



# FACT SHEET

## THE RIGHT TO BE FREE FROM BULLYING AND HARASSMENT

August 2024

All students have the right to be free from bullying and harassment in school – whether it is verbal, written, graphic, physical, or online. All forms of bullying and harassment are not permitted and require your school to investigate and intervene to ensure that the bullying and harassment does not continue.

Data and surveys show that students are disproportionately subjected to bullying and harassment on the basis of race, disability, sexual orientation, gender identity, national origin, and religion and that students at the intersection of these identities report even higher rates of bullying.<sup>1</sup> The problem emanates from individual bias as well as deeply rooted structural and systemic racism.

In the U.S., 20% of K-12 students are bullied, and race is the leading identity factor for students experiencing bullying.<sup>2</sup> Black students make up the largest percentage of students who are bullied, representing 37% of students who report being bullied at school despite making up only 15% of the U.S. K-12 population.<sup>3</sup>

This problem must be addressed promptly, as students who are bullied are at increased risk of experiencing health problems and academic struggles and are more likely to drop out of school.<sup>4</sup>

For more detailed information regarding student rights to be free from bullying and harassment, please see ELC’s guide and advocacy toolkit, [What to Do When Your Child Is Bullied or Harassed: A Parent’s Guide to Advocacy in Pennsylvania Public Schools](#). This guide includes sample letters, complaint forms, and other tools.

This fact sheet is also available in [Spanish](#) and [Chinese](#).

### WHAT IS BULLYING?

In Pennsylvania, a child meets the legal definition of being bullied if all the following five boxes can be checked:

- Another student or group of students did something or said something highly offensive;
- The other student did what they did on purpose (“intentional act”);
- The other student’s action(s) took place in school (including virtual school), on school property, at a bus stop, or at a school event;

- The other student's actions are severe, something that many students do to the victim or happens often to students in the school, and/or something that the other student did repeatedly; AND
- The other student's conduct is so significant that it makes a big difference in the victim's education, creates a threatening environment for the victim, or keeps the school from running normally.<sup>5</sup>

### WHAT IS HARASSMENT?

Harassment occurs if other students are targeting your child because they are a member of a "protected class," which could include race, disability, ancestry, national origin (including immigration status and English proficiency), religion, sex (which includes gender identity and expression and sexual orientation, as well as sexual harassment), or due to use of a support animal.<sup>6</sup> A student may be targeted because they are a member of one or multiple "protected classes."

### WHAT IS THE DIFFERENCE BETWEEN BULLYING AND HARASSMENT?

The key difference between bullying and harassment is WHY other students are targeting the student being bullied. If other students are targeting your child because they are a member of a "protected class (as listed above)," then your child may be experiencing harassment. Keep in mind that certain insults or statements based on stereotyping can be signals that they are targeting your child because your child has traits of a protected class. Some cities and school districts also provide legal protection on other bases as well. For example, the School District of Philadelphia specifically lists English language proficiency, socioeconomic status, and political beliefs as protected classes.<sup>7</sup>

### DOES MY SCHOOL HAVE AN OBLIGATION TO ADDRESS BULLYING OR HARASSMENT?

Yes. Teachers, administrators, and staff must report bullying or harassment they see. Schools have a legal duty to investigate and take action to keep children safe. This includes providing supports and interventions when bullying or harassment occurs outside of school (including on social media) if it is substantially interfering with your child's education or causing a threatening environment.<sup>8</sup> Schools must also ensure that bullying and harassment are addressed to support student attendance.<sup>9</sup> Finally, schools have additional specific obligations to ensure a free, appropriate public education for students with disabilities.

Pennsylvania law also requires public schools to adopt a policy or amend their existing policy relating to bullying and incorporate the policy into the school entity's code of student conduct. The policy must set forth disciplinary consequences for bullying and may provide for prevention, intervention, and education programs. The policy must also identify appropriate school staff to receive reports of incidents of alleged bullying. Each school entity must review its policy every three years.<sup>10</sup>

## WHAT CAN I DO IF MY CHILD IS BEING BULLIED OR HARASSED?

It is important to promptly report any bullying and harassment. You should keep notes that include: when the bullying takes place, details about what the other students say or do (including any screenshots), details about why the bully is discriminating against your child, names of the people targeting your child, and details about when and to whom you reported the bullying. Submit this information to the staff person responsible for investigating bullying and harassment complaints at your child's school. You should use your school's complaint form or, if your school does not have one, you can use our sample form to request a bullying/harassment investigation (available in Appendix A). If you are not satisfied with the school's investigation of your complaint, you can use the school's appeal process. You can also testify before the school board and ask them to take action.

