



Arc Guide to Bullying & Harassment

All students with disabilities have a right to a Free Appropriate Public Education (FAPE) in a Least Restrictive Environment (LRE). Students learn best in schools that are safe, disciplined and caring. Schools have a responsibility to provide safe and respectful learning environments for all students. When bullying and harassment create a hostile environment, schools have an obligation to take action. Federal civil rights laws, state laws, and school district policies are created to support safe learning environments for all students.

In a Dear Colleague Letter, the Director of the Office of Special Education Programs (OSEP) and the Acting Assistant Secretary of the Office of Special Education and Rehabilitative Services (OSERS) stated to all districts: *“Whether or not [...] bullying is related to the student’s disability, any bullying of a student with a disability that results in the student not receiving meaningful educational benefit constitutes a denial of FAPE. States and school districts have a responsibility under the IDEA, 20 U.S.C. § 1400, et seq., to ensure that FAPE in the Least Restrictive Environment (LRE) is made available to eligible students with disabilities. In order for a student to receive FAPE, the student’s Individualized Education Program (IEP) must be reasonably calculated to provide meaningful educational benefit.”*

Minnesota Statutes § 121A.031, subd. 4, provides: Bullying is intimidating, threatening, abusive, or harming conduct that is objectively offensive and; there is an actual or perceived imbalance of power between the student engaging in prohibited conduct and the target of the behavior, and the conduct is repeated or forms a pattern; or materially and substantially interferes with a student’s educational opportunities, performance or ability to participate in school functions or activities, or receive school benefits, services, or privileges.

Getting picked on, bullied, and harassed at school is a frightening and frustrating experience for any student. Bullies can be general education students, special education students and sometimes even school staff. There are many consequences of bullying - bullying IS harassment. Bullying/harassment may be physically threatening, degrading, or humiliating. It can occur in person, by phone, through social media, or on the internet. Severe bullying can affect a student’s social well-being as well as their academic performance. Bullying can take many forms, which may include teasing and exclusion; name calling; sexual harassment; physical hitting, pushing, and/or attacks; threats; hazing; damage or theft of belongings; demand for money or goods.



When students engage in repeated acts of harassment against someone, the harassment develops into a hostile environment. A hostile environment is to be evaluated objectively and from the student's subjective perspective. Districts must address ALL incidents of harassment to ensure it has not escalated into a hostile environment. Once the district knows about harassment, or should know about it, they have a responsibility to respond with a prompt and impartial investigation.

Districts must comply with civil rights laws by taking reasonable steps to stop harassment when it occurs, eliminate hostile environments, and prevent recurrence. This may include counseling for harassed students, academic support and other services (tutoring), schedule changes, as well as providing counseling and other services to perpetrators of harassment. Districts cannot prevent all harassment before it happens, or even know about every incident of harassment, but they should create a safe school climate that supports positive behavior, and is intolerant of discrimination and harassment. To do this, districts should have:

- A non-discrimination / harassment policy - look in the student handbook and/or on the district website
- Grievance procedures for students to file harassment complaints that are easily accessed
- A coordinator for compliance with civil rights laws - whose name and contact information should also be available in the student handbook and/or the district website

When harassment occurs, the first priority is to restore the learning environment for everyone. The district should directly address the harassing behaviors and provide social, behavioral and mental health supports as needed. Guidance and instruction toward appropriate school behaviors should be a first priority; suspension, expulsion and other consequences that remove students from the learning environment, should be a last resort.

WHAT CAN A PARENT DO?

If your child is bullied or harassed by another student, it is best to take action right away. Do not wait for the students to work it out themselves.

- Review the district policy on bullying and
- If other students are also being harassed, encourage their parents to speak up to school
 - Document the times, places, who is bullying/harassing, and witnesses to the incidents.



- Take photos of any injuries and write down a detailed description of what happened.
- Take photos of any property damage that may have occurred with a detailed description of what happened and
- Save any documented evidence of harassment - emails, phone/text messages, etc.
- Follow the “chain of command” for harassment issues if noted in the district policy
- Otherwise, talk to teachers and the school principal immediately - as soon as you learn the specific facts
- If teachers and principal don’t bring results within a couple of days, write a letter to the principal and the district superintendent, outlining the facts and demand an immediate response to the problem. Give a specific, but reasonable date you expect to hear back from them
- Discuss potential changes that will protect your child from future harassment. Be careful to avoid changes to YOUR child’s schedule and/or being removed from potential future situations - your child should not be “punished” for being subject to harassment - add changes to the IEP
- If you still do not feel the issue is satisfactorily addressed, continue to present the issue “up the chain of command” within your district
- If the situation becomes severe and the actions listed above do not generate results, contact The Arc Minnesota for additional resources.

For further information or advocacy services, contact The Arc Minnesota at 952-920-0855 or toll-free at 833.450.1494 or visit www.arcminnesota.org. (Please note: *This document is not legal advice, and should not be construed as such. Thus, no information herein should replace the sound advice of an attorney.*)

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