

Harassment in the Workplace & School: What Is It & What Do We Do About It?

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Dr. Susan Strauss is a national and international speaker, trainer, consultant and a recognized expert on harassment and bullying in schools and the workplace. She conducts harassment and bullying investigations and functions as a consultant to attorneys. She is an expert witness for harassment and bullying lawsuits in schools and the workplace. Her clients are from education, business, healthcare, law, and government organizations from both the public and private sector. Dr. Strauss has authored over 30 books, book chapters and articles on harassment, bullying, and related topics including her newest book, *Sexual Harassment and Bullying: A Guide for Keeping Kids Safe and Holding Schools Accountable*. She has been featured on 20/20, CBS Evening News and other television and radio programs as well as interviewed for newspaper and journal articles such as *Harvard Education Newsletter*, *Lawyers Weekly* and *Times of London*. Susan taught high school students for 15 years, has been an adjunct professor, and held an administrative position in a community college.

Dr. Strauss is the recipient of the *Excellence in Educational Equity Award* from the Minnesota Department of Education for her work in sexual harassment in education. Susan has spoken about sexual harassment in education at international conferences in Botswana, Egypt, Thailand, Bali, and the U.S. She consulted with the Israeli Ministry of Education, as well as with educators from Israel, England, Australia, St. Maartin, and Canada. She traveled to Poland and conducted research on sex discrimination and sexual harassment in Polish workplaces with Minnesota Advocates for Human Rights. Susan has an Ed.D in organizational leadership. She is a registered nurse, has a bachelor's degree in psychology and Human Services, a master's degree in community health, and professional certificate in training and development. She has been involved in the harassment arena since 1985.

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Objectives

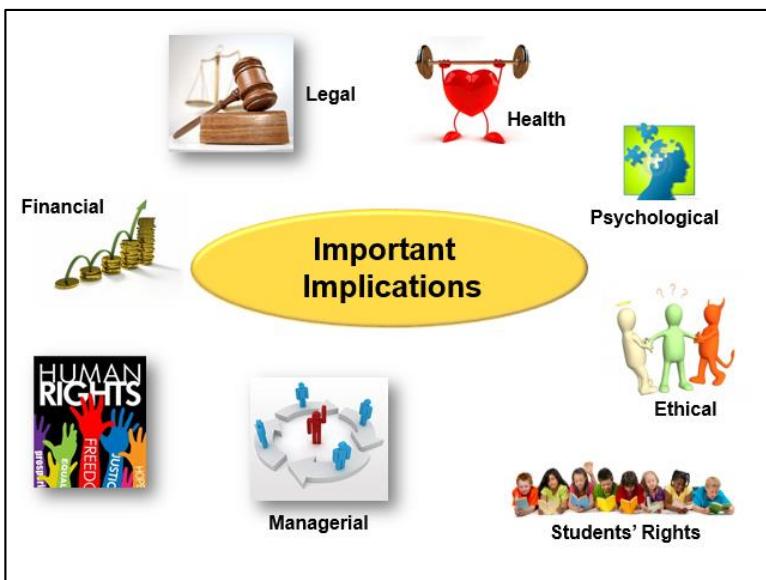
- ✓ To discuss discrimination & harassment employment and education civil rights laws
- ✓ To identify “protected classes”
- ✓ To explore LGBT harassment
- ✓ To recognize educator harassment of students
- ✓ To examine the nexus between harassment and bullying
- ✓ To review administrator, faculty, and staff roles and responsibilities in the prevention and intervention of harassment
- ✓ To describe harassment causes and contributing factors
- ✓ To appraise your District’s culture related to harassment (and bullying)
- ✓ To begin formulating your District’s anti-harassment strategic plan

Why is “This” Important?



True or False Questionnaire

1. Sexual harassment is the most frequent type of harassment.
2. Transgender students and employees are protected from sex discrimination by the federal government.
3. The ADAAA focuses on whether employers and schools are providing reasonable accommodations for the disabled.
4. For an age discrimination lawsuit to be successful, the plaintiff must show that his or her age contributed to an adverse employment action.
5. Employers are required to pay overtime costs to accommodate religious needs of employees.
6. Retaliation claims are difficult for employers to disprove at trial.
7. Bullying in the schools is against SD state law allowing students to sue.
8. Bullying in the workplace is against federal law allowing employees to sue.
9. Teachers tend to be identified as the person most likely to bully.
10. If bullying behavior is directed towards a female because she is female, then it may be sexual harassment and not bullying.
11. Employees or students who see, hear, or know about bullying and harassment are negatively impacted by it almost to the same degree as the target of the misconduct.
12. Men and boys are more likely to be sexually harassed by men and boys than by women and girls.
13. Disability discrimination/harassment is the third most prevalent form of harassment/discrimination in the workplace.
14. More students are harassed based on their protected class than are bullied.
15. Students who are sexually harassed are more negatively impacted than students who are bullied.
16. Elementary girls as young as first grade have been sexually assaulted by their first grade male classmates.
17. Statistics dealing with the amount of bullying in schools are not valid and reliable.
18. Bullying at work is an epidemic.
19. Women are more likely to be bullied by women.
20. If boys do not sexually harass girls, they are often sexually harassed by their male peers.
21. Bullying and sexual harassment of boys is often done to police gendered norms.
22. A bullied employee can sue for assault and battery even if he or she was not physically touched.
23. OCR, Title IX, and 504/ADA require an investigation for harassment complaints.



2017 EEOC Discrimination Charges: 84,254



Sexual Harassment Is:

Unwelcome...



- Sexual advances



- Requests for sexual favors
- Verbal or physical conduct of a sexual nature



Is It Harassment?

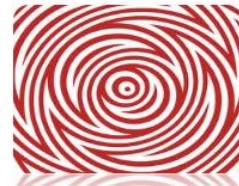


Is it Harassment?

Severe



and/or



Pervasive

Hostile Environment

- ! Frequency**
- ! Duration**
- ! Repetition**
- ! Location**
- ! Severity / Scope of the acts**
- ! Nature and context of incident**
- ! Verbal or physical contact**
- ! Other participants**
- ! Directed at multiple persons**



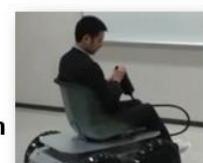
Hostile Environment

- More severe the conduct, less frequency for “severe”
- Single incident may create hostile environment



Is It Harassment?

Reasonable:

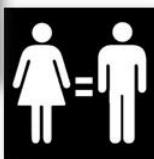


Person

Woman

Is It Harassment?

