### **Policy Streams and Policy Windows**

When examining how bullying policy has evolved over time in California and what forces have impacted policy changes, it is important to investigate how institutions function in

creating policy. In *Agendas, Alternatives, and Public Policies*, Kingdon (1995) presents theoretical models of policy streams and policy windows explaining how ideas become policy.

He reasoned that to understand and influence policy, one must understand the agenda setting process. To simplify and make sense of political complexities and how issues are placed on the decision agenda, Kingdon theorized that the problems stream (issues), policy stream (solution) and political stream (national mood and public opinion) are constantly moving through the institutional system. While the problem, policy and political streams are in constant motion, Kingdon describes the policy window as the particular opportunity for attaching a specific solution to the issue or problem and thereby pushing it through onto the decision agenda. Thus, the three independent streams are coupled by the entrepreneur whose legislative solution presents minimal or no financial outlay. Although the policy entrepreneur has no control over major events, this politically powerful individual must await them. According to Kingdon (1995), the opening of the policy window is likened to the opportunity in space launch; the launch must occur or the opportunity will be lost. The policy window opens in response to compelling problems, external crisis or by “focusing events” in the political stream. Moreover, policy windows can be triggered through inciting interest in a new problem, or by influencing a change in what was previously seen as a good solution or advice.

Policy entrepreneurs couple the streams at the window and thus push their solution onto the decision agenda. Willing to invest their resources in return for favored future policies, their motivation comes from an alignment with certain issues or causes, claiming credit for their accomplishment and promotion of their policy values. Kingdon would argue the entrepreneur brings several key resources to the forefront: claims to a hearing, political connections and negotiating skills along with sheer persistence. They embody persistence, tenaciousness and the

ability to speak well. Possessing excellent negotiating skills they spend a great deal of time in speaking engagements, writing position papers to key figures and spend their own financial resources. They could be journalists, lobbyists, career politicians or powerful venture capitalists such as Bill Gates. With regard to problems, these individuals focus to highlight and dramatize key issues such as in a focusing event (tragedy or crisis). Often utilized is the method of bringing forth a symbol which captures the focus of the problem in a nutshell. These power brokers are motivated by: concern about certain problems, expanding their bureaucracy and promotion of their policy's values. Regarding proposals, entrepreneurs are involved with writing papers, giving testimony and holding hearings to get the press coverage and thereby influence the public and policy makers in the political arena. As to coupling, entrepreneurs have their pet proposals ready to push them and the right time and couple the solution to the problem, along with problems to political forces and thereby the political forces to the proposal. Without skillful entrepreneurs, the linking of the problem, policy, and politics streams would not take place as they must be ready to go to attach a solution. Their sheer tenacity pays off in the end. Their persistence to causes can be reflected in personal issues which become the focus upon societies greater good. To analyze policy change it is critical to have a clearer understanding of the intent and focus of the individuals who authored the policy changes.

“Political appointees come and go, but the bureaucracy endures”, states Kingdon (p. 33). He would argue that the position of state governor as a career bureaucrat in terms of political power would create a policy entrepreneur as prominent as Governor Jerry Brown (D). According to Kingdon, the three main characteristics of the career bureaucrat are: longevity, expertise and their relationship with government representatives and interest groups. Typically, governors will meet with committees to promote, support and assist in the passage of bills.

Brown truly embodies these characteristics and is a beacon as a career bureaucrat and policy entrepreneur. Brown has a long standing relationship with the political system having been elected twice for governor from 1975-83 (reelection) and 2011 to the present. Moreover, he is well acquainted with California politics, the legislature, and interest groups through his political longevity. Brown, as governor, also lobbies his own causes in the legislative committees to ensure support. His civil rights views can be summarized in his January 24, 2011 statement to the Black Caucus Martin Luther King, Jr. Celebration, "Education is a civil rights issue."

The son of Governor "Pat" Brown, Sr. (1959-67), he has initiated educational reform and solutions during his career which included being elected to the Los Angeles Community College Board of Trustees in 1969 and personally creating two innovative and successful charter schools while mayor of Oakland. He has served California as Secretary of State, Chairman of the California Democratic Party, Mayor of Oakland and Attorney General of California in addition to holding the office of governor twice. Brown was elected and held office from 1975-1983 and 2011 to the present. Policy change in California during 2011 for anti-bullying measures occurred quickly during Brown's first year of office through the signing of AB 746, AB 9 and AB 1156. The signing of these three anti-bullying bills within a short period of time contribute to Brown's historical legislative legacy of upholding civil rights for all students and creating a safer school environment. Therefore, the open window is the true opportunity for the entrepreneur to link the problems, proposals and political streams moving the package of the three onto the decision agenda.

### **Framing**

"An organization's task is to determine how to present its interests in a way that most

effectively persuades policy makers” (Itkonen, 2009, p. 30). In her book, *The Role of Special Education Interest Groups in National Policy*, Itkonen describes the manner in which advocacy groups and organizations package and present the policy solution to politicians. Key to successful presentation is presenting the core idea as a social problem rather than a private concern. The narrative structure of stories is remembered more easily. The narrative stories of hope as opposed to the stories of decline (worsening of conditions) are strategically presented to create a more compelling argument for a policy proposal. These problems must be presented as a central organizing idea of what the controversy is about and what is at stake (Itkonen, 2009). The presentation of the central organizing idea of bullying and its negative impact as a social problem, with narrative stories and trigger events created key legislation for policy change. Thus, it’s full impact statewide and at the local levels ultimately fulfills the intent of the law to create safer school environments.

### **Tasks, Goals and Operators**

While individuals and institutions within government create public policy, it is critical to understand policy goals and the individuals responsible for their implementation. In his book, *Bureaucracy: What Government Agencies Do and Why They Do It*, James Wilson (1989) describes operational tasks and goals. Bureaus and agencies within government have public policy goals and tasks. For example, a goal statement for the Federal Communications Commission is to achieve the orderly development and operation of broadcast services. The Department of Labor’s goal statement is to foster, promote, and develop the welfare of the wage earners of the United States. These goals are vague as individuals differ in their interpretation of such bureaucratic terms as “decent”, “security”, “orderly”, “welfare”, and “potential”.



Wilson's theory on the "bottom up" approach about functioning within a bureaucracy explains that to understand a bureaucracy one must understand what its front line workers learn to do in certain situations. Providing a service to the public is central to a government bureaucracy (teachers in a school, guards in a prison, doctors and nurses in hospitals). Workers who justify the existence of the organization are the "operators" such as patrol officers and detectives in a police department, letter sorters and carriers in the Postal Service and diplomats in the State Department and so forth (Wilson, 1989). There is a tendency among the public to criticize agencies which do not appear to be performing in accordance with its goals. "A clear goal is an operational goal" (Wilson, 1989, p. 34). Other agencies have inconsistent (vague goals) and what the workers do will be related to the circumstances encountered on the job, as well as beliefs and experiences which they bring to the job. Additionally, members of organizations bring prior experiences, professional norms, personality and ideology into the environment which impact decisions. For instance, no matter what the stated goals of the organization, the behavior of the clients and the technology available will have a direct impact on what the operator does within that setting. From an educational perspective, the school as a bureaucracy has as its leaders the governor, superintendent of schools, the legislators and the school board. Teachers are placed at the front line within their own classrooms to have an orderly, respectful and productive learning environment. The teacher may seek as a front- liner remedies for the problem, such as counseling, staff development, and/or conferences with parent or principal. The laws in the education code dictate how schools implement certain areas such as in the Williams Settlement.<sup>1</sup> Williams was a class action suit brought against the state over issues of safe schools, qualified teachers and adequate textbooks. Terms of the settlement included annual visits to school sites by county and district superintendents to and quarterly reporting to

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<sup>1</sup><http://www.cde.gov/eo/ce/wc/index.asp>

the state to ensure that California schools are safe, staffed with qualified teachers and that students have adequate textbooks for learning. Another example, school districts are mandated by the new anti-bullying laws to implement training programs for students, staff and parents. The schools have clear operational goals and are mandated to function as educators while also protecting student safety.

### **Review of Research**

Bullying is a global epidemic which negatively impacts youth in the areas of academic performance, school safety and mental health and thus has major implications for policy change (Olweus, 1991; Kaitiala-Heino, Rimpela, Marttunen, Rimpela & Rantanen, 1999; Worthen, 2007; Miller & Hufstedler, 2009). Pioneering scholarship was conducted by Norwegian researcher, Dr. Dan Olweus during the early 1990's and the more recent cyber-bullying scholarship conducted by the team Drs. Hinduja and Patchin. Currently, the field of cyber-bullying research is in its infancy; however, some recent studies have examined negative effects upon adolescents. In a study conducted by a team of Finnish researchers examining adolescent psychosocial risk factors of cyber-bullying and victimization, both the cyber-bullying and cyber-victimization groups are positively associated with psychosomatic problems such as headache, sleep problems, abusing alcohol and smoking cigarettes (Sourander, Klomek, Ikonen, Lindroos, Luntamo, Koskelainen & Ristkari, 2010). Additionally, their research brought to light that one in four adolescent cyberbullying victims feared for their safety. Dan Olweus examines psychosocial risk factors and impact upon adolescents indicating that bullying at school supports later criminality through anti-social behavior and later participants in mental health and social justice systems (Juvonen, 2001; Olweus, 2011). The most prominent anti-bullying program, The Olweus Bullying Prevention Program, is evaluated and found to be the most effective after four

years of implementation for urban elementary and middle schools in the United States , Norway and Sweden (Black & Jackson, 2007; Black & Washington, 2007; Ttofi, Farington & Baldry, 2008; Bauer, Lozano & Rivara, 2007; Olweus, 2005b). In a study conducted by Chavez, Oetting and Swaim (1994) Hispanic as well as Caucasian non-Hispanic youth were negatively impacted by campus violence and drop-out rates. Juvonen's studies indicated incidents of victimization supported the theory that those abusing are potentially violent (2001). According to research reported by Pagliocca, Limber and Hashima (2007) for the Chula Vista California Police Department, the Olweus Bullying Prevention Program had a positive effect upon drop out and youth violence on middle and high school campus with funding sources from grants and other entities.

