Discrimination and Harassment in Schools

Understanding and Responding to Discrimination and Harassment



Pueblo County School District 70

Agenda for This Training

- Why we do this work
- Identifying Discrimination and Harassment
  - Offensive Unwelcome Conduct or Communication
  - Connected to a Protected Class
  - Meeting a Defined Standard of Harm
- Case Studies: Individual Narratives and Their Summaries
- Best Practices for Responding in the Moment
- Supportive Measures and Other Concrete Actions
- Legal Requirements and Reporting

Why We Do This Work

- Strong systems to prevent and respond to discrimination and harassment ensure that every student feels welcome, safe, and valued - allowing them to learn, thrive, and grow.
- Discrimination and harassment disrupts and undermines that vision for all students.
- **Impacts on Students:**
  - Lowered academic achievement and aspirations
  - Increased anxiety, depression, post-traumatic stress
  - Loss of self-esteem and confidence
  - Self-harm and suicidal thinking
  - General deterioration in physical health
  - Feelings of alienation in the school environment
  - Sleep disruption, Absenteeism and avoidance



Legal Framework

Understanding Discrimination & Harassment: C.R.S. § 22-1-143:

[Offensive Unwelcome Conduct or Communication] + [Connected to a Protected Class] + [Meeting a Defined Standard of Harm or Impact to the Student] = Discrimination or Harassment under C.R.S. § 22-1-143



Offensive Unwelcome Conduct or Communication

What is "Offensive Unwelcome Conduct or Communication"? **Content:** This refers to various forms of behavior that are unwelcome and objectively offensive to a reasonable individual who is a member of the same protected class.

Type	Example
Physical Conduct	Physical assaults; damaging personal property; sexual contact
Verbal Conduct	Verbal harassment; stereotyping; use of slurs; intentional refusal to use a chosen name/form of address; denial of a benefit/opportunity
Written Communication	Text messages; online messaging; messages on bathroom stalls
Pictorial/Visual	Drawings of offensive images (swastikas, nooses); AI-created images; nude photos







Connected to a Protected Class

What is a "Protected Class"? **Content:** A protected class is a group of people who are legally protected from discrimination and harassment under federal or state civil rights laws because of specific characteristics they have.

Protected Classes Covered in C.R.S. § 22-1-143:

- Disability
- Race
- Color
- Sex
- Sexual Orientation
- Gender Identity
- Gender Expression
- Religion & Creed
- Age
- National Origin
- Ancestry
- Family Composition



Meeting a Defined Standard of Harm

What is a "Defined Standard of Harm or Impact"? **Content:** Harassment or discrimination occurs if the unwelcome conduct or communication:

1. **Unreasonably interferes with access to a service, opportunity or benefit.**
    - Focus on the impact to the student (e.g., student decides not to join a club).
2. **Creates a hostile environment.**
    - Focus on the impact to the student (e.g., intimidating, hostile, or offensive educational environment).
    - *Note:* "Petty slights, minor annoyances, and lack of good manners" generally do not constitute harassment or discrimination.
3. **Was submission to, objection to, or rejection of the conduct used against the student or threatened to be used as a basis for educational decisions affecting the student.**
    - Includes retaliation and "quid pro quo" discrimination (e.g., conditioning a benefit on unwelcome conduct).

Harm Category #1:

Unreasonably interferes with access to a service, opportunity or benefit.

- **Focus on the impact to the student.**
  - Did the conduct or communication have the purpose or effect of unreasonably interfering with the student's access to their educational service, opportunity, or benefit?
- **Example:** Student decides not to join the robotics club after some students repeatedly make comments like: "This club isn't for girls." "And especially not Mexican girls."
  - **Protected classes:** sex, national origin.
  - **Harm or impact:** student loses out on the opportunity to participate in the school's robotics club.

Harm Category #2: Hostile Environment

- **Focus on the impact to the student.**
  - Did the conduct or communication have the purpose or effect of creating an intimidating, hostile, or offensive educational environment?
- **Note:** “Petty slights, minor annoyances, and lack of good manners” do not generally constitute harassment or discrimination.

Harm Category #3:

- Was submission to, objection to, or rejection of the conduct used against the student or threatened to be used as a basis for educational decisions affecting the student?
- Was submission to the conduct or communication explicitly or implicitly made a term or condition of the student's access to an educational service, opportunity, or benefit?