**Sexual and/or
gender based**



**Protected
Classes**

In the Eye of the Beholder



Behaviors Which *May* Constitute Harassment

1. Referring to an adult as a “girl,” “boy,” “hunk,” “doll,” “babe,” “honey,” or “bitch.”
2. Racial/Ethnic slurs and name-calling.
3. Whistling or cat calls.
4. Touching, patting, pinching, stroking, tickling, brushing up against a person.
5. Sexual comments or innuendoes.
6. Jokes or stories about sex or males and females.
7. Asking about sexual fantasies, preferences, or sexual experiences.
8. Personal questions about one’s social, sexual or religious life.
9. Sexual, racial, religious, etc., comments about a person’s clothing, anatomy, or looks.
10. Repeatedly asking someone out who is not interested.
11. Telling lies or spreading rumors about a person’s personal sex life.
12. Direct or indirect bribes or threats for unwanted sex.
13. Staring, leering, or ogling.
14. Blocking / following / cornering due to one’s gender, race, religion, etc.
15. Stalking due to race, religion, gender, etc.
16. Graffiti regarding one’s race, religion, gender, etc.
17. Giving gifts of a personal nature.
18. Displaying sexually, racially, etc., offensive pictures, posters, T-shirts, cartoons, etc.
19. Making facial expressions such as winking, throwing kisses, or licking lips.
20. Making sexual gestures with hands or through body movements.
21. Use of computer E-Mail for sexual, racial, religious, etc. notes and graphics.
22. Sexual assault, rape, or attempted rape.
23. Sabotaging a person’s work efforts, assignments, or reputation - based on gender, race, religion, disability or other protected class status.
24. Unequal application of discipline, performance standards, or rules - based on gender, race, religion, disability or other protected class status.
25. Assigning a person less-challenging or responsible duties - based on gender, race, religion, disability or other protected class status.

Title IX of the Education Amendments of 1972

Prohibits discrimination by peers, employees, & 3rd parties based on sex in education programs and activities in federally funded schools at all levels.



That is sufficiently serious to deny or limit a student's ability to participate in or benefit from the school's education programs & activities (hostile environment)



title IX Test



Severe, pervasive and objectively offensive



Denies educational benefits



"Actual Knowledge"



"Deliberate Indifference"



Key: Investigation



Training – students & employees

Title IX & Employment



Prohibited from SD:

Recruitment, hiring, promotion, compensation, grants of leave

Benefits

Full or part time

Gebser v. Lago Vista Intermediate School District (1998)

Schools not liable for teacher-to-student sexual harassment unless

Prior knowledge of harassment

Deliberate Indifference



Deliberate Indifference

Response unreasonable to known circumstances

Evidence of deliberate indifference includes failure to:



Investigate

Correct known harassment

Provide academic accommodations

Adequately discipline harassing student

Davis V. Monroe County Board of Education (1999)



Liable for student-to-student sexual harassment

Responded with deliberate indifference to severe, pervasive and objectively offensive sexual harassment of which it has actual knowledge.

If knew about the harassment (actual knowledge)



Actual Knowledge

May occur when violation is a predictable result of failure to handle situations with potential for violation.

"An educational institution has actual knowledge/notice if it knows the underlying facts, indicating sufficiently substantial danger to students and was therefore aware of the danger." (Court of Appeals for 3rd Circuit)

Deliberate Indifference & Actual Knowledge

University violated Title IX because the sexual assault was caused by an official policy of "deliberate indifference to providing adequate training or guidance that is obviously necessary for implementation of a specific program or policy."



Severe Peer Harassment

Associated with being female



Believing school's climate is tolerant of harassment of girls

More frequent, severe harassment by school staff



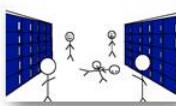
Associated with direct, negative effects on girls

on boys and girls... Indirect, negative effects

Through climate tolerating harassment of girls

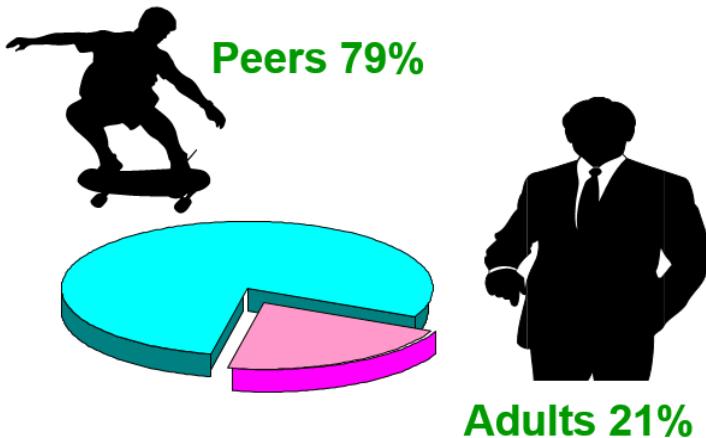
Where is it Happening?

- 60% Hallway
- 55% Classroom
- 43% School grounds
- 39% Gym / Pool
- 34% Cafeteria
- 26% Bus
- 24% Field trip
- 23% Parking lot
- 19% Locker room
- 18% Public Bus - School
- 10% Rest Room
- 2% Driver Education Car



2001 AAUW National Study

Who are the Perpetrators?



Who is the Harasser?

- One Male (54%)
- Group of Males (12%)
- One Female (14%)
- Group of Females (5%)



2011 AAUW National Study

Other Stats

- 56% girls
- 40% boys
- 29% harassed - harassed others
- 30% harassed electronically
(↑ Girls)



2011AAUW National Study

Sexual Harassment Incidents in Schools



- Younger and younger ages
- More sexually violent
- Often mislabeled as bullying
- Often not responded to by School Officials



Source: Stein, Nan (2005). *A Rising Pandemic of Sexual Violence in Elementary and Secondary Schools: Locating a Secret Problem*, pp. 33-52. Duke Journal of Gender Law and Policy.

Sexual Harassment in Elementary School



It happens!

SH – set of practices embedded in everyday collective culture



Masculinity, femininity, and sexuality begins before puberty

Verbal, nonverbal, sexual assault

Public and concealed

Gender-based Harassment

- Threatening and harassing behaviors
- based on enforcement of gender-role expectations.



Gender-Based Harassment



Same-Sex Harassment

- Sexual Harassment
- Gender Stereotypes
- Real or Perceived LGBT
- Male – Policing of masculinity



PSYCHOLOGICAL HARASSMENT



VS.

ILLEGAL HARASSMENT



Did Harassment Occur?