There is growing recognition that traditional schoolyard face to face bullying has expanded through electronic means or cyber-bullying. According to Conn (2011), cyber-bullying is a pervasive and growing problem requiring increased protections for victims. Further, there is significant negative impact both upon student achievement as well as across the lifespan thereby creating forces for policy change. Increasingly, the public health concern of cyber-bullying/cyber-victimization is coming to the forefront on policy agendas with legislation being passed in many states. From a public health perspective, studies supported a significant rise in drinking rates and eating disorders for male and female students respectively (Fekkes, Piipers, Frederiks, Vogels, & Verloove-Vahorick, 2006). Hinduja and Patchin (2009) found cyber-bullying positively linked to assaultive behavior and substance abuse. Further, their national gender studies contradicted earlier research regarding female cyber-bullying. No statistical significance was found between boys and girls in terms of their experiences either as victim or offender. Female students may be entering the Internet as the ideal forum for cyber-bullying

contrasted to traditional school site bullying. They postulate more indirect forms of bullying including psychological and emotional harassment are favored in adolescence.

Although social network sites are more widely adopted worldwide with physical limitations and decreased freedom in the physical realm, the preferred mode for bullying was found to be Instant Message (IM) or Chat Rooms (Livingstone & Brake, 2009). Moreover, cyberspace is the new risky environment for adolescents to explore and experience bullying beyond the school grounds (Juvonen & Gross, 2008). Access to the internet allows cyber-bullying to be anonymous and available 24/7. Students experience harmful psychological effects from cyber-bullying incidents and according to Juvonen and Gross, 2008, retaliate from these incidents at school as the student struggles against presumed aggression. This links online and offline bullying, impacts student psychological health and has strong implications for school policy. Adolescents who are either the bully or victim or both evidence symptoms of anxiety, depression, alcohol abuse, over the counter medication abuse, runaway episodes, hospital stays / surgeries, physical or emotional problems, absenteeism, eating disorders and poor school performance ( Srabstein, Berkman & Pyntikova, 2008). Their work examined anti-bullying legislation from a public health policy perspective and concluded that there is an urgent need for the implementation of school bullying prevention laws. The recommendation, highlighting tragic loss of life, was based upon two factors: the extent to which state laws reflected the key components of public health concerns and the extent to which our nation's students were protected under these laws. Their findings indicated that since 2007, 35 states protect 77% of the nation's school age students. Most importantly, only 16 of those states have comprehensive statutes that cover a comprehensive approach to the critical public health anti-bullying principles. These laws will require a clear definition of the problem and address it fully within schools with

an emphasis upon prevention and training. The study was based on analyzing state statutes and provided further evidence of the need to further address policy changes in this area.

In this light, bullying not only has a negative impact upon academic performance but society as a whole through the correctional justice, legal and health care systems. Further, the loss of life from victimization must be emphasized. Underscored with the mandate for all students in grades 2-12 to score proficient on standardized tests from the No Child Left Behind (NCLB) mandate, districts remain challenged due to shrinking budgets. Moreover, online anonymous bullying harassment 24/7 through social networking sites has now established itself as the preferred medium. Although educational entities are now required to follow guidelines set forth in state laws, these safeguards are foreshadowed with the prevalence of the problem, budget cuts, staff education and bullying prevention program options.

Bullying is identified as the most predominant problem that school age children face within the school setting and poses a significant health risk. According to Raskauskas and Modell (2011), anti-bullying programs have mainly ignored the special needs students who are most at risk as this subgroup is harassed, bullied and intimidated more than their peers. Therefore, students with disabilities need to be included as stakeholders within the school environment with bullying prevention programs and the interview reporting process modified and tailored to match the level of understanding of the student. Researchers Raskauskas and Modell (2011) recommended the support of language impaired students by tailoring aspects of prevention and reporting to fit their receptive and expressive language abilities. Further, the recommendation to focus on inclusion of awareness, efficacy and skill building for this at risk group, upholds due process rights under federal laws discussed in Chapter 1. Research supports

the needs of this subgroup as requiring increased safety within the school setting and therefore poses an area for further study.

Cyber-bullying can be viewed as online social cruelty linking students to emotional troubles thereby establishing the non disabled at risk for adjustment problems and impacts public health over time (Edur-Baker, Tannkulu, 2009; Hoff & Mitchell, 2009; Patchin & Hinduja, 2006, & 2010; Ybarra, Mitchell, Wolak & Finkelhor, 2006). Relevant to adjustment problems is the interplay and co-joining of another group; being a cyber-bullying victim as well as the cyber-bully. According to Grading, Strohmeier and Spiel (2009), most all cyber-bullying victims were also traditional bullying victims and both must be considered simultaneously in order to accurately identify poor adjustment risk groups. The adjustment problems of cyber-bullying need to include: traditional bully, victim or bully and victim. Those with lower self esteem are more likely to be a victim or perpetrator (Livingstone & Brake, 2009) Engaging in and exposure to cyber-bullying positively correlates to adjustment problems and therefore creates a broader risk group of students to support and protect. Whether disabled or not, all students may be at risk for psychological maladjustment. The psychological concerns for those identified as victims and/or as perpetrators will need to be sufficiently addressed at the local level. The issue not only has negative impacts at the local level within school districts but in a broader public health context at the state level.

Most experts agree that students with disabilities are harassed more by their same age peers than those without disabilities (Raskauskas & Modell, 2011; Young, Ne'eman & Gelser, 2011). As such, the special needs population represents both civil rights and public health challenges. Underscoring this is a dearth of research for special needs students either in isolation or as a subgroup. Furthermore, with the increase of identification of students with physical and

cognitive disabilities such as individuals with autism, those working with this population need to address the bullying issue for students with special needs (Carter & Spencer, 2006).

Young children are swiftly adopting mobile Smart phone technology to access the internet at an earlier age thereby requiring society to also employ swift policy changes for child protection. Mobile Smart phone technology use by children is not the key issue; nevertheless there are potential risks inherent in its use by children. With the new opportunity comes a wide range of risks involving safety and privacy. More specifically, social networking site participation is associated with risks such as: bullying, harassment, exposure to harmful content, theft of personal information, sexual grooming, racist attacks and encouragement to self-harm (Livingstone & Brake, 2009). Therefore, policy framing (Itkonen, 2009) will play a key role in order to provide increased protections for cyber-bullying. On a global scale, children and youth have enthusiastically adopted social networking sites for many reasons. In part, this is attributed to the decrease of social freedom in the physical world.

Technology as a medium for abuse presents many aspects for future policy with rapid adoption to various options for communications. Livingstone and Brake (2009) highlight areas for oversights and safeguards which include: digital literacy, parental oversights and imbedded safe internet software. In a global context, the United Kingdom and European nations are utilizing “safe internet” software as parents require more child protection in the home environment.

### **Anti-Bullying Legislation on the Policy Agenda**

Assembly Bill 499, authored by Kuehl (D-Los Angeles) and enacted in September, 1998 is known as the Sex Equity Act and is a major legislative bill upholding civil rights for LGBT

individuals. Sheila Kuehl, a Harvard Law School graduate specializing in gender law is the first openly gay member of California's legislature. Kuehl is also California's first woman speaker pro Tempore of the Assembly and successfully authored AB 499 in the late 1990's. This law requires students to exhaust administrative remedies prior to pursuing civil litigation and it limits the time a lawsuit can take. The administrative grievance process can take more than a year to exhaust, effectively precluding the student from pursuing civil remedies, because of the one year statute of limitation on sexual harassment and other discrimination complaints. This law revised and recast numerous provisions of the Education Code relating to the prohibition of discrimination. It organized these provisions into elementary and secondary schools, and one of which would be applicable to postsecondary educational institutions. The law specified that the provisions on discrimination may be enforced through a civil action including monetary damages. Therefore, this bill initiated civil legal remedies.

Assembly Bill 537, authored by Kuehl (D-Los Angeles), was passed and known as The California Student Safety and Violence Prevention Act of 2000. This law took five years prior to enactment and prohibits discrimination and harassment for both students and staff on the basis of discrimination and harassment in an educational setting regardless of sexual orientation or gender identity citing the definition of hate crimes under Penal Code Section 422.6 (a). It includes prohibitions against discrimination on the basis of actual or perceived race, color, religion, ancestry, national origin, disability, gender or sexual orientation and applies to all educational institutions that receive state funding. Religiously controlled schools, colleges and universities are exempt.

