

Bullying and Harassment may also be Discrimination

The U.S. Department of Education's Office for Civil Rights (OCR) issued a "Dear Colleague" letter of guidance to educational institutions and agencies across the country reminding them of their legal obligations to protect students from bullying and harassment pursuant to federal civil rights laws, including Title IX. <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>

The OCR letter explains:

The statutes that OCR enforces include Title VI of the Civil Rights Act of 1964 (Title VI), which prohibits discrimination on the basis of race, color, or national origin; Title IX of the Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex; Section 504 of the Rehabilitation Act of 1973 (Section 504); and Title II of the Americans with Disabilities Act of 1990 (Title II). School districts may violate these civil rights statutes and the Department's implementing regulations when peer harassment based on race, color, national origin, sex or disability is sufficiently serious that it creates a hostile environment and such harassment is encouraged, tolerated, not adequately addressed, or ignored by school employees.

The applicable federal laws do not specify discrimination based on sexual orientation, but the OCR clarifies that there is overlap between sex discrimination and harassment based on sexual orientation. When harassment targets a student for failing to conform to sex stereotypes (e.g., male who is perceived to be too effeminate looking or acting), it is considered sex discrimination that requires school officials' response.

Additional steps to address identified harassment or bullying-type discrimination may include: counseling and other appropriate resources for the affected students, providing school-wide training on the issues, issuing public statements on the school's policy regarding discrimination, and interim as well as long-term measures to protect students from alleged harassers.

When a student or parent believes a student is being harassed in a manner that is covered by Title IX, they should follow local school policies in notifying the school's Title IX Coordinator and request an investigation. If school officials are made aware of the harassment, but the affected student or parent believes the school has made inadequate response to the situation, they may file a complaint with the OCR. The local school Title IX Coordinator will have information on how to file a complaint, and additional information may be accessed at the following link: <http://www2.ed.gov/about/offices/list/ocr/complaintprocess.html>