

Sexual Harassment in the Education Workplace

For the employees of Council Bluffs
Schools



The History of Legislation

- On the job sexual harassment is not a recent problem, although legal liability for it is. The first court case decided on the issue of sexual harassment was under Title VII in 1976.
- In 1976 a Redbook poll found that nine out of ten women said they had been subjected to unwanted sexual advances at work. In 1980 the federal government surveyed it's own workforce and found that 42% of women stated they had experienced some form of work related sexual harassment.

Laws

- Civil Rights Act of 1871
 - Creates liability for anyone acting on behalf of a state who causes the deprivation of any rights, privileges or immunities secured by the Constitution and federal laws if the person acts with “deliberate indifference.”
- What is “deliberate indifference?”

Deliberate Indifference

- “The conscious or reckless disregard of the consequences of one's acts or omissions.”



Source: The Lectric Law Library Lexicon
www.lectlaw.com

Laws

- Title IX of the Education Amendments of 1972
 - Prohibits sex discrimination in educational institutions receiving federal funds.
 - Quid pro quo and hostile environment are considered forms of gender discrimination under this act.

The Law

- Equal Protection Clause of the 14th Amendment to the Constitution
- Title VII of Civil Rights Act of 1964
 - Recognizes two forms of sexual harassment
 - Sets out monetary damages for compensatory and punitive damages
- Civil Rights Act of 1991
 - Creates both public and private liability for acts of sexual harassment by supervisors and employees.

Stronger Federal Law

- In 1991 Congress, under Title VII, amended the Civil Rights Act to allow recovery of compensatory damages beyond back pay. Damages could encompass future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of employment and non pecuniary losses. Punitive damages are also allowed if it can be demonstrated that an employer acted with malice or with reckless or callous indifference.

Iowa Experience



Des Moines Register 9/7/2003

Rising lawsuits create big bills for Iowa

Officials say courses for state workers will help cut misconduct and complaints.
By JONATHAN ROOS, Register Staff Writer, 09/07/2003

"A rash of harassment and discrimination complaints against state employees has led to millions of dollars in payments to settle lawsuits against the state government.

A Des Moines Register analysis shows 28 such lawsuits cost the state \$1.2 million in court settlements and jury verdicts over the past two budget years. The payments don't include two recent sexual harassment cases: the \$63,850 settlement of a complaint against Iowa Deputy Attorney General Gordon Allen and a \$3 million jury award against Iowa State University that the state is appealing.

The 28 lawsuits in the past two years is up from 20 in the previous two years."

As Close as Sioux City

Jury Awards \$1.5 Million:

A former employee of the Morrell & Co. meat company was awarded \$1.5 million by a federal jury in Sioux City, Iowa, who found that the woman was subjected to sexual harassment and retaliation. Rita Baker alleged that she was sexually harassed by at least three male co-workers over a five-year period and that this caused her medical problems, including depression. She said her supervisors did nothing about her complaints. The company claimed the women never complained about harassment. It said that a co-worker may have used loud and abusive language toward her, but that he used loud and abusive language toward everyone.

The case is Baker v. John Morrell & Co., N. Iowa, No. C 01-4003-MWB, jury award, 10/2/02.



Council Bluffs Schools District Policy

- Policy 405 – Employee Related Sexual Harassment
 - District personnel, visitors and other having business with the District are expected to conduct themselves at all times so as to provide an atmosphere free from sexual harassment.
 - Any employee, visitor or other adult who engages in sexual harassment while in the performance of his/her duties and/or other job related duties will be in violation of the policy and subject to the procedure outlined in GBCD-R

How to File a Complaint of Sexual Harassment - Procedure 405

- Process for reporting
 - File a report with supervisor or complaint officer
 - Investigation including interviews will be done
 - Resolution through mediation, transfer or termination if determined to be warranted.
- Complaint officers are:
 - Supervisor of Student Services
 - Personnel Specialist

Definition



- Unwelcome Sexual advances, requests for sexual favors, and other inappropriate verbal or physical conduct of a sexual nature when made by any member of the school staff to another staff member or student; when made by any student to a staff member; or when made by any student to another student.

Two Types of Sexual Harassment

- Quid Pro Quo
- Simply stated: “you do something for me and I’ll do something for you”
 - Submission to conduct is made expressly or by implication a term or condition of an individual’s employment
 - Submission to or rejection of the conduct is used or threatened to affect the employee’s or student’s performance
 - Submission to or rejection of the conduct is used or threatened to be used as a basis for employment or educational decisions.

