

# Bullying & Disability Harassment of Students with Disabilities

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## Frequently Asked Questions

Bullying can have a profound impact on students with disabilities, who are often targeted for bullying. This publication addresses school district's legal obligations under Federal and California law to address and prevent bullying and disability harassment of students with disabilities. This publication also identifies possible strategies to address bullying through the IEP process and other procedures.

### 1) What is bullying?

Bullying involves a combination of an imbalance of power, an intent to cause harm, and [repetition](#).<sup>1</sup> Bullying exists in many forms:

- Verbal bullying: taunting, teasing, name calling, and threatening;
- Physical bullying: hitting, tripping, kicking, spitting, and pushing;
- Social bullying: spreading rumors, manipulating social relationships, demanding money or property, or intimidation; and
- Cyber-bullying: electronic acts including use of texting, social media websites such as Facebook or YouTube, and email to humiliate targets.

California law defines bullying as “any severe or pervasive physical or verbal act or conduct” committed by a student(s) directed towards a [student\(s\)](#).<sup>2</sup> Bullying acts or conduct can include written communication, electronic acts, sexual harassment, hate violence, harassment, threats and

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<sup>1</sup> <http://www.stopbullying.gov/> “Return to Main Document”

<sup>2</sup> Cal. Ed. Code Secs. 32261(f), 48900(r)(1) [“Return to Main Document”](#)

[intimidation](#).<sup>3</sup> For an act to be bullying these acts have the effect of, or could be reasonably predicted to result in:

- Fear of physical harm or harm to property
- Detrimental effect on physical or mental health
- Interference with academic performance
- Interference with participation in and benefitting from school activities, services and [privileges](#).<sup>4</sup>

## 2) What is disability harassment?

Department of Education Office of Civil Rights has stated that disability harassment is conduct that creates a hostile environment which limits people with disabilities from participating in or benefitting from school activities or [services](#).<sup>5</sup> Harassment can be physical or verbal abuse and intimidation. Disability harassment, unlike bullying, may also include conduct that is not directed at a specific target, is not motivated by intent to cause harm, and involves isolated [incidents](#).<sup>6</sup> However, bullying can be disability harassment if the bullying is on the basis of disability and/or targets people with disabilities. Disability harassment can be perpetrated by students and peers, and even by school employees, such as teachers and [administrators](#).<sup>7</sup>

## 3) What laws govern bullying and disability harassment at school?

### Bullying, disability harassment, and anti-discrimination laws

Under federal law, Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 prohibit discrimination on the basis of disability by school districts receiving federal funds and by governmental entities. Bullying and disability harassment can be a form of discrimination on the basis on disability. The U.S. Department of Education Office of Civil Rights has stated that disability harassment is a form of discrimination

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<sup>3</sup> Cal. Ed. Code Secs. 48900(r)(1), 48900.2, 48900.3, 48900.4. [“Return to Main Document”](#)

<sup>4</sup> Cal. Ed. Code Secs. 32261(f), 48900(r)(1). [“Return to Main Document”](#)

<sup>5</sup> <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>  
[“Return to Main Document”](#)

<sup>6</sup> <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>  
[“Return to Main Document”](#)

<sup>7</sup> <http://www2.ed.gov/about/offices/list/ocr/docs/disabharassltr.html> [“Return to Main Document”](#)

which violates Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities [Act](#).<sup>8</sup>

California law also prohibits discrimination on the basis of disability in [schools](#).<sup>9</sup> All pupils have the right to participate fully in the educational process, free from discrimination and harassment. California's public schools have an affirmative obligation to combat racism, sexism, and other forms of bias, and a responsibility to provide equal educational opportunity. Harassment on school grounds directed at an individual on the basis of personal characteristics or status creates a hostile environment and jeopardizes equal educational opportunity as guaranteed by the California Constitution and the United States [Constitution](#).<sup>10</sup>

A school has notice of harassment if a responsible employee, such as a teacher or administrator, knew about the harassing conduct or would have known about the conduct if they were acting reasonably. School districts have an obligation to address discriminatory harassment that they know about, or reasonably should have known [about](#).<sup>11</sup>

