

NEVADA SAFER ACT: PROTECT STUDENTS & SCHOOL STAFF FROM HARASSMENT & ASSAULT

Too often in Nevada's schools, victims of harassment and assault based on sex, race, disability, etc. are ignored and even punished instead of receiving the support they need to learn and stay safe. Unfortunately, current federal and state laws have fallen short in so many ways. The Nevada Students' Access to Freedom and Educational Rights (SAFER Act) is urgently needed to strengthen state law protections and ensure equitable learning and working environments for all students and school staff.

HARASSMENT IS RAMPANT IN NEVADA SCHOOLS

In Nevada and across the nation, students and school staff face high rates of sex, race, disability, and other harassment and assault. Nevada's K-12 Youth Risk Behavior Survey found that 21% of girls and 7% of boys in high school have experienced sexual dating violence, and that 9% of girls and 8% of boys in high school have experienced physical dating violence, with Black, brown, and Indigenous students often facing higher rates of violence ([Nevada YRBS](#)). Additionally, LGBTQ+ students are bullied at twice the rate of heterosexual students, and transgender students are bullied at three times the rate of their cisgender peers ([Nevada YRBS](#)).

Despite such alarming statistics, harassment is vastly underreported in our schools. Only 2% of girls ages 14-18, 12% of college women, and 10% of college men who are sexually assaulted report the incident to their schools ([NWLC](#) and [AAU](#)). Even when victims do come forward, many are ignored or punished by their schools instead of receiving help. This leads to lower academic performance, higher dropout rates, and lasting emotional distress. Ultimately, 34% of sexual assault survivors in college are forced to drop out ([Mengo & Black](#)).

THE SAFER ACT CLOSSES GAPS IN ANTI-HARASSMENT LAWS

The Nevada SAFER Act would significantly improve upon current state and federal anti-harassment laws, which contain numerous gaps, stringent requirements, and outright barriers to justice:

1. **Remove harsh proof requirements.** Under Nevada law, victims in higher education must prove the harassment they suffered was "severe *or* pervasive" in order to receive help.¹ Federal court standards are even harsher; victims of all ages must prove the harassment was "severe *and* pervasive." But many courts have held that, for example, forced kissing and groping are not "severe" and that oral or vaginal rape are not "pervasive" unless they happen more than once. The SAFER Act would enact a common-sense standard that reflects our real-life understanding of harassment by requiring Nevada schools to address harassment if it negatively alters a victim's ability to participate in or benefit from school.
2. **Eliminate stringent notice standards.** Federal courts allow schools to ignore harassment unless an "appropriate person" has actual notice of it (and Nevada law is silent as to this standard). Unfortunately, different courts have held in different cases that people like professors, teachers, coaches, counselors, security guards, principals, or even superintendents were not appropriate persons. The SAFER Act would impose a clear standard requiring Nevada schools to act if a school employee or agent (*e.g.*, contractor) knew or should reasonably have known about the harassment. This would give children and young adults in schools the same protections against harassment that all employees, including school employees, already enjoy under federal employment law (Title VII).
3. **Close the off-campus loophole.** The federal courts have often ruled that schools don't need to address off-campus or online harassment, even if the victim and harasser both attend or work at the same school and frequently see each

¹ NRS 396.133(2)(a). Nevada law is silent with respect to this standard in K-12 schools.

other at school. Similarly, with a few exceptions,² Nevada does not require its schools to address any online or off-campus harassment. The SAFER Act would fix this by requiring Nevada schools to address off-campus and online harassment that negatively alters a victim's ability to participate in school, including by offering supportive measures to the victim.

4. **Hold schools accountable.** Under a lax “deliberate indifference” standard, federal courts regularly allow schools to mistreat harassment victims, such as by suspending or expelling rape survivors¹⁷ or allowing Black girls to be racially harassed for more than a decade (including being called the n-word and finding a noose next to their car). Similarly, with a few exceptions,³ Nevada does not require its schools to take specific actions to address harassment in K-12 or higher education. The SAFER Act would require all Nevada schools to respond to harassment with “reasonable care,” which includes training all staff on harassment, offering supportive measures to complainants, investigating if requested by a complainant, and facilitating a restorative process if requested by both parties. This “reasonable care” standard would give children and young adults in schools the same protections that all employees, including school employees, already enjoy under federal employment law (Title VII).
5. **Safeguard victims’ compensation.** The U.S. Supreme Court ruled in 2022 that under federal civil rights laws, victims of disability harassment who are mistreated by their schools cannot recover compensation from their schools for the emotional distress they suffered, and many federal courts have since extended this restriction to victims of sexual harassment. Similarly, Nevada law does not allow students and staff who are ignored or punished after reporting harassment to seek any compensation from their schools.⁴ The SAFER Act would allow harassment victims to sue their schools in state court for just compensation, including for the emotional distress they suffered. This would allow children and young adults in schools to have the same protections and rights that all employees, including school employees, already have under federal employment law (Title VII).

THE SAFER ACT PROVIDES SUPPORTIVE AND PREVENTATIVE MEASURES

In addition to closing loopholes, the SAFER Act would require critical support to victims of harassment, protect them from retaliation, and empower all schools to take preventative measures against harassment. At the same time, the SAFER Act does not impose additional disciplinary requirements on schools against respondents.

- **Ensure victim privacy and autonomy.** Each Nevada school would be required to designate at least one employee to whom students and staff can disclose harassment and learn about their rights in a confidential manner that protects the victim's privacy and autonomy. These confidential employees would not be required to report incidents of harassment to the school's civil rights coordinator.
- **Inform victims of supportive measures.** Schools would be required to notify students and school staff who report harassment of the range of supportive measures that are available to them, including safety plans, extensions on deadlines, grade adjustments, counseling, and community-based services.
- **Protect against retaliation.** The Nevada System of Higher Education (NSHE) and school boards would be authorized to prohibit schools from unfairly punishing students or staff who report or witness harassment. For example, a school could not punish a complainant for a “false statement” *solely* because the school believed there was insufficient evidence that the harassment occurred.

Given the staggering rates of harassment that students and staff face and inadequate existing federal and state protections, we urge Nevada's lawmakers and educational institutions to support The SAFER Act and ensure that all students and staff can live, learn, and work in a safe and equitable environment!

² While Nevada's K-12 schools must address online race discrimination and cyberbullying (NRS 388.123, 388.1235(2)), they need not address other forms of online harassment (like sex and disability harassment) or any off-campus incidents that occur offline. Nevada does not require institutions of higher education to address off-campus or online harassment.

³ While Nevada requires K-12 schools to take “any necessary action” to address bullying, cyberbullying, or race discrimination (NRS 388.1351(1)), state law does not include a similar requirement for other forms of K-12 harassment (like sex and disability harassment) or for any type of harassment in higher education.

⁴ While a K-12 student's parent can ask a court to order a school to address bullying, cyberbullying, or race discrimination (NRS 388.1321(2)), they cannot seek money damages.