Quid Pro Quo

- Quid Pro Quo sexual harassment occurs when a person in authority, usually a supervisor, demands sexual favors of a subordinate as a condition of getting or keeping a job benefit.



Hostile Environment

- Any unwelcome sexually oriented conduct or atmosphere that is so severe or pervasive that it is intimidating or offensive to a “reasonable person” of the same gender as the victim.



- It may be unwelcome and create a hostile environment for persons other than the victim who are present at the time the behavior occurs.

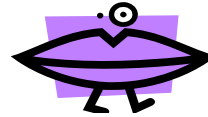
Hostile Environment



- Employee suffers repeated abuse by a hostile work environment. Such an environment arises when a co-worker or supervisor, engaging in unwelcome and inappropriate sexually based behavior, renders the workplace atmosphere intimidating, hostile or offensive.
- A hostile work environment can represent discrimination under Title VII.

Sexual Harassment

- Sexual Harassment may include:
- Verbal harassment or abuse
 - Sexual innuendo
 - Suggestive comments
 - Insults
 - Humor and jokes about sex or gender
 - Sexual propositions
 - Threats accompanied by implied or explicit threats concerning one's job, grades, etc.



Sexual Harassment

- Sexual Harassment may include:
- Non-Verbal harassment
 - Suggestive or insulting sounds
 - Leering
 - Whistling
 - Obscene gestures



Sexual Harassment

- Sexual Harassment may include:
- Physical harassment
 - Touching
 - Pinching
 - Brushing the body
 - Coerced sexual activity
 - assault



Who is Liable?

- The School District has Liability
 - When an official decision to “not act” is made by the District.
 - When the school district knew the harassment was occurring.
 - When the harassment was occurring in a context subject to the school district’s control.
 - When the school district’s deliberate indifference causes students or staff to undergo harassment or made students or staff vulnerable to it by failing to take action.

Individual Liability

- Harassment by an Employee or Teacher
 - Government immunity may not always protect school officials.
- Supervisors or principals may be liable if:
 - The school official received notice of a pattern of improper acts committed by a teacher or employee.
 - The school official demonstrated “deliberate indifference.”
 - The school official failed to take sufficient remedial action.
 - Failure to take action caused injury to the employee or student.

What About Student Related Sexual Harassment?

- Policy 513
 - Students are specifically prohibited from engaging in sexual harassment by the Code of Conduct with appropriate penalties defined for students.
 - Procedure outlined in 513.1
 - Two complaint officers
 - Reporting
 - Investigation
 - Resolution through mediation, transfer or expulsion as deemed warranted.



As an Employee, What is Your Responsibility?

- School personnel have a responsibility to protect students and staff from known or reasonably foreseeable harm occurring during or in connection with school activities
- School personnel are responsible for properly monitoring and disciplining subordinates such as teachers or employees over whom they exercise authority.



Why is it important to educators?



Published on Wednesday, June 6, 2001 by Reuters
Widespread Sexual Harassment Found in U.S. Schools
by Sue Fleming

WASHINGTON - Four out of five U.S. students -- both boys and girls -- complain of sexual harassment at school from verbal taunts to unwanted touching, according to a report released on Wednesday.

The study by the American Association of University Women (AAUW) Educational Foundation, said despite a zero-tolerance policy in most schools, students faced sexual harassment both in words and actions, often right under a teacher's nose.

"Sexual harassment is part of everyday life for boys and girls at school," said Jacqueline Woods, executive director of the AAUW, an advocacy group pushing for equity in education for women and girls.

For the complete article go to : <http://www.commondreams.org/headlines01/0606-04.htm>

Why is it important to educators?

- <http://www.soroptimist.org/novdec99.htm>

NOVEMBER/DECEMBER 1999 - SEXUAL HARASSMENT IN SCHOOLS
"Harassment in the Halls" By Alyson Hendrickson Wentz

Everyday Sexual Harassment

Beyond the major cases such as Davis and Lyle, student-on-student sexual harassment covers a broad territory from minor, one-time incidents to ongoing harassment. In a Minnesota survey, 80 percent of high school students were aware of harassment happening in their schools. The National Organization for Women and Wellesley College found that 83 percent of the 4,200 girls surveyed had been fondled at some point in time, and 40 percent stated that they were sexually harassed in school on a daily basis. The AAUW study found that 85 percent of girls and 76 percent of boys had experienced sexual harassment in school. The situation is not confined to the United States. A Canadian study reports that 83 percent of female students have suffered sexual harassment in school. A report from Sweden indicates that 47 percent of teenage girls are sexually harassed. And, having just come back from South Africa, the University of Toronto's Larkin reports that sexual harassment is also a growing concern there.

