

WEST AURORA SCHOOL DISTRICT 129

2021-2022 Sexual Harassment Training

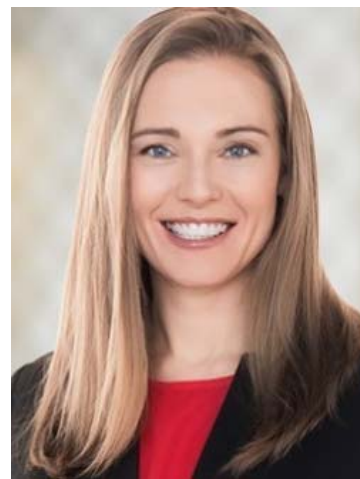
From the attorneys at Franczek P.C.

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Meet Your Host

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What This Training Covers

- Information to help keep our schools and workplaces safe and welcoming
- Updates on federal laws prohibiting sexual harassment in education and employment
- Required training for **all** employees under Illinois law on sexual harassment prevention

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Agenda

- Why this matters
- Summary of relevant laws, including what is sexual harassment
- Examples of prohibited conduct
- Summary of responsibilities, including relevant policies

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Why Does This Matter?

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Almost

50%

of students report
that they have
been sexually
harassed in school

79%

of public schools
reported **zero**
incidents of
sexual
harassment or
bullying

AAUW, 2015-16

81%

believe sexual
harassment
occurs in most
American
workplaces today

90%

believe it's not a
problem in their
workplace

EEOC, June 2016

What These Numbers Tell Us

- Sexual harassment and other misconduct is occurring all around us
- Many students and employees do not feel comfortable reporting sexual misconduct in their schools
- It is essential that members of the District community know about the District's commitment to antiharassment and the rights they have to report and have issues addressed

We Also Know...

- Harassment and assault can have long-lasting, detrimental effects on victims
- Unfair processes can have long lasting, detrimental effects on the parties
- We must have fair processes in place to ensure that complaints are dealt with fairly and in a way that does not increase stress for either party

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Summary of Relevant Laws

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What Laws Govern Sexual Harassment in Schools?

Employment

- Illinois Human Rights Act
- Title VII
- Title IX

Education (most common: Students)

- Illinois Human Rights Act
- Title IX
- Illinois Sex Equity Regulations

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Illinois Human Rights Act

Sexual Harassment Prohibited

The Illinois Human Rights Act makes it a civil rights violation to engage in sexual harassment in employment and in schools.

The prohibition covers not just students and employees, but also nonemployees such as parents, vendors, and service providers. Nonemployees can be victims of sexual harassment and can perpetrate sexual harassment.

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Illinois Human Rights Act

In employment, sexual harassment is any unwelcome sexual advances, requests for sexual favors, or any conduct of a sexual nature when:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment,
- submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
- such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

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Illinois Human Rights Act

In education, sexual harassment is

- any unwelcome sexual advances or requests for sexual favors made to a student by an executive, administrative staff, or faculty member, or
- any conduct of a sexual nature that substantially interferes with the student's educational performance or creates an intimidating, hostile, or offensive educational environment.

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Title VII of the Civil Rights Act of 1964

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment in employment when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment.

IHRA & Title VII – Victims

All persons can be victims of sexual harassment regardless of the victim's **gender identity** or the perpetrator's gender identity.

All persons can be victims of sexual harassment regardless of the victim's **sexual orientation** or the perpetrator's sexual orientation.

Victims of sexual harassment can include not only the target of the sexual harassment, but also **third parties or bystanders**.

Title IX

Prohibits Title IX sexual harassment in an education program or activity against a person in the United States.

Title IX Hostile Environment

Old Definition

Unwelcome conduct determined by a reasonable person to be severe, pervasive or persistent and to interfere with or limit a student's ability to participate in or benefit from school services, activities, or opportunities

New Definition (8/14/20)

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 recipient's education program or activity

Title IX Quid Pro Quo

Definition: An employee of the recipient conditioning an aid, service, or benefit of the recipient on an individual's participation in unwelcome sexual conduct

Only an employee (not a volunteer, another student, etc.)

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Clery/VAWA "Big Four"

Sexual Assault 20 U.S.C. 1092(f)(6)(A)(v)

Domestic Violence 34 U.S.C. 12291(a)(8)

Dating Violence 34 U.S.C. 12291(a)(10)

Stalking 34 U.S.C. 12291(a)(30)

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Examples of Prohibited Conduct

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Unwelcome

The victim did not solicit or invite the behavior and regarded the conduct as undesirable or offensive.

- Sexual misconduct must be “unwelcome” to violate law and rules.
- Conduct **is not** “welcome” just because someone did not complain, laughed, or even participated in the conduct. Welcome conduct can turn into unwelcome conduct over time. And of course, dress/appearance does not mean conduct was “welcome.”
- Whether someone can “welcome” conduct can be impacted by age, disability, relationships between the party, culture, and intoxication.

