

November 28, 2016

Dear Colleagues:

During and following the presidential campaign, our schools and universities have witnessed a surge in harassment based on race, religion, gender, disability, and national origin. The Southern Poverty Law Center has received reports of more than 400 cases of harassment or intimidation in the United States since Election Day and continues to collect such reports.¹ Members can add their own by going to this [link](#). The reported incidents include all of the following:

- Black, Latino, Muslim, Jewish, and Sikh students are being subjected to epithets.
- Schools have been vandalized with swastikas and racist graffiti.
- Latino students are being subjected to chants of “build the wall.”
- Hijabs have been forcibly removed from Muslim students’ heads at numerous schools and universities.
- Muslim students have been physically assaulted.
- Jewish students are being told by other students that now that Donald Trump is president, “all the Jews have to leave the country.”
- Girls and women have been grabbed without their consent.

As the nation’s leading organization of educators we have a responsibility to ensure that our schools are safe for students. We know that affiliates and members are already taking significant steps to address and stop this wave of intolerance. We write to share additional tools to aid you.

To that end, I attach a short guidance for educators and parents that explains:

- Discrimination and harassment on the basis of race, religion, gender, disability and/or national origin (or their perceived race, religion, gender, disability and/or national origin) is unlawful and violates federal civil rights laws as well as state and, in many instances, local civil rights law.²

¹ <https://www.splcenter.org/hatewatch/2016/11/15/update-more-400-incidents-hateful-harassment-and-intimidation-election>

² Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, and national origin by public schools including discrimination based on a religious group’s actual or perceived shared ancestry or ethnic characteristics, including actual or perceived citizenship or residency in a country with a dominant religion or distinct religious identity. 42 U.S.C. § 2000d. Title IV of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, national origin, and religion by public schools, 42 U.S.C. § 2000c-6. The Equal Educational Opportunities Act prohibits discrimination on the basis of race, color, or national origin by public schools, 20 U.S.C. § 1703. The Fourteenth Amendment of the United States Constitution prohibits discrimination on the basis of race, sex, and religion, among other things.

- Educational institutions should adopt policies and administrative regulations that prohibit harassment and discrimination, adopt and publish procedures for students to complain about discriminatory harassment, establish consequences for those who harass or discriminate against students, and set a tone that allows students to feel safe to report harassment.
- Educators, parents, and students should report discrimination and harassment.
- Individuals who report such conduct are protected under federal law against retaliation for their actions.
- Intimidating, harassing, or assaulting individuals on the basis of race, color, religion, national orientation, perceived gender, sexual orientation, gender identity, or disability in school may also be punishable as a hate crime under federal and state law.

In addition to this new guidance, there are significant other resources available to you and your members on these issues, including

- *NEA's Anti- Harassment and Discrimination Tool Kit* (2014) (details federal civil rights prohibitions against harassment and discrimination in employment and how to enforce those prohibitions);
 - *Dear Colleague Letter: Harassment Based on Race, Religion, or Natural Origin, U.S. Department of Education Office of Civil Rights* (Dec. 31, 2015)
<http://www2.ed.gov/policy/gen/guid/secletter/151231.html>;
 - *Twenty Plus Things Schools Can Do to Respond to or Prevent Hate Incidents Against Arab-Americans, Muslims, and Sikhs*, U.S. Department of Justice, Community Relations Service (“CRS”) (Dec. 17, 2012)
<https://www.justice.gov/sites/default/files/crs/legacy/2012/12/17/20-plus-things.pdf>;
 - *CRS Programs for Managing School Multicultural Conflict*, U.S. Department of Justice (mediation, conciliation, technical assistance, and training for community conflicts and tensions arising from differences of race, color, and national origin and to prevent and respond to violent hate crimes committed on the basis of protected characteristics)
<https://www.justice.gov/sites/default/files/crs/legacy/2012/12/17/school-multicultural-conflict.pdf>;
 - *Equity Assistance Center Program and Contacts of the U.S. Department of Education – Office of Civil Rights* (OCR technical assistance for preventing and combatting discrimination and harassment)
<http://www2.ed.gov/programs/equitycenters/contacts.html>;
 - *Dear Colleague Letter: Harassment and Bullying, U.S. Department of Education – Office of Civil Rights* (Oct. 26, 2010) (explains the responsibility of schools to provide students with a safe bully free and non-harassing environment)
<http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>;
 - *Dear Colleague Letter: Sexual Violence, U.S. Department of Education – Office of Civil Rights* (April 4, 2011) (explains Title IX protections and requirements, and the obligations
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of schools to respond to sexual harassment and sexual violence)

<http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf>.

We hope these resources are helpful. Should you have questions or need assistance please contact Lubna Alam at lalam@nea.org, Chaka Donaldson at cdonaldson@nea.org or Eric Harrington at eharrington@nea.org in the NEA Office of General Counsel.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. O'Brien', with a long horizontal flourish extending to the right.

Alice O'Brien
NEA General Counsel