



VIOLENCE AND THREATS AT SCHOOL

Help for Employees



arizonaaea.org/helpdesk

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No school is immune from violence or the fear of violence. Problems occur in every type of school, in every part of the state. Although serious injuries are rare, some school employees are hurt each year and others receive frightening threats from students or parents. Fear can be overcome by knowledge and by supportive help from family, friends, and co-workers.

This Arizona Education Association booklet offers useful information for crime victims who are also school employees and for all AEA members seeking to make schools safer. AEA members should ask their local association and AEA Organizational Consultant for additional information and friendly support in coping with school violence. AEA members can also go to www.arizonaaea.org/helpdesk.

Thanks to the Washington Education Association and the Pennsylvania Education Association for graciously sharing materials useful in preparing this booklet.

An Employee/Victim's Response to Violence

A school employee assaulted or seriously threatened at school is both a crime victim and an employee.

A school employee's response to violence will vary depending on the circumstances. When a second grader pokes his teacher with a pencil, the best response might be a phone call home and no recess. Perhaps after-school detention is appropriate when an older student makes a fist and mumbles a threat under his breath. More serious remedies are needed as violence and threats of violence escalate.

As a school employee, you can recommend specific student discipline. You also can request that communication from threatening parents be restricted or conducted under safe supervision at school. The school administration and governing board may disagree with your recommendations, and they have the authority to make the final decisions on student discipline and school management.

As a victim of violence, you have legal remedies available that are not related to your job responsibilities. For example, a school employee does not need the district's permission to sue a student or file a police report as a victim of violence. Occasionally, a district may insist that those "private" activities occur during non-work time.

If a school employee is assaulted or seriously threatened during work, the employee **should** do the following:

- **Immediately notify the school nurse** and seek medical treatment for any injury. If appropriate treatment is not available at school, seek an immediate examination from a doctor or an emergency facility. Tell the nurse and doctor that your medical condition is important evidence.
- **Immediately notify the supervisor or school administration.** Ask for leave to obtain medical treatment, if needed.
- **If you need medical treatment,** use the district's workers' compensation carrier.
- **Ask the administration to contact the police.**
- **Wait for police permission to clean up a crime scene.** You may destroy evidence inadvertently before tests and photographs are taken.
- **Take photographs** of any injury or damage as soon as possible.
- **Immediately record all facts surrounding the incident,** including the time and specific location.
- **List all witnesses.** Include addresses and phone numbers, if available.
- **Call your association representative or Organizational Consultant** and explain your situation.
- **You are a witness, as well as a victim.** Review "Tips for Witnesses," an AEA booklet available from AEA staff.



- **Ask the administration to document the incident.** Obtain copies of any police and district reports. Submit your corrections or additions if the police or district reports are inaccurate.
- **Seek professional help** if anxiety and fears persist. Check your district's Employee Assistance Program or insurance for mental health benefits.
- **If you are accused of using excessive force, contact your Organizational Consultant immediately.** (See later section in this booklet.)

The employee victim **may** do the following:

- **Report the incident to the local police.** If the district refuses to contact the police, you may do so on your own time. If the county attorney prosecutes the case and the individual admits guilt or is found guilty, the defendant may face counseling, volunteer work, restitution, probation, or loss of freedom. Even if there are no immediate consequences for the defendant, the police report may help demonstrate a pattern of misconduct if violence recurs. In some areas, a victim/witness program is available to provide information and other assistance.
- **Seek an injunction against harassment or ask your employer to do so.** (See later section in this booklet.)
- **Sue the person who committed the assault for damages** due to physical injuries and harm to clothing, eyeglasses, and other property. Sue the parents of a minor who committed an assault, up to \$10,000. NOTE: If you file a workers' compensation claim for the same incident, the district's carrier has a lien and a future credit against any damages you collect.
- **Submit an insurance claim to the district** for any property damaged during an assault. If the district refuses payment for personal property (such as clothing and eyeglasses) damaged during an assault at school, submit an insurance claim for up to \$500 to the NEA Educators Employment Liability Insurance. Contact your Organizational Consultant or arizonaea.org/helpdesk to obtain the claim form.
- **File a worker's compensation claim for any injuries requiring medical treatment.** You have one year to file a claim with the Industrial Commission of Arizona (www.azica.gov) but you must report the injury immediately to your employer. Just reporting it to the district is not the same as filing a claim. Only you can file a claim.

