

What to do if you're Harassed or Discriminated Against

AB 537, the California Student Safety and Violence Prevention Act of 2000, protects students from harassment and discrimination on the basis of actual or perceived sexual orientation and gender identity.

1. Make a complaint at your school

The most important thing to do if you experience harassment or discrimination is to make sure you are safe. Violence and threats of violence are illegal: if you have experienced a serious attack, report it to the police. Once you are safe, here are some steps to take to stop the harassment or discrimination from continuing.

a. Write it down.

Document the incident. Make sure you write down a thorough description of the incident, including what happened, who was involved, where it happened, when it happened, the names of any witnesses, and whether any faculty members were present and how they responded. It is essential that you do this immediately. If someone witnessed the harassment, ask them to join you in person when you make the complaint or have the witness add a short note to your written description verifying that they witnessed the incident and that it happened as you described it.

b. Take it to the principal.

Take your complaint to the school principal or to the person he or she has designated to receive and process complaints of harassment or other forms of discrimination. Under AB 537, your school is legally responsible for protecting you from harassment and discrimination. However, you must notify the person responsible for taking complaints (your principal or other administrator) or your school can still claim that they never knew about it. Don't let your school use this excuse!

Present your written report. It helps make a principal take a complaint seriously if he or she is also presented with a written description of the event. Make a copy for yourself and keep it in a folder.

Ask for a solution. Ask your principal to take action that will stop the harassment and prevent it from happening again. Make sure that this action doesn't involve removing you from the classroom or school – you are not to blame for any harassment you suffer. Ask your principal to let you know what action he or she plans to take and when.

c. Follow up.

Report back. If harassment continues from the same individual, let your principal know that the disciplinary action isn't working.

Document your interaction with your principal. Make a note of when you met with your principal, what you agreed on, and whether your principal carried out his or her end of the bargain.

2. Take it to the next level

If the problem stops after the meeting with your principal, then congratulations! You have taken a stand and made a difference. Unfortunately, this will not always be the case. What do you do next?

a. Recognize that your school has failed to respond.

How do you know if your school's response is inadequate? Ask yourself a few questions about the outcome of your complaint:

- Has the problem been solved? Did your school take positive steps to stop the harassment or discrimination?
- If the harassment or discrimination is constant or widespread, did your school take steps to change the school environment and prevent harassment from happening, rather than merely responding to each incident?
- Did your school treat your complaint with seriousness and speed?

If the answer to any of these questions is "no," you should consider taking your complaint to the next level – your school district.

b. File a complaint with your school district.

Make sure you file your complaint within six months of the original incident. Your district is required to have a person who handles complaints. To find out who this person is in your district:

- 1) Call the District Superintendent's Office. Get the phone number from your school handbook or your principal's office.
- 2) Ask who the designated complaint officer or compliance coordinator for the district is. Explain that each district is required by law under the Uniform Complaint Procedures to have a person who receives complaints of harassment and discrimination. Be persistent. If the office can't tell you who the complaint officer is, contact GSA Network for help.
- 3) Ask to talk to the designated complaint officer. Make sure that they are the right person to receive complaints and get their mailing address for sending written complaints.

After this person receives your complaint, they have 60 days to conduct an investigation, make a decision, and send you a report.

3. Decide whether or not you want to appeal

If you are unsatisfied with a decision made by your district, you have only 15 days to appeal to the CA Department of Education.

Send (by registered mail): A copy of all of your documentation, statements from witnesses, a description of your meeting with your principal, your district complaint, the district's response, and your explanation of why this response is not enough to:

Sharon Felix-Rochon, Office of Equal Opportunity, California Department of Education, 721 Capitol Mall, Room 651, Sacramento, CA 95814, Attention: Director; (916) 657-4562.

The Dept. of Education will give your school district 10 days to solve the problem. The Department will reach a decision within 60 days.



