



Title IX and Sexual Harassment Training

Presented by Ross Mitchell



LEASOR CRASS, P.C.
YOUR SCHOOL • OUR MISSION

PRESENTED BY:



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Agenda

- Title IX Overview
- 2024 Regulations
- Boundaries
- Harassment
- Reporting

What is Title IX?

“No person in the United States shall, **on the basis of sex**, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under **any education program or activity receiving Federal financial assistance**.” Title IX of the Education Amendments of 1972

Administrative Enforcement - OCR

- Title IX is enforced by U.S. Dept of Education's **Office of Civil Rights (OCR)**.
- OCR promulgates regulations and issues guidance on Title IX.
- **OCR can investigate alleged violations.**
- What can OCR do to an ISD?
 - Informal resolution, policy changes, etc.
 - Failure to comply = Loss of federal funding

Litigation

- Individuals can sue ISDs for alleged Title IX violations.
- **Can recover money damages.**

More than **9,000** Title IX cases
filed with OCR in FY 2022



What is Title IX Harassment?

- **34 C.F.R. §106.2 states:**
 - Sex-based harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the bases described in § 106.10, when it takes the form of:
 - **quid pro quo** harassment (e.g., when an employee conditions a benefit on a person's participation in unwelcome sexual conduct);
 - **specific offenses** (e.g., sexual assault, dating violence, domestic violence, and stalking); and/or
 - **hostile environment** harassment.

2024 Regulations define hostile environment harassment as unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's† education program or activity.



Sex-Based Harassment Prevention

- **District policies prohibit sexual harassment and sexual violence of any kind.**
- Districts are committed to promoting a safe and secure academic environment for all members.
- All students, faculty, staff, and visitors are expected to maintain a working and learning environment free from harassment and discrimination.
- Sex-based harassment, a form of sex discrimination, is illegal under federal, and state laws and will not be tolerated by your school district.



Required Training

ALL District employees must be trained to know what sex-based harassment is and what to do when sex-based harassment occurs.



2024 Changes for Employees

(Effective August 1, 2024)

- **Expanded Coverage**

- Title IX has been expanded to include a prohibition on all sex-based harassment. Title IX applies to complaints of sex-based discrimination, regardless of whether the allegation alleges sexual harassment. The District is continuing its current practices in this area.
- Any student, employee, or person other than student or employee who is participating in the educational program or activity can file a formal complaint.
- Schools now required to address a sex-based hostile environment even when some conduct contributing to the hostile environment occurred outside the education program or activity or outside the United States.
- Conduct can be severe OR pervasive, need not be both
- Any District employee with knowledge of harassment, discrimination, or retaliation **must report** because that knowledge is imputed on the District.
- Behavior must be **subjectively and objectively offensive**.



Reporting Requirements

- **34 C.F.R. (§ 106.44(c)(1)) requires all District employees that have information about conduct that reasonably may constitute sex discrimination to report to the Title IX.**

EMS ISD Title IX Reporting Contacts:



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What does all this mean?

- **Effectively managing the following helps create an ideal learning environment and limits Title IX exposure:**
 - **Clearly Defined and Communicated Boundaries**
 - Employee-to-Student
 - Student-to-Student
 - Employee-to-Employee
 - **Responding Effectively**
 - Low level (“red flag”) behaviors
 - Employee-to-Employee Concerns
 - Criminal matters
 - Behavior based on sex that is severe or pervasive and is subjectively and objectively offensive and impedes the complainant’s access to the educational program or activity



Employee-to-Student

- **Criminal and SBEC Implications**

- TEA investigates roughly 400 cases of inappropriate relationships between school employees and students annually.
- Over 100 Texas educators arrested in 2024 for offenses involving minors.
- Fear of false allegations ruining careers.

- **Title IX Implications**

- In addition to criminal and licensure implications, there are very real Title IX implications for employee misconduct with students.

- **Prevent Title IX Complaints by modeling clear boundaries!**

- Schools must define and communicate boundary expectations on the following:
 - Physical interactions
 - Verbal interactions
 - One-on-one interactions
 - Gift-giving
 - Off-site interactions
 - Electronic Communications
- Do you know your District policies regarding these common boundaries?
- What would you do if you saw a colleague violating them?