Preponderance
of Evidence

VS

Beyond a
Reasonable
Doubt

Harassment May Establish a *Section 1983* Action



Violates student's
constitutional rights

Failed to receive,
investigate, and act;
failed to train employees.

Policy, practice, or
custom must directly
cause violation.

Section 1983 and Constitution

Topic:

- ✓ Allows lawsuit against school official
- ✓ Equal protection claims

OCR Violation When:

- Harassed based on protected class
- Creates hostile environment
- Officials knew or should know
- Does not respond appropriately



U. S. Department of Ed Office for Civil Rights (OCR)



Enforces:

- Title IX
- Section 504
- Title VI
- ADA

According to OCR, Schools Must:



OCR Recommendations



- Policy
- Grievance procedure
- Title IX Coordinator's information

OCR (2017)



President Trump cuts to OCR 2018 budget = 46 full-time employees

Staffing levels all-time low



Understaffed



Overwhelmed by high caseload

Average case duration is 1.7 years

Aiming for 180 days



OCR to Reduce Time to Investigate Title IX Complaints (2017)

- ⌚ Fundamental shift in dealing with Title IX
- ⌚ “Justice delayed is justice denied”
- ⌚ Attempt to clear out the backlog of cases
- ⌚ Apply a “systemic” or “class action” approach
- ⌚ Will no longer obtain 3 years of past complaint data
- ⌚ Condemned as efficiency over justice
- ⌚ Fail to hold school accountable for systemic flaws

Prompt Requirement for Sexual Assault Investigations



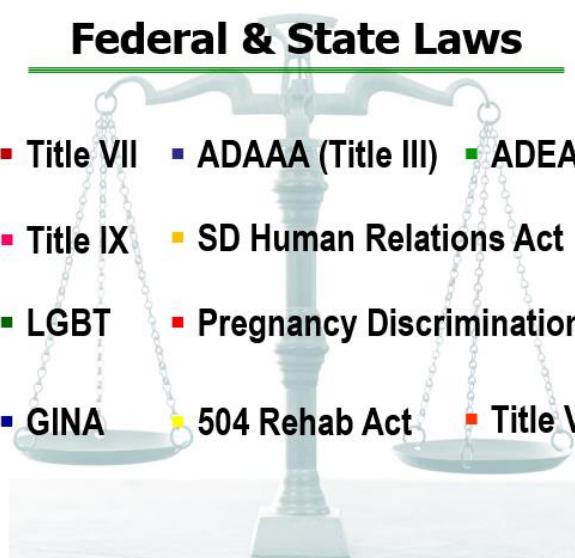
No fixed time under Title IX



OCR – good faith effort to conduct a fair, impartial and timely investigation

Federal & State Laws

- Title VII
- Title IX
- LGBT
- GINA
- ADAAA (Title III)
- SD Human Relations Act
- Pregnancy Discrimination Act
- 504 Rehab Act
- ADEA
- Title VI



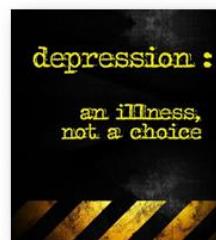


Social Media



Disability is:

Physical or mental impairment that substantially limits major activity or significantly restricts a person's ability to perform an activity



ADAAA



Job Description

“Essential Functions”

Congress Stated:



“The types of accommodation & services provided to individuals with disabilities...should keep pace with the rapidly changing technology of the times...”



May require public accommodations to provide auxiliary aids and services..”

Your Website: Hotbed of Litigation under ADA

Prohibits disability discrimination in places of public accommodation:



Nursery



Elementary



Secondary



Other places of education

Schools

Is your website accessible to those with disabilities?

Do you provide assistive technology?

Targets for:

Demand Letters

Litigation



Web Content Accessibility Guidelines (WCAG) 2.0

<http://www.w3.org/WAI/WCAG20/quickref/>



Set of international standards



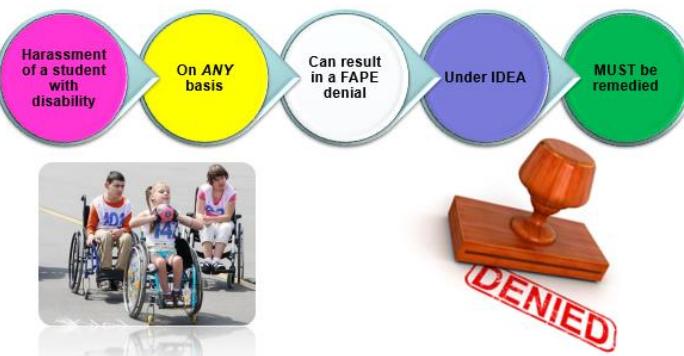
Outlining methods to make websites more accessible

Section 504 of the Rehabilitation Act of 1973 and Title III of the Americans with Disabilities Act

School districts provide a free, appropriate public education (FAPE) to qualified students in their jurisdictions who have a physical or mental impairment that substantially limits one or more major life activities.



Office of Special Education & Rehab Services (OSERS)



Number of Students with Disabilities Harassed



6.5 million students with disabilities

60% (2008 British Study)

2 – 3 times more likely harassed

IEP Harassment plan

If Disabled Student Harassed:



Appropriate response on any basis



Should convene IEP team



To determine – FAPE



Remedy

Disability Harassment (Marginalization, Denigration, Intimidation)



Disability Harassment (Marginalization, Denigration, Intimidation)



LGBTQ

15% - 43%
gays –
discrimination
& harassment

28% GLBT –
poor reviews;
not promoted

Transgender
employees
protected
under
Title VII?



The Genderbread Person

by www.ItsPronouncedMetrosexual.com

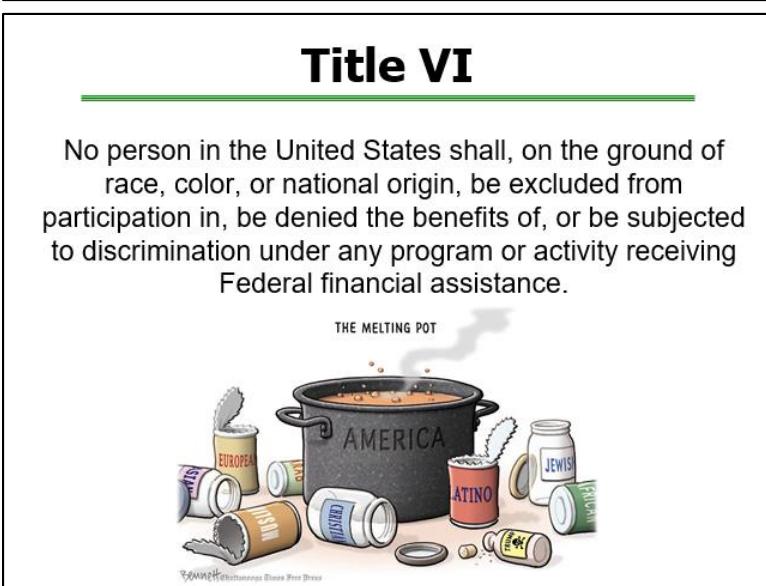
Gender Identity
Gender identity is how you, in your head, think about yourself. It's the chemistry that comprises you (e.g., hormonal levels) and how you interpret what that means.

