

ARCHIVED INFORMATION



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE GENERAL COUNSEL

THE GENERAL COUNSEL

October 11, 2012

Via U.S. Mail

Mr. Robert G. Sugarman
Mr. Abraham H. Foxman
Anti-Defamation League
605 Third Avenue
New York, NY 10158-3560

Dear Messrs. Sugarman and Foxman:

Thank you for your letter of May 23, 2012, and the opportunity to meet with representatives from the Anti-Defamation League (ADL), and several other organizations with regard to efforts to combat harassment and other forms of discrimination. We appreciate your organization's efforts in combatting harassment, and the opportunity to respond to the issues you raise in your letter.

As your letter notes, there exists significant federal guidance and enforcement activity in the area of harassment, including the Department of Education's Office for Civil Rights' (OCR) October 2010 Dear Colleague Letter regarding bullying and harassment, and work by OCR enforcing, among other statutes, Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments Act of 1972, Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990. Pursuant to these statutes OCR has authority to address verbal and physical harassment and other forms of discrimination based on race, color, national origin, sex (including sex stereotypes), and disability. The Department of Justice (DOJ) also has authority to address these issues, and we frequently work in collaboration or cooperation.

Your letter concerns the recently issued document, "Harassment, Bullying and Free Expression: Guidelines for Free and Safe Public Schools" ("Guidelines"), which was an effort by a group of organizations to address the intersection of free speech rights and peer-on-peer bullying and harassment. The Department appreciates the efforts of the participating non-governmental organizations to help public schools address issues related to discrimination, bullying, and harassment, and their efforts to help balance the need for school safety with protections for free expression. However, the document does not constitute legal guidance or policy from the federal government, it does not supersede federal or state law or policy, and schools must remain mindful of their federal civil rights obligations with regard to harassment and other forms of discrimination as set forth in the statutes and the implementing regulations and guidance issued by federal enforcement agencies, and of their responsibilities with regard to state law, when applicable.

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Our mission is to ensure equal access to education and to promote educational excellence throughout the Nation.

The Department values and supports the free speech rights of students. We also are charged by Congress to protect the rights of students under federal law to attend school free from harassment and other forms of discrimination.

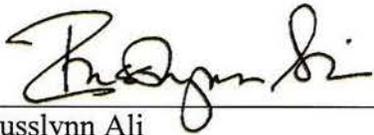
Recent enforcement actions across the country by OCR--including in California and Minnesota exemplify the Department's dedication to this critical area of civil rights. We will continue to vigorously enforce federal civil rights laws and will use every tool in our arsenal to combat peer-on-peer harassment and bullying when we learn of it, drawing upon federal guidance in this area, including OCR's 2010 Bullying and Harassment Dear Colleague Letter and other federal resources listed below. We encourage schools to consult these resources for guidance on these issues. They reflect a useful summary of the law and policy of the federal government. They remind schools that the law imposes on them an affirmative duty to respond promptly and effectively to incidents of discriminatory student-on-student harassment, whether verbal or physical, about which they know or reasonably should know.

Individuals can file complaints of alleged harassment and other forms of discrimination in schools with OCR directly (at www.ed.gov/ocr/complaintintro.html) and with DOJ's Division of Civil Rights, Educational Opportunities Section. In addition, both OCR and our colleagues at the Educational Opportunities Section are available to provide technical assistance to schools in their efforts to address harassment and with other civil rights concerns.

In addition, the Department has worked with other agencies and the White House to address issues of bullying and harassment. The White House sponsored the first conference on Bullying Prevention on March 10, 2011, in coordination with the Department of Education and the Department of Health and Human Services, bringing together students, parents, teachers, non-profit leaders, advocates, and policymakers, representing communities from across the nation that have been affected by bullying as well as those who are taking action to address it. Discussions at the conference included the effects of bullying on young people, preventing bullying and harassment in schools and the community, and cyberbullying. The Federal Partners in Bullying Prevention, a coalition of 9 federal departments led by the Department of Education held three annual summits in 2010, 2011, and most recently in August 2012, to discuss progress made towards addressing bullying, coordinate efforts, and develop new goals and objectives for the following year. The Department also recently held a conference on August 8 and 9, 2012, at which participants explored five prevailing and emerging issues that influence conditions for learning – school discipline; gender-based violence; behavioral health; bullying; and school safety. The conference provided participants a unique opportunity to provide feedback to federal, non-profit, and philanthropic agencies to help shape future work in these areas. The Department's Office of Safe and Healthy Students also provides technical assistance on bullying prevention measures and recently developed training materials for school bus drivers on how they can effectively respond to and prevent bullying.

If you or the schools with which you work would like additional guidance and information on how districts can comply with federal civil rights laws, such materials are available on the websites of both OCR and DOJ. There are additional materials on bullying prevention and on building safe and supportive school climates available on the federal anti-bullying website, www.stopbullying.gov and the Department's website on Safe and Supportive Schools at <http://safesupportiveschools.ed.gov>. We also are including below links to federal resources that provide guidance on school districts' obligations under federal anti-discrimination laws. Where appropriate, please feel free to refer schools with which you work to these federal resources.

Sincerely,



Russlynn Ali
Assistant Secretary
Office for Civil Rights
U.S. Department of Education



Philip H. Rosenfelt, Deputy General Counsel
for Program Service, Delegated the Authority
to Perform the Functions and Duties of the
General Counsel
U.S. Department of Education

Enclosure

U.S. Department of Education, Office for Civil Rights Resources

2010 Bullying and Harassment Dear Colleague Letter:

<http://www.ed.gov/ocr/letters/colleague-201010.pdf>

2010 Bullying and Harassment Dear Colleague Letter Fact Sheet:

<http://www.ed.gov/ocr/docs/dcl-factsheet-201010.html>

2003 First Amendment Dear Colleague Letter:

<http://www.ed.gov/ocr/firstamend.html>

2001 Revised Sexual Harassment Guidance:

<http://www.ed.gov/ocr/docs/shguide.html>

Contact Information:

<http://wdcrocolp01.ed.gov/CFAPPS/OCR/contactus.cfm>

Other Resources from the U.S. Department of Education

2011 Analysis of State Bullying Laws and Policies:

<http://www2.ed.gov/rschstat/eval/bullying/state-bullying-laws/state-bullying-laws.pdf>

Safe and Supportive Schools:

<http://safesupportiveschools.ed.gov/index.php?id=01>

U.S. Department of Justice, Civil Rights Division Resources

Educational Opportunities Section: <http://www.justice.gov/crt/about/edu/>

Complaint Information: <http://www.justice.gov/crt/complaint/>

By e-mail to education@usdoj.gov

By telephone at (202) 514-4092 or 1-877-292-3804 (toll-free)

By facsimile at (202) 514-8337

By letter to the following address:

U.S. Department of Justice Civil Rights Division

950 Pennsylvania Avenue, N.W.

Educational Opportunities Section, PHB

Washington, D.C. 20530

Additional Resources

Federal Anti-Bullying Website: <http://www.stopbullying.gov/>