



HUMAN  
RIGHTS  
CAMPAIGN.

## How to File Discrimination Complaints with the US Department of Education, Office for Civil Rights

### LGBTQ+ Students Have Federal Protections against Harassment & Discrimination

Have you or someone you know experienced harassment or discrimination in school on the basis of your sexual orientation, gender identity, or expression? According to GLSEN, in 2019, over 81% of LGBTQ+ students reported being verbally harassed based on sexual orientation, gender expression, and gender and over 34% were physically harassed based on those same characteristics. Despite the number of incidents, over 56% of students who faced harassment did not report to school staff, believing the school would not take action to protect them.\*

**You can take action!** While most states do not have state laws that specifically protect LGBTQ+ students from harassment or discrimination, under federal law, schools cannot discriminate against students on the basis of sex. This includes discrimination based on sex-stereotypes (gender expression), sexual orientation, and gender identity. If school officials discriminate against a student or fail to protect a student from harassment, a complaint can be filed with the US Department of Education's Office for Civil Rights. Know that bullying is often a form of harassment.

### How Do I File a Complaint with the Office for Civil Rights?

Go to <http://www.ed.gov/about/offices/list/ocr/complaintintro.html> to file your complaint online. Read the instructions and click [Continue to Electronic Complaint Form](#) at the bottom of the page to get started. You do not need a lawyer to file a complaint with the Office for Civil Rights. Incomplete complaints will be discarded, so make sure you fill out the entire form!

**Be sure to mention in the complaint that the school discriminated against you or someone you know on the basis of gender, whether through discrimination based on sex-based stereotypes, sexual orientation or gender identity, or failure to protect you or someone else from gender-based harassment.** The more detail you provide with regard to the discrimination (dates, a description of the school's actions, names of individuals involved, clear descriptions of the discriminatory behavior, etc.), the more likely that the Office for Civil Rights will be able to take action.

### Who Can File a Complaint?

Not only students can file a complaint. A parent, teacher, family member, friend, or an organization can file a complaint on a student's behalf as long as the student attends a school that receives public funding (nearly every public K-12 school and most colleges and universities) and gives written consent. The complaint must be filed within **180 days** of when the harassment or discrimination occurred. The Office for Civil Rights may waive this filing deadline but those circumstances are very limited so it is best to act early.

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\*The 2019 National School Climate Survey, Gay, Lesbian & Straight Education Network (GLSEN), [https://www.glsen.org/sites/default/files/2020-10/NSCS-2019-Full-Report\\_o.pdf](https://www.glsen.org/sites/default/files/2020-10/NSCS-2019-Full-Report_o.pdf)

## Will I be Protected if I File a Complaint?

**Yes.** Complaints that are filed are confidential, meaning that they will not be shared without your permission. Also, school staff may not retaliate against anyone who has filed a complaint or who has assisted in the investigation of any complaint.

## What Will Happen After I File a Complaint?

The Office for Civil Rights will send a letter to you and the school to notify the parties that a complaint has been made. They can then evaluate the complaint, during which time they may contact you to get further information. For more information about the complaint process, go to <https://www2.ed.gov/about/offices/list/ocr/docs/howto.html>.

## How are LGBTQ+ Students Protected?

Title IX of the Education Amendments of 1972 states that, “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.” The Office for Civil Rights has clarified that it will enforce Title IX’s prohibition on discrimination on the basis of sex to include gender identity, sexual orientation, and sex-stereotypes (gender expression).

**Discrimination.** Under Title IX, students are protected from direct discrimination by school staff. This may include, for example: failure to allow a student to dress in a gender non-conforming way in a yearbook photo, at a prom, or at school; failure to allow a student to use bathrooms and locker rooms consistent with their gender identity; unfair discipline against LGBTQ+ students; harassment by educators; or denial of privileges based on gender. If you or someone you know have experienced any of these issues, document the dates and names of those involved and you can file a complaint with the Office for Civil Rights.

**Harassment & Bullying.** Finally, the Office for Civil Rights has made clear that if a school fails to provide effective remedial action when a student is harassed or bullied on the basis of gender, that is a form of discrimination under Title IX. In order for a school to be subject to liability, the principal must know about the harassment and fail to take appropriate action. Therefore, if you or someone you know are subject to harassment or bullying, document interactions with the principal and any actions taken. File formal complaints whenever possible and keep a record of any document filed.

## Take Action Today!

No one should be bullied, harassed, or discriminated against in school because of their sexual orientation, gender identity, or gender expression. Take advantage of federal protections to protect yourself and others and make your school a safer place for LGBTQ+ students.