You should also ask the school to create a safety plan if you are concerned for your child's safety. (See Appendix B for an example of a safety plan.) This example includes possible interventions you may wish to request as part of the safety plan. For more resources, see the additional advocacy tools in [ELC's parent guide on bullying and harassment](#).

You also have the option of submitting a complaint regarding harassment to the state civil rights agency, the Pennsylvania Human Relations Commission (PHRC), and/or to the U.S. Department of Education's Office of Civil Rights (OCR). Please see the advocacy tools in [ELC's parent guide](#) for further information and examples.

If your child is being disciplined for conduct or behavior that they engaged in as a response to bullying or harassment, you should raise this issue with the school and share your records of the bullying and harassment and any requests for an investigation. Please see ELC's [toolkit on suspensions and expulsions](#) for more information.

## WHAT CAN I DO IF MY CHILD WITH A DISABILITY IS BEING BULLIED OR HARASSED?

If your child with a disability is being bullied or harassed, you can follow the steps listed above. In addition, you should send a written request for an emergency meeting to the child's IEP team or 504 Plan team (see Appendix C for a sample letter). This should be sent to the IEP team or 504 Plan team and you should copy the principal and the director of special education. During that meeting, you should discuss the bullying and harassment incidents, what your child needs, and what the school should do to address the harassment. If bullying or harassment has interfered with your child's progress in school, consider making changes to the child's IEP, conducting a new functional behavioral assessment, or revising a positive behavior support plan. See our [guide](#) on *The Right to Special Education in Pennsylvania* for additional legal options.

The Education Law Center-PA (ELC) is a nonprofit, legal advocacy organization with offices in Philadelphia and Pittsburgh, dedicated to ensuring that all children in Pennsylvania have access to a quality public education. Through legal representation, impact litigation, community engagement, and policy advocacy, ELC advances the rights of underserved children, including children living in poverty, children of color, children in the foster care and juvenile justice systems, children with disabilities, English learners, LGBTQ students, and children experiencing homelessness.

ELC's publications provide a general statement of the law. However, each situation is different. If questions remain about how the law applies to a particular situation, contact ELC's Helpline for information and advice – visit [www.elc-pa.org/contact](http://www.elc-pa.org/contact) or call 215-238-6970 (Eastern and Central PA) or 412-258-2120 (Western PA) – or contact another attorney of your choice.

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<sup>1</sup> U.S. DEPT. OF EDUC., 2015-2016 CIVIL RIGHTS DATA COLLECTION: SCHOOL CLIMATE AND SAFETY REPORT (2018), <https://www2.ed.gov/about/offices/list/ocr/docs/school-climate-and-safety.pdf>; U.S. Gov't Accountability Off., 'Students' Experiences with Bullying, Hate Speech, Hate Crimes, and Victimization in Schools (November 2021), <https://www.gao.gov/assets/gao-22-104341.pdf>; Chardee A. Galan et al., *Exploration of Experiences and Perpetration of Identity-Based Bullying Among Adolescents by Race/Ethnicity and Other Marginalized Identities*, JAMA NETWORKOPEN (July 2021), <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2782217?resultClick=3>. See also Chad A. Rose & Nicholas A. Gage, *Exploring the Involvement of Bullying Among Students with Disabilities Over Time*. 83 EXCEPTIONAL CHILDREN, 298-314 (2017), <https://doi.org/10.1177/0014402916667587>.

<sup>2</sup> Yukun Yang & Jessica McKnight, *Students of Color are Disproportionately Bullied and Harassed at School*, PUBLIC HEALTH POST, (April 28, 2023), <https://publichealthpost.org/health-equity/students-of-color-are-disproportionately-bullied-and-harassed-at-school/>.

<sup>3</sup> *Id.* (citing Nicholas A. Gage et al. *Disproportionate Bullying Victimization and Perpetration by Disability Status, Race, and Gender: A National Analysis*. ADV NEURODEV DISORD 5, 256-268 (2021). <https://doi.org/10.1007/s41252-021-00200-2>.

