

Lesson 4

COERCION

Reading 2

Sexual Harassment: It's Not Academic

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"First of all, let me say that being sexually harassed since 5th grade has gone beyond the damage of affecting the way I feel.... Now...I have no pride, no self- confidence, and still no way out of the [misery] I am put through in my school."^[1]

Sexual harassment of students is a real and serious problem in education at all levels, including elementary and secondary schools as well as colleges and universities. It can affect any student, regardless of sex, race, or age. Sexual harassment can threaten a student's physical or emotional well-being, influence how well a student does in school, and make it difficult for a student to achieve his or her career goals. Moreover, sexual harassment is illegal--Title IX of the Education Amendments of 1972 (Title IX) prohibits sex discrimination, including sexual harassment. Preventing and remedying sexual harassment in schools is essential to ensure nondiscriminatory, safe environments in which students can learn.

A...student should feel safe and comfortable walking down the halls of his or her school. School is a place for learning and growing. Sexual harassment stops that process.^[2]

...

TITLE IX AND SEXUAL HARASSMENT

Title IX protects students from unlawful sexual harassment in all of a school's programs or activities, whether they take place in the facilities of the school, on a school bus, at a class or training program sponsored by the school at another location, or elsewhere. Title IX protects both male and female students from sexual harassment, regardless of who the harasser is.

Sexual harassment can take two forms: **quid pro quo** and **hostile environment**.

Quid pro quo harassment occurs when a school employee causes a student to believe that he or she must submit to unwelcome sexual conduct in order to participate in a school program or activity. It can also occur when an employee causes a student to believe that the employee will make an educational decision based on whether or not the student submits to unwelcome sexual conduct. For example, when a teacher threatens to fail a student unless the student agrees to date the teacher, it is quid pro quo harassment.

"Dear Beth: I'm 18 and in high school. I have this really cute math teacher....One day he asked me to a fancy restaurant to talk about my grades. He just kept telling me how beautiful I was and asked if I could come over to his house next week...he told me it would bring up my grades. I get very bad grades in math....What should I do?"^[3]

It does not matter whether the student refuses to submit to the teacher's demands and suffers the threatened harm, or does what the teacher wants and thus avoids the harm. In both cases, the harassment by the school employee is unlawful.

"The financial aid officer made it clear that I could get the money I needed if I slept with him."^[4]

Hostile environment harassment occurs when unwelcome sexually harassing conduct is so severe, persistent, or pervasive that it affects a student's ability to participate in or benefit from an education program or activity, or creates an intimidating, threatening or abusive educational environment. A hostile environment can be created by a school employee,^[5] another student,^[6] or even someone visiting the school, such as a student or employee from another school.

Regardless of which type of harassment occurs, a school must take immediate and appropriate steps to stop it and prevent it from happening again. The judgment and common sense of teachers and administrators are important elements of any response. However, the school is responsible for taking all reasonable steps to ensure a safe learning environment.

"There were two or three boys touching me...and I'd tell them to stop but they wouldn't. This went on for...months. Finally I was in one of my classes when all of them came back and backed me into a corner and started touching me all over.... After the class I told the principal, and he and the boys had a little talk. And after the talk was up, the boys came out laughing because they got no punishment."^[7]

Under federal law, a school is required to have a policy against sex discrimination and notify employees, students, and elementary and secondary school parents of the policy. A policy against sex discrimination, particularly one that specifically addresses sexual harassment, is an extremely important method for preventing sexual harassment. Such a policy lets students, parents, and employees know that sexual harassment will not be tolerated.

If a school does not have a sexual harassment policy in place, students (and/or parents) can meet with the principal, dean, or other administrator to ask that he or she develop one. The students should remind the school official that the school has an obligation under the law to stop sexual harassment."^[8]

A school is also required to adopt and publish grievance procedures for resolving sex discrimination complaints, including complaints of sexual harassment. Good procedures provide an effective means for

promptly and appropriately responding to sexual harassment complaints. Finally, a school is required to have at least one employee responsible for coordinating efforts to comply with Title IX.

QUESTIONS AND ANSWERS

Q: What are some examples of sexual conduct?

