

BULLYING AND HARASSMENT AND WHAT TO DO WHEN IT HAPPENS



I. What is bullying and harassment?

- A. Bullying has many different definitions. Bullying occurs when a student causes another student to feel less safe, fearful, or like he/she is unable to participate in school.¹ Bullying, which often involves an imbalance of power, can include physical, verbal, or psychological actions against a student. Bullying also happens through communications, including social media.²
- B. Speech or actions against a student may rise to the level of harassment when they are so severe, pervasive, or targeted at particular individuals that it hinders classmates' ability to get an education, significantly harms their well-being, substantially interferes with their rights, or intimidates classmates because of their identity.
- C. Bullying and/or harassment are particularly harmful when students are intimidated or bullied due to actual or perceived characteristics such as age, ancestry, color, ethnic group identification, gender expression, gender identity, gender, disability, nationality, race or ethnicity, religion, sexual orientation, or a person's association with a person, or group. This kind of bullying is serious and can violate other laws, including federal and state civil rights laws.

II. What are your rights when you are bullied or harassed?

- A. You have a right to go to school that is a welcoming environment for you and your classmates.³ This means you have a right not to be bullied or harassed.
- B. California schools must take bullying or harassment seriously and create an action plan to address bullying.⁴
- C. You have a right to report, and should report, bullying or harassment at school.
- D. If bullying or harassment happens based on a student's color, race, national origin, gender, gender expression, gender identity, sexual orientation, disability, or religion, it may also violate civil rights and discrimination laws.⁵ Such bullying or harassment could include racial slurs, homophobic or transphobic slurs, refusing to respect a transgender person's identity, anti-Muslim or immigrant remarks, or comments about students' nationality or ethnicity.
- E. School staff are required to immediately intervene if they see student harassment, discrimination, intimidation, or bullying.⁶

¹ CA Education Code Section 48900(r)(1).

² CA Education Code Section 48900(r).

³ CA Education Code Section 32261(a).

⁴ CA Education Code Section 32280.

⁵ See Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990. Education Code sections 200, 220, 233, and 48900.3 outline that hostility motivated by protected categories are a violation of California law.

⁶ CA Education Code Section 234.1(b).

BULLYING AND HARASSMENT AND WHAT TO DO WHEN IT HAPPENS



III. As a parent what can I do?

- A. Parents play a critical role in recognizing signs of bullying. Students often act differently, clothes may be torn, or are less interested in school work. Parents ultimately should take action if something feels different with their interaction with their child.
- B. If you suspect your child is being bullied, talk to your child and make him/her feel supported. Make sure your child knows it is not his/her fault.
- C. Document all of the facts of the conversation and report the bullying to the school and/or file formal complaints with the school district and/or federal Department of Education. As explained more below, you can file a complaint with the school district or government.

IV. As a teacher or community advocate, how can I help?

- A. Students often feel fearful, hurt, or ashamed and need encouragement to discuss bullying. Student will only reveal that they are being bullied if they feel safe.
- B. If a student tells you that he/she is being bullied or has witnessed bullying, document the experience and ask the student if it is ok to send this information to the counselor or administrators.
- C. You should also encourage a safe and inclusive environment in the classroom. This can include creating guidelines and rules that support all students and letting students know that it is safe for them to share their thoughts and feelings.
- D. You should use restorative justice and positive behavior and intervention supports as a way of resolving conflict. If your school district does not have these resources available, you should request that they invest in them.

V. What if I observe bullying?

- A. Stand up for the student being bullied and let the bullying student(s) know that the behavior is not acceptable. Show the student being bullied that he/she is not alone. You can also try to distract the bully by starting a conversation with the victim or asking the victim to go somewhere with you.
- B. If you do not feel comfortable stepping in, go seek help from an adult immediately.
- C. Document everything that happened right away and report it to the school. If the school does not respond to address the bullying, consider filing a complaint, as described more below.

