

FOR HELP CRAFTING
LEGISLATION, TALKING
POINTS, FACT SHEETS, AND
FOR STATE-SPECIFIC POLICY
RESEARCH AND DATA,
PLEASE CONTACT US AT
PLAYBOOK@NWLC.ORG.

POLICY BRIEF

#METOO AT SCHOOL: COMPREHENSIVE PROTECTIONS FOR STUDENTS AGAINST SEXUAL HARASSMENT



THE PROBLEM

Far too many students in both PK-12 schools and institutions of higher education experience sexual harassment, a category that includes sexual assault. [One in five girls ages 14–18](#) have been kissed or touched without their consent, and [one in four women](#) are sexually assaulted in college. But [only 2% of girls ages 14–18](#) and [12% of college women](#) who are sexually assaulted report the incident to their schools. And although COVID-19 has dramatically changed student experiences in many ways, students continue to be affected by sexual harassment, both on campus and in online classrooms.

Many students do not report sexual harassment because of shame, fear of retaliation, fear of school discipline, fear of police or immigration officials, concern that their harasser will get in trouble, and/or a belief that their harassment was not “serious enough” (e.g., because it began consensually or involved alcohol or drugs). When students do report sexual harassment, they are often ignored, disbelieved, or even punished by their schools. Schools often discipline survivors for engaging in consensual sexual activity with their harasser, having premarital sex, engaging in self-defense, acting out in age-appropriate ways due to trauma, missing school to avoid their harasser, or telling other students they were sexually harassed. Schools are more likely to [disbelieve](#) and punish women and girls of color (especially [Black women and girls](#)), [LGBTQ students, pregnant and parenting students](#), and students with [disabilities](#) due to stereotypes that label them as “promiscuous,” “aggressive,” less credible, and/or less deserving of protection. When schools fail to provide effective responses, student victims receive lower grades, lose scholarships or honors, are forced to drop out of school, and, in some cases, are even expelled.

In May 2020, the Trump administration issued a [harmful Title IX rule](#) requiring schools to ignore sexual harassment and use uniquely unfair and retraumatizing investigation procedures in sexual harassment investigations. While the Biden administration plans to undo the Trump rule, this process will take time. And regardless of what federal law requires, states can still take further action to protect student survivors through legislation that addresses complaint procedures, supportive measures, and prevention.

THE SOLUTION

States should pass comprehensive protections against sexual harassment in schools by strengthening prevention measures, supporting student victims rather than punishing them, and ensuring meaningful accountability of sexual harassers and schools that fail to protect students’ rights. Effective policies must protect all students, including women and girls of color, LGBTQ students, pregnant and parenting students, and disabled students, who are often more likely to be sexually harassed and more likely to be disbelieved, punished, or criminalized when they come forward.

BASIC ELEMENTS OF THE SOLUTION

Strengthen prevention measures:

- Require PK-12 schools to provide developmentally appropriate sex education to all students on a wide range of topics, including consent, healthy relationships, reproductive health, and LGBTQ identity.
- Require schools to train all school staff on how to recognize and respond to sexual harassment, notify the school's Title IX coordinator, and provide effective supportive measures and accommodations for students who have reported sexual harassment.
- Require schools to conduct regular climate surveys on student experiences with sexual harassment and make the survey data publicly available.
- Eliminate school dress codes, as they promote rape culture, rely on sex and race stereotypes, and are discriminatorily enforced. At a minimum, require schools to implement a universal, non-discriminatory dress code.
- Invest in school guidance counselors, social workers, psychologists, nurses, and other non-police staff to build positive school climates and support sexual harassment victims.
- Remove police from schools to protect all students—especially Black and Native American students—from sexual harassment, discriminatory discipline, and violence at the hands of school police.

Support student victims instead of punishing them:

- Require schools to provide a wide range of supportive measures to students who report sexual harassment, including excused absences, counseling, tutoring, homework/exam adjustments, changes in academic/busing/dining/housing/work schedules, one-way no-contact orders; continued scholarship/honors eligibility, and the option to retake a class without financial penalty.
- Prohibit schools from disciplining students who report sexual harassment for misconduct that occurred during the reported incident (e.g., drug or alcohol use, consensual sexual activity, self-defense) or that occur after the reported incident because of it (e.g., class absences, age-appropriate expressions of trauma, public discussion of the sexual harassment).

Ensure meaningful accountability of sexual harassers and schools:

- Require schools to investigate all complaints of sexual harassment, even if the complaint is dismissed under the school's Title IX procedure for not meeting the new Title IX requirements. To the extent it is not preempted by the Title IX rule, require schools to have a fair harassment complaint procedure, including by applying a preponderance of the

evidence standard, prohibiting direct cross-examination by a party or their representative, and prohibiting the use of mediation to address sexual assault, dating violence and domestic violence.

- Provide funding to schools that allow students to voluntarily choose a restorative process to address sexual harassment. Unlike a traditional disciplinary process or other informal processes like mediation, a restorative process requires the wrongdoer to admit they caused sexual harm, centers the victim's needs, and allows the wrongdoer to make amends to the victim and change their future behavior.
- Strengthen students' ability to enforce their rights under state anti-sexual harassment laws by filing complaints with a state agency (e.g., Department of Education, Office of Attorney General) or filing private lawsuits in court and increase civil penalties against schools for violations of state anti-sexual harassment laws.

TALKING POINTS ON THE SOLUTION

- Schools are often the first places where people experience sexual harassment, and it is critical to address this behavior early on and prevent it from happening again.
- Sexual harassment is already hard to report, and students who come forward should be offered a wide range of supportive measures to help them succeed in school—not punished because, for example, they were drunk during a sexual assault or because they skipped class in order to avoid their harasser. When schools don't protect students from sexual harassment, survivors get lower grades, are forced to drop out of school, and, in some cases, are even expelled.
- More than 80% of voters surveyed agree that we need stronger policies to end sexual harassment in schools.
- Schools can and must do more to prevent sexual harassment from happening in the first place. For example, comprehensive sex education is proven to reduce the chances that a student will be a victim or perpetrator of sexual harassment, sexual assault, or dating violence.
- Even in the face of harmful federal requirements, states can nonetheless take action to ensure fair investigations and meaningful accountability. For example, a new California law requires institutions of higher education to investigate off-campus incidents, prohibit direct cross-examination of students, and apply the preponderance of the evidence standard in sexual harassment investigations.