

# BULLYING AND HARASSMENT AND WHAT TO DO WHEN IT HAPPENS



## What is considered bullying and harassment?

**BULLYING IS** when a student causes another student to feel less safe, fearful, or like they are unable to participate in school.<sup>i</sup> Bullying, often involves an imbalance of power, and can include physical, verbal, or psychological actions against a student. Bullying can also happen through communications, including social media.<sup>ii</sup>

**HARASSMENT IS** when the speech or actions are so severe, pervasive, or targeted at particular people that it hinders the student's ability to get an education, significantly harms their well-being, substantially interferes with their rights, or intimidates the student because of their identity.

Bullying or harassment is especially harmful when students are bullied due to actual or perceived characteristics such as race or ethnicity, ancestry, color, ethnic group identification, gender expression, gender identity, gender, disability, nationality, religion, sexual orientation, age, or a person's association with a person or group. This kind of bullying or harassment can violate other federal and state civil rights laws too.

## Do I have a right to be protected from bullying and harassment?

**YES.** You have a right to go to school that is a welcoming environment for you and your classmates.<sup>iii</sup> This means you have a right not to be bullied or harassed.

California schools must take bullying or harassment seriously and create an action plan to address bullying.<sup>iv</sup> You have a right to report, and should report, bullying or harassment at school. School staff are required to immediately intervene if they see student harassment, discrimination, intimidation, or bullying.<sup>v</sup>

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.<sup>vi</sup> 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.

## Is there anything my parent or guardian can do to help?

**YES.** Parents and guardians play a critical role in helping students recognize signs of bullying or harassment and doing something about it. For example, students who are being harassed or bullied often act differently—clothes may be torn or a student may be less interested in school work. You should talk to your parent or guardian about what's happening at school so they can help you make things better.

Parent or guardians are a very important source of support. They should make sure that the student understands that the bullying or harassment is not their fault. Parents or guardians should also document all of the facts and make a report to the school and/or file a formal complaint with the school district, the California Attorney General, or the federal Department of Education. Documenting the bullying and harassment in writing is very important. (See below for more information on filing complaints.)

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## Can my teacher or other community advocate help?

**YES.** Bullying is not the victim's fault. Students often feel fearful, hurt, or ashamed, and need encouragement to discuss bullying. Students should talk to people they trust when experiencing bullying such as parents, administrators, and other trusted adults or friends can provide support. If a student tells an adult that they are being bullied or has witnessed bullying, the adult should document the experience and ask the student if it is ok to send the information to a counselor or administrator.

Teachers should 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. Restorative justice and positive behavior and intervention supports are good tools to resolve conflict. If these resources are not available, adults should request that your school invest in them.

## What should I do if I am being bullied or harassed?

**YES.** First, talk with school administrators about what happened. Make sure the story is documented in writing by school staff and ask for a copy. Ask the school for its plan to address the bullying and a timeline of next steps. Whether you have been bullied or been accused of bullying, you should NOT talk to police or security officers unless a parent, guardian, counselor, or other supportive adult is present.

Also 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 our handout on [Seth's Law](#).

If the school does not take steps to correct the problem, or if you are uncomfortable talking with school staff, you can also file a complaint. There are three kinds of complaints:

1. [A formal Uniform Complaint Procedure \(UCP\) complaint](#). A UCP complaint is filed with your school district and can be appealed to the California Department of Education.
2. [A formal California Attorney General \(AG\) complaint](#). An AG complaint about school bullying or harassment is filed with the California Bureau of Children's Justice.
3. [A formal Office for Civil Rights \(OCR\) complaint](#). An OCR complaint is filed directly with the federal Department of Education's Office for Civil Rights.

In California, anyone can file a complaint to report harassment or bullying. A complaint can be filed on your behalf or on behalf of someone else or be anonymous.

## Is there anything I can do if I observe bullying?

**YES.** Stand up for the student being bullied and let the bullying student(s) know that bullying is not ok. Show the student being bullied that they are not alone. You can also try to interrupt the bully by starting a conversation with the bullied student or asking them to go somewhere with you.

If you do not feel comfortable stepping in, get help from an adult immediately. Write down what happened right away and report it to the school. If the school does not address the bullying, consider filing a complaint, as described below.