For more information and resources for Gay-Straight Alliances, contact GSA Network:

Northern CA: 160 14th Street, San Francisco, CA 94103, ph: 415.552.4229, f: 415.552.4729

Central CA: 985 N. Van Ness, Fresno, CA 93728, ph: 559.442.4777, f: 559.442.4734

Southern CA: 4477 Hollywood Blvd. Suite #202, Los Angeles, CA 90027, ph: 323.662.3160, f: 323.662.3167

Things to consider when filing a complaint

Why file a complaint?

When you hear the word "complaint," you might have a negative reaction. You might think, "I'm not a complainer." However, the way the word "complaint" is being used in the context of AB 537 is taking formal action by notifying authorities about a problem. It means you're not going to let harassment or discrimination continue. You may have other fears about making a complaint: you may worry about retaliation, or being outed. These are real concerns, and you should weigh them carefully. But be aware also that if you don't complain, your school can claim that it didn't do anything because it didn't know there was a problem. In other words, when you complain, you force your school to take responsibility. Making a complaint is the primary mechanism that AB 537 provides to students.

Preparing yourself for the risks you might encounter

Making a complaint can sometimes involve certain risks. When you weigh the risks of making a report of discrimination or harassment, don't forget to weigh the risks of not reporting, which include escalation of harassment, continuation of an unsafe or hostile school environment, and interference with your right to learn and be educated. Here are some risks you should consider before you file a complaint and some strategies you can use to respond to them.

risk #1: retaliation from the perpetrator

At the first sign of retaliation from the person who harassed you, be prepared to report him or her again and insist that your school take active measures to ensure your safety. You may also want to plan ahead and think about safe places at school, safe routes from place to place within school, and safe ways to get to and from school. Ask friends or trusted adults to help you plan for your safety if you fear that reporting harassment or discrimination may lead to more of the same. Remember, too, that violence and threats of violence are illegal – and the police may be able to help you.

risk #2: inappropriate punishment

Some administrators will treat incidents of harassment as fighting between students and will punish both students while taking no special steps to eliminate harassment. If this is how your principal responds, you can pursue your complaint at the district level (see reverse side of this sheet).

risk #3: confidentiality

The law requires that the person who receives your complaint must keep it confidential as appropriate; however, many schools automatically notify your parents of bias incidents, threats, or harassment that you report. Ask your principal if he or she will respect students' wishes not to notify parents. If you are afraid that your parents will find out about your complaint, you can also send an anonymous letter of complaint to your district superintendent's office so that your school will know that harassment is occurring.

Crisis Situations (what if you can't wait)

The whole complaint process takes 145 days. Sometimes you just can't wait that long.

Physical Danger

If you are in physical danger, you need to make sure you are safe. If you experience violence or threats of violence, contact the police immediately. If anyone is physically violent with you or threatens to be violent, they are breaking the law, and the police can help. Don't tolerate any violence, even if you think you can take it; you never know when it will escalate. Don't wait for your school to act if you are in physical danger. You can still file a complaint with your school even if you involve the police.

When you can't file a complaint with your principal

You are supposed to go to your principal first with your complaint, but you have the option of skipping this step and going directly to your district. Keep in mind that your principal may be the person with the power to solve the problem faster. Under certain conditions, however, it may be in your best interest to go directly to your school district. For example, if your complaint involves a faculty member, if you are concerned about confidentiality or fear retaliation, or if your principal hasn't listened to your complaint, you may want to file your complaint at the district level first.

Legal Remedies

If the harassment or discrimination you are experiencing cannot wait through this long process, keep in mind that you have other options. At any point, you can talk to a lawyer and possibly take your school to court. A judge can issue something called "injunctive relief," which is an order that a judge gives your school that your school has to follow immediately.

How you can put pressure on your school to act

Throughout this process, you also have the option of activism. Activism can help you put pressure on your school, empower you and your allies, give exposure to the issue you are facing, and win the support of your fellow students. Organize your allies to pressure your school to make changes that will stop and prevent harassment and discrimination on your campus.