

WHAT CAN YOU DO IF YOUR CHILD IS BEING HARASSED BY OTHER STUDENTS IN SCHOOL?

IS HARASSMENT OF MY CHILD BY ANOTHER STUDENT ILLEGAL?

“Peer-on-Peer” harassment (name-calling, written statements, or physical abuse) can be illegal. Federal, state, and local laws protect students from certain types of harassment from other students. Federal and state law protections are available when the harassment is based on a student’s disability, race, or gender (sexual harassment). Some local laws may also provide protection against sexual orientation harassment. The law protects students from both physical and emotional pain. However, not every negative encounter between students, even if it involves disability, race, gender, or sexual orientation, presents a legal issue. To be illegal, the harassment has to be so bad that it makes it very difficult for a student to learn or take part in school activities. In determining whether harassment exists in school, several factors are considered, including when, where, and how often it has occurred.

WHAT TYPES OF HARASSMENT ARE PROHIBITED BY LAW?

Different kinds of harassment are prohibited by different federal laws. That is why it is important to determine what type of harassment is occurring to your child.

Disability harassment is serious intimidation or abusive behavior toward a student based on his or her disability. *For more information on disability harassment, please see the Education Law Center’s Fact Sheet entitled “What Can You Do if Your Child with a Disability is Being Harassed by Other Students?”*

Racial harassment is the harassment of students due to race, color, or national origin that is so bad that it makes it hard for a student to participate in, or benefit from, any school program or activity. Racial harassment may include racially motivated physical attacks, racial sayings on school walls, name-calling, or things such as posters, drawings, or graffiti.

Sexual harassment is any unwanted and uninvited sexual conduct that is so bad that it limits a student’s ability to participate in, or benefit from, school programs or activities. Sexual harassment includes cases in which a person uses sexual actions to make things seem very uncomfortable for the student being harassed. These types of sexual actions can include unwanted physical contact, unwelcome remarks, whistling, jokes, other gestures, intimidating behavior, or rumors of a sexual nature. However, sexual harassment does not include shared things like dating or flirting. If one person does not want to engage in these activities, though, it could be sexual harassment. Both boys and girls can be sexually harassed.

STATE AND LOCAL LAWS

State and local laws also protect individuals from disability, race, and gender-based harassment. Some local laws (including laws in Pittsburgh and Philadelphia) also provide protection against harassment based on sexual orientation.

Sexual orientation harassment is cruel and disrespectful conduct directed at the characteristics of a student's sexual orientation, such as name-calling and threats. In addition to verbal conduct, sexual orientation harassment may also include negative written comments or physical abuse. However, it may not include simple statements of opinion, such as moral or religious statements.

WHERE CAN SCHOOL-BASED PEER HARASSMENT OCCUR?

Peer harassment can occur anywhere connected with school: in classrooms, in hallways, on the school bus, and in cafeterias. It can also occur during school-sponsored activities on school grounds or at other locations.

WHAT CAN I DO IF MY CHILD IS BEING HARASSED?

Your school district is responsible for taking reasonable steps to see that your school is safe for your child. Your first step should be to explain the problem to the teacher to see if the matter can be resolved quickly. If your child receives special education services, you can also try to resolve the problem by working with your child's IEP Team. However, if the harassment is severe, or if the teacher or IEP Team doesn't fix the problem promptly, it is important to contact a school leader such as the principal or the superintendent in writing. Explain what is happening to your child in detail, including who was involved, who witnessed the incident, what happened, and when and where it happened. You should also make a written record of all incidents and send copies to the principal and the district superintendent. Ask the school district to respond to you in writing.

WHAT CAN I DO IF THE HARASSMENT DOES NOT STOP?

If your school district does not take reasonable steps to end the harassment against your child, the district may be violating federal, state, and/or local laws. Under these laws, you can file a complaint with the U.S. Office for Civil Rights, PA Human Relations Commission, and/or the U.S. Office of Special Education Programs. You may also be able to file a complaint with your local commission on human relations or sue your district in court. If you are considering filing a lawsuit, you should contact an attorney to make sure that you have a good harassment claim and that you are suing within legally mandated timelines.

If your child is suffering from **racial** or **sexual** harassment, call the U.S. Department of Education's Office for Civil Rights (OCR) at 800-421-3481 (www.ed.gov/offices/OCR) and/or the Pennsylvania Human Relations Commission (PHRC) at (412) 255-2600 (Pittsburgh Office) or at (215) 560-2496 (Philadelphia Office).

If your child is suffering from **disability** harassment, contact OCR, PHRC, and/or the Office of Special Education Programs through 1-800-USA-LEARN or by calling (202) 205-5507. *For more information on disability harassment, please see the Education Law Center's "What Can You Do if Your Child with a Disability is Being Harassed by Other Students?" fact sheet.*

If your child is being harassed based on his or her **sexual orientation**, you may be able to contact your local Commission on Human Relations. For example, in Pittsburgh, call the Pittsburgh Commission on Human Relations at (412) 255-2600. In Philadelphia, call the Philadelphia Commission on Human Relations at (215) 686-4670.

WHERE CAN I GET MORE HELP?

You can get more information on how your school can take stronger steps to prevent bullying and other types of harassment against all students from the Blueprints Bullying Prevention website at: www.colorado.edu/cspv/blueprints/model/tenbully.htm. This is a program designed to reduce and prevent bully/victim problems in school. You can also find information about other prevention programs by calling the Committee for Children at 800-634-4449 or by visiting their website at <http://www.cfchildren.org>. You can request a free information packet from this site.

You may also find help to prevent or end harassment at the following websites, or by calling the following telephone numbers:

- The American Civil Liberties Union (ACLU) – www.aclu.org . In Pittsburgh, call (412) 681-7736 and in Philadelphia, call (215) 923-HELP.
- The Pennsylvania Department of Education – www.pde.psu.edu or (717) 783-6788 (this is not a specific department but your call will be directed from this location).
- Center for Safe Schools – www.center-school.org, click on "Violence Prevention," click on "Center for Safe Schools." You can also reach the Center at (717) 763-1661. They deal with a variety of issues such as school safety and violence prevention.

- Every Child Learning: Safe and Supportive Schools Report discusses issues and recommendations for safe and supportive learning environments. You can order a copy of the report by visiting the Association for Supervision and Curriculum Development website at www.ascd.org or by calling 1-800-933-2723, ext. 2.

If you live in the Philadelphia School District, there are other places to turn for help. Contact ELC for a list of such contacts.

Funding for this brochure was provided, in part, by Pennsylvania Protection & Advocacy, Inc., pursuant to the Developmentally Disabled Assistance and Bill of Rights Act, P.L. 101-496, and the P&A for Mentally Ill Individuals Act, P.L. 99-319.

Prepared by: Education Law Center (Rev. 8/02)
(215) 238-6970 (Philadelphia)
(412) 391-5225 (Pittsburgh)
www.elc-pa.org