

## **How to Protect Students from Sexual Harassment: A Primer for Schools**

This fact sheet is part of a series of tools designed by the National Women's Law Center to help schools address the dropout crisis. Students are dropping out of school at alarming rates, and both boys and girls report that they drop out in part because they do not feel safe at school. Schools that want to reduce their dropout rates must protect students from sexual harassment and bullying, and must ensure that students know to whom and how they should report sex discrimination.

### **Sexual Harassment and Bullying Threaten Students' Safety and Inhibit Learning**

Sexual harassment is a widespread problem that adversely affects students' emotional and educational development. A recent study by the American Association of University Women, for example, found that 83% of female and 79% of male students in grades 8 through 11 had been sexually harassed at school in ways that interfered with their lives. One third of the surveyed students—20% of boys and 44% of girls—said that they fear being sexually harassed during the school day.<sup>i</sup>

The consequences of harassment are severe. Students who experience sexual harassment are likely to react by talking less in class, not wanting to go to school, and finding it hard to pay attention in school.<sup>ii</sup> Research has also demonstrated that targets of sexual bullying and harassment experience anxiety, distress, confusion, loss of self-esteem, and depression.<sup>iii</sup> Preventing and remedying sexual harassment and bullying is essential to ensuring a safe environment in which your students can complete their education.

Moreover, your school and school district are legally obligated to protect students from sexual harassment. Title IX is a federal law that prohibits sex discrimination, including sexual harassment, in all educational institutions that receive federal funds. Under Title IX, your school and school district must take the steps necessary to prevent harassment and to effectively address it when it occurs, and may be held financially liable for harms arising from teacher-on-student or student-on-student harassment. Liability for sexual harassment may also arise under state or other federal laws.

### **Is Your School's Sexual Harassment Policy Effective?**

Title IX requires all recipients of federal financial assistance—including state and local educational agencies—to develop and maintain an anti-discrimination policy and grievance procedures that address sex discrimination generally, including sexual harassment. Clear and well-publicized policies and procedures specifically addressing sexual harassment announce to your students and employees that sexual harassment will not be tolerated and inform them of how to report sexual harassment if it occurs. The following paragraphs highlight some of the most important features to include when drafting and implementing a sexual harassment policy in your community.

- **Involve the Entire School Community and Make the Policy User-Friendly.** Whether creating a new sexual harassment policy or evaluating a pre-existing policy for effectiveness, solicit involvement from your entire school community to ensure that the policies are practical and easy to understand. One way to gather input from the community is by distributing a survey to students. Do not forget about the wider community when writing the policy—use plain language that will be accessible to teachers, students, school employees, and parents. If a significant number of students attending the school or their parents are non-English speakers, translate the policy into other languages.
  
- **Clearly Define Sexual Harassment and List Possible Punishments.** Your policy should clearly explain the types of behavior that constitute sexual harassment and lay out possible disciplinary actions the school can take against perpetrators. In addition to defining sexual harassment as unwelcome behavior of a sexual nature that interferes unreasonably with a student’s educational experience, your official policy should provide specific examples of prohibited behaviors. It should also make clear that *all* students are protected from sexual harassment—regardless of who the harasser is—and that harassment need not occur on school grounds to be prohibited.
  
- **Ensure Confidentiality and Prohibit Retaliation.** Your policy should ensure that complaints will be handled with as much confidentiality as possible and make clear that retaliation is strongly prohibited. Although it is impossible to guarantee complete confidentiality (the name of the person complaining will often need to be disclosed to the accused or to witnesses in the course of investigation), a policy that promises to investigate sexual harassment claims with as much confidentiality as possible will protect those who challenge harassment, as well as prevent potential defamation lawsuits by accused harassers and minimize negative publicity. Confidentiality will help to prevent retaliation against students or witness’s cooperating in an investigation, but you should explicitly forbid such conduct in your official policy and provide specific illustrations of retaliatory acts.
  
- **Clearly Explain How Students Who Have Been Harassed Can Challenge that Harassment.** Your policy should lay out a formal complaint procedure informing the school community of the following: how, where, and with whom to file a complaint; what will happen during the investigative process and how final determinations will be made; the time frames that will generally apply in an investigation of harassment; the possible penalties for committing sexual harassment; and how to file an appeal. Make clear that in addition to following the school’s formal procedures, complaining parties may simultaneously pursue other legal remedies such as bringing a lawsuit or filing a claim with the U.S. Department of Education’s Office for Civil Rights.

In addition to but not in lieu of a formal grievance procedure, you may want to facilitate informal actions in less serious cases of sexual harassment by providing a mediation process or by speaking directly to the accused harasser. Remember, however, that your obligation is to do what is necessary to stop the harassment, prevent its recurrence and effectively address its impact on the victim; if informal steps are insufficient to resolve the problem, you must take additional action.

- **Make Sure the Policy is Well-Publicized and Effectively Implemented.** Every student, parent, and school employee should receive a copy of the policy and complaint procedures or a brochure or pamphlet summarizing it, as well as regular reminders about it. Posters about the policy and sexual harassment should be placed in hallways, locker rooms, classrooms, administrators' offices, student activity areas, or other public places. A description or summary of the policy, with names of persons to contact for more information, should be included in all major school publications such as handbooks, course catalogs, or orientation materials.

As set forth below, you must also ensure that the policy is effectively implemented. No matter how comprehensive the policy is on paper, it will be ineffectual unless it is enforced.

### **Responding to Allegations of Sexual Harassment**

If harassment has occurred, doing nothing is *always* the wrong response. To provide your students with a safe and non-discriminatory learning environment, it is critical to recognize sexual harassment when it occurs and to take prompt and effective action calculated to end the harassment, prevent its recurrence, and remedy its effects. Employees or officials at your school must pay attention to the school environment and respond to sexual harassment in the same manner as they would to other types of serious misconduct.