How to Obtain an Injunction Against Harassment

An "injunction against harassment" is a court order prohibiting an individual from engaging in further harassment and from coming near the victim at home, school, or other specified locations. The process for obtaining an injunction against harassment is fairly simple, and most people are not represented by attorneys. If the

defendant (the alleged harasser) objects to the injunction and requests a hearing, the victim may wish to obtain legal advice.

Harassment in the legal sense is serious and involves far more than unkind, unfair, or annoying conduct. Typical harassment cases involve repeated threats, violent acts, stalking, hate mail, middle-of-the-night calls, or abusive insults and profanity. Except in very unusual circumstances, unfair complaints by parents and by “nit-picking” supervisors do not qualify as harassment.

In order to qualify for an injunction against harassment, the harassment must be:

- a series of acts (more than a single incident, but possibly a single incident plus a threat to continue);
- that is directed at a specific person;
- that seriously alarms, annoys or harasses the victim;
- that would cause a reasonable person to be seriously alarmed, annoyed or harassed; and
- that serves no legitimate purpose. See A.R.S. § 12-1809 (S).

In order to obtain an injunction against harassment, a victim should first review the requirements online at either: <https://superiorcourt.maricopa.gov/llrc/injunctions-against-harassment/> OR <https://azpoint.azcourts.gov/>.

The steps are:

- Request the form (a verified petition for injunction) from the clerk of a court.
- File the petition with the city court judge, justice of the peace, magistrate, or superior court judge.
- List all acts of harassment committed by the defendant during the past year. Be specific about the conduct, dates, and locations.
- List an address where the defendant can be served, if known. The injunction is not effective until the defendant is served.
- Describe the type of order desired (such as no contact at home or at school).
- Appear before a judge or justice of the peace, usually the same day.
- Tell the judge about any other related court proceedings (such as past or pending criminal cases and investigations involving you and the defendant).
- After the judge issues the injunction against harassment, you must have the defendant served with the order before it will be effective. Serve the defendant, either by using a private process server, a constable, or local law enforcement. The cost to serve an injunction varies depending on mileage and attempts. If you cannot afford to hire a process server, ask the judge about a “deferral” or “waiver.”



- After the defendant is served, the injunction will be in effect for 1 year.
- The defendant may object to the injunction and a hearing will be set within 10 days. At that hearing, the victim and other witnesses may testify and present evidence to demonstrate that harassment has occurred and is likely to recur. The defendant also may testify and present witnesses and evidence. After the hearing, the judge may continue, modify or quash (revoke) the injunction.
- Call the police if the defendant harasses you again. Dial 911 if you are in danger. Tell the police or 911 operator that you have an injunction against harassment.

If the harassment occurred at work, your employer also may obtain an injunction against workplace harassment. **See** A.R.S. § 12-1810. If granted, this type of injunction can restrain the defendant (harasser) from coming to the workplace or contacting an employee while he or she is performing official work duties.

The Employer's Duty to Provide a Safe Workplace

Arizona law requires each employer to provide a workplace “free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees.” **See** A.R.S. § 23-403.

Your employer cannot protect you from all accidents and random acts of violence, but has a duty to take “feasible” steps to reduce the risk from serious known hazards. You should report all unsafe working conditions to your employer, including repeated threats of violence, violent acts, and any other hazards you face at work.

Submit to your employer a dated, written request for help to lessen the risk from specific hazards. Keep a copy of the request. You also can request more general help, such as a school safety committee to deal with a broad range of safety issues.

If your employer ignores a written request to lessen the risk from a serious hazard, you can file a complaint with the Arizona State Industrial Commission, Division of Occupational Safety and Health (Phoenix: 602-542-5795 or Tucson: 520-628-5478; www.azica.gov/divisions/adosh). Employers cannot dismiss or discriminate against employees because they have filed a safety complaint in good faith. **See** A.R.S. § 23-425.