The harassment is also starting very early. Children at Belmar Elementary School in Belmar, New Jersey, were part of a recent sexual harassment scandal when they started "checking the oil," a game played by running around and poking each others' behinds.

Why is it important to educators?

More serious incidents are taking place in middle schools.

A male classmate accosted an eighth-grader in Florida while she was on the way to the restroom. He followed her into the bathroom, held her up against the wall, and fondled her. The girl's parents took the boy to court and got a restraining order against him.

Larkin has numerous stories of sexual harassment taking place in high schools. One such story was of a Canadian high school girl attending a class when a male student exposed himself to her from the classroom doorway, and beckoned for her to come with him. Although most cases of sexual harassment involve girls being harassed by boys, Erdman did have a male high school student complain to her about a female classmate who kept "pawing" him. "Boys aren't supposed to report that they're being sexually harassed," she says. "They're taught to enjoy it and sometimes even solicit it."

Another typical form of sexual harassment in schools is "rating." In many schools, groups of boys lay claim to particular hallways as "rating corridors," where they stand and hold up papers with numbers from one to 10 to "rate" the appearances of girls and marginalized boys as they walk by, Larkin says. A senior girl in Minnesota sued her school because boys were passing around a list of the 25 female students with whom they most wanted to have sex. She received a \$40,000 settlement from the school district.

Other Sites to visit:

- <http://www.wastatepta.org/programs/advocacy/EveryTeenCounts/pradet10.htm>

How does it affect student achievement?

- According to the 1993 study “Hostile Hallways” by the American Association of University Women, sexual harassment in schools may result in students:
 - Not wanting to go to school
 - Not wanting to talk as much in class
 - Finding it hard to pay attention in school
 - Staying home from school or cutting class
 - Finding it hard to study
 - Making a lower grade in class
 - Thinking about changing schools
 - Doubting whether you have what it takes to graduate



Information is based on 81% of the students who report some experience of sexual harassment in school.

What can you do to help prevent or stop sexual harassment in school?

- Recognize what it is and when it is occurring.
- Take all reports of harassment seriously.
- When you observe inappropriate behaviors, take intervening steps.
- Report to the principal any concerns you have of ongoing behavior that you feel may be harassing among students or staff.
- The next few slides present some scenarios that might occur in the school or workplace.

Practice

- A male student waits at the locker of a female student everyday. When the female student arrives, he makes a derogatory sexual comment about her body.
- What type of harassment is this?
 - Quid pro quo?
 - Hostile Environment?

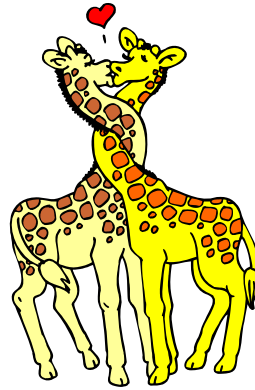


Answer

- Hostile environment. The male student has no authority over the female. However, the harassing behavior is of a sexual nature, it is ongoing and pervasive. It is behavior that would be offensive to anyone of the same sex.

Practice

- A boy and a girl are spotted kissing in the parking lot at school. Another student reports to the principal that the boy is being sexually harassed.
- Is this harassment?
- How do you respond?



Answers

- If it is unwelcome.
- Talk to the students about inappropriate behavior at school.

Practice

- A principal asks the secretary to rub his neck to relieve some stress. He tells her that he'll give her overtime if she agrees to do this.
- What type of harassment is this?
- What should the secretary do?



Answers

- Quid pro quo
- Tell the principal no. If the principal continues to insist, then report the activity to the supervisor of the principal or the sexual harassment complaint officer.

Practice



- John is refusing to attend school. He says he is being teased about being too “girly” by his PE teacher. His parents want the school administrator to do something.
- What should the administrator do?
- What are the possible consequences to doing nothing?

Answers

- Conduct an investigation into the concerns of the student and parents. Find out what is happening that might keep the student from coming to class. Take the necessary steps to remedy the situation.
- The parents may seek legal damages against the teacher, administrator and district for failing to stop harassing behaviors.
- For more information on intervention techniques please refer to the article by Bernice Sandler: [Intervening When You Observe Sexual Harassment](#) downloaded as part of this course.

QUIZ

- Please click on the link below to take the quiz that will verify your participation in this training.
- When prompted in the Quiz Session Area, enter CB Schools.
- The next screen will ask you to enter your name. Enter first and last name as verification of participation and then click on “start quiz.”
- [Quia - Quiz Session](#)