The Senate Bill 257, enacted into law in 2001 as the Hate Crimes Act, was also authored by Kuehl (D-Los Angeles). This law ensures that hate crime prevention is made a part of general



school site safety planning by requiring the inclusion of existing hate crime reporting procedures, and existing harassment and discrimination policies in the comprehensive school safety plan. Schools are required to file the plan with the Department of Education. Additionally, the law charges the School/Law Partnership with addressing hate crimes as part of their general crime prevention efforts. Finally, the law allows schools to apply for grant money through an existing safe school grant program for hate crime prevention on campuses. Therefore, transparency on the part of schools is more defined in public policy to include hate crime, harassment and discrimination reporting procedures.

The 2001 Assembly Bill 79, known as the School Safety bill, was signed into law in October, 2001 and authored by Havice (D-Los Angeles), who served on the Assembly Select Committee on School Safety. Assembly member Sally Havice (D-Los Angeles) authored changes in the specific language to the existing school safety plan with this bill. Language was added to address a school's bullying prevention program. It now requires that comprehensive school safety plans must also include a policy for the prevention of bullying and a conflict resolution program. Specifically, this bill requires that a comprehensive school safety plan include, but not necessarily be limited to: a policy for the prevention of bullying, and a conflict resolution program. Therefore, school safety plans also need to include both bullying prevention and conflict resolution plans which are to be filed with the California Department of Education.

In 2003, Senate Bill 719, School Safety Plans, was authored by Sheila Kuehl, again. The bill deleted obsolete language relating to school safety plans, reorganized and renumbered the statutes, and updated the law to reflect the current comprehensive strategies and practices used by the School Safety Law Enforcement Partnership to address statewide school safety planning needs. It required the School/Law Enforcement Partnership to sponsor a biennial statewide

conference for school districts, instead of the current requirement of two regional conferences on an annual basis. The conference's purpose is to involve youth service agencies, allied agencies, community-based organizations, and law enforcement agencies in the identification of exemplary programs and techniques that effectively reduce school crime, including hate crimes. The Partnership was established in 1985 in an effort to make schools safer and reduce hate crimes. Therefore, this bill both updated language regarding hate crimes and harassment but also created and promoted the school/law enforcement partnership to highlight and promote best practices to deal with this epidemic issue.

Five years later in 2008, Assembly Bill 86, Cyber-bullying, was authored by Ted Lieu (D-Torrance), to address bullying by electronic means. Lieu has an undergraduate degree in computer science and a law degree, and authored new legislative language to address cyber-bullying. The language that specifies bullying as used in the Interagency School Safety Demonstration Act of 1985 includes acts that constitute sexual harassment, harassment, and threats by means of an electronic communication device or system. It provided grounds for suspension or expulsion if the threat or harassment was through either or both means. Language was added to encompass both going to and from school, on and off campus as well as going to and coming from a school activity. The School/Law Enforcement Partnership is now empowered to add in-service training in the area of cyber-bullying along with bullying awareness and prevention trainings. Therefore, the state's policy began to address a zero tolerance for cyber-bullying with suspensions or expulsions.

### **Key legislation for 2011**

In 2011, AB 746, Cyber-bullying, authored by Nora Campos (D-San Jose), and signed into law by Governor Jerry Brown (D), expands the definition of bullying through an *electronic act*, by the addition of terms related to posting on an Internet social network site. Campos is Chair of the Assembly Committee on Arts, Entertainment, Tourism and Internet Media and represents Silicon Valley. It should be noted that although Lieu used wording to include *social networking sites* in AB 86, the term was not explicitly expressed. It was decided that with the prominence of usage with social networking sites by teenagers, a repeated definition and explicit language covering the term for cyber-bullying would be beneficial. “It’s a technicality, but it’s an important one,” said Common Sense Media CEO James Steyer.<sup>2</sup> “Given the recent rise in cyber-bullying and the tragic impact it has had and continued to have on the lives of students, I believe that it was necessary to specifically include, I think that’s the key, social networking sites into the existing education code,” Campos said.<sup>3</sup> She was inspired to amend the current law after reading stories about students who had been bullied through social media sites and had committed suicide. Thus, AB 746 was authored clarifying even further a critical area of the state’s policy on this issue. It also adds bullying through the posting on social network sites as issues schools need to address to promote school attendance and a safer school environment. Therefore, upon closer analysis, with Campos’ position on the upsurge of usage of social networking sites such as Facebook or MySpace over the past ten years, this minor yet critical addition of language to Lieu’s bill more explicitly updates California’s bullying policy.

Assembly Bill 9, Bullying Prevention and Response Bill, and the Safe Place to Learn Act, (Seth’s Law), authored by Tom Ammiano (D-San Francisco) was enacted into law October, 2011 by Governor Jerry Brown (D). This bill helps to create a civil and safe educational

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<sup>2</sup> <http://www.sd28.senate.ca.gov/news/2011-7-12-san-jose-mercury-news>

<sup>3</sup> <http://centraldigitaled.com/policy/California-Clarifies-Cyberbullying-Law.html>

environment for all students in California, regardless of race, gender, religion, or sexual orientation. Specifically, the bill requires that every school district create a policy and procedures that prohibit discrimination, harassment, intimidation and bullying, and for reporting and addressing complaints of such instances. Similarly, the bill requires that the policy be posted throughout the school and in various publications, as well as on the district website. The bill also provides professional development for school personnel relating to the school policy, and how to identify and intervene in these events. It was sponsored by the National Center for Lesbian Rights, and the American Civil Liberties Union (ACLU).

The suicide of Seth Walsh in Tehachapi was high profile gay bullycide event which occurred in 2010. The Department of Education and the Department of Justice reviewed the Tehachapi middle school where Seth attended and found both the school and district to be negligent. His mother filed a wrongful death lawsuit against the district which was removed to federal court and remains in litigation. Along with many district policy changes which occurred within the Tehachapi Unified School district, this bill, also called Seth's Law, indicates policy change specifically addressing prevention, quick response and professional development for school personnel. Additionally, with the Larry King homicide in Ventura County, California the state needed to put the issue of gay bullying and bullycide front and center on its policy agenda. Therefore, with the enactment of Seth's law in July 2012, California changed its policy to address the need for swift response, reporting, prevention and education of staff personnel. Posting of school bullying, harassment and intimidation policies on websites and within view of the public on school campus, is mandating more responsibility upon the schools while making the policy known to all.

Assembly Bill 1156, Pupils: Bullying was authored by Mike Eng (D-Monterey Park) and also known as Tabitha's Law and was sponsored by the California Parent Teachers Association (PTA). Tabitha Bowles was bullied continually over the years from middle school into high school and was denied the ability to transfer to another school. With changes, this bill revises the existing definition of bullying, and encourages the inclusion of policies and procedures aimed at the prevention of bullying in comprehensive school safety plans. This bill requires the Department of Justice and the Department of Education to provide training in the prevention of bullying, as specified. This bill also authorizes a pupil who has been a victim of bullying to transfer to another district. Legal loopholes are being closed with the addition of more current and more specific language reflecting rapid technological changes which impact the manner in which students choose to communicate. For example, *sexting*, or sending inappropriate still or video images by electronic means needs to now be covered in our legal codes to protect our youth.

### **Federal Law-Equal Protection Clause**

What are the district's obligations to their students under federal law? Whether or not a state or a school district has an LGBT-inclusive law or policy, all public schools have obligations under federal law to protect students from anti-LGBT harassment and discrimination.

A school district and its employees may be held liable under the Equal Protection Clause of the federal Constitution for failing to protect students from anti-LGBT harassment. If a school official (Wilson's front line worker) fails to take action when they learn of such harassment because they think that an LGBT student should expect to be harassed, or that the student provokes the harassment by being openly LGBT, then the school has failed to provide equal

protection to the student. Likewise, school officials violate the Equal Protection Clause if they fail to provide the same level of protection against harassment to boys and girls, and to LGBT students and non-LGBT students. In addition, Title IX, a federal law that applies to all schools that receive federal money, already requires schools to ensure that students are not sexually harassed. While Title IX does not explicitly prohibit discrimination on the basis of sexual orientation, it does prohibit harassment directed at an LGBT student that is sexual in nature. Title IX also prohibits harassment based on perceptions that a student does not conform to stereotyped notions of masculinity and femininity.

Therefore, the cases listed below were settled on the bases of either the Equal Protection Clause or the Title IX law or both. The next section examines both pending and resolved court cases.

### **California LGBT Lawsuits pending**

The *Wendy Walsh vs. Tehachapi Unified School District* # 1:11 CV-01489 (E.D. Cal.) was filed in July 2011. It was filed shortly after the U.S. Department of Justice found the school district in serious violation of civil rights due to sex-based harassment. Moreover, The Office of Civil Rights found the district in violation due to the fact that the school was aware of the sex-based harassment yet did not adequately investigate or respond to it. Wendy Walsh dismissed the ACLU initial representation preferring instead the highly experienced Daniel Rodriguez, Esq. to represent her in the wrongful death case citing experience as her reason. This lawsuit was filed shortly after the Department of Justice found the district and middle school negligent. The case states that failure to prevent student-on-student harassment and teacher-on-student harassment on the basis of sex, gender and sexual orientation is in violation under Title IX of Education Amendments Act of 1972. Case law includes *Davis Next Friend La Shonda D. v. Monroe County Board of Education* (1999) No. 97-843, The Supreme Court of the United States,

(student-on-student harassment), *Gebser v. Lago Vista Independent School District* (1998), No. 96-1866 The Supreme Court of the United States, (teacher-on-student harassment) and *Flores v. Morgan Hill Unified School District* (2003) No. 02-15128 U.S. Court of Appeals. The Walsh case was recently removed to federal court (*Walsh v. Tehachapi Unified Sch. Dist.*, No. 11-CV-1489 (E.D. Cal.). "That means there will be a huge time delay - the case won't likely get heard for three or four years," says Walsh's attorney Daniel Rodriguez, Esquire.