Employee-to-Student

- **Prevent false allegations with transparency!**
 - The vast majority of false allegations arise from boundary crossing behaviors. The following are common boundary crossing behaviors among teachers:
 - Texting and social media with students
 - Meeting one-on-one in private spaces or behind closed doors
 - Transporting students one-on-one
 - Outside contact with students such as tutoring and preexisting social and familial relationships
 - Poor physical and verbal boundaries
 - Giving students gifts or having favorites
 - The 2024 Title IX rules make clear that behavior that happens off-campus but impacts the student's access to or participation in the learning environment is actionable by the District. The behaviors above though largely occurring off-campus could easily impact a student and thus be actionable. **Best practice is to avoid them as much as possible! If you must engage in the ways mentioned above, loop a colleague or supervisor in so they know what is happening.**



Student-to-Student

- **Landscape**
 - Reports of inappropriate behaviors between students such as assault and harassment have significantly increased since the #metoo movement.
 - Students are more comfortable reporting concerns but still struggle due to societal pressures to fit in
- **Title IX Implications**
 - There are significant Title IX implications for student-to-student sex-based misconduct.
- **Prevent these issues by:**
 - Setting and enforcing clear behavioral expectations with students
 - Public Displays of Affection (PDA)
 - Acceptable verbal discourse
 - Keeping hands to oneself
 - Digital citizenship
 - Supervising high risk locations such as:
 - Bathrooms/locker rooms
 - Playgrounds
 - Stairwells
 - Recreational areas/parking lots
 - What would you do if you saw a student engaging in problematic behavior?



Employee-to-Employee

- **Title IX Implications**

- Title IX applies to all individuals in the educational program, including employees.
- This means that harassing or discriminatory behavior between adults is actionable under Title IX as well as federal and state law, and local policy.

- **Prevent Sex-Based Harassment and Discrimination among Employees by:**

- Maintaining professionalism in communications and actions
- Acting professionally with colleagues outside of work hours and on social media
- Maintaining appropriate boundaries at work even for those dating or married to a colleague
- Avoiding jokes based on stereotypes, misogyny, or pregnancy
- Encouraging self-reporting if someone steps over the line

SEX-BASED HARASSMENT PREVENTION

34 C.F.R. §106.10 states discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

Types of Sex-Based Harassment



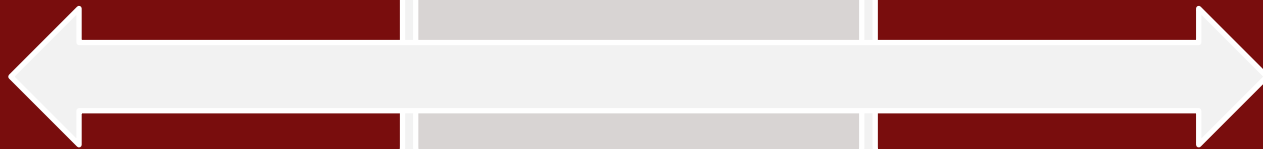
Quid Pro Quo



Hostile
Environment



Offenses Under
the Violence
Against Women
Act



Sex-Based Harassment Definition - § 106.2

Sex-based harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the bases described in § 106.10, that is:

1. Quid Pro Quo

- An employee, agent, or other person authorized by the recipient to provide an aid, benefit, or service under the recipient's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;

2. Hostile Environment

- Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity (i.e., creates a hostile environment).

3. Specific Offenses

- Specific offenses such as "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

**Sex-Based Harassment
can happen to anyone!**



So if you are a victim or see something

SAY SOMETHING!

Anyone has the right to file a complaint

Quid Pro Quo

Latin meaning “This for that”

- A person in a position of authority, typically a supervisor, demands sexual favors as a condition to getting or keeping a benefit.
- Does not have to be a supervisor, can be a colleague who has leverage over another similarly situated employee.
- Can also occur between employees and students.
- The “bargain” proposed by the employee can be express or implied.




Quid Pro Quo (Continued)

Unlike Hostile Environment, Quid Pro Quo harassment need not be severe and pervasive to be actionable.

- OCR: “abuse of authority in the form of **even a single instance** of quid pro quo harassment (where the conduct is not ‘pervasive’) is inherently offensive and serious enough to jeopardize equal educational access[.]”

Wide range of conduct can fall on the spectrum for quid pro quo harassment.



Express propositions for sex in exchange for grades or a promotion

Back rubs/leg pats, student feels compelled to allow

Example

Danny is an Assistant Principal at Rydell High School who aspires to be a Superintendent. Danny works long hours with Sandy, Rydell's Principal. One night Sandy jokes that they should go to dinner sometime since they spend so much time together. Danny laughs it off and doesn't think anything of it.

A week later, Sandy talks about how fun it will be to go to a conference together and says "maybe we can finally have dinner together." Danny again laughs it off but is starting to feel pressure to acquiesce to Sandy's invitation.

After a networking hour at the conference, Sandy corners Danny and says "I'm taking you to dinner, no excuses." Danny thanks Sandy for the offer and says that Danny is meeting up with friends that evening. Sandy responds "That's too bad, we were going to talk about your promotion but I guess I'll have to rethink that."

