



A SELF-ADVOCACY GUIDE

What to Do if Your Child is:

**Restrained, Secluded,
Bullied, Harassed,
Abused or Neglected
at School**



KNOW YOUR RIGHTS

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Restraint and Seclusion

What should you do if you suspect your child has been restrained or secluded at school?

Reports done by the federal government and others in the past few years show that many students with disabilities are restrained and/or secluded at school. Many of these children have been injured; some have even died.

In 2014, Arizona passed a law that prohibits the use of restraint and seclusion on students except in the case of imminent danger of bodily harm.¹ The law also has strict reporting requirements that schools must adhere to if they do restrain or seclude a student. Schools are required to make written or verbal contact with a student's parent or guardian within 24 hours of a restraint or seclusion technique being used on a student. Also, within a "reasonable time" after the incident, the school must provide written documentation to the parent or guardian that includes:

- the type of restraint or seclusion technique that was used;
- how long the restraint or seclusion lasted;
- specific information about the behavior leading up to the technique; and
- information about any persons, locations or activities that may have triggered the behavior.

Finally, if there has been repeated use of these techniques during a school year, the school must analyze how future incidents may be avoided and consider whether the student needs a functional behavioral assessment.

If your child has an IEP or a 504 plan and you believe your child has been restrained or secluded at school, you can:

- A. Ask the school for a written copy of the school district's policy on restraint and seclusion.
- B. Ask the school for copies of all incident reports regarding the restraint/seclusion of your child, as required by A.R.S. § 15-105.
- C. Ask in writing for an IEP or 504 meeting to discuss the restraint or seclusion and ask for it to stop immediately (*see sample Requesting a Review of an IEP Letter at the end of this guide*).
- D. Ask school staff who have knowledge about behavior and crisis management to attend the IEP or 504 meeting.
- E. Read your child's IEP so you can decide if more services are needed to help

¹ A.R.S. § 15-105.

improve his or her behavior.

- F. Ask in writing for a Functional Behavior Assessment (FBA).²
- G. Ask the IEP or 504 team to write a Behavior Intervention Plan (BIP)³ using positive behavior supports.
- H. If you think the school's staff needs more training in how to help students with behavior problems, ask the school to provide that training.
- I. Make sure the school is providing all services that are included in your child's IEP.
- J. If you believe your child was injured while he or she was restrained or secluded, see the next section of this guide on Bullying, Harassment, Abuse and Neglect.

² FBAs are done in order to find the reason for the student's problem behavior.

³ A BIP is an individualized plan for addressing a student's problem behaviors that includes positive behavior supports and other ways to help a student whose behavior gets in the way of his own learning or the learning of others.

Bullying, Harassment, Abuse and Neglect

What should you do if you suspect your child has been bullied, harassed, abused or neglected at school?

There are three types of complaints you can file if you suspect your child has been bullied, harassed, abused or neglected at school.

Filing a Complaint with the School District

Contact the school district's main office and ask for a copy of the written procedures for filing a formal complaint. If the school district has a written policy, you should follow it. If the district does not have a written policy, you can still file a complaint (see below for how to do this).

1. Put your complaint in writing. Be sure to keep a copy for your records.
2. Send the complaint to the Principal of your child's school right away to try and stop the problem (*see Complaint Sample Letter at the end of this guide*).
3. If your child has an IEP or a 504 plan, send a copy of your complaint to the school district's Director of Special Education.
4. When you file a complaint, the school district should investigate to find out if your child was bullied, harassed, abused or neglected at school. Once the investigation is done, the school district should give you a written report.
5. If you think the school district did not conduct a good investigation, or if it does not respond to your complaint, you can file a written appeal with the superintendent of the school district.
6. If the superintendent investigates but you do not agree with the results of that investigation, you may have the right to file an appeal with the District Governing Board. Ask the school district for a copy of its Governing Board Policy.

