

# Legal Protections in Schools and Community Health Settings

- Know the rights that students and families have
- Help them advocate for safe learning and community environments
- Know our community resources and assist individuals with accessing them



# Legal Protection In Schools From Peers

*When bullying and harassment is based on race, color, national origin, sex, disability, or religion, bullying overlaps with harassment and schools are legally obligated to address it.*

If the situation is not adequately resolved, it can be reported to the **U.S. Department of Education's Office for Civil Rights** and then **U.S. Department of Justice's Civil Rights Division**.

# What are the federal civil rights laws ED and DOJ enforce?

A school that fails to respond appropriately to harassment of students based on a protected class may be violating one or more civil rights laws enforced by the Department of Education and the Department of Justice, including:

- ▶ Title IV and Title VI of the Civil Rights Act of 1964
- ▶ Title IX of the Education Amendments of 1972
- ▶ Section 504 of the Rehabilitation Act of 1973
- ▶ Titles II and III of the Americans with Disabilities Act
- ▶ Individuals with Disabilities Education Act (IDEA)

# Do federal civil rights laws cover harassment of LGBT youth?

- ▶ Title IX and Title IV do not prohibit discrimination based solely on sexual orientation, but they protect all students, including students who are LGBT or perceived to be LGBT, from sex-based harassment.
- ▶ Harassment based on sex and sexual orientation are not mutually exclusive. When students are harassed based on their actual or perceived sexual orientation, they may also be subjected to forms of sex discrimination recognized under Title IX.

## What is an example of a case where harassment based on sex and sexual orientation overlap?

A female high school student was spit on, slammed into lockers, mocked, and routinely called names because she did not conform to feminine stereotypes and because of her sexual orientation. The student had short hair, a deep voice, and wore male clothing. After the harassment started, she told some classmates she was a lesbian, and the harassment worsened. The school described the harassment as “sexual orientation harassment” in its incident reports and did not take any action.

**In this case, the student was harassed based on her non-conformity to gender stereotypes. In this case, then, although the school labeled the incident as “sexual orientation harassment,” the harassment was also based on sex and covered under Title IX.**

# What are a school/federally funded agency obligations regarding harassment based on protected classes?

**Anyone can report harassing conduct to a school. When a school receives a complaint they must take certain steps to investigate and resolve the situation.**

- ▶ Immediate and appropriate action to investigate or otherwise determine what happened.
- ▶ Inquiry must be prompt, thorough, and impartial.
- ▶ Interview targeted students, offending students, and witnesses, and maintain written documentation of investigation
- ▶ Communicate with targeted students regarding steps taken to end harassment
- ▶ Check in with targeted students to ensure that harassment has ceased
- ▶ When an investigation reveals that harassment has occurred, a school should take steps reasonably calculated to:
  - ▶ End the harassment,
  - ▶ Eliminate any hostile environment,
  - ▶ Prevent harassment from recurring, and
  - ▶ Prevent retaliation against the targeted student(s) or complainant(s).

# Texas Anti-Bullying Laws & Policies

**What term is used in the Texas anti-bullying laws?**

Bullying. Harassment is defined separately.

**Do these laws cover cyberbullying?**

Yes.

**What groups are listed under Texas state law?**

There are no specific groups listed in Texas anti-bullying laws.

Schools that receive federal funding are required by federal law to address discrimination on a number of different personal characteristics.

**Is there a state model policy I can use to create anti-bullying policies at my school or district?**

Texas does not have a model policy.

# Texas State Laws That Cover Bullying and Harassment

Texas Education Code Annotated §21.451 – Staff development requirements

Texas Education Code Annotated §25.0342 – Transfer of students who are victims of or have engaged in bullying

Texas Education Code Annotated §28.002 – Required curriculum

Texas Education Code Annotated §37.001 – Student code of conduct

Texas Education Code Annotated §37.0832 – Bullying prevention policies and procedures

Texas Education Code Annotated §37.083a – Discipline management policies; sexual harassment

Texas Education Code Annotated §37.123 – Disruptive activities

Texas Education Code Annotated §37.124 – Disruption of classes

Texas Education Code Annotated §37.217 – Community education relating to internet safety



# What should a school do to resolve a harassment complaint?

**Appropriate responses will depend on the facts of each case. The school must be an active participant in responding to harassment and should take reasonable steps when crafting remedies to minimize burdens on the targeted students.**

- ▶ Develop, revise, and publicize policy prohibiting harassment and discrimination, grievance procedures for students to file harassment complaint, contact information for Title IX/Section 504/Title VI coordinators.
- ▶ Implement training for staff and administration on identifying and addressing harassment.
- ▶ Provide monitors or additional adult supervision in areas where harassment occurs.
- ▶ Determine consequences and services for harassers, including whether discipline is appropriate.
- ▶ Limit interactions between harassers and targets.
- ▶ Provide harassed student an additional opportunity to obtain a benefit that was denied (e.g., retaking a test/class).
- ▶ Provide services to a student who was denied a benefit (e.g., academic support services).
- ▶ Seek consultation from professionals when necessary.
- ▶ Provide training and oversight to staff and even the community when appropriate.