

Harassment in Education: It's Against the Law

What is the scope of the problem?

Harassment is illegal in all areas protected by Iowa Code Chapter 216, the Iowa Civil Rights Act. This includes employment, public accommodations, credit, housing, and education.

Acts of harassment take place every day in schools across the country. Frequently these acts, even if reported to administration, are dismissed as harmless, as "kids will be kids," or as "no big deal." Many people do not realize that harassment that interferes with a person's educational progress is illegal, just as it is illegal in the workplace.

Harassment because of sex, race, national origin, religion, sexual orientation, gender identity, and physical and mental disability is illegal. Both boys and girls can experience sexual harassment. And both girls and boys could be harassed by someone of the same sex.

Hallways and classrooms are the places where harassment most frequently takes place, in spite of the fact that these places are public and other people are usually present. Other

places where harassment takes place include school grounds, the gymnasium, pool, locker rooms, restrooms, parking lot, school buses and on field trips. Four out of five students who are harassed are targeted by a current or former student of their school, with the remainder of the harassment coming from adults or school staff. For many young people, school is not a safe place.

What is the impact of harassment on the educational process?

Students who have been harassed have reported the following feelings and actions:

- Not wanting to attend school; staying home, or cutting class
- Not wanting to talk as much in class
- Finding it hard to pay attention
- Making a lower grade on a test or in a class
- Wanting to change schools or even drop out
- Dropping out of chosen classes or field of study
- Not being able to obtain letters of reference or recommendations from a teacher

What actions are considered to be harassment?

Specifically, what types of actions, if not welcomed by the recipient of the behavior, could be viewed as harassment? Inappropriate actions break down into four types of behavior:

- 1. Physical:** touching in a sexual manner, pinching, rubbing up against, gestures, and assault.
- 2. Verbal:** jokes of a racial, ethnic, or sexual nature; comments or questions about a person's body, dress, or personal life, using demeaning or inappropriate terms; using crude and offensive language of a sexual nature, name-calling or racial or ethnic slurs; demeaning comments about age or disability.
- 3. Visual:** cartoons, drawings, or caricatures of a racial, ethnic, or sexual nature; pin-up pictures or calendars; displaying sexual objects in offices or rental units. Electronic messages or e-mail are frequently used for inappropriate personal messages, or to distribute jokes and cartoons that are offensive. Even after these messages are deleted on the computer, they can be retrieved to use as evidence of harassment.
- 4. Hazing:** teasing, practical jokes of a sexual, racial or ethnic nature, ostracizing, starting or spreading rumor about a person's personal life or sexual activities.

In considering if conduct might be unwelcome, consider: "Would I want my spouse or child to be treated this way?"

What do the laws say?

State Law: Iowa Code Section 216.9 prohibits an educational institution from discriminating on the basis of race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability in any academic, extracurricular, research, occupational training, or other program or activity (except athletic programs). While harassment is not expressly prohibited, harassment is considered to be a form of discrimination. This law applies to any preschool, elementary or secondary school, community college, area education agency, or post-secondary college or university. Complaints must be filed within 300 days of the last discriminatory incident.

Federal Law: Several federal civil rights laws prohibit discrimination in programs or activities that receive federal funds from the U.S. Department of Education. These laws prohibit discrimination on the basis of race, color, national origin, sex, disability, and age. These laws extend to all state education agencies, elementary and secondary school systems, colleges and universities, vocational schools, proprietary schools, state vocational rehabilitation agencies, libraries, and museums that receive U.S. Department of Education funds.

What do schools need to do about harassment?

An important part of a school's program is to take steps to prevent harassment before it occurs. An institution needs to raise the issue and confront harassment before it becomes a problem.

- Acknowledge the problem; don't deny that it could happen in your school.
- Provide training to administrators, staff, and students so that they understand and recognize prohibited behavior and how to report it.
- Administrators, teachers and adult staff should set a good example of professional behavior.
- Under Title IX, schools should have a policy prohibiting sexual harassment. Administrators, teachers and students must be informed of the policy.
- Under Title IX, schools must establish a grievance procedure that is adequate and suitable for dealing with sexual harassment complaints.

Once a harassment complaint has been filed, the school administration needs to take prompt remedial action.

- When a harassment complaint is filed, take it seriously. Assure the person that a prompt and confidential investigation will take place.
- Designate and train persons to investigate complaints. Sensitivity to the problem, sound professional judgment, and knowledge of legal standards of investigation are important.
- If the investigation shows that the harassment did happen, take prompt disciplinary action against the harasser.

What can you do if harassment happens to you?

Remember, harassment is not your fault. You have a right to an educational setting free of harassment. Do not feel powerless. There are actions you can take to end the harassment.

- Tell the harasser in person or in writing that the behavior is not welcome. Ask them to stop. Be specific about actions or words that make you uncomfortable.
- Tell someone about the harassment, a trusted adult or friend.
- Keep a written record of the incidents of harassment. Make a note of witnesses who might have observed the incident.
- If the harassment does not stop, report it to school administration.
- If the school does not take prompt action to stop and resolve the complaint, file a complaint with an external agency.

If you believe you may have been treated unfairly in the areas of housing, employment, education, credit, or public accommodations, contact the Iowa Civil Rights Commission. The Commission provides educational materials on civil rights and discrimination. Staff members are available to make presentations on a variety of topics, including preventing harassment or conducting an internal investigation.

For additional information on harassment or other issues regarding discrimination, you may also want to contact:

Iowa Department of Education
515-281-5294
<https://www.educateiowa.gov>

U.S. Department of Education, Office for Civil Rights
800-421-3481
<http://www2.ed.gov/about/offices/list/ocr/index.html>