<sup>4</sup> See FREDERICK RIVERA & SUZANNE LE MENESTREL, PREVENTING BULLYING THROUGH SCIENCE, POLICY, AND PRACTICE 115-29 (, eds. 2016) (finding that students who are bullied are more likely to experience depression, anxiety, and feelings of loneliness); Jaana Juvonen et al., *Bullying Experiences and Compromised Academic Performance Across Middle School Grades*, 31 JOURNAL OF EARLY ADOLESCENCE 152, 167 (2011) (noting how poor academic performance may manifest for bullied youth); CHRISTINA SPEARS BROWN, THE EDUCATIONAL, PSYCHOLOGICAL, AND SOCIAL IMPACTS OF DISCRIMINATION ON THE IMMIGRANT CHILD, MIGRATION POLICY INSTITUTE, (September 2015), <https://www.migrationpolicy.org/research/educational-psychological-and-social-impact-discrimination-immigrant-child>.

<sup>5</sup> 24 Pa. Stat. Ann. § 13-1303.1-A.

<sup>6</sup> See 43 Pa. Stat. Ann. § 955 (West); 42 U.S.C.A. § 2000d; 42 U.S.C.A. § 12182; 20 U.S.C.A. § 1681; *Davis Next Friend LaShonda D. v. Monroe Cty. Bd. of Educ.*, 526 U.S. 629 (1999).

<sup>7</sup> The School Dist. of Phila., No. 248, 2 (2022).

<sup>8</sup> *Id.* See also *MacLean v. Borough of Hellertown*, No. 5:17-cv-02085-LKC (E.D. Pa. 2018) (plaintiff was subject to racial discrimination and harassment, which led to monetary settlement and injunctive relief where the school had to provide an anti-bullying program and anti-bias training); *Wible v. School District of Philadelphia*, No. 15-043169 (Phila. Cty. Ct. of Comm. Pls. 2018) (finding that school district violated Pennsylvania's antidiscrimination statute and acted with deliberate indifference to the bullying experienced by plaintiff, who was harassed for multiple years due to her gender presentation and not conforming to gender stereotypes); *Evancho, et al. v. Pine-Richland School District*, No. 2:16-cv-01537 (W.D. Pa. 2016) (complaint by plaintiff who was transgender and not permitted by the school district to use her preferred bathroom resulted in settlement and injunctive relief, where the school district rescinded its bathroom policy and updated its nondiscrimination policy to include gender identity); *United States v. School District of Philadelphia*, No. 10-cv-7301-SD (E.D. Pa. 2010) (U.S. Department of Justice's

complaint alleging that school district failed to stop verbal and physical harassment against Asian students resulted in settlement, where school district agreed to address the harassment by implementing anti-harassment policies, training staff, and collecting data on complaints); *Enright v. Springfield School District*, No. 464, No. 04-cv-1653-JCJ (E.D. Pa. 2006) (school district found responsible under federal laws for sexual harassment of a young girl with a disability while on a school bus).

<sup>9</sup> See 24 P.S. §§ 13-1326 - 13-1354.

<sup>10</sup> 24 P.S. § 13-1303.1-A and Pa. Code § 12.3(c).

# APPENDIX A

## LETTER REQUESTING A BULLYING/HARASSMENT INVESTIGATION

Parent/Guardian Name: \_\_\_\_\_

Address : \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Today's Date \_\_\_\_\_

Principal's Name \_\_\_\_\_ Address :

\_\_\_\_\_ City: \_\_\_\_\_

State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Dear Principal \_\_\_\_\_,

I am the parent of \_\_\_\_\_, whose birthdate is \_\_\_\_\_

My child is being harassed at school. I am therefore requesting an investigation and a prompt response from the school district to ensure that the harassment will stop. The harassment my child has experienced is severe, pervasive, and objectively offensive. The harassment occurred [insert dates or time frame]

\_\_\_\_\_  
\_\_\_\_\_

The harassment took place in [insert where the harassment occurred]

\_\_\_\_\_  
\_\_\_\_\_

The harassment involved [insert detailed description of the harassment, including the name(s) of the perpetrators, the actions they took, and the words they used]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Witnesses of the harassment include [insert names of anyone who saw your child being harassed]

\_\_\_\_\_  
\_\_\_\_\_

This harassment has had a negative effect on my child's education. As a result of this harassment my child has [check all that apply and provide description]

- been doing worse academically: \_\_\_\_\_
- avoided school and/or certain classes \_\_\_\_\_
- experienced psychological symptoms (depression, anxiety, PTSD) \_\_\_\_\_
- felt uncomfortable and/or refrained from participating in class or extracurriculars: \_\_\_\_\_
  
- withdrawn or considered withdrawing from your school \_\_\_\_\_
  
- Other: \_\_\_\_\_

The harassment is related to my child's membership in a **protected class, specifically [provide description of which protected classes apply and how you know that is why your child is being targeted]:**

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I request that the school interview all persons who were involved in or who witnessed the harassment. After the investigation, please intervene with the student(s) responsible in order to ensure that the harassment stops.

