

SEXUAL HARASSMENT AND TITLE IX

- This presentation discusses:
 - The definitions of sexual harassment
 - Possible examples to assist in recognizing sexual harassment
 - Information on how to report sexual harassment
 - Information regarding the new Title IX regulations and related District procedures

SEXUAL HARASSMENT

- DAA - Equal Employment Opportunity
- DH - Employee Standards of Conduct
- DIA - Freedom from Discrimination, Harassment & Retaliation - Employee Welfare
- FB - Equal Educational Opportunity
- FDB - Admissions
- FFH - Freedom from Discrimination, Harassment & Retaliation - Student Welfare
- FFI - Student Welfare: Freedom from Bullying
- FO - Student Discipline

RELEVANT BOARD POLICIES

- Employee - Employee (Board Policy DIA)
- Employee - Student (Board Policies DIA, FFH, FB)
- Student - Student (Board Policies FFH, FB)

**HOW CAN SEXUAL HARASSMENT
OCCUR?**

THREE TYPES OF SEXUAL HARASSMENT

Quid Pro Quo

- Employee conditioning an aid, service, or benefit on an individual's participation in unwelcome sexual conduct
- Only an employee can engage in this type of sexual harassment
- There is no such thing as a "welcome" sexual conduct by an employee to a student. All such conduct is considered unwelcome, inappropriate, and unlawful.

Hostile Environment

- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person's equal access to the education program or activity

Sexual assault, dating violence, domestic violence, and stalking

EXAMPLES COULD INCLUDE

- Sexual advances
- Touching intimate body parts
- Coercing physical contact that is sexual in nature
- Jokes or conversations of a sexual nature
- Other sexually motivated conduct, contact or communication
 - Including electronic communication
- These are not all the possible examples
- These examples may not always equal prohibited sexual harassment
- However, employees who notice this conduct between an employee and a student must report it
- Employees who notice this conduct between students must report if they believe the conduct may be unwelcome.

- To be clear, romantic or other inappropriate relationships between students and school employees are prohibited.
- Any sexual relationship between a school employee and a student is always prohibited, even if consensual.
- It does not matter the age of the student or the employee
- Any employee with knowledge of a potential inappropriate relationship between a student and a school employee must report this conduct to the Title IX Coordinator and supervisor
- Employees must also consider whether CPS/law enforcement reports need to be made.

EMPLOYEE - STUDENT HARASSMENT

- Physical, verbal, or nonverbal conduct based on the student's gender, the student's expression of characteristics perceived as stereotypical for the student's gender, or the student's failure to conform to stereotypical notions of masculinity or femininity.
- It is harassment if it is so severe, pervasive, or persistent that it:
 - affects a student's ability to participate in or benefit from an educational program or activity, creates a hostile, intimidating, threatening, or offensive educational environment
 - has the purpose or effect of substantially or unreasonably interfering with the individual's performance
 - otherwise adversely affects the individual's opportunities

GENDER-BASED HARASSMENT

EXAMPLES COULD INCLUDE

- Offensive jokes
- Name-calling
- Slurs
- Rumors
- Cyberharassment
- Physical aggression or assault
- Threatening or intimidating conduct
- Other kinds of aggressive conduct such as theft or damage to property
- These are not all the possible examples
- These examples may not always equal prohibited sexual harassment
- However, employees who notice this conduct between an employee and a student must report it
- Employees who notice this conduct between students must report if they believe the conduct may be unwelcome.

- Occurs when a person in a current or former dating relationship uses physical, sexual, or emotional abuse to harm, threaten, intimidate, or control the other person in the relationship.
- Occurs when a person commits these acts against a person in the marriage or dating relationship with the individual who is or was once in a marriage or dating relationship with the person committing the offense
- Can be included in prohibited harassment if the conduct is so severe, persistent, or pervasive that the conduct
 - Affects a student's ability to participate in a benefit of the educational program or activity or creates a threatening, intimidating, hostile, or offensive educational environment
 - Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance
 - Otherwise adversely affects the student's educational opportunities

DATING VIOLENCE

EXAMPLES COULD INCLUDE

- Physical or sexual assaults
- Name-calling, put-downs
- Threats directed at student or family/household
- Destroying property belonging to student
- Threatening to commit suicide or homicide if the student ends relationship
- Attempting to isolate student from friends and family
- Stalking
- Threatening spouse or current dating partner
- Encouraging others to engage in these behaviors
- These are not all the possible examples
- These examples may not always equal prohibited sexual harassment
- However, employees who notice this conduct between an employee and a student must report it
- Employees who notice this conduct between students must report if they believe the conduct may be unwelcome.

- Is same sex sexual harassment prohibited? YES
- Can the aggressor be a man or a woman? YES
- Can the victim be a man or a woman? YES

SEXUAL HARASSMENT - STEREOTYPES

The school should take all steps necessary to prevent harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate penalties, informing employees of their right to raise and how to raise the issue of harassment, and developing methods to sensitize all concerned.