- **Stop Any Ongoing Harassment Immediately.** Moving quickly tells everyone that such behavior is not acceptable and that your school takes harassment seriously. In some cases, it may be appropriate to separate the harassed student and the accused harasser; if a student alleges that he or she has been sexually assaulted by another student, for example, you may decide to immediately place the students in separate classes or in different housing arrangements on a campus. Similarly, if the alleged harasser is a teacher, allowing the student to transfer to a different class may be appropriate. In certain cases, moreover, you may need to notify the police or your state's department of child services.

You also must take steps necessary to ensure that the harassment does not recur. Those are discussed in greater detail below.

- **Investigate All Allegations of Harassment.** Once your school has notice of possible sexual harassment of students — whether carried out by employees, other students, or third parties — you should take immediate and appropriate steps to investigate or otherwise determine what occurred, regardless of whether the student who was harassed decides to file a formal complaint. How to conduct the investigation will vary depending upon the nature of the allegations, the source of the complaint, the age of the student(s) involved, the size and administrative structure of your school, and other factors. However, in all cases the inquiry must be *prompt, thorough, and impartial*. At a minimum, your investigation should include interviews with the victim, the alleged harasser, and anyone else who can provide relevant information. Be sure to keep complete records of investigations, including a detailed description of the victim's allegations, notes on all interviews, the outcome of the investigation, and any action taken by your school. To ensure fairness, the person conducting the investigation should not be someone who works closely with or would be otherwise biased against any of the persons involved. For the privacy

of the students involved, limit the disclosure of information to people who really need to know, limit access to the investigation file and documents, and tell witnesses not to discuss the investigation with anyone.

▪ **Take Corrective Action to Keep the Harassment from Happening Again.** After completing the investigation, your school must take actions that are reasonably calculated to prevent the harassment from recurring. An effective remedial strategy must include disciplinary actions tailored to fit the severity of the conduct. Warnings and counseling may be appropriate to address less serious forms of harassment, but in more severe cases—such as sexual touching or sexual assault—oral reprimands typically are *not* sufficient; in such cases, suspending, expelling, or firing the harasser to protect the victim and other students may be the more appropriate action. If the alleged incidents of harassment are part of a larger problem that requires a school-wide response, you should re-evaluate and re-distribute your school's policies and procedures for sexual harassment prevention and provide training sessions to ensure that students, parents, and teachers can recognize harassment if it recurs and know how to respond. When responding to harassment, be sure that your actions do not create additional harm for the student who has already suffered harassment; for example, a student who has been targeted by harassment should not have to change his/her activities or move out of his/her classes in order to avoid further harassment. Follow up with the student to make certain the harassment has stopped and that no retaliation has occurred; provide the student with counseling if needed.

### **Additional Strategies for Preventing Sexual Harassment**

- **If you are an administrator:**
  - Ensure that all necessary anti-discrimination policies and procedures are in place.
  - Develop sexual harassment training programs for administrators, employees, and students.
  - Conduct a self-evaluation of the school to determine what kind of educational environment exists for female students.
  - Make certain that orientation programs for students, employees, and administrators include materials about sexual harassment.
  - Be sure that all school programs and activities, even those that occur off-school premises, are free from sexual harassment.
  
- **If you are a teacher:**
  - Act quickly when confronted with sexual harassment.
  - Ensure that you report any instances of harassment of which you are aware to the person designated by the school to handle such complaints.
  - Strategize with students about improving the classroom environment.
  - Enlist the support of parents.
  - Make certain the classroom is a welcoming environment for all students.

## Conclusion

As school educators and administrators, no one needs to remind you of the importance of protecting students from school violence. Violence manifests itself in many forms, one of which is sexual harassment and bullying. Failure to implement and enforce sexual harassment policies and procedures will jeopardize the emotional and educational well-being of your students and may subject your school or school district to financial liability under Title IX.

For more information about identifying and stopping sexual harassment in schools and providing the necessary support to students, please visit our website at <http://www.nwlc.org/display.cfm?section=sexual%20harassment> , or contact us at [info@nwlc.org](mailto:info@nwlc.org). To read the Center's report, *When Girls Don't Graduate, We All Fail: A Call to Improve High School Graduation Rates for Girls*, visit [www.nwlc.org/dropout](http://www.nwlc.org/dropout).

To learn more about how to draft effective sexual harassment policies and procedures for your school community, please consult the list of additional resources below.

### ***Additional Resources for Schools:***

- *Do the Right Thing: Understanding, Addressing, and Preventing Sexual Harassment in Schools*, National Women's Law Center (1998).
- *Checklist for a Comprehensive Approach to Addressing Harassment*, Office for Civil Rights, U.S. Department of Education, available at <http://www.ed.gov/about/offices/list/ocr/checklist.html>.
- *Protecting Students from Harassment and Hate Crime: A Guide for Schools*, Office for Civil Rights, U.S. Department of Education (1999). Appendix B of this report includes an overview of the complaint investigation process, a checklist for evaluating grievance procedures, and a sample student harassment survey.
- *Hostile Hallways: Bullying, Teasing, and Sexual Harassment in School*, American Association of University Women (2001), available at <http://www.aauw.org/research/hostile.cfm>.

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<sup>i</sup> *Hostile Hallways: Bullying, Teasing and Sexual Harassment in School* (American Association of University Women), 2001, available at [http://www.aauw.org/research/girls\\_education/hostile.cfm](http://www.aauw.org/research/girls_education/hostile.cfm).

<sup>ii</sup> *Id.*

<sup>iii</sup> See e.g., [Greetje Timmerman](#), *Adolescents' Psychological Health and Experiences with unwanted sexual behavior at school*, [Adolescence](#), (2004).