### Bullying and Individuals with Disabilities Education Act

Furthermore, under the Individuals with Disabilities Education Act (IDEA), school districts have a responsibility to provide free and appropriate public education (FAPE) to students with disabilities who are eligible for special education. The U.S. Department of Education Office of Civil Rights has stated that disability harassment may decrease students with disabilities' ability to benefit from public education and deny them of their right to [FAPE](#).<sup>12</sup>

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<sup>8</sup> <http://www2.ed.gov/about/offices/list/ocr/docs/disabharassltr.html> ["Return to Main Document"](#)

<sup>9</sup> Cal. Ed. Code Sec. 220. ["Return to Main Document"](#)

<sup>10</sup> Cal. Ed. Code Sec. 201(a)-(c). ["Return to Main Document"](#)

<sup>11</sup> See *footnote 9*,

<http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>  
["Return to Main Document"](#)

<sup>12</sup> <http://www2.ed.gov/about/offices/list/ocr/docs/disabharassltr.html> ["Return to Main Document"](#)

**4) What are the school district's responsibilities with regards to addressing bullying and disability harassment at school?**

Hostile learning environment

School districts may violate federal law when peer harassment based on race, color, national origin, sex, or disability is sufficiently serious that it creates a hostile environment and such harassment is encouraged, tolerated, not adequately addressed, or ignored by school [employees](#).<sup>13</sup> A number of courts have held that severe and pervasive harassment on the basis of disability may create a hostile learning environment in violation of the ADA and Section 504 of the Rehabilitation [Act](#).<sup>14</sup> Harassment creates a hostile environment when the conduct is sufficiently severe, pervasive, or persistent so as to interfere with or limit a student's ability to participate in or benefit from the services, activities, or opportunities offered by a school.

Discipline

Under California law, students can be suspended or expelled if they engage in bullying. This includes [cyberbullying](#).<sup>15</sup>

A student can be suspended or recommended for expulsion if the superintendent or the principal of the school determines that the student has intentionally engaged in harassment, threats or intimidation "that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting class work, creating substantial disorder, and invading the rights of either school personnel or pupils by creating an intimidating or hostile educational [environment](#)."<sup>16</sup>

Anti-bullying policy

California law requires school districts to adopt policies prohibiting discrimination, harassment, intimidation, and bullying in [school](#).<sup>17</sup> School

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<sup>13</sup> 34 C.F.R. parts 100, 104, and 106. ["Return to Main Document"](#)

<sup>14</sup> See, *Guckenberger v. Boston University*, 957 F. Supp. 306, 314 (D. Mass. 1997); *Pell v. the Trustees of Columbia University*, 1998 U.S. Dist. Lexis 407, 56 (S.D.N.Y. 1998); and *Rick C. v. Lodi School District*, 32, Individuals with Disabilities Education Law Report, 232. ["Return to Main Document"](#)

<sup>15</sup> Cal. Ed. Code Sec. 48900. ["Return to Main Document"](#)

<sup>16</sup> Cal. Ed. Code Sec. 48900.4. ["Return to Main Document"](#)

<sup>17</sup> Cal. Ed. Code Sec. 234.1(a) ["Return to Main Document"](#)

district must also adopt a complaint process for receiving and investigating complaints of discrimination, harassment, intimidation, and [bullying](#).<sup>18</sup> School district policy must establish a timeline to investigate and resolve [complaints](#).<sup>19</sup> The policy should also provide an appeals process, in case parents disagree with the school district's resolution of a [complaint](#).<sup>20</sup>

Districts must ensure that people who report discrimination, harassment, intimidation, and bullying in school are protected from retaliation and their identity remains confidential, as [appropriate](#).<sup>21</sup> Districts are also required to include in their complaint process, a requirement that school personnel take immediate steps to intervene, if they witness an act of discrimination, harassment, intimidation, or bullying, if it is safe to do [so](#).<sup>22</sup>

You can request a copy of your school district's discrimination, harassment, intimidation and bullying policy and complaint process; your school district should make this information available to you. If your primary language is not English, this information should be translated into your primary [language](#).<sup>23</sup>