You also can file a written “whistleblower” disclosure with the school district governing board. Carefully follow instructions in the AEA booklet, “Reporting Serious Misconduct,” which is available from AEA staff. Do not forget to ask for protection against retaliation for making the disclosure. **See** A.R.S. §§ 38-531 through 38-534.

Your employer also may have a general duty to act as a reasonable person would under the circumstances to protect individuals from “foreseeable” acts of violence. It can be difficult to prove that a violent act was reasonably foreseeable and not just a random unpredictable act. In addition to other factors, courts consider whether similar violent acts have occurred at the workplace or at similar workplaces.

A School District's Duty to Report Crimes

A school district must report to law enforcement all suspected serious offenses, including any offense that involves:

- Serious physical injury;
- A deadly weapon; or
- Conduct that threatens death or serious physical injury to school employees, students, or anyone on school property.

See A.R.S. § 15-341(A)(30).

All school employees must report to an administrator if they observe anyone possessing a deadly weapon on school grounds. The administrator must report this to law enforcement. This does not include firearms used as part of an approved school program or unloaded firearms located in a locked vehicle controlled by an adult when the firearm is not visible from the outside of the vehicle. See A.R.S. § 13-3102(A)(12), 13-3111, 13-3102(I), 15-515.

Additionally, all school employees who have a reasonable belief that a child has been abused must immediately report or cause a report to be made to the Department of Child Safety or a law enforcement agency and the Administration. See AEA's booklet "Child Abuse which you can obtain from from AEA staff.

Certificated school employees also must report or cause a report to be made to the Arizona Department of Education a reasonable suspicion or reasonable allegation of child abuse by certificated school employees. Superintendents also must report to the Arizona Department of Education a reasonable suspicion or allegation that a certificated school employee has committed immoral or unprofessional conduct that would constitute grounds for dismissal or criminal charges. See A.R.S. § 15-514.

Special Notes

Many districts have public conduct policies (Governing Board policy KFA). School employees are to be free from abuse and violence pursuant to A.R.S. § 15-507. It is important that any school employee who suffers injury on the job seek immediate medical attention and file a workers' compensation claim.



Legal Definitions of Common Crimes

Abuse of a school employee is a misdemeanor (minor crime) when:

- a person knowingly abuses a teacher or other school employee;
- on school grounds; or
- while the teacher or employee is engaged in the performance of his duties.

See A.R.S. § 15-507.

Unfortunately this statute does not define “abuse,” and it may not apply to most profanity and verbal abuse. Police prefer to make arrests for clearly defined crimes, rather than for vague “abuse” of a teacher. However, quoting the statute in school policies and correspondence may help defuse difficult situations without police involvement.

Assault is:

- intentionally, knowingly, or recklessly causing physical injury to another person;
- intentionally placing another person “in reasonable apprehension of imminent physical injury”; or
- knowingly touching another person with the intent to injure, insult, or provoke.

See A.R.S. § 13-1203.

An assault can occur without any actual touching or physical harm, although the police may be reluctant to take action under those circumstances.

Aggravated assault is a more serious crime that may involve:

- a deadly weapon;
- serious physical injury;
- a victim known to be a school employee at work; or
- a victim under 15 years of age.

See A.R.S. § 13-1204.

Intimidating or threatening is also a crime when a person makes threats by word or conduct:

- to cause physical injury or serious property damage; or
- to cause serious public inconvenience, such as evacuation of a building.

See A.R.S. § 13-1202.



Disorderly conduct usually is a misdemeanor (minor crime) unless the individual displays a weapon. Misdemeanor disorderly conduct includes an individual disturbing the peace by:

- engaging in fighting, violent, or seriously disruptive behavior;
- making unreasonable noise;
- using abusive or offensive language or gestures to a person in a manner likely to provoke immediate physical retaliation;
- making protracted commotion with the intent to prevent a lawful meeting or gathering; or
- refusing to obey a lawful order to disperse issued to maintain public safety in an emergency.