Gender Expression
Gender expression is how you demonstrate your gender (based on traditional gender roles) through the ways you act, dress, behave, and interact.

Biological Sex
Biological sex refers to the objectively measurable organs, hormones, and chromosomes. Female = vagina, ovaries, XX chromosomes; male = penis, testes, XY chromosomes; intersex = a combination of the two.

Sexual Orientation
Sexual orientation is who you are physically, spiritually, and emotionally attracted to, based on their sex/gender in relation to your own.

<http://itspronouncedmetrosexual.com/2011/11/breaking-through-the-binary-gender-explained-using-continuums>



Harassment of Muslim Students



52% - California



Double the amount harassed by gender & race nationally



1 in 5 by teacher or administrator



45% HS students hear racist remarks re Arabs in their classrooms

Teachers as:

Bullies



Harassers

Shakeshaft, Carol. (2004) Educator Sexual Misconduct (2004). U. S. Department of Education.
www2.ed.gov/rschstat/research/pubs/misconductreview/report.doc

4.5 Million Children

Between K-12 sexually harassed by school employees





Teacher Sexual Abuse

.04% - 5%



25% districts



Goes unabated for years despite:

Rumors

Gut sense

Formal allegations

Sexual Harassment of Students by Teachers and Staff

- Child Protection rarely called
- Police rarely called
- Lack of investigation/competent investigation
- Teacher believed
- Teacher not disciplined
- Student blamed (even if jury found teacher guilty)



<https://www2.ed.gov/rschstat/research/pubs/misconductreview/report.pdf>

Shakeshaft, C., (2004). *Educator Sexual Misconduct: A Synthesis of Existing Literature*. (U.S. Department of Education)

Teachers Who Harass



Usually Male

17% allowed to continue to teach

Well liked by students, parents, administrators & staff



Superintendents sought to rescind teacher's license in only 1% of cases

Grooming students

Passing the Trash



Mobile Molesters

Shakeshaft, C., (2004). *Educator Sexual Misconduct: A Synthesis of Existing Literature*. (U.S. Department of Education)

Verbal Harassment

Calling females boobies

"What's the matter? Isn't your boyfriend giving you enough?"

Complimenting girl on nice legs, nice "ass", great "boobs"



"Can't he get it up?"

"You could make me cheat on my wife."

Other Examples

- ⚠ Flattery
- ⚠ Consoling
- ⚠ Love letters
- ⚠ Exhibitionism
- ⚠ Showing porn
- ⚠ Obscene gestures
- ⚠ Touch
- ⚠ Requesting hugs, kissing, sex
- ⚠ Using social media



Male student complaints taken more seriously



Students do not report to parents or school officials



Allegations against women – viewed more critically with female terminated

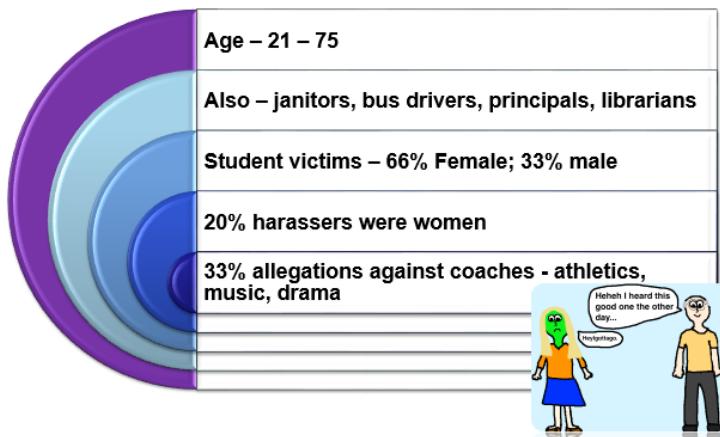


Allegations against men – received only reprimand



Info Re Harassers

Hendrie, C. (1998). "Sex With Students: When Employees Cross the Line. *Education Week*



Female Harassers

- Socially immature rather than sexually perverse
- Form romantic, love attachment
- Rarely use force or threats
- More likely to acknowledge their misconduct
- Usually engage in misconduct later in life
- Offenders of teens not particularly disturbed

Male Harassers



Pattern of Educator Harassment



Manipulation – isolation, blame, lying



Experts at taking advantage of student immaturity



Elementary – well liked, master teacher, lauded by students et al.



Recognized for teaching excellence



MS/HS – may not be recognized as master



Targets child as result of opportunity or poor judgment

Grooming



More on Grooming

- Gives preferential attention
- Inquires about personal life, boyfriend, dating
- Shows sincere interest and understanding
- Touches student
- Gives extra help with school or coaching
- Begins sexual conversations
- Discusses own sex life
- In educator's home, car, outside school
- Most in school office, hallway, classroom even with other students in classroom



Characteristics of Target

- Excluded from many friendships
- Grateful for adult attention
- Shy
- Average/above average students
- Attractive
- Dysfunctional background
- Defined selves as outcasts
- Low self-esteem
- Less likely to have good relationship with parents
- Participate in precarious behavior (as do their parents)
- More likely to be perceived as unscrupulous
- More likely Latino, African American and American Indian



