

Bullying and Harassment



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Federal Law/Guidance

- October 26, 2010 Dear Colleague Letter
 - Bullying on the basis of race, color, national origin, sex, or disability could constitute discriminatory harassment, constituting a violation of federal civil rights laws
 - Harassment = conduct that is so severe, pervasive, or persistent that it interferes with or limits a student's ability to participate in or benefit from the school's programs or activities
- October 21, 2014 Dear Colleague Letter
 - Bullying of a student with a disability on any basis (not just on the basis of disability) can result in a denial of FAPE
 - If a student with a disability is bullied on any basis, schools should convene the IEP or 504 Team to determine whether the student's needs have changed as a result of the effects of bullying

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Idaho Law

- In 2015, the State Legislature amended Idaho's anti-bullying law (originally enacted in 2006) to modify the application of the statute to include protection for any minor on school property or at school activities and to require charter schools and school districts to:
 - Provide ongoing professional development to help staff prevent, identify and respond to incidents;
 - Share bullying and harassment information annually with parents and students;
 - Write their own anti-bullying policies;
 - Report bullying incidents to the State Department of Education.

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Idaho Code §18-917A

18-917A. STUDENT HARASSMENT — INTIMIDATION — BULLYING. (1) No student or minor present on school property or at school activities shall intentionally commit, or conspire to commit, an act of harassment, intimidation or bullying against another student.

(2) As used in this section, "harassment, intimidation or bullying" means any intentional gesture, or any intentional written, verbal or physical act or threat by a student that:

(a) A reasonable person under the circumstances should know will have the effect of:

(i) Harming a student; or

(ii) Damaging a student's property; or

(iii) Placing a student in reasonable fear of harm to his or her person; or

(iv) Placing a student in reasonable fear of damage to his or her property; or

(b) Is sufficiently severe, persistent or pervasive that it creates an intimidating, threatening or abusive educational environment for a student.

An act of harassment, intimidation or bullying may also be committed through the use of a landline, car phone or wireless telephone or through the use of data or computer software that is accessed through a computer, computer system, or computer network.

(3) A student who personally violates any provision of this section may be guilty of an infraction.

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Idaho Code §33-1631

33-1631. REQUIREMENTS FOR HARASSMENT, INTIMIDATION AND BULLYING INFORMATION AND PROFESSIONAL DEVELOPMENT. (1) School districts and charter schools shall undertake reasonable efforts to ensure that information on harassment, intimidation and bullying of students is disseminated annually to all school personnel, parents and students, including an affirmation that school personnel are authorized and expected to intervene or facilitate intervention on behalf of students facing harassment, intimidation or bullying.

(2) School districts and charter schools shall provide ongoing professional development to build skills of all school staff members to prevent, identify and respond to harassment, intimidation and bullying. The state board shall promulgate rules regarding the content of the professional development required by this subsection.

(3) District policies shall include a series of graduated consequences that may include, but are not limited to, referral to counseling, diversion, use of juvenile specialty courts, restorative practices, on-site suspension and expulsion for any student who commits an act of bullying, intimidation, harassment, violence or threats of violence. Guidelines for such policies will be set forth in the rules of the state board.

(4) Annually school districts shall report bullying incidents to the state department of education in a format set forth in rule by the state board. District policy shall designate persons to whom bullying reports are to be made and a procedure for a teacher or other school employee, student, parent, guardian or other person to report or otherwise provide information on bullying activity.

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Cyberbullying

What is cyberbullying?

Cyberbullying occurs when someone harasses, torments, threatens or humiliates someone else through the use of technology — including text messages, social media sites, email, instant messages and websites.