VI. In California, anyone can file a complaint to report harassment or bullying. These complaints can be anonymous or attached to a person's name. Review our KYR on filing complaints for more details. What should I do if I am bullied?

- A. Ask the school for its anti-bullying policies and complaint process. These documents must be readily accessible at the school or on the school district's website. See the ACLU handout on [Seth's Law](#) for more information.

BULLYING AND HARASSMENT AND WHAT TO DO WHEN IT HAPPENS

MY SCHOOL MY RIGHTS KNOW YOUR RIGHTS

- B. Talk with school administrators about what happened and make sure the story is documented in writing by school staff. You should ask the school for its plan to address the bullying and a timeline of next steps.
- C. If the school does not take corrective steps, or if you are uncomfortable talking with school staff, you can:
 - i. File a [formal Uniform Complaint Procedure \(UCP\) complaint](#) with the school district, which can be appealed to the California Department of Education. These complaints can be filed on behalf of yourself or someone else and can be anonymous.
 - ii. File a [formal “OCR” complaint](#) with the Department of Education Office for Civil Rights. These complaints can be filed on behalf of yourself or someone else and can be anonymous.

VII. How should schools respond to bullying?

- A. Schools have an affirmative obligation to step in and address bullying or harassment. However, the response *should not be automatically punitive*, given these actions are often not the most effective way to stop or prevent bullying and harassment. Schools should consider the impact that bullying and accusations of bullying will have on all students and proceed in a manner that helps to create an inclusive environment for all students. Schools should refer students who have been bullied, who have engaged in bullying, and who observe bullying to counselors and should resolve conflict through restorative justice and positive behavior interventions and supports.
- B. In particular, schools should avoid relying on zero tolerance policies, which don’t improve school climate, are ineffective in stopping bullying and harassment, and are often applied discriminatorily. For more information about the dangers of zero tolerance policies, see our [handout](#).
- C. When responding to reports of bullying or harassment, schools should also recognize that students have a right to expression under the First Amendment and the Education Code. However, schools can prohibit speech that crosses the line into harassment when it is so severe, pervasive, or targeted at particular individuals that it hinders classmates’ ability to get an education, significantly harms their well-being, or substantially interferes with their rights. Speech can also be harassment when it intimidates students because of their identity. We strongly encourage schools to immediately address bullying and harassment on campus, and do so thoughtfully and purposefully.

VIII. Additional thoughts on bullying

- A. Bullying is not the victim’s fault. Parents, administrators, and other students should support students who are bullied.
- B. Students should confide in a person they feel is trustworthy when experiencing bullying. Bullies tend to pick on students they believe are unsupported. Supporters can also help students gain confidence to speak out against the bullying behavior.

BULLYING AND HARASSMENT AND WHAT TO DO WHEN IT HAPPENS

MY SCHOOL MY RIGHTS KNOW YOUR RIGHTS

- C. If you are being cyber bullied, adjust your privacy settings to try to block bullies from contacting you in the future or seeing your content. Review our [handout](#) on your social media rights when considering posting information online.
- D. Screenshot or save any negative comments made about you or a friend in social media posts. Our [handout](#) on social media explains ways to protect your social media posts.
- E. Whether you have been bullied or been accused of bullying, students only talk to police or security officers with a parent, guardian, counselor, or other supportive adult present.

RESOURCES FOR MORE INFORMATION ON BULLYING

ACLU of CA fact sheet on Education Code school harassment amendments

https://www.aclunc.org/sites/default/files/asset_upload_file529_10688_0.pdf

Federal resources from the U.S. Department of Education

<https://safesupportivelearning.ed.gov/index.php?id=01>

California anti-bullying laws

<http://www.stopbullying.gov/laws/california.html>

LGBTQ student rights in California

<https://www.aclusocal.org/sites/default/files/wp-content/uploads/2014/09/transgender-youth-KYR-card-Aug-2014-WEB.pdf>

<https://www.aclusocal.org/en/lgbtq-know-your-rights>

Published March 2017



WWW.MYSCHOOLMYRIGHTS.COM