Community Backlash

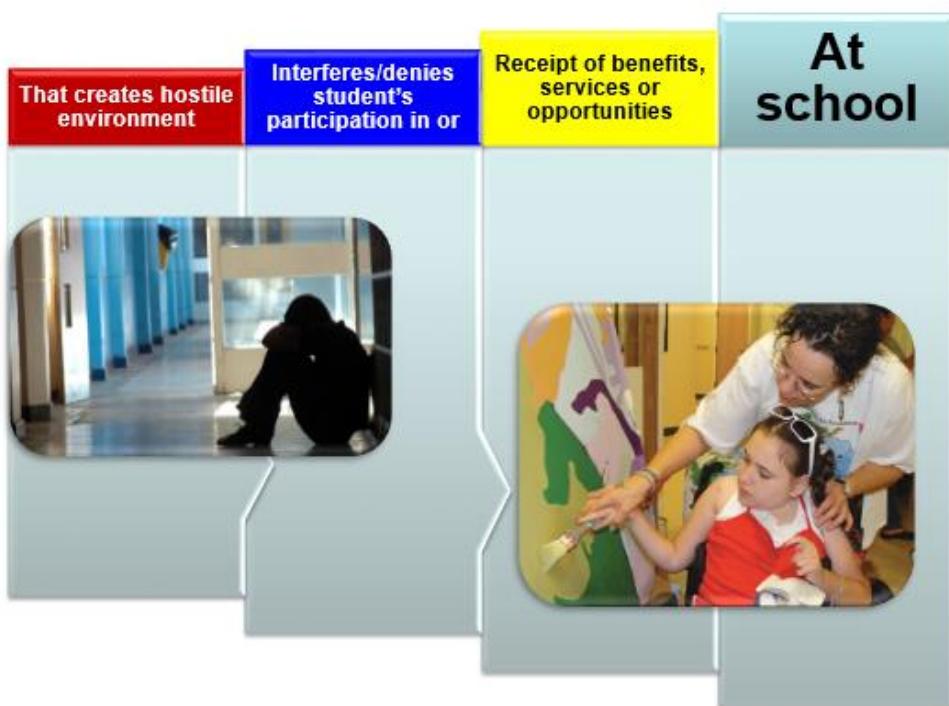


Definition of Bullying

Bullying is persistent, repeated, malicious, offensive, and intimidating behavior which humiliates, degrades and displays a lack of dignity and respect for the target, resulting in them feeling vulnerable and threatened.



Harassment



“Before we can change things, we must call them by their real name.”



- Confucius



Comparing Sexual Harassment and Bullying

Sexual Harassment	Bullying
Occurs because of sex or gender – females and non-conforming males are primary target	“Status blind;” Is <i>not</i> based on gender or GLBT identification
Against federal Civil Rights Act Title IX—there is a right to sue	No federal legislation—no right to sue
Against states’ Civil Rights laws—there is a right to sue	State Anti-bullying laws -- no right to sue
Federal agency oversight: U.S. Department of Education, Office for Civil Rights (OCR) Title IX	No federal agency oversight
Researched from various perspectives: Civil Rights, Educational, Anthropology, Sociology, Legal, & Feminist scholarship	Researched from Psychology scholarship
Consistent definition based on law, case law, research	Ambiguous, inconsistent definition based on researcher, school district, State

**Why aren't we calling
this what it is?**



**Why do we use a word
that minimizes civil &
criminal actions?**

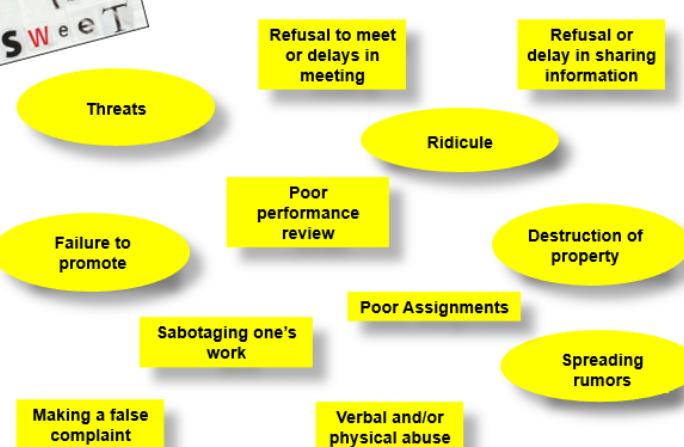
**Why do we use a word
that negates district
obligations for civil
rights?**

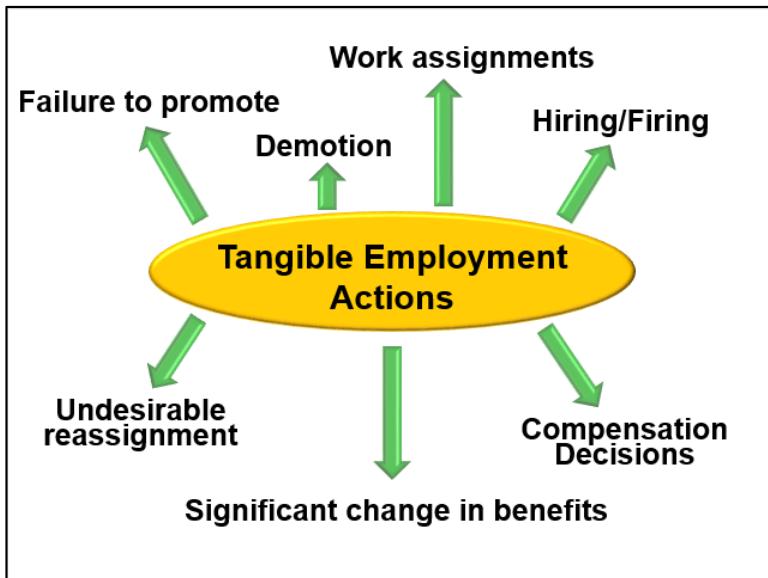
Retaliation

- Broader than discrimination claims
- Prohibits conduct from dissuading worker from making charge of discrimination
- 49% complaints - EEOC
- Requires:
 - Adverse treatment based on protected class
 - Causal connection between protected class and adverse action



Retaliation





To Make Retaliation Claim: "Protected Activity"



Complaint about sex discrimination (SD)

Formal complaint not required

Includes:

Participating
in
investigation
or report of
SD

Complaint of
differential
treatment
(disparate
allocation of
resources,
teaching
assignments,
funding &
compensation
based on sex)

Complaint
of
differential
treatment of
male or
female
sports
teams
(disparate
treatment in
resources,
funding,
coaching,
scheduling
& publicity)

Complaint
of
retaliation
due to
student or
faculty
opposing or
protesting
SD



To Make Retaliation Claim: Adverse Action

"One that might have dissuaded a reasonable worker from making or supporting a charge of discrimination" (U.S. Supreme Court)

Produces injury or harm:

Termination

Demotion

Transfer

Less pay

Poor
performance
ratings

Retaliation

Retaliation against a person because that person has complained of sex discrimination is a form of gender-based discrimination actionable under Title IX.*