A: Some examples of sexual conduct are:

- sexual advances
- touching of a sexual nature
- graffiti of a sexual nature
- displaying or distributing of sexually explicit drawings, pictures and written materials
- sexual gestures
- sexual or "dirty" jokes
- pressure for sexual favors
- touching oneself sexually or talking about one's sexual activity in front of others
- spreading rumors about or rating other students as to sexual activity or performance.

Not all physical conduct would be considered sexual in nature. Some examples are a high school athletic coach hugging a student who made a goal, a kindergarten teacher's consoling hug for a child with a skinned knee, or one student's demonstration of a sports move requiring contact with another student.

Q: Must sexual conduct be unwelcome in order to be sexual harassment?

A: Yes. Conduct is unwelcome if the student does not request or invite the conduct, and views it as offensive or undesirable. However, just because a student does not immediately speak out or complain does not mean that the sexual conduct was welcome. A student might feel that objecting would only result in increasing the harassing conduct. Sometimes, students feel intimidated by the conduct and/or feel too embarrassed, confused or fearful to complain or resist. Also, a student who willingly participates in conduct on one occasion may later decide that the same conduct on a subsequent occasion has become unwelcome.

It is difficult to say "no" to a teacher, coach...and the "popular" kids. A person who complains about sexual harassment is often rejected by other kids and labeled a troublemaker.^[9]

Both parents and school officials should encourage students to speak out and complain about unwelcome sexual conduct--to the harasser, to a school employee, or to a parent. Using age-appropriate methods, parents and school officials should let students know that they should not tolerate unwanted sexual conduct.

Q: Does all sexual conduct create a sexually hostile environment?

A: No. Although even one incident of quid pro quo harassment (for example, threatening to fail a student) is unlawful, generally, a hostile environment may be created by a series of incidents. So, for example, a sexual joke, even if offensive to the student to whom it was told, will not by itself create a sexually hostile environment. However, a sexual assault or other severe single incident can create a hostile environment.

Q: When does sexual conduct create a sexually hostile environment?

A: In order to answer this question several factors must be considered. Did the student view the environment as hostile? Was it reasonable for the student to view the environment as hostile? All relevant circumstances should be considered, including the following:

- the nature of the conduct
- how often the conduct occurred
- how long the conduct continued
- the age and sex of the student
- whether the conduct adversely affected the student's education or educational environment
- whether the alleged harasser was in a position of power over the student subjected to the harassment
- the number of alleged harassers
- the age of the alleged harasser
- where the harassment occurred
- other incidents of sexual harassment at the school involving the same or other students.

These thoughts and feelings are warning signals of sexual harassment. They can alert you to the possibility that you are being sexually harassed. Feelings: confused, guilty, helpless, angry, frightened, hopeless, scared and alone. Thoughts: I can't believe this is happening to me. Why Me? What did I do? I hate you for doing this. If I say anything, everyone will think I'm crazy.^[10]

Endnotes:

1. Stein, Nan, Marshall, L. Troop, R., Harassment in the Halls (Massachusetts: Center for Research on Women, Wellesley College, 1993)
2. Stein, N. & Sjostram, Lisa, Flirting or Hurting? A Teacher's Guide on Student to Student Sexual Harassment in Schools (Washington, D.C.: NEA Professional Library Publication, 1994) 66.
3. Winship, Beth, Ask Beth (San Francisco Chronicle, March 2, 1997).
4. Miranda, L., & Associates, Inc., interviews (1981).
5. Although sexual harassment of employees may violate Title IX, this pamphlet addresses only sexual harassment of students.
6. In Texas, Mississippi, and Louisiana, Title IX's prohibition on sexual harassment of one student by another has been affected by a federal decision covering these states. If you live in

these one of these states and have been harassed or seek further information, please contact OCR s Dallas office for clarification.

7. Stein, Harassment 10. Most of the quotes contained in this pamphlet are from real life situations. These situations may or may not constitute unlawful sexual harassment, depending on all of the facts in each particular case. The perspectives reflected are intended to raise the awareness of students, school officials, and parents and indicate when it may be time to become concerned, speak up, and/or gather more information to determine an appropriate course of action.

8. Stein, Flirting 8.

9. Strauss, S., Sexual Harassment of Teenagers: It s Not Fun/It s Illegal (Minnesota Department of Education, 1981) 35.

10. Morris, B., Terpstra, T., Croninger, B., Linn, E. Tune In To Your Rights (Ann Arbor: University of Michigan, 1985) 8.