### Priority for Interdistrict Transfer

A parent of a student who is being bullied may request an interdistrict [transfer](#).<sup>24</sup> California law provides that the student be given priority for interdistrict transfer, or special consideration for the creation of an interdistrict attendance [agreement](#).<sup>25</sup> Priority and special consideration will be granted if the staff at the home district, or staff at the district into which transfer is requested, determine that the student has been bullied in the home [district](#).<sup>26</sup>

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<sup>18</sup> Cal. Ed. Code Sec. 234.1(b) ["Return to Main Document"](#)

<sup>19</sup> Cal. Ed. Code Sec. 234.1(b)(2) ["Return to Main Document"](#)

<sup>20</sup> Cal. Ed. Code Sec. 234.1(b)(3) ["Return to Main Document"](#)

<sup>21</sup> Cal. Ed. Code Sec. 234.1(f) ["Return to Main Document"](#)

<sup>22</sup> Cal. Ed. Code Sec. 234.1(b)(1) ["Return to Main Document"](#)

<sup>23</sup> Cal. Ed. Code Sec. 234.1(c) ["Return to Main Document"](#)

<sup>24</sup> Cal. Ed. Code Sec. 46600(b) ["Return to Main Document"](#)

<sup>25</sup> Cal. Ed. Code Sec. 46600(b) ["Return to Main Document"](#)

<sup>26</sup> Cal. Ed. Code Sec. 46600(b) ["Return to Main Document"](#)

## **5) How can parents tell if their child is being bullied?**

Pay attention to the child and any changes in behavior, mood, or appearance such as:

- Changes in eating and sleeping habits
- Dropping grades and academic performance
- Avoiding school, truancy, tardiness or otherwise expressing dislike of school.
- Evidence of physical altercations or injury, such as cuts, bruises, or torn clothing.
- Depression, anxiety, loneliness, or low self-esteem.

Sometimes students with disabilities are not aware that they are being bullied, so it is important for the parents to communicate with their child, ask them about their relationships with their peers.

## **6) How can parents use the IEP process to address bullying?**

If the parents suspect or have knowledge that their child with a disability is having issues with bullying in school, they should notify the school immediately. Parents may also want to request an IEP meeting. An IEP meeting is a good opportunity to speak with school staff about the concerns regarding bullying.

If the parents believe that bullying may be having an impact on their child's emotional and social well-being and/or academic performance, they may also wish to make a written request for assessment of their child's mental and emotional condition. This assessment may assist the parents and the IEP team in identifying appropriate services to address the impact bullying has on their child and his/her education.

At the IEP meeting, it is important to emphasize that bullying or disability harassment impacts their child's ability to benefit from his/her education, and that it is necessary to address bullying in the IEP for their child to receive FAPE.

There are many goals, accommodations, and services which can be incorporated into their child's IEP to address bullying. Here are some examples of IEP goals and interventions which can address issues with bullying:

**Building social skills.** A student can learn about appropriate social interaction, and learn to identify inappropriate social interactions and bullying behavior. Sometimes students who are bullied do not know it is inappropriate to bully other students or they react aggressively to bullying.

**Developing positive interpersonal relationships.** Students who are able to develop positive relationships and friendships more likely to have confidence and are better equipped to handle bullying or harassing behavior

**Developing self-advocacy skills.** Children can learn appropriate responses to bullying, including how and when to notify appropriate adults, to say “Stop,” or walk away from or avoid stressful situations.

**Supervision or separation from bullies.** The IEP can provide accommodations so that the student can be monitored or shadowed by school staff, separated from bullies, or to allow the student avoid stressful or charged situations or environments (for example, hallways or the back of the bus). However, be careful that these measures do not “punish” the child, place them in an overly restrictive environment, or deprive them of opportunities for positive peer interaction.

**Counseling or other supportive services.** This can be counseling through a school psychologist or informal check-ins with a teacher, guidance counselor, or principal who the student can turn to when they are being bullied or harassed.

**Parent counseling and training.** Parent counseling may help parents understand the special needs of their child, and help them acquire the skills that would allow them to support the implementation of the child’s IEP.