Should you have any questions about this request, please contact me at [phone number/email]

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Sincerely,

*Parent/Guardian Name*

Check and fill out the following information if the parent is a **non-native English speaker**

I have limited English proficiency. I am requesting that the District provide translation and interpretation services for all information related to this allegation of bullying. Please provide these services in [insert language] \_\_\_\_\_

\* KEEP A COPY OF THIS LETTER FOR YOUR RECORDS. WE RECOMMEND HAND DELIVERING THIS LETTER OR SENDING IT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED. YOU SHOULD SEND A COPY TO THE SUPERINTENDENT AS WELL.

## APPENDIX B

### MODEL SAFETY PLAN AND POSSIBLE INTERVENTIONS

Student's Name: \_\_\_\_\_

Parent's Name: \_\_\_\_\_

Parent's Contact Information: Phone \_\_\_\_\_ Email: \_\_\_\_\_

Primary Staff Contact: \_\_\_\_\_

Classroom/Homeroom Teacher: \_\_\_\_\_

Grade Level: \_\_\_\_\_ Room Number: \_\_\_\_\_

Plan start date: \_\_\_\_\_ Proposed End date: \_\_\_\_\_

The following safety plan has been developed for the student named above. The sample interventions offered are not intended to be exclusive or all-inclusive. Schools should design a Student Safety Plan that reflects their unique circumstances and resources. This plan does NOT replace an IEP or a Behavior Support Plan. If the student has an IEP, then defer to that plan.

*Note:* Administrative staff should develop this plan **with** the student experiencing bullying/ harassment, in an effort to empower them and keep them safe. A safety plan needs to be individualized, as every student who has experienced bullying/harassment has unique needs and challenges.

#### *A. BACKGROUND*

Brief description of the bullying/harassment student has experienced

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How long has the conduct been taking place?

Are there certain locations where the conduct frequently takes place?

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Are there certain times when the conduct frequently takes place?

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Are there events/factors that frequently trigger the conduct (i.e.: does the conduct happen after the student answers a question in class or when the student is alone?)

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### ***A. RESPONSIBILITIES AND ROLES***

#### ***Staff Responsibilities***

The following teachers will be apprised of this safety plan and will make every effort to implement it successfully:

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The following administrators and school personnel will be apprised of this safety plan and will make every effort to implement it successfully:

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Any staff who witness or are made aware of any harassing, intimidating or bullying behavior directed toward the student will intervene immediately and will report such behavior to \_\_\_\_\_

#### ***Parent/Family Responsibilities***

Parents and other family members agree to monitor and support the student with this Safety Plan, monitor the student's use of technologies, and contact school if the problem persists.

The school will immediately report any harassing, intimidating or bullying behavior which it is made aware of to the student's parents.

The school will meet with the parents \_\_\_\_\_ [date or frequency] to discuss and review this plan.

Parents are welcome to contact the school at any time to check on the effectiveness of the plan.

#### ***Student Responsibilities***

The student will make reasonable attempts to not have face-to-face contact or online contact with the aggressor while this plan is in effect.

The student will report any breach of this plan, on or off school grounds, to his/her parents, designated point of contact, or other teacher/staff person immediately.

**Counselor Responsibilities**

The school will perform a *functional behavior assessment* of the student to determine if the student needs additional services to help him/her improve social skills, better engage in conflict resolution, and/or effectively problem solve during emergency situations.

The student will meet with the school counselor to discuss ways he/she will react and deal with conflict and emergency situations in the future, including where the student should go, who they should talk to, and what strategies they can employ.

**B. INTERVENTIONS**

**Point of Contact and Trusted Peers:**

Mr./Ms./Mx. \_\_\_\_\_ will be designated as the student's primary point of contact (trusted adult) on staff.

The primary point of contact will be responsible for checking in with the student on a \_\_\_\_\_ [daily/weekly/biweekly] basis to ensure the safety plan is working. The student is NOT responsible for locating or making contact with the staff member. Conversations should occur in a private location.

The student is responsible for checking in with the primary point of contact to ensure the safety plan is working. The student will report to the primary point of contact's office/classroom at \_\_\_\_\_ [time and dates].

Mr./Ms./Mx. \_\_\_\_\_ is designated as the student's backup point of contact. The backup point of contact has all the same responsibilities as the primary point of contact when that person is absent or unavailable. The primary point of contact is responsible for informing the backup point of contact when they are absent.