See A.R.S. § 13-2904.

Harassment is a crime involving:

- conduct directed at a specific person;
- that seriously alarms, annoys, or harasses the person; and
- that would cause a reasonable person to be seriously alarmed, annoyed, or harassed.
- a communication in a manner that harasses, such as an anonymous or threatening telephone call, or following another person for no legitimate purpose after being asked to stop; or
- repeated harassing acts against an individual; or
- repeated false reports to law enforcement, credit, or social service agency.

See A.R.S. § 13-2921.

Interference with an educational institution is a crime when an individual interferes with or disrupts a school by:

- threatening to cause physical injury to a school employee or student;
- threatening to cause damage to the property of a school, school employee, or student;
- going on school property to interfere or disrupt the lawful use of that property; or
- remaining on school property after being asked to leave by a school employee responsible for maintaining order who reasonably believes that the person is interfering with or disrupting the school.

See A.R.S. § 13-2911 and standard Board Policy KFA.



Self-Defense: When is the Use of Physical Force Justified?

A person may use physical force **only to the extent a reasonable person would believe that physical force is immediately necessary to protect himself or others.**

See A.R.S. §§ 13-404, 13-406.

Physical force is **not** justified in response to verbal provocation alone.

Physical force is **not** justified when the person who provoked the incident withdraws or clearly communicates an intent to withdraw.

On rare occasions, a school employee must use physical force to defend himself or to briefly restrain a student to prevent injury to the student or others. In most cases, the employee ***should use the minimum force necessary to prevent harm and immediately call for help.*** Unless a student faces immediate danger (such as a young student running into a busy street), the school employee should not use physical force to prevent a student from running away.

Arizona law permits a school employee entrusted with the care and supervision of a minor to “use reasonable and appropriate physical force ... to the extent reasonably necessary and appropriate to maintain discipline.” See A.R.S. § 13-403. However, the use of force to maintain discipline may violate your school policy. Most Arizona districts prohibit corporal punishment, and school employees have been dismissed for using small amounts of physical force for disciplinary purposes. Some districts also have a strict “no touch” policy.

Ask your district to explain its policy on the use of physical force, restraints, and touching students. Ask your district for special training if you work with severely disabled students or others who require frequent touching or restraints.

Removing Disruptive Students from Class

Most student disciplinary problems are handled cooperatively by teachers and administrators. A teacher may send a pupil to the principal’s office in order to maintain effective discipline in the classroom, and “the principal shall employ appropriate discipline management techniques that are consistent with rules adopted by the school district governing board.” See A.R.S. § 15-841(A).

A teacher may remove a very disruptive student from the class if the teacher:

- has documented that the pupil has ***repeatedly*** interfered with the teacher’s ability to communicate effectively with other pupils or with the ability of the other pupils to learn; or
- has determined that the pupil’s behavior is so ***unruly, disruptive or abusive*** that it ***seriously*** interferes with the teacher’s ability to communicate with the other pupils or with the ability of the other pupils to learn.

See A.R.S. § 15-841(A) (emphasis added).

A teacher can refuse to readmit the disruptive student even if the principal disagrees. The principal cannot return the removed student to the teacher's class without the teacher's consent unless the school's placement review committee determines that return of the student is the best or only practicable alternative. The school's placement review committee is composed of two teachers selected by the faculty and one administrator selected by the principal. The school placement review committee must make a decision within three (3) school days from when the student was removed from the class. See A.R.S. § 15-841(J). However, this statute may be impacted if the student receives special education services; please contact www.arizonaaea.org/helpdesk for more information.

Student Suspensions and Expulsions

A school district may expel or suspend a student for disruptive, disorderly, or violent behavior and other serious misconduct. A teacher or support professional does not have the authority to impose that level of discipline. See A.R.S. §§ 15-841, 15-843.

A school district shall expel a student for at least one year if that student has threatened an educational institution. The district may modify this expulsion requirement on a case-by-case basis, however, if the student participates in mediation, community service, restitution, or other program in which he or she takes responsibility for the results of the threat. See A.R.S. § 15-841(H). A school district also shall expel a student for at least one year if that student brought a firearm to school. The district may modify this expulsion requirement on a case-by-case basis. See A.R.S. § 15-841(G).