**KNOW
THE
RULES!!!**

* U.S. Supreme Court – *Jackson v. Birmingham Board of Education*

Affirmative Defense

EMPLOYER

exercises reasonable care to prevent and correct harassing behavior



EMPLOYEE

unreasonably fails to use preventive or corrective opportunities



Title IX and 504 Coordinators

Trained

Well supported by school



Title IX and 504 Coordinators

Connected to networks of other Title IX Coordinators, equity experts, and their local stakeholders

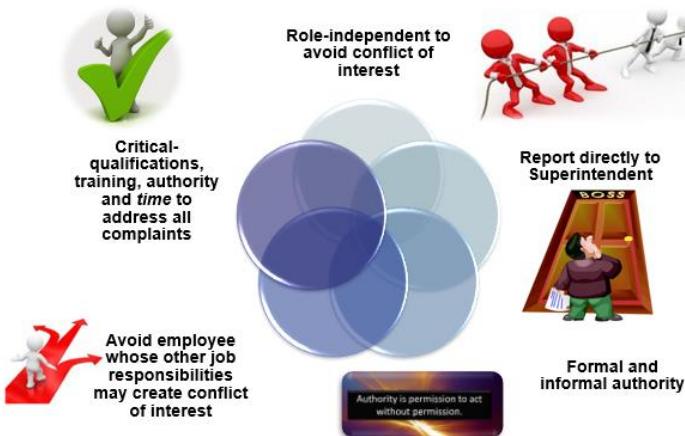


In order to effectively eliminate sex discrimination

Title IX Coordinator



Designating Title IX Coordinator



Multiple Coordinators?



Responsibilities & Authority of Title IX Coordinator

Primary – coordinate institution's compliance with Title IX

Promote gender equity

Must be informed of all Title IX complaints (even if complaint filed with someone else or investigation done by someone else)

Coordinate responses to all Sex Discrimination (SD) complaints

- Monitor outcomes
- ID & address patterns
- Assess effects on campus climate



Role and Responsibility of Title IX Coordinator



Must know policies & procedures re Sex Discrimination (SD)



Involved in creating/revising policy and procedure



Conduct annual climate survey



Coordinate data collection & analysis

- Athletics
- Subject matter enrollment
- Discipline
- Sex-based harassment



Title IX Coordinator's Responsibility

- Coordinate, implement, and administer school's procedures for resolving Title IX Complaints
- Educate school community on how to file a complaint
- Investigate complaints
- Work with law enforcement
- Ensure complaints are resolved promptly & appropriately
- Monitor outcomes
- Identify patterns
- Assess effects on the school climate
- Implement strategy to prevent recurrence and system
- Develop survey of school climate
- Coordinate collection and analysis of survey data
- ID patterns – where happen, names of students, names of targets, how to remedy
- Monitor students' participation in athletics to ensure there is no SD
- Training – community, students, faculty, staff
- Technical assistance re policies, programs, assemblies
- Assess adequacy of training
- Assess confidentiality requests from complainants



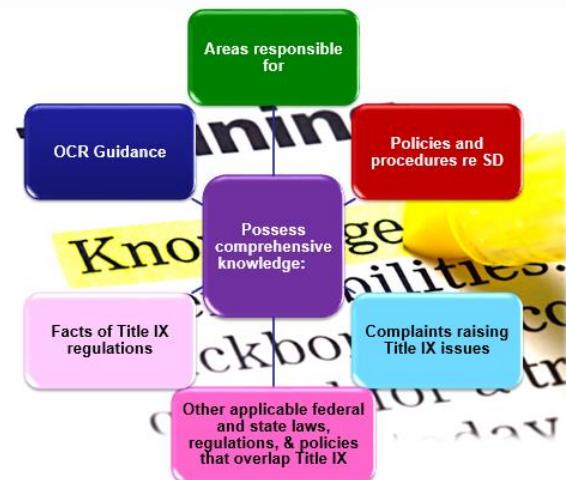
Title IX Coordinator Must

- 
- Have community-wide visibility
 - Comprehensive knowledge
 - Comprehensive training
 - Ensure consistent practices & enforcement of policies and compliance with Title IX
 - Recordkeeping – monitor incidents, repeat offenders, systemic problems
 - Recommend safety measures – monitoring, supervision, security at locations or activities
 - Regularly review effectiveness of school's strategy to ensure no sexual and gender-based harassment

Title IX Administrative Requirements

- 
- Ensure school maintains an environment for students & employees free from SD in the educational experience including academics, extracurricular activities, athletics
 - Must establish a system for prompt and equitable resolution of complaints

Training Title IX Coordinators



Notice of Nondiscrimination and Contact Information for Title IX Coordinator

- 1 Statement that school does not discriminate based on sex
- 2 Questions re Title IX referred to Coordinator
- 3 Prominently posted on website, locations on campus, electronic & printed publications for general distribution
- 4 Bulletins, announcements, publications, catalogs, application forms, recruitment materials

Notice Must Also Include:

- ✓ Names of all Title IX Coordinators along with their contact information
- ✓ Which Title IX Coordinator to contact based on geography & specialization within Title IX
- ✓ Any other job title Title IX Coordinators have



Must Always Notify Students & Employees

Title IX Coordinators'

- Name
- Office Address
- Phone number
- E-mail
- Website must reflect info
- Widely distributed
- Easily found on website & publications



Most Egregious & Harmful Title IX Violations



Gender Differences = Impact Differences



Victimization = greater impact on Girls

Impact

- Educational
- Behavioral
- Emotional



Impact of Harassment

On the target and witnesses

- Increased stress
- Loss of concentration
- Diminished problem solving capability
- Diminished decision making
- Increased absenteeism
- Increased negative psychological problems--depression, anxiety, frustration, anger, helplessness, fear, resentment, hypervigilant, rumination, suspicious, Post Traumatic Stress Disorder (PTSD), nightmares
- Increase in physical symptoms--colds, cardiovascular disease, headaches, gastrointestinal disorders, backaches, musculo-skeletal problems, body aches, nausea, hypertension
- Less productive
- Loss of trust
- Job dissatisfaction
- Loss of self-efficacy
- Loss of self esteem
- Insomnia
- Suicide
- Increased marital and family dissatisfaction

On the work unit

- Reduced team collaboration
- Reduced information transfer
- Poor communication
- Lowered morale
- Increase in injuries
- Turnover
- Reduced organizational commitment
- Greater intention to leave
- Lack of engagement
- Tardiness
- Reduced risk-taking = diminished creativity and innovation

On the organization

- Increase in errors
- Decrease in service or product quality
- Loss of customers
- Loss of knowledge and expertise
- Loss of committed and loyal employees
- Formal grievances
- Worker's compensation claims
- EEO claims
- Adverse impact on bottom line: conservative—\$5– 6 billion/year U. S. economy
 - Costs from disciplinary action, absenteeism turnover, workers compensation, health insurance premiums, occupational safety and health, loss of productivity, litigation, EEO claims, loss of customers, decreased reputation

What To Do If It Happens To You

Follow your organization's Sexual Harassment policy and procedure.