Filing a Complaint with the Office for Civil Rights (OCR)

Federal law (Section 504 of the Rehabilitation Act of 1973) does not allow schools that receive money from the federal government to discriminate against a person because of his or her disability.⁴ Section 504 defines a person with a disability as one who: (i) has a physical or mental impairment which substantially limits one or more major life activities; (ii) has a record of such an impairment; or (iii) is regarded as having such an impairment.⁵ This includes children receiving special education services.

In some cases, bullying, harassment, abuse or neglect of a student with special needs may be discrimination. Anyone who thinks that a school has discriminated against a student with a disability can file a complaint with the Office for Civil Rights of the U.S. Department of Education (OCR). If you think your child has been discriminated against at school because of his or her disability, you can file a complaint with OCR.

Important Deadline

Remember that you must file your complaint no later than 180 calendar days from the date the discrimination happened, unless the time for filing is extended by OCR for good reason. To be safe, be sure to file before the 180-day deadline.

For more information, help, and a complaint form, go to <http://www2.ed.gov/about/offices/list/ocr/know.html>.

You may also contact the OCR regional office in Denver at (303) 844-5695; TDD (877) 521-2172, or write to:

Office for Civil Rights, Region VIII
U.S. Department of Education
Cesar E. Chavez Memorial Building
1244 Speer Blvd., Suite 310
Denver, CO 80204-3582
Email: OCR.Denver@ed.gov

⁴ Section 504 states that "No otherwise qualified individual with a disability in the United States shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance."

⁵ Major life activities are functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

Filing a Section 504 Complaint with the School District

If you wish, you can file a Section 504 complaint with the school district before you file a complaint with OCR. You must file the complaint no later than 180 calendar days from the date the discrimination happened.

School districts must name at least one person to help resolve these complaints. This person is usually called the 504 Coordinator. You do not have to file a complaint with the school district's 504 Coordinator before filing a complaint with OCR, but it may be a good idea. In some cases, it helps solve the problem more quickly.

If you file a complaint with the school district but it does not solve the problem, you have 60 days to file a complaint with OCR. The 60-day time period begins when the school district completes its investigation. If you file a complaint with OCR, the first thing OCR will do is look to see if the school district carefully read and considered your complaint before it made its decision.

Retaliation is not allowed. A school district may not retaliate against (get back at; get even with) any person who has made a complaint, testified, assisted or participated in any way in any Section 504 investigation.

Important Deadlines

Remember that you must file your complaint with the school district no later than 180 calendar days from the date the discrimination happened. If you are not happy with the school district's decision, you have 60 days from the date the school district completes its investigation to file a Section 504 complaint with OCR.

Other Ways to Help Your Child

Contact the Police

If you suspect your child has been abused, neglected, harassed, bullied, restrained or secluded at school, you may contact the police and file a police report.

Personal Injury Claims

If you suspect your child has been abused, neglected, harassed, bullied, restrained or secluded at school, your child may have a personal injury claim. This claim may result in the payment of money damages to your child. If you believe your child has a personal injury claim, you should contact a lawyer who practices this type of law for advice as soon as possible.

Sample Letters

(SAMPLE LETTER REQUESTING A REVIEW OF AN IEP)

[Parent Name]
[Parent Address]
[City, State and Zip Code]

[Date]

_____, Director of Special Education
[School District or Charter School]
[Address]
[City, State and Zip Code]

Re: [Your Child's Name and School]

Dear _____:

I am the parent of **[Name of Child]**, who attends **[Name of School]**

I am writing to request that the **[Name of School District or Charter School]** schedule an IEP meeting to discuss my child's current behavior challenges and to determine if additional supports are warranted at this time. In addition, I am requesting that the district have staff in attendance at this IEP meeting, with knowledge in the area of behavior assessment and positive behavior planning.

To help with the scheduling: I am available to meet on the following days and times *[List dates and times that you are available or specify dates/times when you are not available to attend a meeting]*

If you have any questions, the best way to reach me is **[by phone and/or e-mail, provide specific number and/or address]**. Thank you.

