

## Dealing with bullying at school and claiming compensation

Unfortunately, school bullying is very common within Australian schools. It is believed that 25% of Australian students between the ages of 8 and 14 are bullied every few weeks or more. Studies also show that bullying is most prevalent amongst kids in year 5.

This article provides guidance on what constitutes “bullying” and how and when to take legal action. It is for general purposes only, and we recommend you obtain professional advice relevant to your individual circumstances.

### **What is bullying?**

Bullying can happen in the school setting, online, through digital platforms and devices and generally involves a power imbalance between the bully and the victim. The bullying is intentional and repeated, and this behaviour causes harm to the victim.

Often a child who is bullied may not want to go to school and may also experience stomach aches or headaches, brought on by fear and anxiety of being bullied. Bullying may also lead to long term psychological issues such as depression and anxiety.

### **The legal duty of a school**

Schools have a legal duty to help stop bullying that is occurring at school. If your child is being bullied at school, the first step to take is to tell a teacher or other trusted school employee who may be able to help you. If this doesn't help stop the bullying, you can make a formal complaint to the school.

If your child's school doesn't do something to stop the bullying, you can make a further complaint to the governing body of your child's school. If your child attends a public school, the governing body will be the Department of Education. If your child attends a private or independent school, you should contact your school office and ask how you can make a complaint about the school.

### **Some acts of bullying may constitute a criminal offence**

You can contact the police if your child has been threatened physically or sexually assaulted.

### **Can you take legal action against your child's school?**

Generally, yes. If your child has suffered from psychological or physical injuries as a result of the bullying, you can commence proceedings for compensation against the

school. It does not matter whether your child attends a public, private or independent school, as long as you can prove, on the balance of probabilities, that:

- Your child was subjected to bullying at school and the school was negligent by failing to take steps in response to your complaints or implement a system to prevent the bullying.
- Your child's injury could have been avoided if the school had taken action to prevent the bullying.
- Your child has suffered an injury and incurred losses from the bullying, for example, they have been seeing a psychologist and have been diagnosed with PTSD or depression and anxiety or have sustained a serious physical injury.
- The negligence of the school caused your child's injury and loss.

It is important to note that these types of claims are complex and difficult to prove, particularly if it's occurring through social media. Screenshots should be taken straight away before messages disappear or are deleted. We strongly recommend you seek advice from an experienced lawyer to ensure the best chance of success.

### **How much compensation can my child receive?**

This will depend on your child's particular circumstances. There is no "one size fits all" amount of damages awarded, the amount will depend on the injury or harm suffered by an individual child.

Important factors that are considered when determining the amount of compensation your child will receive, include:

- The nature and extent of physical or psychological harm suffered and whether it will remain permanent or resolve/partially resolve with treatment over time.
- How the bullying has impacted your child's capacity to earn an income in the future. This seems like an overreach; however psychological conditions are well known to be difficult to treat and may continue to persist into adulthood.
- The type and duration of treatment your child may require. The cost of psychological treatment can be expensive, especially over a long period of time. How and to what extent your child's injury interferes with their day-to-day activities, such as sports, recreational activities, and hobbies will also be considered.

## **Conclusion**

If your child has been bullied at school and diagnosed with a psychological injury or suffered a serious physical injury, you may have a good chance of seeking compensation from their school.

You can claim compensation from your child's school regardless of whether the school is public, private, or independent. The type of damages your child receives will depend on the seriousness and type of injury they have received as a result of the bullying and how their injuries will affect their future.

If you or someone you know wants more information or needs help or advice, please contact us on 07 5538 2766 or email [jeff@dwyerlaw.com.au](mailto:jeff@dwyerlaw.com.au) today and please ask about our No Win No Fee policy.