Step 1: Communicate to your harasser, if you feel safe to do so: 1) what you are feeling, and 2) that you expect the behavior to stop. You may do this verbally or in writing. If you choose, you may get help and support from a friend or professional. Document exactly what happened.

Your documentation should include the following information. Use exact quotes where appropriate and whenever possible.

- What happened
- When it happened
- Where it happened
- Who did the harassing
- Who were the witnesses (if any)
- What you said and/or did not in response to the harassment
- How your harasser responded to you
- How you felt about the harassment
- How the harassment has affected your life

Or,

Go to any person in authority, such as the Director of Human Resources or any manager. Give that person a copy of your documentation and keep one for yourself.

Step 2: If the behavior is repeated, go to a person of higher authority. Keep documenting the behavior.

At any point in this process, you may choose to contact the EEOC, your State's Human Rights agency, an attorney, or a police officer (if sexual assault).

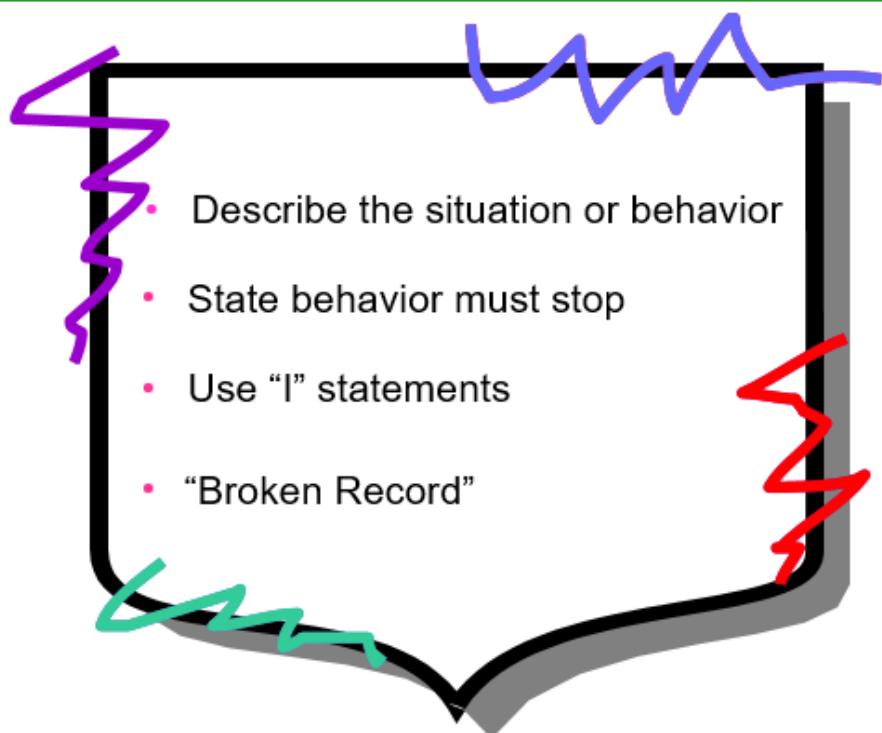
Communication



- ✓ Feedback
- ✓ Open & honest
- ✓ Feelings
- ✓ “I” statements
- ✓ Respectful



Confronting the Offender



Why Targets Don't Confront the Offender

1. They are embarrassed and don't want to talk about it with anyone.
2. They doubt colleagues or peers would support them.
3. They fear that if they talk about it nothing will be done or the complaint won't be taken seriously.
4. They are concerned about being labeled a troublemaker, especially if they are new on the job.
5. They are afraid of being fired, demoted, not promoted, or transferred.
6. They blame themselves.
7. They doubt their own perceptions.
8. Others tell them that they should be flattered.
9. They are afraid of being blamed or laughed at.
10. They don't trust the "system" and/or the "politics."
11. They fear for their personal safety.
12. They are told to "Be a good sport," "Can't you take a joke?" "Boys will be boys," or "You've got to expect that in a traditionally male/female job."
13. They fear getting a bad reputation.
14. They are told to be "woman enough" or "man enough" to handle it themselves.
15. They don't want the perpetrator to get into trouble.
16. They may be unaware of the organization's/school's policy and procedure on harassment.
17. The HR person has a reputation for being a harasser or bully .
18. They don't want to be labeled a complainer.
19. They are reluctant to talk to someone because no one else seems to mind the misconduct.
20. They feel powerless, helpless, and hopeless (victimization).
21. They don't want to "rock the boat."
22. Their internal stereotyping prevents them.

Appropriate?

VS.



VS.



When Schools Failed

BELIEVE BETTER	To believe students	POLICE	To report to child protection or police	To document
To investigate		CONTRACT	To fire	EDUCATE
Quality recruitment and hiring		References	Providing positive references	CANCELLED # To revoke license
Complaint	To recognize role of recanting complaint	Cutting deals		

Faculty

- Indifferent

- Unresponsive

- “Go sit down”

- “Ignore him”



Failure to Recognize



Teachers

- Plates are full
- Futile to intervene
- Kids are cruel
- Adults can only do so much
- It's up to the students to manage own behavior



Students Don't Report Because:

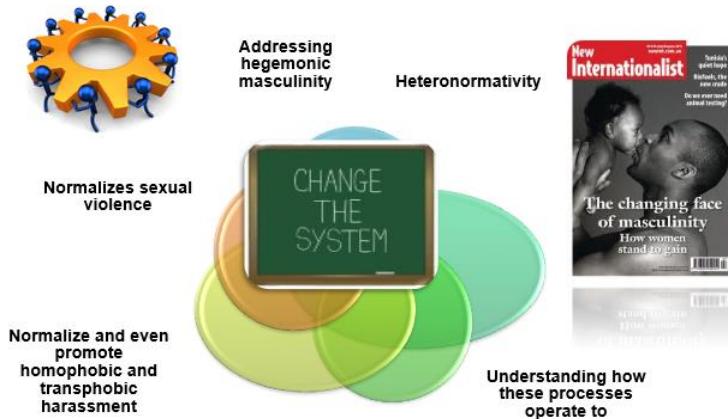


BOYS:



**Primary perpetrators of
sexual harassment
and bullying**

Greatest Challenge



Strategy

- Transform school culture
- Educate staff re gender roles
- Remedies for bullying – not adequate to deal with harassment