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Quid Pro Quo Sexual Harassment

You do something for me, and I'll do something for you.

Examples:

1. A supervisor tells an employee that to receive a promotion, the employee must engage in unwelcome sexual conduct
2. A manager tells an employee that to avoid an unpleasant assignment, the employee must engage in unwelcome sexual conduct
3. A student newspaper editor tells a student photographer that in order to have a photograph published, the photographer must engage in unwelcome sexual conduct

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Sexual Violence

Sexual assault is a form of sexual harassment.

Examples:

1. Sexual assault
2. Domestic violence
3. Dating violence
4. Stalking based on sex

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Hostile Environment

The air is full of sexual references or actions and it is impacting me.

Examples

- Repeated unwelcome sexual advances
- Repeated requests for sexual favors
- Repeated offensive jokes or comments
- Repeated unwelcome touching, looks, gestures
- Using derogatory terms (“slut”, “honey”, etc.)
- Sexual assault or violence, stalking, dating violence, etc.

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Any Conduct

Comments

Jokes

E-mail
messages

Social media
posting

Visual displays
– digital or
analogue

Physical
contact

Gestures

Etc., etc.

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Not Just On-Campus



Off-campus conduct can be covered



Online conduct can be covered



Conduct outside of work and school hours can be covered

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Once May Be Enough



If conduct is severe enough, one instance can be covered



Small acts that might not be enough alone, add up over time and can lead to a hostile environment

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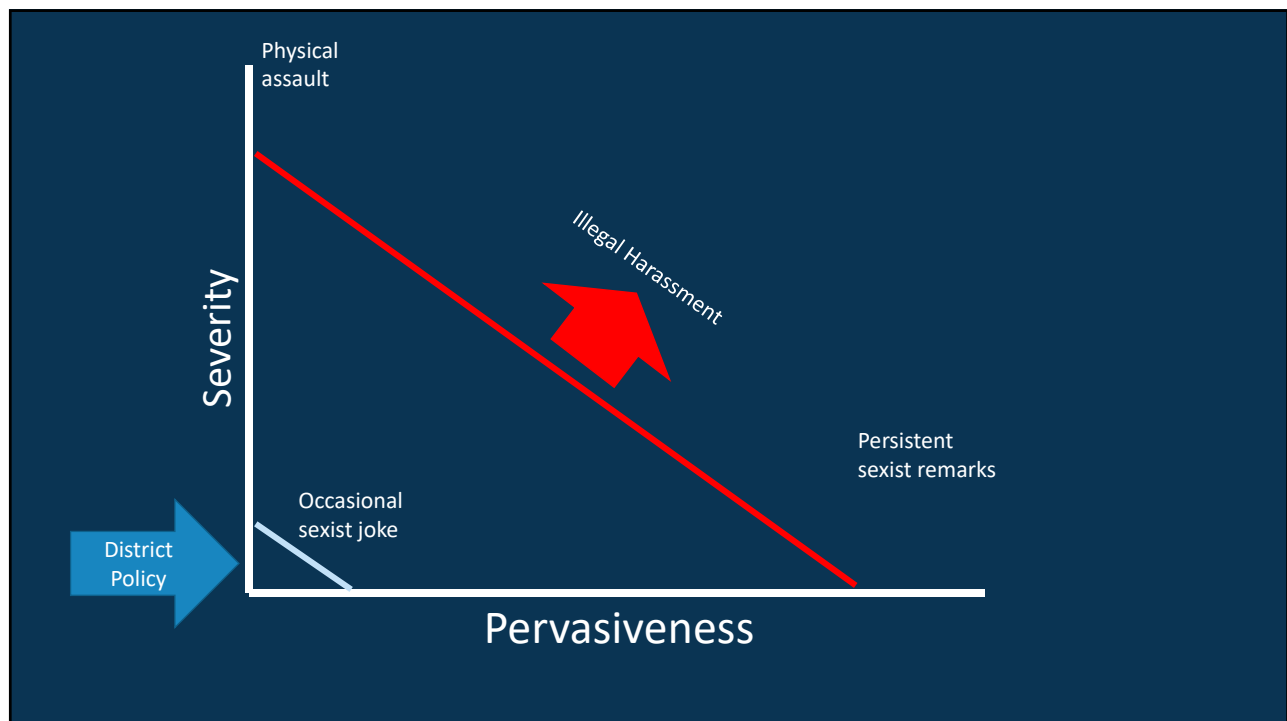
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Policy > Law

Even if conduct is not severe, pervasive, or objectively offensive enough to be “sexual harassment” under the law it can be “sexual harassment” under District policy and so can lead to consequences

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When considering “hostile environment” harassment ask: **How would a reasonable person feel in the other person’s shoes?**



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I didn't mean it!