Hostile Environment

1. Unwelcome **conduct**
2. Determined by a **reasonable person** to be so
3. **Severe or pervasive, subjectively and objectively offensive** that it effectively
4. **Denies** a person equal **access** to the school's **education program** or **activity**



Hostile Environment (Continued)

Previous OCR Guidance:

- Kiss on the cheek by a first grader = not sexual harassment.
- **“School personnel should consider the age and maturity of students in responding to allegations of sexual harassment.”**

Under the 2024 Rules, a kiss on the cheek at any age could be harassment if it is “severe OR pervasive” as well as “subjectively and objectively offensive”

What about this example?

Student A exposes themselves to Student B on the playground. Is this a Title IX concern under the 2024 rules?

Potentially. The behavior is severe, even though not pervasive. The next factor is whether, based on totality of circumstances, the behavior was objectively and subjectively offensive. Additional factors to consider are whether the behavior denied Student B access or benefit of the education program (i.e. avoiding the playground, missing school to avoid seeing Student A, etc.)



What are the

Different Types

of Hostile Environment



VISUAL



VERBAL



PHYSICAL

VISUAL



HARASSMENT



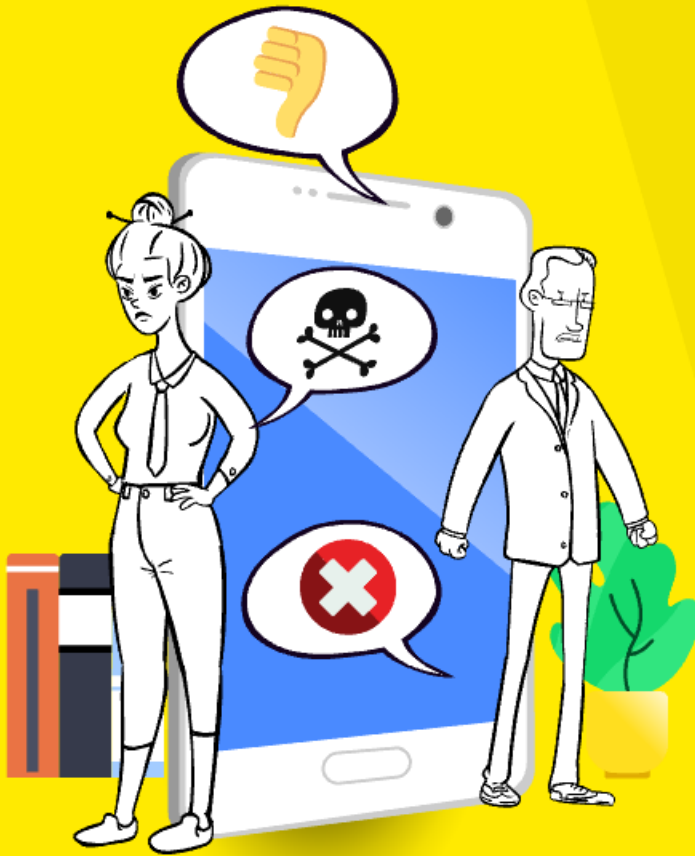
VISUAL



HARASSMENT



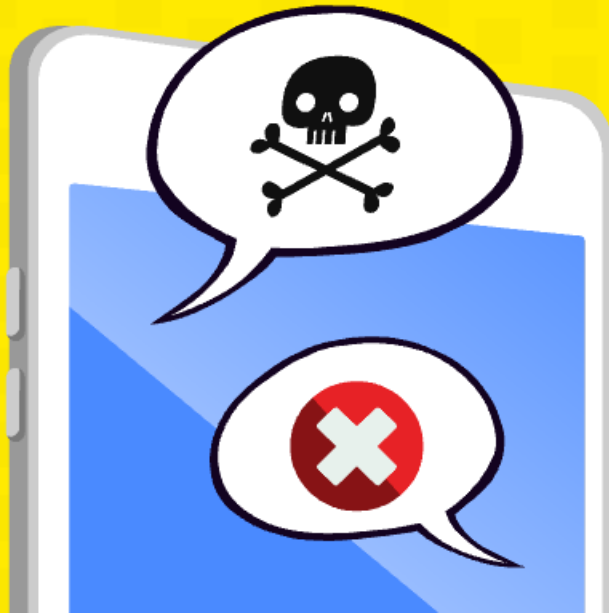
- Inappropriate **Pictures or Drawings (Online/Offline)**
- Obscene **Emails or Texts**



VERBAL

 HARASSMENT

VERBAL



- **Requests/Threats**
for Sexual Favors
- **Spreading Rumors**
of Other's Sex Lives
- **Jokes/Remarks**
Gender or Sexual
- **Commenting**
on Someone's Appearance

PHYSICAL



HARASSMENT



PHYSICAL



HARASSMENT



- **Sexual Assault**
- **Sexual Gesturing and Staring**
- **Unsolicited Touching**
- **Blocked Movement**
- **Touching (e.g. Kissing, Stroking, Rubbing...)**

Example

Zack is the basketball team captain at Bayside High School. Zack has a picture of his girlfriend Kelly in a swimsuit in his locker. Slater, the new guy on the team, sees it and lets Zack know that he thinks it is inappropriate. Slater notified Coach Tuddle about the photo.