### **California LGBT Resolved Court Cases**

Over the past decade California has settled a startling number of significant LGBT lawsuits against school districts. These cases were filed against school districts for failing to protect students from discrimination on the basis of sexual orientation. Students prevailed in all the cases and settlements ranged from forty thousand to over a million dollars, not including the legal fees to be paid by the district. Highlighted will be the key points and judgments in the cases.

#### ***Flores v. Morgan Hill Unified School District No. 02-15128 (N.D. Cal. 2003) U. S. Court of Appeals***

Suit was brought on behalf of six former Morgan Hill Unified School District students who were subjected to daily harassment and threats of physical violence and actual physical violence on the basis of their real or perceived sexual orientation and gender. The 2003 settlement was 1.1 million dollars.

#### ***Massey v. Banning Unified School District, 256 F. Supp. 2d 1090 No. 02-9813 (C.D. Cal. 2003)***

Eighth grade student alleged she was prohibited from attending physical education class on the basis of her sexual orientation. The monetary settlement award was \$45,000.

***Loomis v. Visalia Unified School District No 1:00 CV 06616 (N.D. Cal. 2001)***

This was a landmark U. S. District Court case for anti gay harassment. It was considered a landmark case as the plaintiff, George Loomis, sued with the ACLU citing for the first time the 1999 Non Discrimination Law forbidding gender based harassment. The Non Discrimination Law was authored by Sheila Kuehl (D-Los Angeles). Loomis had dropped out of school as a senior due to fear for his safety and was home schooled which barred him from ever attending a University of California school. A teacher was involved in the anti-gay harassment. The case was a model for California's districts as well as others across the nation as districts were now provided with policies and procedures to ensure a safe school environment. The settlement ended one of the challenges posed since the U.S. Supreme Court in 1999 gave students the right to sue for damages from districts for not stopping incidents of harassment. A Gay Tolerance Program for the district was to be implemented as part of the settlement along with teacher and student trainings. The settlement of \$130,000 was awarded.

***Ray v. Antioch, 107 F. Supp. 2d 1165 No. C99-5001 (N.D. Cal. 2000)***

Plaintiff was harassed, threatened, insulted, taunted and abused based on perpetrators perception of his sexual orientation and because P's mother is transgendered. Student had urine soaked towels thrown on him and was severely beaten causing concussion, hearing impairment, severe and permanent headache, and psychological injury. There was an undisclosed financial settlement.



*O.H. v. Oakland, 2000 WL 33376299 No. C-99-5123 (N.D. Cal. 2000) U. S. District Court*

Plaintiff was harassed, intimidated physically abused because of perceived orientation and raped three times by another student who forced him to leave campus at knifepoint. A confidential settlement was awarded.

*Shaposhnikov v. Pacifica School District, 2005 No. C 04-01288 U. S. District Court*

This suit was filed against both the district as well as the parents of the individuals who bullied the male middle school student. This student was a professional ballroom dancer. The legal principle of “vicarious liability” was used to settle the case when the district refused to accept responsibility for the anti-gay bullying which occurred for two years. By using “vicarious liability” parents are in fact responsible for their children’s intentional infliction of emotional distress. A confidential settlement was reached.

### **California Cyber-bullying Lawsuits**

The *J.S. v. Beverly Hills Unified School District (2009)* was one of California’s prominent cyber-bullying cases testing free speech. The court upheld the rights of the defendant and evoked the Tinker Standard for First Amendment Free Speech Rights under the Bill of Rights. The Tinker Standard (*Tinker v. Des Moines Independent School District, 1965*) is a landmark U.S. Supreme Court case for which the courts ruled in favor of the students rights to expression at school and is therefore widely used by school districts across the country. The Supreme Court ruling stated that students and teachers simply don’t “shed their rights to free speech at the schoolhouse gate”. Additionally, a key component of the ruling is that there is no substantial disruption to learning at school. The *J. S. v. Beverly Hills Unified School District*

(2009) case was an alleged cyber-bullying case of a middle school student through an uploaded You Tube video which was made available for students to freely view on the internet but which had been made outside school grounds. The incident came to the attention of the school administrator. On the advice of the school district's attorney, the principal administered a two day suspension to J.S. who created the video and told others about its existence. The court ruled in favor of J.S. upholding her free speech rights and cited the *Tinker* Standard for First Amendment rights and further, her rights for online speech created outside school using her own computer and internet connection did not substantially disturb the classroom learning environment. Ultimately, free speech has been distinguished from cyber-bullying in this case.

The lawsuit involving *D.C. v. R.R.* (2005) was one of California's first cyber-bullying suits and also referred to as the *D.C. v. Harvard Westlake School, No. B204634 Court of Appeal of California*. The key factor in this case was that the cyber-bullying threats involved threat of bodily harm. Most importantly, it has yet to be settled seven years later and is an excellent example of both the extreme financial and emotional costs to seek compensation through the legal system and how California courts define cyber-bullying. The details were online harassment and threats which resulted in a lawsuit filed against the school and the group of perpetrators. The victim's, classmates had supposedly posted death threats and anti-gay hate filled remarks against the boy on his website's guestbook which he had created to promote his music and acting career. The court ruled that *genuine threats of harm online* are not protected by First Amendment rights. Therefore, a lawsuit filed on behalf of a 15 year old student at Harvard-Westlake School in Studio City still continues. The suit accuses six of the boy's classmates and their parents with hate crimes, defamation, and intentional infliction of emotional distress. First, an arbitrator dismissed the suit filed against the school awarding a half million dollars in

attorneys fees to the tony private school. Secondly, five years after the suit was filed, an Anti-SLAPP motion to strike by the defense was dismissed by the court. The Anti-SLAPP is a California statute enacted nearly twenty years ago for the purpose of protecting the petition and free speech rights of all Californians. It provides a special motion to strike a complaint when the complaint arises from activity exercising the rights of petition and free speech. Third, the student, who is not identified in court papers, was withdrawn from the school, moved out of town with his parents, and was uprooted from his Los Angeles career base. However, the case against one of the students admitting to write the comments went forward. Following this, it became a case of student-on-student with both parents dropping from the case.

This is an example of a case where no one truly wins, especially the tax payers. What began as fifteen year olds acting out has now become a classic example of a protracted trial when the individuals might well be in their thirties when the case is finally settled. Restorative Justice can be used to repair harm through a peaceful approach for both victim and perpetrator rather than punitive in cases involving minors. California might utilize this policy for cases such as these not only to expediently resolve the case but also to avoid subjecting minors to the rigors of the civil litigation justice system which was intended for adults as this case demonstrates.

Although both these cyber-bullying cases involve printed words and or video content posted on the internet they vastly differ. On closer analysis, the latter case involves a violent threat to impose bodily harm through words printed on the guestbook of the plaintiff's website by a then fifteen year old male. The court ruled this does not constitute free speech rights. The former case is vastly different in that the posting of video content by a middle school female upheld free speech rights when a home computer and internet connection were used.

Additionally, the component of evoking the *Tinker* Standard was that the video posting proved

not to cause disruption to learning in the classroom and the case was dismissed. Clearly, the court issues are complex however, the “equal protection” suits appear more straightforward. As previously mentioned in this chapter, the “equal protection” lawsuits in California have all reached settlements.

### **Summary**

In this chapter I have presented a theoretical framework for how ideas become policy, and reviewed relevant bills, enacted legislation and court cases. These will be analyzed in more depth in Chapter 4. In the next chapter I outline the methods used in this policy analysis study.

## Chapter 3

### **Methodology**

This chapter outlines the methodology, data sources and analyses of the study. This study analyzes the evolution of California's bullying policy over time and examines how policy making theory facilitates the creation of policy changes in government. The political theories of issue framing and bureaucratic front line operators on bullying policy will be examined. Two questions guide this study:

- 1) What forces shaped California's anti-bullying policy within newly enacted laws and changes in education code regulations?
- 2) How does policy making theory explain the creation of a statewide bullying policy?

### **Document Analysis**

The first research question I addressed by a document analysis in which pertinent legislative bills, major California court cases and changes in the education code were examined through policy analysis methods (Weimer & Vining, 1998). Then I established the chronological timeline and reviewed enacted legislation. Next, I reviewed the pertinent lawsuits. Additionally, I read and summarized the major changes in the education code. I examined this historical timeline relative to trigger events, case law, and enacted or proposed legislation.