It was just a joke.

That's not how I intended it!

I wasn't trying to hurt anyone's feelings.

They know I wasn't serious.

I'm not sexist!

Not An Excuse!

Retaliation



Protected Activity



Negative Action



Connection #1 and #2

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Examples of Protected Conduct

1

Objecting to
unlawful
harassment

2

Making a good
faith report of
harassment

3

Filing or
participating in
a charge or
lawsuit

4

Participating in
an investigation

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Any Negative Action

Firing

Suspension/Expulsion

Discipline

Refusal to hire or promote

Refusing to give a role/part

Loss of pay or benefits

Material change in working or educational conditions

Harassment

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Summary of Responsibilities

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Rights & Responsibilities

Rights:

- Something a person is allowed to do

Responsibilities

- Something a person must do

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District's Responsibilities

Taking reasonable steps to prevent harassment

Promptly investigating reports of harassment

If harassment occurs:

- Putting a stop to it
- Preventing it from happening again
- Addressing harm caused

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Board Policies

2:260 (*Uniform Grievance Procedure*)

**2:265 (*Title IX Sexual Harassment
Grievance Procedure*)**

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Sexual Harassment Resources & Reporting

NONDISCRIMINATION COMMITMENT

Contact Information

Policies

Training Materials

Other Resources

FOSTERING AN ENVIRONMENT OF EQUITY AND OPPORTUNITY

[Nondiscrimination Commitment](#)

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General Victim/Bystander Rights

Experience

If you experience, witness, or become aware of unwelcome sexual conduct against any person, you have the right to:

Tell

Tell the person to stop

Report

Report the conduct to the District, which, if warranted, will investigate and respond

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Also Can Report Sexual Harassment Elsewhere

The Illinois Sexual Harassment and Discrimination Helpline
(1-877-236-7703 and www.Illinois.gov/SexualHarassment)

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Employee Responsibilities

If you witness or become aware of unwelcome sexual conduct against any person, you **must** report the conduct to the District's **Nondiscrimination/Title IX Coordinator**:

TITLE IX/NONDISCRIMINATION COORDINATOR

Dr. Valerie McCall

Director of Educational Equity
West Aurora School District 129
1877 W. Downer Place, Aurora, IL 60506

630.301.5074
valerie.mccall@sd129.org

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When In Doubt...

Report, report, report!

Report **anything** that is sex-related conduct to the Title IX Coordinator:

- Sex based comments by students in class
- Any touching of a sexual nature (even if it "seems" minor)
- **Any** time a student, parents, coworker, subordinate reports that someone engaged in sex-based conduct of any kind

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For More Information

U.S. Department of Education
Office for Civil Rights (OCR)
Chicago Office
JCK Federal Building
230 S. Dearborn Street, 37th
Floor
Chicago, IL 60604
Telephone: (312) 730-1560
Facsimile: (312) 730-1576
Email: OCR.Chicago@ed.gov

See <http://www.ed.gov/ocr>

U.S. Equal Employment
Opportunity Commission
(EEOC)
Chicago District Office
JCK Federal Building
Chicago, IL 60604
Telephone: (312) 872-9744
Facsimile: (312) 588-1260
Email: Info@EEOC.org

See <http://www.eeoc.gov>

Illinois Department of Human
Rights (IDHR)
Springfield Office
535 West Jefferson
1st Floor
Intake Unit
Springfield, IL 62702
Telephone: (217) 785-5100
Facsimile: (217) 785-5106
Email:
IDHR.webmail@illinois.gov

See <http://www2.illinois.gov/DHR>

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Board Policies

Board policies prohibiting
discrimination, harassment, and
retaliation:

- 5:10 (*Equal Employment Opportunity and Minority Recruitment*)
- 5:20 (*Workplace Harassment Prohibited*)
- 7:10 (*Equal Educational Opportunities*)
- 7:20 (*Harassment of Students Prohibited*) and
- 7:180 (*Prevention of and Response to Bullying, Intimidation, and Harassment*)

How to report discrimination,
harassment, or retaliation:

- 2:260 (*Uniform Grievance Procedure*) and
- 2:265 (*Title IX Sexual Harassment Grievance Procedure*)

The Board's policy handbook is
available on the District's website.

- Board of Education
- Resources
- Policies

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Employee Responsibilities

You are expected to review and be familiar with the policies cited in this training

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Remember...

District policy prohibits discrimination (including different treatment and harassment) and retaliation based on a number of protected statuses – not just sex.



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For More Information

The Nondiscrimination/Title IX Coordinator can answer any questions about the application of the laws described in this training

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THANK YOU FOR YOUR ATTENTION!

2021-2022 Sexual Harassment training

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