



We have the legal right of way.

SPECIAL EDUCATION: Harassment in School

Your child is entitled to an education that provides reasonable progress in a school environment in which learning can occur. This is called a free appropriate public education or FAPE. Your school is required to prevent disability harassment that prevents your child from receiving a FAPE. Harassment can include name-calling, physical abuse, or inappropriate written comments about your child.

Disability harassment can violate different laws, including Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990 (ADA), and the Individuals with Disabilities Education Improvement Act (IDEA). These laws can be violated when the harassment is sufficiently severe, persistent, or pervasive that it creates a hostile environment. This does not include minor bullying or teasing.

Examples of harassment

Examples of harassment that could create a hostile environment include:

- Students continually state out loud in class that a student with a disability is “retarded” or “deaf and dumb” and does not belong in the class; as a result, the student with a disability has difficulty doing work in class and her grades go down.
- A student repeatedly places classroom furniture in the doorway of a classroom so that a student in a wheelchair cannot get into class.
- Students continually taunt or belittle a student with a mental health disability by mocking and intimidating him so that he does not participate in class and does not want to attend school.
- A teacher repeatedly belittles and criticizes a student with a disability for using accommodations in class, with the result that the student is so discouraged that she has a great difficulty performing in class and learning.

Note: These examples and other information included in this packet come from a July 25, 2000 “Dear Colleague” letter, issued over the signatures of Assistant Secretary for Civil Rights Norma V. Cantu and Assistant Secretary Office of Special Education and Rehabilitative Services, Judith E. Huemann.

If your child's ability to learn in school is being negatively affected by harassment, follow the guidelines in this section to resolve the problem.

Explain the problem to a person who can help

Talk with your child's teacher. Your school must take reasonable steps to make sure that your child is not being harassed in school. If the harassment is happening in your child's classroom your child's teacher may be able to resolve the problem quickly. Explain the problem to the teacher and ask that steps be taken to stop the harassment.

Talk with your building principal/special education coordinator. Harassment can occur anywhere in school including hallways and on the school bus. Harassment can come from students who are not in your child's class. In this case, you should talk with your building principal or special education coordinator and ask that steps be taken to resolve your concerns.

Document your concerns in writing

Send a letter to your superintendent/special education coordinator. If the harassment is not easily resolved by talking with school personnel, you should send a letter to your child's school documenting your concerns. The letter should be dated and should clearly explain the situation including what happened, where and when it happened, and any witnesses to the harassment. Explain how the harassment affects your child. The letter should request the school officials to respond to you in writing about how they are going to stop the problem. Two weeks is generally a reasonable time for a response. The following is a sample letter.

Date (include month, day, and year)

Name of Your Child's Superintendent or Special Education Coordinator

Name of School District

Street Address

City, State, ZIP Code

Dear (name of Superintendent or Special Education Coordinator),

I am writing to report that my child is being harassed in school because of his disability. (Explain the harassment that is happening including how, when, where, by whom, how it affects your child, and any witnesses). I have attempted to resolve my concerns by (explain how you have tried to resolve the problem, who you talked to, and any response to your concerns). I am requesting that you take steps to end this harassment and to prevent it from happening again.

I am requesting an IEP meeting to discuss how to stop the harassment and how to address the effects of the harassment on (your child's name). I can arrange to meet with you and the other members of the IEP team on (list days you are available) between (give a range of time, such as between 2:00 and 4:00). Please let me know what time would be best for you.

I look forward to hearing from you within five school days of the date you receive this letter. My daytime telephone number is (give your phone number). Thank you for your help.

Sincerely,

Your Name

Street Address

City, State, ZIP Code

Daytime telephone number

cc: specialists or other staff

Ask for your school's harassment policy

Your school is required to develop an official policy statement that explains how the school prevents harassment, including disability harassment. This policy must include a grievance procedure that can be used to address harassment if it occurs. You should request a copy of this policy and determine whether the school has followed its policy. You can use the school's grievance procedure to resolve the problem or follow information in this section.

Ask for an IEP meeting

Contact your school special education director for an IEP meeting.

The IEP team should discuss how to resolve the problem. The IEP team is required to ensure that your child receives a free appropriate public education. This requires an education free from harassment that affects learning. The IEP team should discuss ways to ensure that your child is free from harassment in school and ways to remedy the effects of the harassment. This can include:

- changes in your child's schedule to avoid problem situations or problem students
- the use of additional adults (guidance counselors, therapists, aides)
- inservice training for staff on how to prevent harassment
- additional services for your child

Change the IEP to include any necessary services. The IEP should be changed to reflect any additional services or changes to your child's program. All services provided to your child should be written on the IEP.

Discuss whether your child is entitled to compensatory services. If your child missed school due to harassment he may be entitled to compensatory education to make-up for missed services. The IEP team should discuss whether compensatory services should be provided. Compensatory services should be written on the IEP.

Pursue formal methods to resolve your concerns

If you are not able to stop the harassment by talking to your school or through an IEP meeting, you have other options.

Contact an agency that oversees disability harassment. Contact the Office for Civil Rights (OCR) (www2.ed.gov/about/offices/list/ocr/index.html) or the Office of Special Education and Rehabilitative Services (OSERS) (www2.ed.gov/about/offices/list/osers/index.html) for more information about disability harassment. You may contact either office by calling 1-800-USA-LEARN or 1-800-437-0833 for TTY services. You may also contact the OCR enforcement office in Cleveland, Ohio by calling 1-216-522-4970 or e-mail OCR at OCRCleveland@ed.gov. OCR will investigate allegations of disability harassment.

If the disability harassment denies your child a FAPE, you can contact the Ohio Department of Education (ODE) (education.ohio.gov/Topics/Special-Education) to file a complaint. ODE can investigate complaints and issue a plan of correction.

Initiate a due process procedure. You may request an impartial due process hearing under the IDEA or Section 504. For information on how to pursue an impartial due process hearing, contact the Ohio Department of Education (ODE) (education.ohio.gov/Topics/Special-Education).

Consult an attorney about a court action. You may have the right to bring a lawsuit against your school district for harassment that violates the law. You should be aware that there are time-lines for bringing a case and should consult an attorney without delay if you are considering court action.

What if I cannot get this issue resolved?

If these suggestions do not work to resolve your concerns, you can do a number of additional things that may work. Your options include:

- Seek the assistance of an advocate to help you resolve the issue. Refer to DRO's Special Education Resources page (disabilityrightsohio.org/faq-special-education-other-resources) for contact information.
- Use the techniques in *Negotiation Skills for Parents: How to get the Special Education Services your Child with a Disability Needs*, a DRO publication available at disabilityrightsohio.org/assets/documents/negotiation_skills_for_parents.pdf.
- Contact the Ohio Department of Education for assistance or to file a complaint. Refer to the Special Education Resources page (disabilityrightsohio.org/faq-special-education-other-resources) for contact information.
- Ask for an administrative review with your school's superintendent.
- Pursue formal mediation and/or a due process hearing.
- Seek the assistance of an attorney to help you resolve the issue. Refer to the Special Education Resources page (disabilityrightsohio.org/faq-special-education-other-resources) for contact information.