Flaming	Harassment
Outing	Trickery
Impersonation	Denigration
Cyberstalking	Trolling
Catfishing	Exclusion

<https://www.accreditedschoolsonline.org/resources/cyberbullying-prevention-and-support/>

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Cyberbullying

Interesting information about cyberbullying:

- 70% of students report seeing bullying online
- Cell phones are the most common medium for cyberbullying (80% of teens use a cell phone)
- 81% of young people think bullying online is easier to get away with
- Only 10% of victims will inform a parent or trusted adult
- Girls are twice as likely as boys to be victims and perpetrators
 - Girls are more likely to spread rumors, boys are more likely to post hurtful pictures or videos
 - Girls are more likely to react with frustration; boys are more likely to be scared
- Cyberbullying is most prevalent among middle schoolers
- Cyberbullying is often anonymous
- Cyberbullying can be long-lasting (e.g. viral harassment is continuous because it is shared, repeated and may be nearly impossible to erase)
- Because cyberbullying occurs online, it is hard to avoid. Before technology, bullying was confined to school or another physical location, and home was a sanctuary. Homes are no longer sanctuaries for the victims.
- <https://www.dosomething.org/us/facts/11-facts-about-cyber-bullying>
- <https://www.scholastic.com/teachers/articles/teaching-content/cyberbullying-what-teachers-and-schools-can-do/>

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Cyberbullying

Tips for dealing with cyberbullying:

- Take it seriously.
- Go online and get familiar with social networking sites, slang and terms.
- Train students:
 - If you would not say it to their face, do not say it online
 - Do not put anything sensitive into an electronic format (avoid victimization)
- Let students know you care and that you will advocate for them
- Encourage students not to pass along cyberbullying messages
 - <https://www.scholastic.com/teachers/articles/teaching-content/cyberbullying-what-teachers-and-schools-can-do/>

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Affirmative Obligations

- Schools should have well publicized policies prohibiting bullying/harassment and procedures for reporting and resolving complaints
- Schools must take immediate and appropriate action to investigate complaints of harassment (waiting can result in victims changing stories or perpetrators “getting their facts straight”)
- Schools are obligated to address such harassment when school personnel know or reasonably should have known that it is occurring
- If investigation reveals that harassment has occurred, the school must take prompt and effective steps that are reasonably calculated to end the harassment, eliminate any hostile environment and its effects and prevent the harassment from recurring

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Affirmative Obligations

- Know or Should Have Known
 - Schools will be responsible for addressing harassment that is in plain sight, is widespread or is well known to students and staff (for example, occurs in hallways, during classes or nonacademic/extracurricular activities, or through graffiti in public areas)
 - Schools will be responsible for investigating incidents that it becomes aware of
 - Schools will be responsible for what responsible employees know or should have known

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Affirmative Obligations

- Prompt and reasonable steps to end harassment, prevent it from recurring and remedy its effects
 - Separate harasser from target
 - Provide counseling for target and/or harasser
 - Take disciplinary action against the harasser
 - Interventions for larger school community to ensure that students and staff can recognize harassment and know how to respond
 - Revision of policies and procedures or dissemination of existing policies and procedures
 - Distribution of contact information for Title IX and Section 504/Title II coordinators
 - Steps taken should be designed to minimize burden on target (for example, change harasser's schedule, not the target's)
- Steps must also be taken to prevent retaliation

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Affirmative Obligations

- Anti-bullying policy must include an investigation procedure that provides for the prompt and equitable resolution of investigations
- Investigation procedure must include:
 - Explanation of how and with whom a report of bullying may be filed
 - Designation of individual(s) responsible for investigating reports of bullying
 - Description of process for adequate, reliable and impartial investigation of reports of bullying including the designation of an impartial decision maker and opportunity to present witnesses and other evidence
 - Designated and reasonably prompt time frames for major stages of the investigation process
 - Provision for written notice of the outcome of the investigation and remedial action taken
 - Opportunity for appeal and provision for written notice of the outcome of the appeal
 - Assurance that school will take steps to prevent, remedy or otherwise correct harassment and/or discrimination, if necessary
 - Prohibition against retaliation
 - Confidentiality provision

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Resources from the State Department of Education

According to Superintendent Ybarra's website (<http://www.sde.idaho.gov/stop-bullying/>), the State Department of Education provides the following assistance:

- Best practices;
- Guidance, training and technical assistance including policy development;
- Collecting data about youth risk behaviors, including bullying and harassment.
- Assisting schools with implementation of prevention programs;
- Providing funding to address bullying and harassment;
- Hosting an annual conference focused on prevention.

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Sexual Harassment

- ED/OCR have heightened their focus on sexual harassment

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Questions? Please contact us.

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