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## **Does my school have rules it has to follow if I tell them I am being bullied or harassed?**

**YES.** Schools must step in and address bullying or harassment. However, a school should NOT automatically suspend or expel the bullying student, since that is often not the most effective way to stop or prevent bullying and harassment. (See our [handout](#) on the dangers of “zero tolerance policies.”) 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.

When responding to reports of bullying or harassment, schools must 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 bullying or harassment (defined above). We strongly encourage schools to immediately address bullying and harassment on campus, and do so thoughtfully and purposefully.

## **Does cyber bullying still count as bullying or harassment?**

**YES.** 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.

You should also screenshot or save any negative comments made about you or a friend in social media posts. Our “Social Media Rights” [handout](#) on explains ways to protect your social media posts.

## **Does sexual harassment or gender-based violence still count as harassment?**

**YES.** Gender-based violence and harassment are behaviors that are committed because of a person’s gender or sex and can happen to anyone. They can be carried out by a partner, a date, or other students or adults and should be taken seriously. Examples may include when someone:

1. Follows you around, stalks you or always wants to know where you are and who you are with;
2. Sends you repeated and unwanted texts, IMs, online messages, and/or phone calls including, but not limited to, sexual comments;
3. Pressures you to perform sexual acts or have sex, or touches you sexually against your will (including sexually grabbing, rubbing, touching, or pinching you);
4. Interferes with your birth control;
5. Verbally abuses you using anti-gay or sex-based insults;
6. Physically abuses you (e.g., hitting, punching, kicking, slapping, or choking); or
7. Makes repeated sexual comments about you to other classmates, including on social media (e.g., comments about your body, spreading sexual rumors, dirty jokes, or stories).

## **Do I have rights in school if I am facing sexual harassment or gender-based violence?**

**YES.** You have the right to be free from sexual harassment and gender-based violence at school under both state and federal law. If you are facing sexual harassment or gender-based violence, know that it is not your fault. You are not alone—44% of sexual assault survivors are under the age of 18. When you’re ready, talk to a trusted adult to get help and support, and make the behavior stop if it’s still happening.

Depending on what you’re comfortable with, you have rights you can enforce as a survivor at school. Your school must have a written sexual harassment policy that includes information on where and how you can report sexual harassment.<sup>vii</sup> Ask for a copy of this policy. You may also file a formal complaint about the sexual harassment, as explained above (see the [Federal Department of Education’s FAQ](#)). You can also

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have your school work with you to make sure you feel safe on campus. You should never be forced to leave school because you are a survivor—if you're being punished for reporting sexual harassment, contact us at [ACLU of Northern California](#), [ACLU of Southern California](#) or [ACLU of San Diego & Imperial Counties](#).

To learn more about your rights at school when facing sexual harassment or gender-based violence, check out the ACLU Women's Rights Project [handout](#) on gender-based violence and harassment, resources for high school student survivors at [knowyourix.org/high-school-resource/](http://knowyourix.org/high-school-resource/), and [equalrights.org/legal-help/know-your-rights/sexual-harassment-at-school/](http://equalrights.org/legal-help/know-your-rights/sexual-harassment-at-school/). Also see our Know Your Rights handouts on [student health rights](#) and [how to file an OCR complaint](#).

## RESOURCES FOR MORE INFORMATION ON BULLYING AND HARASSMENT

- [ACLU OF CA FACT SHEET: SETH'S LAW EDUCATION CODE PROVISIONS](#)
- [FEDERAL RESOURCES FROM THE U.S. DEPARTMENT OF EDUCATION](#)
- [CALIFORNIA ANTI-BULLYING LAWS](#)
- [LGBTQ STUDENT RIGHTS IN CALIFORNIA](#)
- [ACLU OF CA TRANSGENDER STUDENT RIGHTS AT SCHOOL RESOURCE](#)



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<sup>i</sup> California Education Code Section 48900(r)(1).

<sup>ii</sup> California Education Code Section 48900(r).

<sup>iii</sup> California Education Code Section 32261(a).

<sup>iv</sup> California Education Code Section 32280.

<sup>v</sup> California Education Code Section 234.1(b).

<sup>vi</sup> 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.

<sup>vii</sup> California Sex Equity in Education Act, California Education Code sections 221.5-231.5.