Historical research through document analysis helps account for how a past event occurred. Scholars believe historical research to be both subjective and objective (Rury, 2006). The document analysis methods involved first reading relevant research articles. Policy studies require researchers to analyze the true intent of the law. Policy research will continue to hold

increased significance especially with the advancement of documents and data obtained through the World Wide Web. According to McCulloch (2004), it is important to understand documents in the context of their milieu. They are historical and social constructs which need to be understood in terms of their author(s) regarding what the author(s) were attempting to achieve. When the past is examined, it provides a relationship to the present time underscores contributions of individuals or institutions and assists in understanding the society and culture in which we live. According to Rury (2006), it requires a thorough reading of primary and secondary sources and is much more than a simple chronicle of the past contrary to popular thought. Although factual in content, documents provide historical researchers the ability to draw conclusions and interpretations of past events from their own personal viewpoint. Documents can be either primary or secondary sources. First hand, original work is considered a primary source and work written by those interpreting the events, which are subjective in nature, are considered as secondary sources.

The second research question I addressed by examining policy making theories (Kingdon, 1995; Ikonen, 2009) and bureaucracies (Wilson, 1989) against the data. Policy research provides a way to understand the origins and context of a given policy (Weimer & Vining, 1998). It also helps analyze the impact of the policy on target populations (Schneider & Ingram, 1997). In the context of bullying, researching the broader problem assists policy makers to provide more viable solutions with more informed choices. Additionally, research provides the means to illuminate a powerful event or symbol of the problem attracting the attention of government with the larger magnitude and change to support policy choices for implementation.

Legislative research not only examines outcomes of government institutions but also focuses upon the individual legislators themselves. To gain a better understanding of the

institution one must examine factual information on the legislator's skills, background and goals reflecting the individual's life experiences (Eulau, 1985). Thus, part of this study examines the legislator's motivations, skills and personal histories. I read and studied the backgrounds, skills and accomplishments of the legislators who created major changes in California's bullying policy.

The study is situated in the state California. First, I conducted historical research and gathered fact based data on tragic events both nationally and within the state. Next, I gathered data chronologically through California's proposed or enacted legislation and statewide trigger events. I conducted further historical research obtaining information on court cases and changes in the education code. The newly enacted laws, their authors, changes in the education code and court cases pertinent to bullying were analyzed. Additionally, I examined the historical timeline of focusing events related to bullying both on a national and state level.

### **Data Sources**

Peer reviewed research articles and/or journals were utilized to examine the issue from an international context. Most of the research articles, court cases and legislative information were obtained through electronic data bases. The majority of the research articles were obtained on the Internet through Pro-Quest,<sup>4</sup> Google,<sup>5</sup> and Google Scholar.<sup>6</sup> The Internet data base, Education Resources Center, (ERIC), was accessed through California State University Channel Islands electronic library system.<sup>7</sup> The Directory of Open Access Journals website was also

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<sup>4</sup> <http://www.proquest.com-en.us>

<sup>5</sup> <http://www.google.com>

<sup>6</sup> <http://www.google.scholar.com>

<sup>7</sup> <http://www.eric.ed.gov>

utilized. Sources for court cases were obtained on the Internet through Lexis-Nexis.<sup>8</sup> Legislative and California education code were obtained from the California state government legal information site.<sup>9</sup> California bullying policy information was accessed through the California Department of Education website.<sup>10</sup> Biographical information regarding the legislative authors was obtained through their respective websites on the Internet. Biographical information on Assembly member Nora Campos (D-San Jose) was obtained from personal<sup>11</sup> and assembly<sup>12</sup> Internet websites. Information on legislative author Senator Ted Lieu (D-Torrance) was obtained from the senate website.<sup>13</sup> Sheila Kuehl's information was obtained on her professional Internet website.<sup>14</sup> Assembly member Tom Ammiano's (D-San Francisco) information was obtained through his California Assembly website<sup>15</sup> and his professional website.<sup>16</sup> Biographical and legislative information on Assembly member Mike Eng's (D- Monterrey Park) was provided on his assembly website.<sup>17</sup>

## Summary

Conducting historical and current policy analysis on the topic of anti-bullying policy for the state of California involves not only a study of the proposed and enacted legislation, but also the court cases, trigger events and legislative authors. Chronological order of events, legislation and court cases are key factors in the analysis. I reflected on the human aspect behind the forces shaping new policy as well as policy making theories (Kingdon, 1995; Itkonen, 2009) and

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<sup>8</sup> <http://www.lexisnexis.com>

<sup>9</sup> <http://www.leginfo.ca.gov>

<sup>10</sup> <http://www.cde.ca.gov>

<sup>11</sup> <http://noracampos.com>

<sup>12</sup> <http://asmdc.org/members/a23>

<sup>13</sup> <http://sd28.senate.ca.gov>

<sup>14</sup> <http://sheilakuehl.org>

<sup>15</sup> <http://asmdc.org/members/a13>

<sup>16</sup> <http://tomammiano.com>

<sup>17</sup> <http://asmdc.org/members/a49>



bureaucracies (Wilson, 1989) and their respective roles in how policy making theory explains statewide bullying policy. This study is important in that it provides historical, legislative and policy research analysis on the issue of bullying over time for the state of California. The analysis interprets how past events impact public education policy on student populations and the broader social context. I discuss the results in Chapter 4.

## Chapter 4

### Results and Analysis

This chapter takes a closer look to analyze the bills, legislation and court cases presented in Chapter 2 and uses the Kingdon's streams and windows theories presented in that chapter to analyze how policy making theories explain the creation of a statewide anti-bullying policy. In this chapter I analyze policy entrepreneurs, framing theories (hope or decline) and tasks, goals and operators which are discussed in Chapter 2. I discuss and analyze the bills and legislation in relation to these theories followed by an analysis of court cases and outcomes. Two questions guide this study:

3. What forces shaped California's anti-bullying policy within newly enacted laws and changes in education code regulations?
4. How does policy making theory explain the creation of a statewide anti-bullying policy?

Kingdon's streams and windows theory has the centralized perspective of explaining agenda change. As the problem stream includes a focusing event—a disaster, crisis, personal experience, or powerful force drawing attention to the situation the event has little impact unless accompanied or in combination with other events to enhance magnitude, depth and scope of the problem. Policy entrepreneurs are significantly involved with time and resources to present the true magnitude of the problems. In doing so, the entrepreneur brings to the attention of government the true impact of the problem to ensure that others view the problem in the same manner. The following legislation enacted into law were analyzed according to Kingdon's streams theory to explain how these ideas became policy: AB 499 Sex Equity in Education Act

(1998), AB 537 Hate Crimes Act (2000), AB 79 School Safety Bill (2001), AB 719 The Bullying Prevention and School Crimes Reduction Act (2003), AB 746 Cyber-bullying (2011), AB 9 Seth's Law (2011) and AB 1156 Tabitha's Law (2011).

Policy Entrepreneurs possess strong public speaking skills, dedication to their cause and are well connected. They have patience to wait for the proper timing to advance their solutions. Additionally, they possess personal ideals which they seek to advance. California's anti-bullying policy was changed through the efforts of several key entrepreneurs. The following three entrepreneurs exemplify the qualities of a successful entrepreneur and advanced causes to further policy changes affecting student safety including cyber-bullying through social network sites and LGBT bullying.

Assembly Member Nora Campos (D-San Jose) also holds these qualities as a policy entrepreneur as evidenced by her strong connections in Silicon Valley, and her membership on the Internet Media Committee. She has held membership on the city council and held the office of chief of staff for San Jose City council. As a youth, Campos was strongly influenced by social justice causes and marched with Cesar Chavez in California during the early 1970's. Campos was affected by news of teen suicides (Kingdon's trigger event) from cyber-bullying through social network sites such as My Space or Facebook. She successfully authored AB 746 which added the wording of social network sites to the existing cyber-bullying law and thus changed California's anti-bullying policy.

Assembly Member Mike Eng (D-Monterey Park), a strong anti-bullying advocate for many years in California's schools because of his early experience with bullying while an elementary school student. Eng, a staunch ally for victim's rights, is the founding partner of Eng

and Nishamura Law Firm and has held both city council and state assembly seats. He successfully authored AB 1156, Tabitha's Law which allows students the ability to change school districts from bullying, among other changes.

Assembly Member Tom Ammiano (D-San Francisco), a leader in the San Francisco Gay Community and a champion of gay rights holds a masters degree in special education and was previously a public school teacher. Ammiano, President of the San Francisco Board of Education, and strong LGBT supporter introduced gay sensitivity curriculum into the school system. Noted for not being intimidated by tackling issues with large corporate entities or major issues, he successfully authored AB 9, Seth's Law.

In summary, Campos, Ammiano and Eng were effective in creating anti-bullying policy change during 2010. The legislative impact of these three entrepreneurs is recognized for contributions to policy change. However, another entrepreneur has contributed greatly and will be separately discussed in this chapter for her prolific social justice, LGBT and anti-discrimination legacy.

### **Analysis of Legislation and Lawsuits**

#### **Analysis of Sex Equity in Education Act of 1998 Applying Kingdon's Theory**

AB 499 was authored by Sheila Kuehl (D-Los Angeles) and signed into law in September 1999 as The Sex Equity in Education Act of 1998. This law created new policy to uphold the equal educational opportunity rights of students in California. Federal law Title IX of the Education Amendments of 1972 upheld gender equity in education. However, the problem

stream contained many gender and racial equity issues that required policy changes such as increased gender reform and allowing victims to seek civil remedies.

