

2010

Teen Dating Violence:

Know Your Rights

CALIFORNIA
WOMEN'S
LAW CENTER

What is Teen Dating Violence?

Teen dating violence is a pattern of physical, emotional, verbal or sexual abuse used by one person in an intimate relationship to exert power and control over another where one or both of the partners is 13-19 years old. Teen dating violence is a problem in all communities. It's a problem for opposite sex couples and same sex couples. It's a problem in all ethnic, racial, cultural, and economic groups.

Teen Dating Violence is Pervasive

- * Approximately one in three adolescent girls in the United States is a victim of physical, emotional or verbal abuse from a boyfriend or girlfriend.
[Interpersonal and Physical Dating Violence among Teens](#). The National Council on Crime and Delinquency Focus, 2008.
- * 47% of 13-18 year olds who have been in relationships reported that they have personally been victimized by controlling behaviors from a boyfriend or girlfriend.
- * 29% reported having been the victim of sexual abuse, physical abuse, or threats of physical abuse by a boyfriend or girlfriend.
- * 24% reported having been victimized by the use of technology from a boyfriend or girlfriend.
- * 80% know someone who has been a victim of controlling behaviors from a boyfriend or girlfriend.
- * 60% know someone who has been the victim of sexual abuse, physical abuse, or threats of physical abuse by a boyfriend or girlfriend.
- * 51% know someone who has been victimized via the use of technology from a boyfriend or girlfriend.
- * 35% know someone who has been the victim of verbal abuse from a boyfriend or girlfriend.

Impact of the Economy and Parent/Teen Dialogue on Dating Relationships and Abuse. Liz Claiborne, Inc. 2009.

Teen Dating Violence Has Lasting Effects

- * Teens who are victims of dating violence are more likely to do poorly in school, engage in drug or alcohol use, have eating disorders or be depressed or suicidal.
- * Victims are also more likely to carry the patterns of violence into future relationships.
- * Students who reported that they felt happy and safe at school were three times less likely to report physical violence in a relationship than those who reported low levels of happiness and safety at school.

Parents are Uninformed

- * 43% of fathers and 31% of mothers said they did not know of any websites, hotlines, printed materials, or a social worker or counselor who could help them have a conversation with their teen about dating abuse.
- * Less than a third (32%) of teens who have been in an abusive relationship confided in their parent about the relationship.

Schools need to address dating violence

- * Schools have a unique opportunity to educate and support teens and may be the only place where teenagers can learn about dating violence.
- * Schools provide students with a support system, problem solving abilities, and coping skills necessary to prevent and stop dating violence.
- * Schools also can't avoid the problem. Teen victims will encounter their abusers at school.
- * Ultimately, schools have legal responsibilities for addressing dating violence.

Schools' legal duties to address dating violence

Schools often overlook their responsibility to address teen dating violence. Failure to take dating violence seriously, and to respond appropriately endangers students and could present serious legal ramifications for schools. School districts have a legal duty to respond to complaints of teen dating violence under federal and state law.

CALIFORNIA LAW

Like all states' law, California law provides several requirements for schools that could involve dating violence. This page outlines several school duties.

DUTY TO PROVIDE SAFE SCHOOLS

The California Constitution states that “[a]ll students and staff of public primary, elementary, junior high and senior high schools have the inalienable right to attend campuses which are safe, secure and peaceful.” [Article I, § 28\(f\)\(1\)](#). A safe learning environment is maintained by preventing and responding to teen dating and sexual violence. This constitutional mandate demonstrates the standard of care the school district must provide to students and can be enforced under California law.

DUTY TO COMBAT SEXUAL HARASSMENT

California school districts have an affirmative obligation to combat racism, sexism, and other forms of bias against students, and a duty to provide equal educational opportunities for all students. This duty involves taking actual steps to eradicate and address all forms of sexual harassment, including acts of teen dating violence and sexual violence that constitute sexual harassment. See [Cal. Educ. Code § 201](#)

DUTY TO RESPOND TO HATE VIOLENCE

California’s Hate Violence Prevention Act mandates that schools “[a]dopt policies directed toward creating a school environment . . . that is free from discriminatory attitudes and practices and acts of hate violence.” [Cal. Educ. Code § 233\(a\)\(1\)](#). Hate violence includes violence against an individual because of her/his gender or sexual orientation and therefore may include teen dating violence and sexual violence. School policies should address teen dating violence and sexual violence as a form of hate violence.

DUTIES TO FOSTER an ENVIRONMENT Free FROM DISCRIMINATORY ATTITUDES

Preventing and responding to on-campus incidents of teen dating violence and sexual is clearly within the purview of educators and administrators. Each teacher is charged with impressing upon their students the ideas of “harmonious relations” and human dignity. [Cal. Educ. Code § 233.5\(a\)](#). Moreover, California law encourages schools to spend funds on age-appropriate instruction in dating violence prevention.

DUTY TO PROTECT STUDENTS

State law provides that all persons in California have “the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property” because of their sex, sexual orientation or because another person perceives them to have one or more of these characteristics. [Cal. Civ. Code § 51, 57.1](#). The general right to be free from violence or threat of violence includes teen dating violence and sexual assault. Therefore, a school district’s failure to adequately respond to complaints of teen dating and sexual violence can constitute intentional sex discrimination in violation of state law.