**Educating school staff and/or peers.** School staff can be educated as to the school’s bullying policy and complaint and reporting procedures. If appropriate, staff can be educated to better understand and be sensitive to the student’s disability.

This list is not exhaustive. Like any aspect of an IEP, goals, accommodations, and services should be designed for the child’s unique needs.

**7) What procedures are available to obtain relief when a school district fails to protect a student with a disability against bullying?**

If the school district is not following special education laws or procedures or has not implemented what was agreed upon in the child's IEP, the parent may file a compliance complaint with the local educational agency. The form is listed as Uniform Complaint Procedures. The website is <http://www.cde.ca.gov/re/cp/uc/> and <http://www.cde.ca.gov/re/di/eo/complaint.asp>.

Also, if there is a disagreement with the school district regarding what should go into the child's IEP, the parents may wish to request a due process hearing.

The parents may also file a complaint with the Office of Civil Rights (OCR) with the U.S. Department of Education regarding allegations of discrimination in education on the basis of disability that may constitute a violation of Section 504 of the Rehabilitation Act.

You can find more information regarding due process and complaint procedures in the Special Education Rights and Responsibilities publication, available online at: <http://www.disabilityrightsca.org/pubs/504001SERR.htm>

[Date]

To: [School Principal's name]

[Name of School]

[School Address]

From: [Parent's name]

[Address]

Re: [Name of student]

Grade [Grade Level]

DOB: [Student's birth date]

Dear [School Principal]:

I am writing to inform you that my child, [name of student], is being bullied and harassed at school. My child is a student with a disability. My child has the following disability: [specify disability]. I believe that this harassment is based on his/her disability.

(S)he has been harassed by [name of harasser(s)]. This has occurred on [date or approximate period of time], when [describe incident(s) in as much detail as possible].

When this happened [name of witness(es)] witnessed it and [their response]. My child spoke to [names of school staff] about this incident(s) on [date or approximate period of time]. Their response was [describe school staff response]. I became aware of this incident(s) when [describe how you were notified].

This bullying and disability harassment has affected my child's ability to access education and has resulted in the following negative consequences:

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*[Describe effects, including physical/emotional injuries or effects, need for medical/psychological treatment, and impact on academic or school activity attendance, participation, and performance].*

As you may know, my child is a student with a disability, who has an Individualized Education Plan (IEP)/504 Plan *[select, if appropriate]*. Federal and State law protect the rights of students with disabilities to be free of bullying and harassment based on disability, which interferes with or denies opportunity to participate in or benefit from education. Furthermore, California law requires School Districts to adopt policies that prohibit discrimination, harassment and bullying, to create a complaint process to receive and investigate complaints of discrimination, harassment and bullying, and to make this policy available to parents and students.

I request to receive a copy of the District's policy on bullying and harassment. I request that you investigate this issue and resolve it as soon as possible. Please let me know in writing, the results of your investigation, and what steps you have taken to address this problem, and to ensure it does not happen in the future.

I would also like to request a IEP/504 Plan *[choose one, if applicable]* meeting to be held as soon as possible in order to discuss possible accommodations, services, and/or supports in order to address this issue.

Thank you for your prompt attention to this matter.

*[Parent's Signature]*

*[Date]*

[Date]

To: California Department of Education  
Sharon Felix-Rochon, Director  
Office of Equal Opportunity  
1430 N Street, Suite 4206  
Sacramento, CA 95814

From: [Parent's name]  
[Parent's Address]

Dear Sir or Madam,

I am writing to file a complaint against [name of school district] because I feel that my child, [name of student] has been wrongfully discriminated against on the basis of his/her disability.

[Name of student] is in [grade level] at [name of school]. (S)he is a student with a disability; (s)he has [specify disability]. (S)he has an IEP/504 Plan [select, if applicable].

[Name of student] has been bullied and harassed because of his/her disability at school. This occurred on [date or approximate period of time], when [describe incident(s) in as much detail as possible].

When this happened, [name of witness(es)] heard or saw it and [their response]. My child spoke to [name(s) and title(s) of school staff] about these incidents on [date or approximate period of time] and their response was to [describe school staff response]. I became aware of this incident when [describe how you were notified].