The trigger events were major gender issues which included: girls at risk of dropout, teen pregnancy, participation in math/science, and gender bias in student to teacher interaction. Problems related to gender included a student being barred from taking a certain class based on the gender of the student. Another example was requiring a student of one gender to take a class without requiring the student of the opposite gender to take the class. In secondary and higher education, counseling students for vocational or career goals of a particular gender was not equally offered to the opposite gender. For example, female students were not encouraged to pursue careers on par with their male peers which thereby created gender inequities perpetuated by higher education staff. Furthermore, female students were experiencing sexual harassment by their professors to provide favors in return for good grades. Public schools, community college and university settings were experiencing negative relations on their campuses which resulted in negative relations and discordant school climates. Furthermore, lower court decisions had required students to exhaust administrative remedies prior to the pursuit of civil litigation. This process previously took more than one year to exhaust. Therefore, due to the one year statute of limitations on sexual harassment and other discrimination complaints, it precluded the student from pursuing civil remedies. Thus, a hostile learning environment jeopardized the equal education opportunity rights for students under California's constitution and the United States Constitution and therefore moved into the problem stream.

Another trigger event stemmed from one of San Francisco's worst hate crimes in March 1998. The murder victim was a homeless gay man and his homeless gay companion wrote down the license number of the suspect's vehicle thereby assisting detectives in solving the case. The

city's flag was lowered at half staff in honor of Brian Wilmes. This trigger event highlighted civil rights for gay individuals as well as a loophole in California's Hate Crime statutes (Penal Code 422.55). This statute defines hate crimes which are committed wholly or in part due to actual or *perceived* characteristics of the victim such as: nationality, race, mental and or physical disabilities, gender and sexual orientation. The Hate Crime statutes allowed death penalty prosecution in a racially motivated murder; however, one who murders a gay individual had a penalty of a maximum of three years. The penalty loophole in the statutes needed to be addressed to uphold equal justice for hate crimes based on sexual orientation. Therefore, AB 209 was authored by Wally Knox (D-Los Angeles) and enacted in 1999. The Hate Crime statutes now provided life without parole for first degree murder because of crimes for perceived disability, gender or sexual orientation. The E.O. Greenwood case, in Ventura County, with the murder of Larry King, as mentioned in Chapter 2, used these new changes in the Hate Crimes statute (life without parole) in murder charges against Brian McInerney. However, prosecutors eventually dropped the Hate Crime charges during the second trial and Brian McInerney was sentenced as a minor to a twenty-one year prison term.

Gender and racial equity issues for students were advanced through advocacy organizations such as the ACLU, LGBT and National Organization for Women (NOW), and Equal Rights Advocates (ERA) into the problem stream (Kingdon, 1995). Kingdon's theory of streams and policy windows explains policy change on both the federal and state levels. The policy window can open with the emergence of a pressing problem; but also through an event in the political stream such as a change of administration, a shift in the mood of country or an increase of new members in Congress (Kingdon, 1995). Problems require a push to get the attention of those in and around government. This is provided by a focusing event (crisis or

disaster) which brings critical attention to the problem. The problem, political and solution streams came together by means of focusing events coupled by the entrepreneur, Sheila Kuehl (D-Los Angeles) with an open window provided by means of a change in administration in the 1998 election. The November election promised a change in political administration with a shift in political parties. The twice elected Republican Governor Pete Wilson was running against Lieutenant Governor Gray Davis (D). Governor Pete Wilson (R) was known for ignoring social issues such as Proposition 209 which defended racial quotas in the workplace in November 1996. Furthermore, California's gubernatorial history indicated sixteen years of republican governors. Applying Kingdon, the election of Lieutenant Governor Gray Davis (D) would establish a major political shift in political administration in the capitol and an open window. With the coupling of the entrepreneur, Governor Wilson ended his career by enacting The Sex Equity in Education Act in November 1998.

The policy window opens due to some factor beyond the scope of the individual entrepreneur, but the entrepreneur takes advantage. Part of the process of opening the window involves a softening up of the system which entrepreneurs are skilled at by virtue of their speaking skills, contacts and relationships within government and their constituencies (Kingdon, 1995). The trigger events as well as the focused event (Wilmes murder) and the change from a Republican to Democratic Governor pushed open the window. This was the propitious time in the political stream. Additionally, the racial and gender discrimination on campuses was viewed as a pressing problem which also opened the window. School districts and universities could not afford to be in litigation for discrimination lawsuits nor could they claim that districts and universities were not at fault. Therefore, a clearer delineation within the language of the law would address this along with policies and guidelines.

Sheila Kuehl (D-Los Angeles) applying Kingdon, was the entrepreneur waiting for the window to open (p. 181). Kuehl was ready for the window to open and coupled the separate streams. “Political events are not capitalized for lack of inventive and developed proposals” (Kingdon, 1995, p. 182). Several solutions for education settings were in her solution stream. Solutions which resulted in The Sex Equity in Education Act of 1998, allowed the State Board of Education to develop *guidelines*, adopt *policies* and *fund* programs to create school environments free from discriminatory attitudes and hate violence. For example, a primary legal solution made it easier and allowed individuals to seek civil action for injunctive relief as a means of enforcing the new law. Additionally, this law included several major solutions to discriminatory practices within schools and higher education settings. First, this law created new protections relating to freedom from discrimination of any kind. This included for example, in-service staff trainings and the introduction of more sensitive and respectful ethnic diversity curriculum to foster an increase in positive relationships.

This indicates Kuehl advocated not only for legal remedies, but also for solutions supporting curriculum enhancement which educates students of the values of acceptance, respect and the dignity of all individuals. By introducing curriculum changes, school districts address the social changes in the nation through educational means. Further, post secondary education settings are required to post in prominent places provisions of the new law and provide a copy to each faculty and members of administrative staff. To address gender equity in school sports athletic opportunities were legally upheld to be equal to both male and female students. Newly enacted civil remedies reinforced the potential of monetary punitive damages.

Kuehl authored four major legislative bills which were enacted into law to address issues of sex equity, student safety, anti-bullying and violence prevention: The Sex Equity in Education



Act of 1998, California Student Safety and Violence Prevention Act of 2000, Hate Crimes Act of 2001 and Bullying Prevention for School Safety and Crime Reduction Act of 2003. Kuehl used her political savviness to take advantage of open windows. She embodies and exemplifies the key qualities of the entrepreneur as described by Kingdon: persistence, tenaciousness and the ability to speak well. A former child actress, Kuehl was a Harvard Law School graduate who specialized in gender law and the first openly gay member of California's legislature. Additionally, she was the first women speaker pro Tempore of the Assembly from 1997-1998. She co-founded the California Women's Law Center and has been a professor of law at both University of California Los Angeles and Loyola Law School. She is founder of the Public Policy Institute at Santa Monica College. Authoring over one hundred forty bills, Kuehl served in both the state Senate and Assembly.

Kuehl's legislative record indicates authoring policy changes in the areas of children and education, civil rights and hate crimes, environment, health, labor and women's issues. Kuehl assisted other legislators for many years by writing amendments to statutes which covered areas such as labor discrimination and domestic violence. Kuehl has been a highly sought after keynote speaker; qualities Kingdon outlines as essential for a policy entrepreneur. An additional quality Kingdon describes of the entrepreneur is one of being persistent in addition to possessing political skill. Kuehl was head of the LGBT Caucus and she pushed her social justice and gender equity solutions upon government to advance her causes. Kuehl is known for legislation that protects students from anti-gay harassment and discrimination in California schools and universities among many policy changes for other civil rights causes.

As Speaker pro Tempore of the Assembly in 1998, Kuehl was successful in attaching her solutions of civil remedies, non-discrimination based upon gender, race and ethnicity, and gender

equality in school settings. Some of the solutions included: requiring a student to exhaust administrative remedies prior to pursuing civil litigation, limiting the time a lawsuit can take, monetary damages through civil action and extend provisions to include postsecondary educational institutions. Moreover, "Train the Trainer" grants were used to establish ongoing gender training to all staff members creating a monetary fund of \$130,000 per year. In conclusion, Kuehl's legislative legacy stands on its own merit, and is further exemplified with The Sex Equity in Education Act, The California Student Safety and Violence Prevention Act, Hate Crimes Act and the Bullying Prevention for School Safety and Crime Reduction Act.

Another trigger event in anti-bullying policy was the 1999 Columbine Incident which led to AB 79 authored by Havice (D-Los Angeles) and enacted in 2001 as the School Safety Bill. This trigger event caused a national crisis. The Columbine High School massacre, in Littleton, Colorado ranked as the deadliest high school massacre in United States history and the nation's fourth deadliest school massacre. The two shooters, Eric Harris and Dylan Klebold committed suicide. The massacre focused public opinion primarily upon school safety and security and the window opened because of this fact. The School Safety Bill of 2001 requires the California Department of Education to provide model policies for districts to provide bullying prevention and conflict resolution within the school safety plans. Additionally, it required schools to include disaster procedures related to safe ingress and egress of students.

