

# Students' Rights

## Discriminatory Harassment

Civil rights laws prohibit discrimination and discriminatory harassment in K–12 public schools. Discrimination is the unfair or unequal treatment or harassment of a person *because* they are part of a group, defined by law, as a **protected class**.

A protected class is a group of people who share common characteristics and are protected from discrimination and harassment under federal and state law. These groups are protected classes under Washington state law:<sup>1</sup>

Race and color	Sexual orientation
National origin	Gender expression
Religion and creed	Gender identity
Sex	Veteran or military status
Disability	Use of a trained dog guide or service animal

### Discriminatory Harassment and Hostile Environment

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#### Discriminatory Harassment

Schools must take steps to protect students from discriminatory harassment. Discriminatory harassment occurs when conduct is:

1. Based on a student's protected class, **AND**
2. Serious enough to create a hostile environment.

Discriminatory harassment can involve conduct between students, employee-to-student conduct, and conduct involving school visitors.

#### Hostile Environment

Harassment creates a hostile environment when the conduct is so severe, pervasive, or persistent that it limits a student's ability to participate in, or benefit from, the school's services, activities, or opportunities. A hostile environment could impact a student's school life in many ways. Physical illness, anxiety about going to school, or a decline in grades or attendance could signal a hostile environment.

**Harassing conduct** can take many forms, such as threats, spreading rumors, name-calling, derogatory jokes, physical assault, or other conduct that is physically threatening, harmful, or humiliating. Harassment can occur even if there is no intent to harm or it is not directed at one individual, but at a protected class. Harassment can also occur as a one-time incident.

### Sexual Harassment is Discriminatory Harassment

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**Sexual harassment** is unwelcome behavior or communication that is sexual in nature and **(1)** leads the student to believe they must submit to the unwelcome sexual conduct or communication to gain something in return—for example, a grade or a place on a sports team, **OR (2)** the conduct substantially interferes with a student's educational performance or creates a hostile environment.

<sup>1</sup> Chapter 28A.642 RCW, <http://app.leg.wa.gov/rcw/default.aspx?cite=28A.642>. Chapter 28A.640 RCW, <http://apps.leg.wa.gov/rcw/default.aspx?cite=28A.640>. Chapter 49.60 RCW, <http://app.leg.wa.gov/rcw/default.aspx?cite=49.60>.



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## Discriminatory Harassment

Any student or school employee can be the target of sexual harassment, regardless of sex, sexual orientation, gender identity, or gender expression. Examples of sexual harassment could include:

- Pressuring a person for sexual favors
- Unwelcome touching of a sexual nature
- Distributing sexually explicit texts, emails, or pictures
- Making sexual jokes, rumors, or suggestive remarks
- Physical violence, including rape and sexual assault

Find more information about sexual harassment, guidelines for district policy and practice, and related resources: [www.k12.wa.us/Equity/Districts/SexualHarassment.aspx](http://www.k12.wa.us/Equity/Districts/SexualHarassment.aspx).

### Bullying Can Also Be Discriminatory Harassment

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While schools are required to take action if students report they are being bullied, civil rights laws give students additional protections against discriminatory harassment. Even when student misconduct falls under a school's harassment, intimidation, and bullying (HIB) policy, the behavior could also be discriminatory harassment if based on a student's protected class.

Often, schools must take extra steps to protect students from this type of harassment, even if the behavior is also covered by the school's anti-bullying or HIB policy. School staff must investigate possible discriminatory harassment—as soon as they know or reasonably should know—even if a parent or student does not file a formal complaint.

If an investigation reveals that bullying was based on a student's protected class and created a hostile environment, staff must act quickly to stop the behavior and put an end to the hostile environment. The school must make sure that the harassment does not happen again.

### A School Must Respond Promptly and Effectively

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**School staff must investigate** possible discriminatory harassment—as soon as they know or reasonably should know—even if a parent or student does not file a complaint or ask the school to get involved. This investigation must be thorough, fair, and impartial. School staff also need to take steps to protect students when necessary, even before any investigation is complete.

If an investigation reveals that harassing conduct created a hostile environment, staff must act quickly to stop the behavior and put an end to the hostile environment.

The school must:

1. Address any effects discriminatory harassment had on the student at school, **AND**
2. Make sure that harassing conduct does not happen again.

The school must protect students and parents from retaliation by other students or school employees because they communicated concerns about discriminatory harassment, filed a complaint, or participated in an investigation.



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## Discriminatory Harassment

### Resolve Concerns or Disagreements

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A discussion with your school principal, or civil rights compliance coordinator at the school district, is often the best first step to address your concerns or disagreements about discrimination and work toward a solution.

- **Focus on the facts** related to discrimination and harassment, as you understand them, AND
- Let the principal or coordinator know **what you want them to do to resolve the problem**

Find contact information for your district's civil rights compliance coordinator here, [www.k12.wa.us/Equity/ContactList.aspx](http://www.k12.wa.us/Equity/ContactList.aspx). You also have the option to file a formal complaint.

### Formal Complaints — Discrimination and Discriminatory Harassment

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If you believe your child is experiencing discrimination or discriminatory harassment, you can file a formal complaint.

- On the **Equity and Civil Rights** website, [www.k12.wa.us/Equity/Families](http://www.k12.wa.us/Equity/Families), find information about how to file a formal complaint and follow the steps.
- Contact the U.S. Department of Education, **Office for Civil Rights** at 206-607-1600 (TDD: 1-800-877-8339), or visit the website, [www.ed.gov/ocr](http://www.ed.gov/ocr).
- Contact the **Washington State Human Rights Commission** at 1-800-233-3247 (TTY: 1-800-300-7525), or visit the website, [www.hum.wa.gov](http://www.hum.wa.gov).

### Learn More. Ask Questions. Get Help.

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#### Equity and Civil Rights Office at the Office of Superintendent of Public Instruction

360-725-6162 | TTY: 360-664-3631 | [equity@k12.wa.us](mailto:equity@k12.wa.us) | [www.k12.wa.us/equity](http://www.k12.wa.us/equity)

#### For the Civil Rights Compliance Coordinator in your district, visit:

[www.k12.wa.us/Equity/ContactList.aspx](http://www.k12.wa.us/Equity/ContactList.aspx)

Find more information about discrimination and harassment, guidelines for district policy and practice, and related resources, [www.k12.wa.us](http://www.k12.wa.us).

This document outlines rights and responsibilities under state and federal civil rights laws. You may have additional rights under other laws. This information is for informational purposes only—not to provide legal advice. For legal advice specific to the facts and circumstances of your individual situation, please contact an attorney.

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