Sincerely,

Insert Parent's Name

(SAMPLE SECTION 504 COMPLAINT TO SCHOOL DISTRICT)

[Parent Name]
[Parent Address]
[City, State and Zip Code]

[Date]

Insert name (if known), 504 Coordinator
[School District or Charter School]
[Address]
[City, State and Zip Code]

Re: [Your Child's Name and School]

Dear 504 Coordinator:

I am the parent of **[student name]**, a student with a disability who attends **[school name]**. I am writing to file a formal complaint alleging that my child, **[name of child]**, was subject to abuse and neglect by **[individual or agency]**. I am requesting that the district conduct a comprehensive investigation and provide me with a written report of the findings and corrective action plan. The facts are as follows:

Insert the following information:

1. List precisely all allegations: date, location, and time of the incidents.
2. List the names of any staff or students involved and any other possible witnesses.
3. Request relief (what do you want to have happen to resolve the complaint).

Sincerely,

Insert Parent's Name

Copy to: Special Education Director
School Principal
School Superintendent

COMPLAINT SAMPLE

Mr. John Question, 504 Coordinator
School District
Any City, AZ 00000

Dear Mr. Question:

I am the parent of S. Smith, a student with a disability who attends the District Middle School. I am writing to file a formal complaint alleging that my child, S. Smith, was subject to abuse and neglect by John Doe. I am requesting that the district conduct a comprehensive investigation of the allegations listed below and provide me with a written report of the findings and corrective action plan. The facts are as follows:

1. [Insert all instances of possible abuse and neglect, including dates and times if known, and as many facts as possible]
- 2.
- 3.
- 4.

The above incidents violate my child's rights and constitute a pattern of physical and emotional abuse and neglect. I am demanding that the district take immediate steps to stop this treatment. I am requesting that the teacher(s) involved in these incidents receive training in the use of appropriate behavior management techniques and not be permitted to work with my child until the teacher can demonstrate mastery of those skills.

If you have further questions concerning this complaint, please do not hesitate to give me a call at xxx-xxxx.

Sincerely

[Your Name]

Copy to: Special Education Director
 School Principal
 School Superintendent

RESOURCES

STATE OF ARIZONA ANTI-BULLYING STATUTE ARIZONA REVISED STATUTE (ARS)15-341 (37)

15-341 General powers and duties; immunity; delegation

A. The governing board shall:

36. Prescribe and enforce policies and procedures to prohibit pupils from harassing, intimidating and bullying other pupils on school grounds, on school property, on school buses, at school bus stops, at school-sponsored events and activities and through the use of electronic technology or electronic communication on school computers, networks, forums and mailing lists that include the following components:

(a) A procedure for pupils, parents and school district employees to confidentially report to school officials incidents of harassment, intimidation or bullying. The school shall make available written forms designed to provide a full and detailed description of the incident and any other relevant information about the incident.

(b) A requirement that school district employees report in writing suspected incidents of harassment, intimidation or bullying to the appropriate school official and a description of appropriate disciplinary procedures for employees who fail to report suspected incidents that are known to the employee.

(c) A requirement that, at the beginning of each school year, school officials provide all pupils with a written copy of the rights, protections and support services available to a pupil who is an alleged victim of an incident reported pursuant to this paragraph.

(d) If an incident is reported pursuant to this paragraph, a requirement that school officials provide a pupil who is an alleged victim of the incident with a written copy of the rights, protections and support services available to that pupil.

(e) A formal process for the documentation of reported incidents of harassment, intimidation or bullying and for the confidentiality, maintenance and disposition of this documentation. School districts shall maintain documentation of all incidents reported pursuant to this paragraph for at least six years. The school shall not use that documentation to impose disciplinary action unless the appropriate school official has investigated and determined that the reported incidents of harassment, intimidation or bullying occurred. If a school provides documentation of reported incidents to persons other than school officials or law enforcement, all individually identifiable information shall be redacted.