DUTY TO CREATE SCHOOL DISTRICT SAFETY PLANS

California schools are required to establish comprehensive school safety plans, submit these plans to the state Department of Education, and review/revise these plans once a year. A school district that fails to create a safety plan can be fined \$2,000. School safety plans must identify “appropriate strategies and programs that will provide or maintain a high level of school safety and address the school’s procedures for complying with existing laws related to school safety,” such as providing a safe and orderly learning environment. Because the pervasive nature of teen dating and sexual violence compromises school safety, school districts should have a safety plan for responding to such violence, even if not expressly mandated by state law. See [Cal. Educ. Code. § 32280, et seq.](#)

DUTY TO REPORT REASONABLE SUSPICION OF CHILD ABUSE

Teachers, administrators, and other school personnel are mandated reporters and must report any reasonable suspicion of child abuse to law enforcement or child protective services. A mandated reporter's failure to report can result in criminal liability and fines. Although mutual violence between two minors is not considered child abuse, non-mutual violence against a minor, regardless of whether the offender is also a minor, may be reportable child abuse. Consequently, incidents of teen dating violence are subject to state child abuse reporting laws. In fact, teen dating violence rarely involves a "mutual affray" between minors. Rather, it is common in these cases that one student is a dominant aggressor of violence and abuse toward the other, even if a situation appears to involve a mutual affray. Therefore, violence between teenage intimate partners should trigger an investigation by the mandated reporter as to whether the incident constitutes reportable child abuse. Mandated reporting of child abuse trumps confidentiality protections (i.e. counselor confidentiality privilege) for victims of dating or sexual violence. Mandated reporters should explain the scope of their confidentiality privilege when counseling victims of teen dating violence. See [Cal. Pen. Code. § 11164 et seq.](#)

DUTY TO SUPERVISE STUDENTS

Under California tort law, school officials and school districts can be liable for injuries caused by violent acts that could have been prevented through the proper supervision of students and employees. As discussed above, state law charges school districts and school employees with the legal duties of properly supervising students and responding to violence, which includes teen dating violence, at school. A student can recover for injuries caused by a breach of these duties through the tort of negligent supervision.

DUTY TO DISCIPLINE OFFENDERS

Students will generally be recommended for expulsion for teen dating violence-related assaults that cause serious physical injury to another person (except in self-defense), and for committing or attempting to commit a sexual assault or sexual battery on or off campus. Although expulsion is typically recommended only when other methods of discipline fail, students may be expelled for first-time offenses where the accused's presence at school "causes a danger to persons or property or threatens to disrupt the instructional process." Teen dating violence often meets this standard because of the

continuing danger to other students, particularly the student-victim. See [Cal. Educ. Code § 48900 et seq.](#) School districts must provide due process for students who they feel should be suspended or expelled. In cases of suspension, the accused's due process rights are satisfied with an informal meeting with the principal, the accused and his or her parents. Furthermore, the accused is not entitled to know the identities of his accusers and school officials have a duty to protect victim confidentiality to the extent possible. In cases of possible expulsion there must be a hearing prior to the expulsion. The accused and his/her parents are entitled to appear in person, be represented by an attorney or advocate, review the documents that will be used in the hearing, question the witnesses and evidence presented at the hearing, and present oral and written evidence on the accused's behalf at the hearing. Further, the accused can be suspended until the expulsion hearing.

Federal Law

There are several federal laws that are relevant for schools in addressing dating violence and ensuring safety, fairness, and the availability of educational opportunities of their students. Of these many laws, Title IX of the Education Amendments of 1972 is particularly important to understanding how a school should appropriately respond to dating violence.

TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

WHAT IS TITLE IX?

Title IX guarantees that “[n]o person in the United States shall on the basis of sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any educational program or activity receiving federal financial assistance.”

[20 U.S.C. § 1681\(a\).](#)

Students have a right to be free from sex discrimination and sexual harassment at school.

STUDENTS HAVE A RIGHT TO BE FREE FROM SEX DISCRIMINATION AND SEXUAL HARASSMENT AT SCHOOL

Schools that receive federal funds can be liable under Title IX for failing to adequately respond to teen dating violence and sexual violence against students. Sexual harassment is a form of sex discrimination. Such harassment consists of unwelcome sexual conduct including sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual violence is an extreme form of sexual harassment. Teen dating violence can be a form of sexual harassment because it often involves unwelcome touching, sexual demands, verbal abuse, and physical coercion of a sexual nature.

SCHOOLS CAN BE LIABLE FOR TEEN DATING VIOLENCE

School districts are liable for student-on-student sexual harassment, and accordingly acts of teen dating violence that constitute sexual harassment, when: (1) a student has been sexually harassed, (2) the school has actual knowledge of the harassment, (3) the harassment was severe, pervasive, and objectively offensive, (4) the harassment caused the student to be deprived of access to educational opportunities or benefits, and (5) the school is deliberately indifferent to the harassment. Deliberate indifference is found in three circumstances. First, a school's response or lack of response that is clearly unreasonable under the circumstances. Second, a school district that fails to affirmatively act to protect students can be found to be deliberately indifferent. Third, a school district that knows or reasonably should know that its actions to protect students are ineffective or inadequate can be found to be deliberately indifferent.

REQUIRED SCHOOL DISTRICT POLICIES AND PROTOCOLS

Title IX regulations require that each educational institution has a written policy and protocol for responding to sexual harassment. Failure to adopt and implement policies on sexual harassment and teen dating violence that qualifies as sexual harassment exposes school districts to civil liability under Title IX.