SEXUAL HARASSMENT - PREVENTION

REPORTING

- A student who believes he or she has experienced prohibited conduct or believes that another student has experienced prohibited conduct should immediately report the alleged acts to a teacher, school counselor, principal, other school employee, or the appropriate school official (Title IX Coordinator)
- An employee who suspects or receives direct or indirect notice that a student or group of students or another employee has or may have experienced sexual harassment shall immediately notify the Title IX Coordinator
- If an employee reports to his/her supervisor instead of the Title IX Coordinator, the supervisor must report to the Title IX Coordinator

- Reports should be made as soon as possible after the alleged acts or knowledge of the alleged acts.
- The appropriate district official shall promptly notify the parent of any student alleged to have experienced prohibited conduct by a school employee or another adult.

REPORTING

- Federal law passed in 1972.
- Prohibits discrimination on the basis of sex in education programs and activities that receive federal funds
 - No person in the United States on the basis of sex shall be excluded from participation in, be denied the benefits of, or subjected to discrimination under any education program or activity receiving Federal financial assistance
- Sex discrimination includes sexual harassment and sexual violence
- SIGNIFICANT new regulations regarding sexual harassment
 - Effective August 14, 2020
 - New requirements for notice, complaints, investigation, supportive measures
 - Administrators must be keenly aware of sexual harassment allegations

WHAT IS TITLE IX?

- School districts have liability for sexual harassment
 - Student - Student
 - Employee - Student
- This has been the case since 1998, but the definitions have now changed to implement new investigation and complaint procedures
- And, now the regulations require far more action and certain defined actions whenever there is a complaint about sexual harassment --- to **ANY** school district employee.

TITLE IX - IN ENGLISH PLEASE

- Sexual harassment
 - Quid pro quo sexual harassment
 - Hostile environment sexual harassment
- Sexual violence (Violence Against Women Act)
 - Sexual assault, domestic violence, dating violence, stalking

**TITLE IX - PROTECTS AGAINST SEXUAL
HARASSMENT**

- When must a school respond to allegations of sexual harassment?
 - When the school has actual knowledge of sexual harassment in an education program or activity against a person in the United States
 - Must respond promptly and in a manner that is not deliberately indifferent
- What does “actual knowledge” mean?
 - Knowledge by **ANY EMPLOYEE** of an elementary or secondary school
- What does “program or activity” mean?
 - In a location, events or circumstance over which the educational institution exhibits substantial control over both the alleged harasser and the context in which the harassment occurred
 - Not just on school property (field trips, extra-curricular events)
- What does “deliberate indifference” mean?
 - Failure to respond reasonably in light of known circumstances

TITLE IX - RESPONSE TO ALLEGATIONS OF SEXUAL HARASSMENT

- If you become aware of an allegation of sexual harassment, you must immediately contact the Title IX Coordinator.
- Once you become aware of an allegation of sexual harassment, the school has “actual knowledge”, and the school can be liable if we are “deliberately indifferent”.
- Title IX Coordinator must immediately respond
- You may be asked to ensure “supportive measures” are implemented (for both parties).
 - Wait for direction from Title IX Coordinator
 - Non-punitive individualized services
 - Designed to restore or preserve equal access to the education program or activity without “unreasonably” burdening the other party.
 - Examples: counseling, course modifications, increased monitoring, schedule change, stay-away agreements
 - But cannot be punitive to alleged perpetrator
 - Putting a teacher on administrative leave is allowed
 - Emergency removals of students from activities are allowed except if “emergency”

TITLE IX - WHAT DOES THAT MEAN FOR ME?

Title IX Coordinator for Students:
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**TITLE IX - EANES ISD TITLE IX
COORDINATORS**

- There is a specific formal complaint process (different from FNG and different from bullying) with very specific rules.
- Board Policy FFH
- Requires a presumption of innocence on the part of the alleged perpetrator (called Respondent)
- Involves lots of different parties:
 - Title IX Coordinator
 - Complainant (victim)
 - Respondent (alleged perpetrator)
 - Investigator
 - Decision-Maker
 - Informal Resolution Facilitator
 - Appeal Decision-Maker

TITLE IX - FORMAL COMPLAINT PROCESS

- ALL STAFF must be trained on how to identify and report sexual harassment.
- Additional training required for Title IX Coordinator, investigators, decision-makers
- Trainings must be posted on-line.

TITLE IX - TRAINING REQUIREMENTS

BOTTOM LINE



IF YOU SEE SOMETHING...

SAY SOMETHING!

- [OCR's "Know Your Rights" Site](#)
- [Office for Victims of Crime's Intimate Partner Violence Site](#)
- [National Institute of Justice's Overview of Intimate Partner Violence](#)
- [CDC's Intimate Partner Violence Site](#)
- [Department of Justice's Defending Childhood site](#)
- National Domestic Violence Hotline: 1-800-799-SAFE (7233)

ADDITIONAL SEXUAL HARASSMENT RESOURCES

THANK YOU

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