(f) A formal process for the investigation by the appropriate school officials of suspected incidents of harassment, intimidation or bullying, including procedures for notifying the alleged victim and the alleged victim's parent or guardian when a school official or employee becomes aware of the suspected incident of harassment, intimidation or bullying.

(g) Disciplinary procedures for pupils who have admitted or been found to have committed incidents of harassment, intimidation or bullying.

(h) A procedure that sets forth consequences for submitting false reports of incidents of harassment, intimidation or bullying.

(i) Procedures designed to protect the health and safety of pupils who are physically harmed as the result of incidents of harassment, intimidation and bullying, including, if appropriate, procedures to contact emergency medical services or law enforcement agencies, or both.

(j) Definitions of harassment, intimidation and bullying.

STATE OF ARIZONA ANTI-HAZING STATUTE

ARIZONA REVISED STATUTE 15-2301

15-2301 Hazing prevention policies; definitions

- A. Every public educational institution in this state shall adopt, post and enforce a hazing prevention policy. The hazing prevention policy shall be printed in every student handbook for distribution to parents and students. Each hazing prevention policy shall include:
1. A definition of hazing pursuant to subsection C, paragraph 2 of this section.
 2. A statement that hazing is prohibited.
 3. A statement that any solicitation to engage in hazing is prohibited.
 4. A statement that aiding and abetting another person who is engaged in hazing is prohibited.
 5. A statement that it is not a defense to a violation of the hazing prevention policy if the hazing victim consented to or acquiesced in the hazing activity.
 6. A statement that all students, teachers and staff shall take reasonable measures within the scope of their individual authority to prevent violations of the hazing prevention policy.
 7. A description of the procedures for students, teachers and staff to report violations of the hazing prevention policy and the procedures to file a complaint for a violation of the hazing prevention policy.
 8. Procedures to investigate reports of violations of the hazing prevention policy and to investigate complaints for a violation of the hazing prevention policy.
 9. A description of the circumstances under which a violation of the hazing prevention policy shall be reported to the appropriate law enforcement agency.
 10. A description of appropriate penalties, sanctions and appeals mechanisms for persons and organizations that violate the hazing prevention policy. The sanctions shall include the revocation or suspension of an organization's permission to conduct operations at the educational institution if the organization knowingly permitted, authorized or condoned the hazing activity. Any teacher or staff who knowingly permitted, authorized or condoned the hazing activity is subject to disciplinary action by the educational institution.
- B. Violations of hazing prevention policies adopted pursuant to this section do not include either of the following:
1. Customary athletic events, contests or competitions that are sponsored by an educational Institution.
 2. Any activity or conduct that furthers the goals of a legitimate educational curriculum, a legitimate extracurricular program or a legitimate military training program.
- C. For purposes of this section:
1. "Educational institution" means any of the following:
 - (a) A public school that provides instruction to pupils in any combination of kindergarten programs and grades one through twelve.

- (b) A public community college or a vocational education program that provides academic instruction or training not exceeding two years' duration in the arts, sciences and humanities beyond the twelfth grade of the public or private high school course of study.
- (c) Any public college or university that provides academic instruction beyond the twelfth grade of the public or private high school course of study and that offers any combination of baccalaureate, master's or doctoral degrees to students that complete specified academic requirements.

Additional Resources

Federal:

U.S. Department of Education, Office for Civil Rights, “Dear Colleague” Letter on steps to reduce bullying in schools (October 26, 2010), <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.html>

U.S. Department of Education, Restraint and Seclusion: Resource Document (May 15, 2012), <https://www2.ed.gov/policy/seclusion/restraints-and-seclusion-resources.pdf>

U.S. Department of Education, Office for Civil Rights, Fact Sheet: Restraint and Seclusion of Students with Disabilities (December 2016), <https://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-201612-504-restraint-seclusion-ps.pdf>

U.S. Department of Education, Office for Civil Rights, “Dear Colleague” Letter on Restraint and Seclusion of Students with Disabilities (December 28, 2016), <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201612-504-restraint-seclusion-ps.pdf>