Hurdles

- School culture-amenable to changing norms surrounding
 - Intimidation, aggression
 - Not merely imposed upon students by administration
 - Intolerance by all
- 

Management's Role in Prevention

- ❖ Monitor: low student & staff performance
- ❖ Absenteeism
- ❖ Turnover
- ❖ Train
- ❖ Coach
- ❖ Surveillance
- ❖ Assess
- ❖ Model positive behavior
- ❖ Intervene



Document, Document, Document



Who—
offender,
witnesses



What—
detailed,
specific
behavior



Where—
exactly



When—
date, day,
time

Management's Responsibility

- ✓ Prevent
- ✓ Policy & Procedure
- ✓ Respond - intervene
- ✓ Document
- ✓ Change environment



Steps for Prevention and Intervention

- OCR's Guidance & Dear Colleague Letters
- Teach students
- Train faculty, staff, administrators, board members
- Policy AND Procedure
- Student language
- Train investigator
- Title IX Coordinator
- Investigate
- Conversations
- Discuss masculinity, socialization, violence
- Culture change



Critical Questions



- Do we have a shared mindset and if so, is it the right one? What is our mindset?
- To what extent does the district have the required knowledge, skills, and abilities to create this new environment?
- What needs to be designed, developed, and implemented to ensure that there are the right processes, incentives, rewards, and measurements of desired outcome to demonstrate success or competence?
- Do we have the ability to do this and, if not, what's needed?
- Does the commitment exist within the district (financial, human resources, time, etc.) to reach the measurable goals?
- Who needs to be involved in this change strategy? (Be sure to include students and parents)
- What is required to accomplish the district's strategy?
- How will we measure our success?
- How will our success be maintained?
- What needs to occur to ensure that the change is approached as an integrated, comprehensive effort rather than fragmented "programs" or "trainings"?
- Does the district have the leadership required for this effort?

References

Technical Assistance, Contact OCR Regional Office Serving Your State or Territory By:

- Visiting <http://wdcrobcollp01.ed.gov/CFAPPS/OCR/contactus.cfm>
or
- Calling OCR's Customer Service Team at 1 800-421-3481; TDD 1-800-877-8339;
or
- Emailing OCR@ocr@ed.gov

Title IX Coordinator Role

- Dear Colleague Letter: Title IX Coordinators (April 24, 2015), *available at* <http://www.ed.gov/ocr/letters/colleague-201504-title-ix-coordinators.pdf>
- Letter to Title IX Coordinators (April 24, 2015), *available at* <http://www.ed.gov/ocr/docs/dcl-title-ix-coordinators-letter-201504.pdf>

Info on Grievance Procedures

- Questions and Answers on Title IX and Sexual Violence (April 29, 2014), *available at* <http://www.ed.gov/ocr/docs/qa-201404-title-ix.pdf>;
- Dear Colleague Letter: Sexual Violence (April 4, 2011), *available at* <http://www.ed.gov/ocr/letters/colleague-201104.pdf>;
- Dear Colleague Letter: Title IX Grievance Procedures, Postsecondary Education (August 4, 2004), *available at* http://www.ed.gov/ocr/responsibilities_ix_ps.html;
- Dear Colleague Letter: Title IX Grievance Procedures, Elementary and Secondary Education (April 26, 2004), *available at* http://www.ed.gov/ocr/responsibilities_ix.html; and
- Revised Sexual Harassment Guidance (January 19, 2001), *available at* <http://www.ed.gov/ocr/docs/shguide.pdf>.

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Notices of Nondiscrimination

- Notice of Nondiscrimination (August 2010), *available at* <http://www.ed.gov/ocr/docs/nondisc.pdf>;
- Dear Colleague Letter: Title IX Grievance Procedures, Postsecondary Education (August 4, 2004), *available at* http://www.ed.gov/ocr/responsibilities_ix_ps.html; and
- Dear Colleague Letter: Title IX Grievance Procedures, Elementary and Secondary Education (April 26, 2004), *available at* http://www.ed.gov/ocr/responsibilities_ix.html.

Sexual and Gender Harassment

- Questions and Answers on Title IX and Sexual Violence (April 29, 2014), *available at* <http://www.ed.gov/ocr/docs/qa-201404-title-ix.pdf>;
- Dear Colleague Letter: Sexual Violence (April 4, 2011), *available at* <http://www.ed.gov/ocr/letters/colleague-201104.pdf>;
- Dear Colleague Letter: Harassment and Bullying (October 26, 2010), *available at* <http://www.ed.gov/ocr/letters/colleague-201010.pdf>;
- Sexual Harassment: It's Not Academic (September 2008), *available at* <http://www.ed.gov/ocr/docs/ocrshpam.pdf>;
- Dear Colleague Letter: Sexual Harassment Issues (January 25, 2006), *available at* <http://www.ed.gov/ocr/letters/sexhar-2006.pdf>;
- Dear Colleague Letter: First Amendment (July 28, 2003), *available at* <http://www.ed.gov/ocr/firstamend.html>;
- Revised Sexual Harassment Guidance (January 19, 2001), *available at* <http://www.ed.gov/ocr/docs/shguide.pdf>; and
- Sexual Harassment: It's Not Academic (September 2008), *available at* <http://www.ed.gov/ocr/docs/ocrshpam.pdf>;
- Dear Colleague Letter: Sexual Harassment Issues (January 25, 2006), *available at* <http://www.ed.gov/ocr/letters/sexhar-2006.pdf>;
- Dear Colleague Letter: First Amendment (July 28, 2003), *available at* <http://www.ed.gov/ocr/firstamend.html>;
- Revised Sexual Harassment Guidance (January 19, 2001), *available at* <http://www.ed.gov/ocr/docs/shguide.pdf>; and
- Not Alone: Together Against Sexual Assault, *available at* <http://www.notalone.gov>.

References (cont.)

Nondiscriminatory Administration of Discipline, Please Review:

Dear Colleague Letter: Nondiscriminatory Administration of Discipline (January 8, 2014), *available at* <http://www.ed.gov/ocr/letters/colleague-201401-title-vi.pdf>.

Prohibition Against Retaliation

Dear Colleague Letter: Retaliation (April 2013), *available at* <http://www.ed.gov/ocr/letters/colleague-201304.pdf>.

Data Collection and Reporting

- CRDC webpage, *available at* <http://www.ed.gov/ocr/data.html>; and
- Campus Security webpage (for postsecondary institutions), *available at* <http://www.ed.gov/admins/lead/safety/campus.html>.