Includes "quid pro quo" discrimination. You do this for me, I will do this for you.

- A student with ADHD is told by a teacher that if they agree to not use their extra time accommodations, they can stay in the honors program.

What is Title IX?

Title IX of the Education Amendments of 1972 is a federal civil rights law that prohibits discrimination on the basis of sex in any education program or activity receiving federal financial assistance.

Key Aspects of Title IX:

- **Broad Scope:** Applies to all aspects of federally funded education programs, including admissions, recruitment, financial aid, academic programs, student housing, and athletics.
- **Prohibition of Sex Discrimination:** This includes sexual harassment, sexual assault, dating violence, domestic violence, and stalking.
- **Protection for All:** Protects all individuals regardless of their gender identity or sexual orientation.
- **Mandatory Reporting:** School employees are generally required to report known or suspected instances of sex discrimination, including sexual harassment, to the Title IX Coordinator.
- **Designated Coordinator:** Every institution receiving federal funds must have a Title IX Coordinator responsible for overseeing compliance.
- **Specific Procedures:** Title IX outlines specific procedures for responding to complaints, including investigations, supportive measures, and disciplinary actions. These procedures are often distinct from general harassment policies.
- **Supportive Measures:** Schools must offer appropriate supportive measures to complainants and respondents, even if no formal complaint is filed. These are non-disciplinary, non-punitive individualized services provided without fee or charge to restore or preserve access to the educational program.
- **Retaliation Prohibited:** It is illegal to retaliate against anyone for reporting discrimination or participating in a Title IX process.

Importance: Understanding Title IX is critical because its requirements for response are very specific and must be followed from the outset when a sex-based discrimination or harassment

Case Studies

Jasmine's Experience:Jasmine, a student, has been experiencing harassment from a group of boys. They make inappropriate comments about her body, spread rumors, and follow her in the halls. It escalated when a boy created a fake AI picture of her naked and texted it to his friends. As a result, Jasmine is struggling with sleep, focus in classes, and feels embarrassed. She has even had "darker thoughts."

Summary: Jasmine's Case **Analysis:**

- **Unwelcome Conduct:** Inappropriate comments, rumor spreading, following, and the creation/ distribution of a fake image. These are both verbal, physical (following), and pictorial/visual forms of harassment.
- **Protected Class:** Sex (sexual harassment).
- **Standard of Harm:** This clearly creates a hostile, intimidating, and offensive environment. It also interferes with her access to educational opportunities (can't focus, missing school, impacting mental health).
- **Key Takeaway:** The severity and persistence of the conduct, especially with the digital component, highlight a significant need for intervention and supportive measures.

Carlos and Luis's Experience: Carlos and Luis, brothers who recently immigrated, were excited to join the middle school soccer team. After tryouts, the coach told them via Google Translate to "come try out next year when you are fluent in English so it will be easier to communicate," despite them having enough English to participate safely. Other students consistently target Hispanic-looking kids, tapping them and saying "you're deported," or making "ICE" threats. Carlos and Luis feel scared, anxious, and excluded, making it hard to focus.

Summary: Carlos and Luis's Case **Analysis:**

- **Unwelcome Conduct:** Coach's discriminatory statement regarding English fluency; other students' verbal abuse ("you're deported") and threatening gestures ("ICE"). This includes verbal conduct and denial of opportunity.
- **Protected Class:** National Origin (covering ethnicity, ancestry, country of origin, or language background). The treatment is connected to their perceived origin and language.
- **Standard of Harm:** The coach's action directly interfered with their access to an educational opportunity (soccer team). The other students' conduct created an intimidating, offensive, and hostile environment, causing them to feel scared, anxious, and excluded, impacting their ability to focus in school.
- **Key Takeaway:** Discrimination can be explicit (coach) or peer-driven, and it directly affects a student's ability to participate and feel safe.

Sean's Experience: Sean, a Black fifth-grader, has experienced racial harassment. Initially, it was unintentional, but now he feels it's intentional. Students call him the N-word, touch his hair to annoy him, and blame him for things he didn't do. His teacher often believes the other students. When he reported the N-word, the teacher apologized but excused the perpetrators, saying "they don't really know what it means." Sean pushed a bully and was suspended.