Zack tells Slater he's always had that up and has never had a complaint. He asks other players what they think and they all agree there is no issue with it. When asked why he talked to them about the calendar he says "Slater is complaining about it." Zack asks Coach Tuddle, and he says it's fine.

Slater overhears Screech and some of his teammates disparaging him about Kelly's picture. Zack and the other players stop inviting Slater to hang out after practice and have started to limit conversation with him during practice. Coach Tuddle notices this but doesn't feel like it's his problem to deal with. When Slater asked Zack why he's getting the cold shoulder, Zack tells him that everyone thinks he's too sensitive and that they're worried he'll report them for something too.

Questions

- Was this a hostile environment?
- What should happen to Coach Tuddle?

Example

Corey is a student at John Adams High School. He and Topenga are dating and do nothing to hide that fact.

One day while walking to the teacher's lounge you notice that Corey and Topenga "making out" in a stairwell. You tell the students to break it up and get back to class.

The behavior makes you uncomfortable so you report the behavior to principal Feeny. Principal Feeny dismisses your concerns and says they "are just kids being kids."

Questions

- Can you file a Title IX Complaint?
- What happens if we don't address this behavior?
- What documentation is kept on these behaviors?

Example

Cher is a theater student at Beverly Hills High School. Her theater teacher, Ms. Geist, has a group of drama students who seem to get preferential treatment during class and at practice.

This group often gets to hang out in Ms. Geist's class unsupervised after school and at lunch. Ms. Geist frequently does Tai Chi on the students as a joke.

Cher, however, feels uncomfortable with this level of physical contact. When she asks Ms. Geist not to do it, Ms. Geist and the students laugh at her and tell her that she's sensitive.

Questions

1. Is Ms. Geist's behavior appropriate?
2. Could this create a hostile environment?

Example

Bart is a student at Springfield Elementary. His teacher, Ms. Crabapple, has taken Bart under her wing and has resolved to use positive behavior reinforcement to help manage his misbehavior.

She gives Bart candy, allows him to eat in her classroom at lunch, and occasionally offers to give him rides home.

Ms. Crabapple's colleagues are concerned about the level of attention Ms. Crabapple pays to Bart, but they are not sure what to do.

Questions

- Is Ms. Crabapple's behavior inappropriate?
- What would you do if you saw a colleague engaging with a student in this manner?

Specific Offenses Under Violence

Against Women Act (VAWA)

1. “Sexual Assault”
20 U.S.C. §1092(f)(6)(A)(v)
2. “Dating Violence”
34 U.S.C. §12291(a)(10)
3. “Domestic Violence”
34 U.S.C. § 2291(a)(8)
4. “Stalking”
34 U.S.C. §12291(a)(30)



➤ Any of these would likely involve a **simultaneous criminal investigation.**



Report Sexual Harassment



Report Sexual Harassment

The purpose of reporting is to:

- Prevent further incidents from occurring,
- Promptly address reported issues,
- Allow for investigation and resolution of complaints,
- Limit the effects of harassment on the educational environment, and
- Prevent false allegations by responding to problematic behaviors.



Potential Consequences

- Disciplinary sanctions
- Directives
- Reassignment
- Nonrenewal
- Termination
- CPS & SBEC Reporting
- Certification Revocation





Title IX Coordinator Contact

Employees

- **Maria Gamell, Ed.D.**
 - Phone: (817)-232-0880 ext. 2502
 - E-mail: T9Coordinator@ems-isd.net

Students

- **Chandra Turrentine**
 - Phone: (817)-232-0880 ext. 2506
 - E-mail: T9Coordinator@ems-isd.net



Report Sexual Harassment

- ALL allegations of sexual harassment **MUST be reported to your district's Title IX Coordinator immediately.**
- **Suspected child abuse MUST be reported to CPS immediately or within 48 hours.** A failure to report suspected abuse or neglect is a crime. Tex. Fam. Code § 261.109.
 - If you have a suspicion of abuse, you must report. Administrators can support you through it but you must participate in the reporting process with CPS.

HOW TO REPORT ABUSE

Report to DFPS

- By phone: 1-800-252-5400
- Online: [Texas Abuse Hotline](#)



Questions?



CONTACT INFORMATION

682-422-0009

ross@leasorcrass.com



Thank you