I believe that this harassing conduct is based on disability because [describe the relationship between the harassment and the student's disability].

This disability harassment has created a hostile learning environment which has interfered with my child's ability to access education and has resulted in the following negative consequences: [Describe effects, including physical/emotional injuries or effects, need for medical/psychological treatment, and impact on academic and/or school activity attendance, participation, and performance].

On [date you sent letter to school district], I filed a written complaint with the school district and I requested that they investigate and resolve the matter

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as soon as possible. In response, the school district has [*describe school district's response*]. I believe they have failed in their obligation to protect my child from discrimination and harassment based on disability because, [*describe why their response fails to adequately address disability harassment*].

Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, and California Education Code sections 200, 201, 220, 234, and 234.1 protect the rights of students with disabilities to be free of discrimination and harassment based on disability, which interferes with or denies opportunity to participate in or benefit from education. Furthermore, under the Individuals with Education Act, disability harassment may result in a failure by a school district to provide Free and Appropriate Public Education.

In order to resolve this complaint, I am asking for the following remedies: [*indicate what you want the school district to do as a result of your complaint, i.e. counseling for student, compensatory services, training on discrimination and disability harassment for staff/students, modifications to the school district's policies, etc.*].

I have enclosed [*indicate any relevant documents/evidence, including letters and other communications, decisions, etc.*].

Please feel free to contact me regarding this complaint. Thank you for your prompt attention to this matter.

Sincerely,

[*Signature*]

[*Date*]

[Date]

To: San Francisco Office  
Office for Civil Rights  
U.S. Department of Education  
50 Beale Street, Suite 7200  
San Francisco, CA 94105-1813

From: [Parent's name]  
[Parent's Address]

Dear Sir or Madam,

I am writing to file a complaint against [name of school district] because I feel that my child, [name of student], has been wrongfully discriminated against on the basis of his/her disability.

[Name of student] is in [grade level] at [name of school]. (S)he is a student with a disability; (s)he has [specify disability]. (S)he has an IEP/504 Plan [select, if applicable].

[Name of student] has been bullied and harassed because of his/her disability at school. This occurred on [date or approximate period of time], when [describe incident(s) in as much detail as possible].

When this happened, [name of witness(es)] heard or saw it and [their response]. My child spoke to [name(s) and title(s) of school staff] about these incidents on [date or approximate period of time] and their response was [describe school staff response]. I became aware of this incident when [describe how you were notified].

I believe that this harassing conduct is based on disability because [describe the relationship between the harassment and the student's disability].

This disability harassment has created a hostile learning environment which has interfered with my child's ability to access education and has resulted in the following negative consequences: [Describe effects, including physical/emotional injuries or effects, need for medical/psychological treatment, and impact on academic and/or school activity attendance, participation, and performance].

On *[date you sent letter to school district]*, I filed a written complaint with the school district and I requested that they investigate and resolve the matter as soon as possible. In response, the school district has *[describe school district's response]*. I believe they have failed in their obligation to protect my child from discrimination and harassment based on disability because, *[describe why their response fails to adequately address disability harassment]*.

Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990 protect the rights of students with disabilities to be free of discrimination and harassment based on disability, which interferes with or denies opportunity to participate in or benefit from education. Furthermore, under the Individuals with Education Act, disability harassment may result in a failure by a school district to provide Free and Appropriate Public Education.

In order to resolve this complaint, I am asking for the following remedies: *[indicate what you want the school district to do as a result of your complaint, i.e. counseling for student, compensatory services, training on discrimination and disability harassment for staff/students, modifications to the school district's policies, etc.]*.

I have enclosed *[indicate any relevant documents/evidence, including letters and other communications, decisions, etc]*.

Please feel free to contact me regarding this complaint. Thank you for your prompt attention to this matter.

Sincerely,

*[Signature]*

*[Date]*

*Disability Rights California is funded by a variety of sources, for a complete list of funders, go to <http://www.disabilityrightsca.org/Documents/ListofGrantsAndContracts.html>.*