The Individuals with Disabilities Education Act (IDEA) is a federal law that requires some additional protections for special education students, especially for students facing discipline for misconduct related to their disabilities. IDEA does not prevent districts from imposing discipline on special education students, but may require additional procedures such as an IEP meeting or consideration of various alternatives before the district can change the student's placement. It is unclear the extent to which IDEA modifies Arizona laws about student discipline.

You and Your Association Can Work Together to Make Schools Safer

Local associations can be instrumental in helping schools address ongoing safety and violence concerns. Your association representative and/or Organizational Consultant have materials and resources for coping with violence at school and forming safety committees. Ask for the NEA booklets on school safety and violence issues.

There are a number of initial actions AEA members and local associations can take to gain greater control over school violence.

- Establish governing board policies that encourage a safe school environment for students and employees. Governing boards must adopt policies and procedures prohibiting students from harassing, intimidating, and bullying other students. See A.R.S. § 15-341 (A) (36).



- Ensure a system of policies or strategies that when implemented provide effective disciplinary measures for violators.
- Establish school safety committees to consider a wide variety of safety and violence problems.
- Form coalitions with other organizations attempting to eradicate all forms of school violence.
- Remind students and staff not to joke about possible violence.
- Publicize the problem in association reports, news releases, and brochures
- Advocate the development and implementation of a multicultural/diversity curriculum in schools that encourages students to get along with one another
- Provide multicultural training for all education employees.
- Advocate the development and implementation of conflict resolution programs for students and all education employees, e.g. Peer Mediation.
- Consider the role of School Resource Officers, hiring security guards and adopting other safety measures.

Special Help for Employees Accused of Using Excessive Force

This booklet is designed primarily to help crime victims and other school employees seeking safer schools. Some school employees also face accusations of using excessive or inappropriate force. Take all accusations seriously.

If you have been accused of a crime, *contact your association representative and Organizational Consultant immediately*. Tell them the accusation. Ask for help and for the AEA booklet “Tips for Witnesses.” Ask your Organizational Consultant to refer you for a legal consultation. Members can also go to www.arizonaaea.org/helpdesk.

Your statements to parents, supervisors, police, and others *may be used against you*. You do not have to confess or explain anything to the police.

Silence is better than a lie, and your statements might be misinterpreted.

Ask for association representation at any meeting to discuss the incident with your supervisors. Your district policy may or may not give you rights to representation during an investigation. If you are denied representation, ask to postpone the meeting until you can consult with your representative or an attorney.

Ask for sufficient time to carefully write any incident report, and consult your Organizational Consultant before submitting it.

Employees face a difficult decision when asked to respond to an employer’s investigation that involves accusations of criminal conduct. The choices include the following:

- **Remain silent.** Silence is the best way to avoid making incriminating statements. Silence is especially important when the charges are serious and the police are involved.
- **Respond fully and immediately.** You might resolve a minor matter quickly if you are completely innocent. However, it is also likely that you may make statements that will be used against you later at criminal or disciplinary proceedings.
- **Delay your response.** Request a postponement so that you can seek legal advice and provide a thoughtful response.
- **Control your response** by making requests that will help you respond more carefully and thoughtfully. Your requests may not be granted, depending upon your employer's policy. You may control your response by:
 1. Asking for association representation at all meetings.
 2. Asking for details about the allegations before responding. Ask for written allegations.
 3. Asking to give a written response (with review by an Organizational Consultant or attorney to assure brevity and positive statements).
 4. Responding partially by giving a brief denial without details.
 5. Responding with proof by attaching the names and statements of other witnesses.

It is especially important to contact your Organizational Consultant if your school threatens “adverse action” such as dismissal, non-renewal, or suspension without pay. Organizational Consultants decide whether to contact the AEA General Counsel for legal information and approval for representation by an AEA-paid attorney. AEA-paid attorneys frequently help members with employment problems, such as providing legal representation at dismissal hearings.