Sean's Case **Analysis:**

- **Unwelcome Conduct:** Use of racial slurs (N-word), unwanted physical contact (touching hair), false accusations. This is primarily verbal and physical conduct.
- **Protected Class:** Race (he is one of the few Black kids).
- **Standard of Harm:** This creates a hostile, intimidating, and offensive environment. The teacher's dismissive response exacerbates the harm, leading to Sean's frustration and a retaliatory physical act that resulted in his suspension, further interfering with his educational access.
- **Key Takeaway:** Lack of proper adult response can worsen the impact of harassment and lead to further negative consequences for the victim.

Responding in the Moment

Best Practices for Responding in the Moment

1. **Intervene Immediately and Calmly:** Act quickly to show harassment is not tolerated. Stay calm and firm, interrupt the behavior.
2. **Separate and De-escalate:** Separate involved students. Focus on de-escalation and keeping all students safe.
3. **Listen Actively and Name Next Steps:** Listen, repeat what you hear, assure the student you're taking it seriously, and explain next steps.
4. **Avoid "Victim-Blaming":** Do NOT question the victim's behavior/appearance, suggest provocation, minimize harm, or tell them to change.
    - **Instead of:** "Why didn't you walk away?" **Try:** "Thank you for telling me - this took courage."
    - **Instead of:** "You just have to be more careful." **Try:** "You have the right to feel safe and respected here."
5. **Document the Incident:** As soon as safe, write down what you saw/heard (date, time, location, people involved, steps taken).
6. **Report Through Proper Channels:** Follow your school's reporting protocol (administration, counselors, Title IX coordinator). If based on sex, report immediately to Title IX coordinator.

Supportive Measures

Supportive measures are individualized services designed to restore a student's access to education and ensure safety.

- **Safety Measures:** Increased adult supervision, behavioral contracts, threat assessments, formal safety plans.
- **Academic Measures:** Schedule changes, academic support, class reassignments, extensions, modified assignments.
- **Mental Health Measures:** Referrals for counseling, access to school mental health professionals.
- **Communication:** Regular check-ins, informing families (within privacy limits), providing interpreters/ translations for families with limited English proficiency.
- **Restorative Options (if appropriate):** Mediation (voluntary), community circles, community service or required learning for the student who caused harm.

Bullying vs. Discrimination/Harassment

School bullying researchers typically define bullying by highlighting three components that differentiate it from other forms of aggression:

- the behavior is unwanted,
- repeated or likely to be repeated, and
- marked by an observed or perceived imbalance of power



“Bullying” defined in Colorado law

“Bullying” means **any written or oral expression, or physical or electronic act or gesture, or a pattern thereof, that is intended to coerce, intimidate, or cause any physical, mental, or emotional harm to any student.**

Bullying is prohibited against any student for any reason, including, but not limited to, any bullying behavior that is **directed toward a student on the basis of the student's academic performance; any bullying behavior that is directed toward a student [based on their disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, national origin, religion, ancestry, or need for special education services]; or a pattern of bullying behavior that is directed toward a student on the basis of the student's weight, height, or body size.**

C.R.S. 22-32-109.1(1)(b)

“Bullying” defined in Colorado law (cont)

GREEN HIGHLIGHTS: BULLYING

- Bullying doesn’t implicate a student’s protected class.
- Not harassment.
- Follow your local policies to respond to bullying.

RED HIGHLIGHTS: POTENTIAL DISCRIMINATION OR HARASSMENT

- Treatment of the student is connected to the student's protected class.
- Could rise to the level of harassment.
- Follow your local policies on responding to harassment.

Summary of Distinctions

Standard/Law	Primary Focus	Protected Classes
Colorado State Harassment/ Discrimination (C.R.S. § 22-1-143)	Broad anti-discrimination and harassment in schools.	Disability, Race, Color, Sex, Sexual Orientation, Gender Identity, Gender Expression, Religion & Creed, Age, National Origin, Ancestry, Family Composition
Title IX	Sex-based discrimination in federally funded education programs.	Sex (including sexual harassment/ assault)
Section 504/ADA	Discrimination based on disability.	Disability
Title VI	Discrimination based on race, color, national origin in federally funded programs.	Race, Color, National Origin
Title VII	Employment discrimination.	Race, Color, Religion, Sex, National Origin

By identifying, discrimination, harassment, and bullying, and reporting it to the proper school personnel, you can help create a safe and positive school environment for all.