Another trigger event was the Megan Meier bullycide in October 2006 which brought national attention to the increasing use of electronic media as a medium for victimization. In this instance, an adult created a fictitious account and impersonated a male teenager initially for friendship. Soon after, the online communication was used to shame and shun Megan Meier causing her to commit bullycide just prior to her fourteenth birthday. Social network sites were

being utilized for online bullying through anonymous identity. The 2006 Megan Meir suicide led to AB 86 by Lieu (D-Torrance). This bill was enacted as the Cyber-bullying Act in 2008 to address bullying by electronic means. Thus, cyber-bullying was added to the school disciplinary codes which previously defined bullying as direct physical or verbal contact. The new law allows school districts to address cyber-bullying with suspensions or expulsions for threats by means of an electronic communication device. This includes to and from school, on or off campus during lunch or going to and from a school sponsored activity. The new law empowers the School Law Enforcement Partnership through the California Department of Education and the State Attorney General to expand their in-service programs to include cyber-bullying as well as bullying awareness training. Moreover, electronic communication advances such as social network sites (My Space and Facebook) and video provided more graphic means for cyber-bullying. As a result, bullycide was more evident in the problem stream

There were three major trigger events on a national level in 2010 that kept bullying in the problem stream. The Pheobe Prince, Tyler Clementi and Seth Walsh bullycides drew the nation's focus on the scope of the problem. With three months, three pieces of legislation were enacted into law in 2010. These included the Cyber-bullying Prevention Act which was authored by Nora Campos (D-San Jose) AB 9, Seth's Law authored by Tom Ammiano (D-San Francisco) and AB 1156, Tabitha's Law which was authored by Mike Eng (D-Monterrey Park).

The three bullycide events of Pheobe Prince, Tyler Clementi and Seth Walsh pushed bullying either in person or through electronic means to a national issue. The bullycide of Pheobe Prince, a recent immigrant, was due to physical bullying, rape and cyber-bullying through a social network site. Tyler Clementi, a gay Rutgers University freshman, took his life after he discovered his roommate spied on him using a web cam and broadcasting a sexual encounter

online. Seth Walsh, of Tehachapi, California attempted to take his own life by hanging, and remained on life support for ten days after being bullied at his middle school for being gay. These trigger events prompted the previously mentioned entrepreneurs to provide clearer language in the law and provide policy changes.

To further address the cyber-bullying issue, Campos authored AB 746 which modified and clarified the existing law enacted through AB 86. The existing Cyber-bullying Act did not explicitly refer to comments or pictures posted on social network sites. Thus, the language of the existing Cyber-bullying Act needed to be more clearly defined as bullying by means of electronic acts had expanded beyond emails, text messages and instant messages. The powerful Campos also holds these qualities as a policy entrepreneur as evidenced by her strong connections in Silicon Valley, and her membership on the Internet Media Committee. Campos is committed to bridging the media and education sectors in California. She has held membership on the city council and held the office of chief of staff for San Jose City council. With the inclusion of social network sites in the Cyber-bullying Act she helped in changing California's anti-bullying policy.

Tom Ammiano (D-San Francisco) a leader in the San Francisco Gay Community and a champion of gay rights authored AB 9, Seth's Law. Ammiano holds a masters degree in special education and previously was a public school teacher. Ammiano, was President of the San Francisco Board of Education and a strong LGBT supporter and had introduced gay sensitivity curriculum into the school system. Previously a stand- up comedian, he was noted for not being intimidated by tackling problems with large corporate entities or major issues. With the suicide of Seth Walsh, the window opened and Ammiano pushed through his policy solution.

Mike Eng (D-Monterrey Park) a strong anti-bullying advocate for many years in California schools due to his early experiences with bullying in school is a staunch ally for victim's rights. Mike Eng was bullied as a child and therefore strongly supports non-discrimination of students. Eng is the founding partner of Eng and Nishamura Law firm and has held both city council and state assembly seats. Eng represents a diverse minority constituency and has strong ties to the schools supporting anti-discrimination due to his own personal experiences with bullying as a child. Eng used the backing of the California PTA to support the bill.

In summary, bullying and harassment have stayed in the problem stream over time. This will continue as a recycled policy issue. Diligent advocacy by several policy entrepreneurs has pushed the problem into the solution stream. Through policy windows anti-bullying legislation has been enacted.

### **Analysis of Framing Theory**

Framing stories present the essence of a preferred set of values to further advance issues. Society is in a constant state of change as is the social fabric of society. With society's changes comes the need to change the laws which govern society. Taking an individual story (a hope or a decline narrative) and presenting it to politicians as an issue for the broader context assists and furthers the immediacy of the issue in the views of politicians. At stake in most of these bills mentioned in Chapter 2, later enacted into law, is the issue of civil rights of the individual for a safe learning environment free from discrimination and assault.

These issues were not framed as one individual's experience; rather these issues were representative of the broader scope within California schools, colleges and universities. The

equal education opportunity rights for students under California's constitution and the United States Constitution needed to be upheld in all manners. As such, an individual's story of gender, sexual discrimination or bullying in the learning environment could shape thought or opinion to view this case as civil rights issue to learn in a safe school environment. Stories of human relations deteriorating in school environments by means of harassment, discrimination and bullying were made clearer as to what is at stake by presenting the narrative in a decline story (conditions have gotten worse) and moving towards more control with a hope story of more autonomy (Itkonen, 2009). For instance, the 1999 *George Loomis* landmark lawsuit case of anti-gay harassment, Loomis represented the decline narrative as things have gotten worse (feared for his safety) with a hope story (his rights were upheld) to be able to learn in a safe school environment. *The Massey v. Banning Unified School District* case is another example of framing a decline story for young girls wanting to participate in physical education class but disallowed on the basis of sexual orientation. The Seth Walsh bullycide in 2010 is another example of a decline story (gays are tormented) moving towards a hope story that all students will have their rights protected and upheld to learn in a safe and secure school setting. In this example, Seth Walsh represented the many that have experienced the same injustices by their school staff and school district. Ultimately, the school staff and district were judged liable with many changes in incident reporting and staff trainings brought about by the passing of AB 9 (Seth's Law). The gender based issues of teen pregnancy, dropout, sexual harassment, and the ability to take math/science coursework; these were civil rights and women's movement issues which took on an injustice frame and which were defined in a right based framework (Itkonen, 2009).

Narrative stories advanced the issue by presenting the problem of ethnic, racial and sexual discrimination in a manner that easily made the point to the legislative and broader

audience. For example, in 2011 Tabitha Bowles (AB 1156) provided in- person testimony to the state senate. The entrepreneur Mike Eng (D-Monterrey Park) utilized the method of the narrative to convey the issue as a social and school safety issue with a broader civil rights frame. Tabitha Bowles spoke on behalf of passing AB 1156, providing her personal narrative (decline narrative) to more clearly define what is at stake, who pays and who benefits from the changes in the laws. Framing, for clearer definition of an anti-discrimination, school safety or as a civil rights issue was used to define the core policy problem of bullying. Thus, the narratives (hope and decline stories) were instrumental in successfully refining the language of the law, uphold the law and make changes in policy.

### **Analysis of Wilson's Theory**

In educational settings, the front line workers or operators (teachers, principals, administrative and support staff) have clear or operational goals to provide a safe and secure learning environment (Wilson, 1989). The Interagency School Safety Demonstration Act of 1985 upheld inalienable right to attend classes that are safe, secure and peaceful. Mandated within the Interagency School Safety Demonstration Act of 1985 were school safety plans, and interagency partnerships for coordination to resolve school and community problems (truancy, crime, dropouts and teen pregnancy). "All these goals are unclear because reasonable people will differ as to the meaning of such words as 'well-being,' 'potential,' 'security,' 'orderly,' and 'welfare' " (Wilson, pg. 33). Despite clear goals workers' actions and decisions will be shaped by the circumstances they encounter, their beliefs, values or external pressures on the job. Exercising freedom to make decisions regarding treatment of students, and sexual harassment were not the intents of the legal protections afforded students through Title IX or The Interagency School Safety Demonstration Act of 1985. The later was intended to uphold school

safety by addressing school violence related to hate crimes, gang violence, discrimination and harassment. Clearly, the protections afforded students under the federal Title IX and the Interagency School Safety Demonstration Act of 1985 were no longer effective and required policy change.

As a bureaucracy, schools have as its leaders the governor, superintendent of schools, the legislators and the school board. Laws will dictate how schools implement certain areas within the California Education Code. As such, these individuals play a critical front line operator role in the racial, gender and ethnic discord on campuses in California. Whether there are instances of sexual harassment with students, discrimination against female athletes or racial hatred on campuses, school employees are responsible to uphold the legal rights for gender and/or racial non-discrimination despite personal beliefs, values or attitudes toward their jobs. At stake for students, are the day to day decisions of the front line workers or operators who make decisions based upon external pressures, values or experiences which they bring to the situation. There was a need to seriously examine these statistics and take action to ensure equal protection for discrimination under California law. Additionally, the 1998 trigger event of the brutal murder of a gay student at the University of Wyoming, Mathew Sheppard, propelled the focus of the nation upon discrimination of LGBT youth and the policy window opened.