You should try to determine if the allegation is being treated as a criminal offense. The safest course is to assume that any allegation of excessive physical force will be treated as a criminal offense.

If the allegation is being treated as a criminal offense, you should contact a criminal defense attorney immediately. You may need a criminal defense attorney to help you decide whether to answer questions about the incident or whether to remain silent and invoke your Fifth Amendment privilege against self-incrimination.

NEA's Educators Employment Liability (EEL) insurance covers criminal legal defense expenses if the proceeding is dismissed or you are exonerated of work-related criminal charges. The insurance company does not pay attorney fees until after the case is over. Ask your Organizational Consultant or go to www.arizonaaea.org/helpdesk for more information and EEL claim forms..



Additional Resources

Finding Arizona Statutes on the Internet

www.azleg.gov, click on Legislative Council tab.

AEA Advocacy booklets: AEA legal booklets, such as “Reporting Serious Misconduct,” “Child Abuse” and “Tips for Witnesses” are available from AEA staff.

Crime Victim Leave

A.R.S. §13-4439. Right to leave work; scheduled proceedings; counseling; employment rights; nondiscrimination; confidentiality; definition

- A. An employer who has **fifty or more employees** for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of that employer, shall allow an employee who is a victim of a crime to leave work to:
 1. Exercise the employee’s right to be present at a proceeding pursuant to sections 13-4414, 13-4420, 13-4421, 13-4422, 13-4423, 13-4426, 13-4427 and 13-4436.
 2. Obtain or attempt to obtain an order of protection, an injunction against harassment or any other injunctive relief to help ensure the health, safety or welfare of the victim or the victim’s child.
- B. An employer may not dismiss an employee who is a victim of a crime because the employee exercises the right to leave work pursuant to subsection A of this section.
- C. An employer is not required to compensate an employee who is a victim of a crime when the employee leaves work pursuant to subsection A of this section.
- D. If an employee leaves work pursuant to subsection A of this section, the employee may elect to use or an employer may require the employee to use the employee’s accrued paid vacation, personal leave or sick leave.
- E. An employee who is a victim of a crime shall not lose seniority or precedence while absent from employment pursuant to subsection A of this section.
- F. Before an employee may leave work pursuant to subsection A of this section, the employee shall do all of the following:
 1. Provide the employer with a copy of the form provided to the employee by the law enforcement agency pursuant to section 13-4405, subsection A, the information the law enforcement agency provides to the employee pursuant to section 13-4405, subsection E, a court order the employee is subject to or any other proper documentation.
 2. If applicable, give the employer a copy of the notice of each scheduled proceeding that is provided to the victim by the agency that is responsible for providing notice to the victim.



- G. It is unlawful for an employer or an employer's agent to refuse to hire or employ, to bar or to discharge from employment or to discriminate against an individual in compensation or other terms, conditions or privileges of employment because the individual exercises the right to leave work pursuant to subsection A of this section.
- H. Employers shall keep confidential records regarding the employee's leave pursuant to this section.
- I. An employer may limit the leave provided under this section if the employee's leave creates an undue hardship to the employer's business.
- J. The prosecutor shall inform the victim of the victim's rights pursuant to this section. A victim may notify the prosecutor if exercising the victim's right to leave under this section would create an undue hardship for the victim's employer. The prosecutor shall communicate the notice to the court during the scheduling of proceedings where the victim has the right to be present. The court shall continue to take the victim's schedule into consideration when scheduling a proceeding pursuant to subsection A of this section.
- K. For the purposes of this section, "undue hardship" means a significant difficulty and expense to a business and includes the consideration of the size of the employer's business and the employer's critical need of the employee.

A Final Note

For more information and assistance, contact your local association, arizonaaea.org/helpdesk, or your AEA Organizational Consultant.

arizonaaea.org/helpdesk

(877) 828-1983



This brochure is a general guide for AEA members and is not intended to provide complete information or legal advice on specific problems. Changes in laws and cases may modify the information provided. To find Arizona statutes on the Internet, go to www.azleg.gov.



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