The student can request to meet with the primary point of contact at any time if he/she feels unsafe. If the primary point of contact is not available the student will either be able to meet with the backup point of contact or

\_\_\_\_\_  
 The school and/or student have identified the following students as trusted peers:

**Classroom Times:**

The student's schedule will be changed in the following ways (attach new schedule)

\_\_\_\_\_

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The following teachers will keep the student and his/her aggressor separated in the classroom and during class activities: \_\_\_\_\_

The student will be seated near one or more of their trusted peers in all classes.

Teachers will address any bullying, intimidation, harassment and/or retaliation immediately and will report such conduct to \_\_\_\_\_ as soon as possible.

**Passing Times:**

The student will be able to transition before/after [circle one] other students or at the front/back [circle one] of the line and will be separated from his/her aggressor.

The student will be able to transition between classes with one or more of their trusted peers.

The student will take the following route when transitioning between classes:

Mr./Ms./Mx. \_\_\_\_\_ is designated as the student's hallway monitor and will be visible and available during hallway transitions.

The student's locker will be changed to a different location.

The student will have special bathroom privileges in order to avoid contact with aggressors in the restrooms. These privileges include:

Use of a single stall/staff restroom

Ability to visit the restroom with a trusted peer

Ability to use the bathroom at certain times of the day

Other \_\_\_\_\_

**Lunch and Recess:**

Mr./Ms./Mx. \_\_\_\_\_ is designated as the student's lunch monitor and will be visible and available during lunch.

Mr./Ms./Mx. \_\_\_\_\_ is designated as the student's recess monitor and will be visible and available during recess.

The student and his/her aggressor separated during lunch and recess.

The student will be seated near one or more of their trusted peers during lunch.

**Bus/Transportation:**

- The bus driver will be instructed to intervene immediately and to report any bus incidents immediately to the school principal.
- The bus driver will keep the student and his/her aggressor separated on the bus.
- The student will have an assigned seat on the bus near one or more of their trusted and separate from his/her aggressor.
- The student's transportation will be changed in the following ways:

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- Student will be dropped off at school at the following entrance and by the following people:

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- Student will be picked up at school at the following entrance and by the following people:

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**Other Interventions:**

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This plan is in place from \_\_\_\_\_ through \_\_\_\_\_, at which time it will be reviewed, revised or continued, if necessary.

*WE AGREE TO THE SAFETY PLAN AS STATED ABOVE.*

\_\_\_\_\_  
Student

\_\_\_\_\_  
Date

\_\_\_\_\_  
Parent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Principal/Administrator

\_\_\_\_\_  
Date

\_\_\_\_\_  
Teacher(s)/Counselor

\_\_\_\_\_  
Date

*Completed / Modified / Extended:*

\_\_\_\_\_ *(Date & Signatures)*

## APPENDIX C

### REQUEST FOR AN IEP TEAM MEETING TO ADDRESS BULLYING/HARASSMENT

Parent/Guardian Address:

Parent/Guardian Phone Number:

Principal's Name:

Name of Your Child's School School:

Address:

Dear Principal:

I am the parent of \_\_\_\_\_, whose date of birth is \_\_\_\_\_.

**Please schedule an IEP Team Meeting** as soon as possible to discuss my child's needs and IEP services. **My child has been suffering in school because of ongoing bullying or harassment that is interfering with their ability to meaningfully progress and participate in school.** [Since the bullying began, my child has been diagnosed with mental health problems related to the bullying / started seeing a therapist.]

In addition to the people who are required under law to attend the IEP Team Meeting, I would like the following people to be present at this meeting:

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*[teachers or other staff aware of bullying/harassment; staff responsible for students when or where incidents have occurred; therapist or other provider working with the student]*

I will be bringing the following people with me to the meeting:

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When scheduling the meeting, please be aware of my availability:

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*[Provide dates or times that you can or cannot meet]*

Should you have any questions or problems with this request, please contact me at the following number(s) \_\_\_\_\_ or by e-mail at \_\_\_\_\_.

Thank you.

Sincerely,

*Parent/Guardian Name*

cc: Director of Special Education

KEEP A COPY OF THIS LETTER FOR YOUR RECORDS. WE RECOMMEND THAT YOU EMAIL OR HAND-DELIVER THIS LETTER TO THE PRINCIPAL AND MAKE SURE SOMEONE SIGNS FOR IT, OR THAT YOU SEND IT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED. YOU SHOULD ALSO SEND A COPY OF IT TO YOUR SCHOOL DISTRICT'S OR CHARTER SCHOOL'S SPECIAL EDUCATION DIRECTOR.