



WHAT CAN YOU DO IF YOUR CHILD WITH A DISABILITY IS BEING HARASSED BY OTHER STUDENTS?

IMPORTANT: ELC's publications are intended to give you a general idea of the law. However, each situation is different. If, after reading our publications, you have questions about how the law applies to your particular situation, contact us for a referral, or contact an attorney of your choice.

CAN HARASSMENT OF MY CHILD BY ANOTHER STUDENT BE ILLEGAL?

"Peer-on-Peer" harassment (name-calling, written statements, or physical abuse) of a student with a disability can be illegal. If another student has seriously intimidated or engaged in abusive behavior toward your child because of your child's disability, and the school district, after notice to the principal or other school leader, does not take steps to fix the problem, the school district could be in violation of the law. Every negative encounter with another student does not present a legal issue. Illegal disability harassment must be continual and repeated. It must also be severe, persistent, and pervasive enough to make it difficult for a student to learn or take part in school activities or, if a student with a disability, to make meaningful educational progress in her educational goals. Federal, state and local laws protect students with disabilities from excessive harassment in school.

If your child is receiving special education, he or she may have additional rights. If your child's learning has been made very difficult because of "peer-on-peer" harassment, his or her right to a "free and appropriate" education may have been violated. This can be true even if the harassment is not focused specifically on your child's disability. The school district must offer your child a special education program that allows him or her to make reasonable progress, and a

school and class at which learning can take place. If harassment from other students is making learning extremely difficult, the situation may violate the federal special education laws. Keep all correspondence from you to school personnel and from the school back to you, and keep a record of all phone calls. Also keep records of the impact of the harassment on the child, such as decline in grades, the need for counseling, etc.

WHERE CAN DISABILITY HARASSMENT OCCUR?

Disability 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. However, if the harassment is severe, or if the teacher 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.

You should also ask the school district to convene an IEP Team meeting. The IEP Team meeting will let you tell school officials what is occurring, and will let the IEP Team review your child's IEP and make sure that the school is taking steps to end the harassment. You should be prepared to tell the IEP Team what you think would work, and how the school can use its existing or other resources (e.g., bullying/violence prevention programs, school therapists, guidance counselors, etc.) to end the harassment of your child and to prevent it from recurring. If the harassment has caused your child to miss school, you might ask for compensatory services. If your child now needs counseling or other support services, you should discuss adding them to the IEP.

WHAT CAN I DO IF THE HARASSMENT DOES NOT STOP?

If the disability harassment has been on-going (that is, there have been repeated incidents); you have put school staff, including the school leaders, on notice; and the school staff has sat by while the harassment occurred and was repeated, the school district may be violating federal, state and/or local laws that entitle eligible students with disabilities to a free appropriate public education and protect them from discrimination. Under these laws, you can challenge your child's IEP through the Special Education Procedural Safeguard System and/or file a complaint with the Pennsylvania Human Relations Commission or the Office for Civil Rights. You may also be able to 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.

Pennsylvania's Special Education Procedural Safeguard System includes a pre-hearing conference with school officials and a formal hearing before an impartial hearing officer. An appeal and court action may also be an option. For more information on how this system works, please see the Education Law Center's fact sheet "*Resolving Special Education Disputes*" which is available from our website and phone numbers listed below.

To contact the U.S. Office for Civil Rights, call 800-421-3481 or check the website at <http://www.ed.gov/about/offices/list/ocr/index.html?src=mr>. You can also contact the Pennsylvania Human Relations Commission at 412-255-2600 (Pittsburgh office) or at 215-560-2496 (Philadelphia office).

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 Program website at:

<http://www.colorado.edu/cspv/safeschools/bullying/overview.html>. 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) 592-1513.
- 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 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.

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