“The problem streams and the political streams are related” (Kingdon, pg. 175). The problem stream contained the pressing issue of school violence, suicides, bullying and school safety issues. The gun control issue had been lingering, however, the gun violence and the death toll of the Columbine massacre brought attention to the gun control issue once again. The teen suicide issue had been in the problem stream increasingly so since the 1960’s along with school



violence problems. Nonetheless, the issue of gun control relating to school safety resulted in the two converging and opening the window. Gun control shifted the mood of the nation and the focus was placed on creating solutions, to provide safety and security of the students in school settings. The problem and political streams converging (crisis and mood of nation) was a powerful force both in a political sense as well as a policy solution.

Applying Wilson, the front line operators (teachers, principals, support staff and campus police) have a goal to provide a protected learning environment free from violence, harm and harassment otherwise districts will be held liable for a lawsuit. However, front line operators differ on their interpretation of terms such a “safe” and “secure”, etc. Disregarding student reporting of an incident can make the district liable for a lawsuit as in the *Flores v. Morgan Hill Unified School District* case. In the court proceedings the principal of the school did not follow up on the student’s reporting. It was determined that the principal was treating one individual differently than another based upon perceptions, values and the situation at hand. The discrimination and harassment was over a five year period, which exemplifies Wilson’s front line operator theory of making decisions based upon the operator’s own values or perceptions.

According to Wilson, what the operators do will be shaped by the circumstances they encounter at the job, their beliefs or the external pressures on the job (p. 34). The front line operators will continue to encounter situations of harassment, bullying and violence. However, despite mandated trainings and policy changes, the challenge remains. Anti-bullying will continue to be a recycled policy issue as evidenced by the multiple legislative bills and court cases.

## Summary

I examined Kingdon's policy streams, entrepreneurs and policy windows to explain how problem solutions appear on the decision agenda and become law. I used Itkonen's theory of issue framing and policy stories to explain how the influence of stories which when presented in a hope/decline narrative influence changes in policy. I used Wilson's theory of bureaucracies to explain how operators within school bureaucracies make decisions based upon their beliefs, values and the situation at hand. Through the analysis of Wilson's theory, I examined how front line operators play an instrumental role in whether a student's rights are upheld and protected. The examination of the front line operators revealed that there is disconnection between policy and student safety on and off campus. I have applied policy making theory, framing and theory of organizations to analyze anti-bullying legislation and lawsuits. In the next chapter I discuss the overall interpretations, limitations and implications of this anti-bullying policy study.

## Chapter 5

**Discussion and Implications****Interpretation**

This study describes the forces, court cases and processes by which legislation occurred to create California's anti-bullying policy and how policy changes evolved over time. Trigger events underscored and pushed the bullying issue into the problem stream. Furthermore, trigger events, particularly from 2010, opened the window. The dedication and resolve of the policy entrepreneurs created the solutions which were enacted into law. This formed the framework for lawsuits to protect the equal opportunity rights in education.

Despite the passage of the laws school districts, colleges and public universities will continue to face lawsuits. Anti-bullying laws uphold the rights of all students against discrimination by gender, race, ethnicity, or sexual orientation. However, there remains a disconnection between the laws and the front line operators. Front line operators make day to day decisions based upon perceptions, values and the situation. The *Flores v. Morgan Hill Unified School District* case indicated the principal ignored the reporting of an incident by the student and did not follow up. This is an example of the disconnection between the law to protect LGBT students and the principal's actions as the students reported complaints over a five year period. The lawsuit settlement was in excess of one million dollars and this indicates districts pay a price for day to day decisions made by principals, teachers and staff. The *Loomis v. Visalia Unified School District* case was a landmark case for gender based rights. It suggests parents will file lawsuits regarding student safety issues on the school grounds. However, the *Shaposhnikov v. Pacifica School District* case indicated parents were in fact responsible for their children's

intentional infliction of emotional distress through the legal principle of “vicarious liability”. Similarly, parents provide the hope/decline narratives which are instrumental in the framing aspect of policy change. Furthermore, as stakeholders, parents can assist maximizing equal opportunity rights for their child.

The convergence of the areas of free speech and equal opportunity rights should provide further challenges going forward. *The J.S. v. Beverly Hills Unified School District* case indicated First Amendment rights for online speech created outside school using a non-district internet connection did not substantially disrupt the classroom learning environment. As the *Tinker* Standard was applied, this indicates schools must exercise diligence in determining whether there is disruption of learning. A key component of free speech is to determine whether incidents of expression whether online or at school significantly disrupt the classroom learning environment as this will be tested in the courts. Despite free speech rights, counselors, teachers and administrators will need to further examine bullying on the school grounds including by electronic means while encouraging anonymous reporting. As new trends emerge and students use technology and legal savviness both on and off campus to circumvent school policies districts will need to be vigilant regarding cyber-bullying. The research findings suggest that a closer study may be warranted regarding directions for future policy related to cyber-bullying.

With the precedent now set with past investigations and lawsuits parents should continue to file suits in increasing numbers for bullying incidents. The *Walsh v. Tehachapi Unified School District* wrongful death lawsuit will exemplify the importance of districts having an effective method of reporting and tracking incidents. Moreover, this emphasizes accountability at all levels including the front line operators. In the future daily decisions will continue to critically impact financially strapped school districts.

Furthermore, California's anti-bullying policy is not on par with other states despite protections put forth under the Sex Equity in Education Act in 1998. The watchdog advocacy group for bullied children, Bully Police, USA, rated California's anti-bullying laws poorly prior to 2003. States are graded on a point system from "D" to "A++" and gains were made from a "D" grade to a "B" rating with the passage of the Bullying Prevention for School Safety and Crime Reduction Act of 2003. Most significant, is that California's rating has remained the same nine years later. This indicates the evolution of the state's anti-bullying policy is at a slower rate for various reasons than other states. This is evidenced by the twelve states which acquired ratings of A++. These states are: Florida, Georgia, Kentucky, Massachusetts, Maryland, Michigan, North Dakota, New Hampshire, New Jersey, Texas, Virginia and Wyoming. Their laws were rated in the highest category for the addition of several key components: adding a Cyber-bullying or Electronic Harassment clause and offering counseling through a victims' rights clause. Despite policy improvements, victim support remains a recognized area which is lacking under current law.

Although state policy evolves at its own unique rate further advancement should continue to occur over time. The rate of policy evolution has occurred in both a slow and rapid manner as evidenced with six laws in a twelve year period followed by three laws enacted within a three month period in 2011. The power of advocacy groups created an allied force and will continue to be related to policy change. Advocacy groups such as the Gay Straight Alliance and California PTA's backing of Seth's Law and Tabitha's Law respectively are associated with the 2011 policy changes. Particularly when conjoined with trigger events, advocacy groups assist in policy change.

Trigger events and changes in administration create the forces with the most momentum to push through policy change. Bullycide as a trigger event will undoubtedly continue and entrepreneurs will push through solutions to advance policy. With advances in technology, online trends, and changes in society lawmakers will further refine the language within existing laws as well as propose new laws. In this manner California's policy will continue to evolve.

### **Limitations**

Various limitations may exist in this study. In order to examine major laws in California, I selected laws from 1998 to the present for analysis. Therefore, not every law related to school safety was analyzed and related to theory. Further, I selected the major California court cases based upon relevance, interest and availability of technical data. The most relevant points in the theories were analyzed which related to the study.

### **Future Research**

With a lack of research on populations with disabilities researchers need to more closely examine this issue, particularly for those who are protected under federal special education laws. Since bullying prevention programs have mainly ignored the special needs students who are most at risk, easy modification of programs will provide the needed support. Tracking and monitoring methods will need to be employed at the local levels despite state budget cuts to provide support and protections. Further, this group is at risk for dropping out of school and becoming a burden on society (Young, Ne'eman, & Gelser, 2011). It is imperative that researchers find effective ways to more humanely support and modify programs to address the needs of this group. Researchers, policy makers, and advocacy groups will need to focus efforts to guide policy changes for at risk student populations.

On the rapidly rising issue of cyber safety, policy makers and researchers will need to address the problem on several fronts: risks, digital literacy demands, privacy threats, at risk youth and rights of the child. Policy makers will need to frame these personal narrative stories as a broader social problem (Itkonen, 2009). Media technology will continue advancing at rapidly increasing rates thus requiring policy makers and researcher to keep pace with the safety and welfare of children and youth. Framing content will need to emphasize the depth and degree of impact upon youth, what is at risk (privacy and suicide) who pays (families) and who benefits. Framing the central organizing idea and scope of the issue includes the inadequacy of current methods and the lack of safety in the social networking realm. Framing will establish cyber-bullying as a child safety rights frame. Policy narrative stories are remembered more easily and are utilized to describe a decline story (situation is worse) as a means foster a hope story (things are getting better). The importance of a child safety rights framework is critical to establish improved evidence based practice and future research will fulfill this goal.

On the state level, legislatures will need to support school districts by providing district policies against cyber-bullying and other technological abuses and providing legal framework (Conn, 2011). Courts must safeguard protections under the United States Constitution upholding freedom of speech and expression from restraint or infringement by government. Juvonen (2008) raises questions for policy implications regarding whether cyber-bullying is separate from at school bullying and will need to be addressed as states and districts refine school policies.

Finally, future research should analyze anti-bullying resources and program implementation at the school level to assess whether schools have changed their programs to provide improved protections for all students. Further studies can examine outcomes of court cases on the state and national levels to analyze free speech rights related to cyber-bullying.

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