

Bullying in Schools



Interwest Equity Assistance Center
Colorado State University
303-623-9384

Defining Bullying:

Bullying is defined as repeated and systematic abuse and harassment of another and others. A student is being bullied when he or she is exposed, repeatedly and over time, to negative actions on the part of one or more students.

Olweus, D. (1993). *Understanding children's world's: Bullying at school*. UK: Blackwell Publishing

Bullying implies
an **imbalance** in
power or strength.



Olweus, D. (1993). *Understanding children's world's: Bullying at school*. UK: Blackwell Publishing

Bullying

- Like sexual harassment, the relationship between the bully and the person being bullied, is one in which there is a difference in power. This power differential can be real (based on age, physical size, position) as well as, perceived.
- Unlike sexual harassment, with bullying there is an **intent to harm**.

In brief; bullying is...

- **Aggressive & Intentional Harm-doing**
- **Repeated over time**
- **Occurs in a relationship in which there is an imbalance of power (real and perceived)**



Olweus, D. (1993). *Understanding children's world's: Bullying at school*. UK: Blackwell Publishing

Bullying can be direct



Some Direct Bullying Behaviors Include:

- **Physical**
 - Hitting, kicking, pushing, shoving, spitting, fist fights, invasion of personal space, hazing, initiation rites, extortion/vandalism, inappropriate touching/groping
- **Verbal**
 - Taunting, teasing, racial slurs, mimicking, name calling, verbal sexual harassment (same gender & cross gender)
- **Non-verbal**
 - Threatening, obscene gestures, indifference and exclusion

Bullying can be indirect



Some Indirect Bullying Behaviors Include:

Physical

- Getting another person to assault someone

Verbal

- Spreading rumors, gossiping

Non-verbal

- Deliberate exclusion from a group or activity
- Cyber bullying

Types of Bullies:

- Bully/Victim
- Confident Bully
- Intellectual Bully
- Bystander Bully



Classification of Bullies:

- **Physical Bullies**
- **Verbal Bullies**
- **Relational Bullies**
- **Reactive Victims**



Bully B'ware Productions; Coquitlam, BC, Canada

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Functions of Bullying

- Attention/recognition/prestige/acceptance in peer groups.
- Access to activities or item.
- A lack of understanding of social/cultural, psychological, or physical differences.

Gender and Bullying



Olweus, D. (1993). *Understanding children's world's: Bullying at school*. UK: Blackwell Publishing

Gender and Bullying

- Boys are more likely to bully others.
- Girls and boys bully differently.
- Both boys and girls engage in frequent verbal bullying.
- Girls are more likely to bully by excluding and manipulating social situations.
- Boys are more likely to use physical actions.

Reporting of Bullying



- Most students do not report bullying to school staff.
- Older students and boys are less likely than younger students and girls to report their victimization.

Olweus, D. (1993). *Understanding children's world's: Bullying at school*. UK: Blackwell Publishing

Bullying Exists In:



Olweus, D. (1993). *Understanding children's world's: Bullying at school*. UK: Blackwell Publishing

Horse Play vs. Bullying

- Relationship among the students
- Facial expressions and general atmosphere
- Balance of power (relationship)
- Intention



Olweus, D. (1993). *Understanding children's world's: Bullying at school*. UK: Blackwell Publishing

Rough/Horse Play	Real Fighting	Bullying
Usually friends; often repeated (same players)	Usually not friends; typically not repeated	Typically not friends; generally repeated
Balance of power	Power relatively equal	Unequal power
No intent to harm	Intentional harm-doing	Intentional harm-doing
Affect is friendly; positive, mutual	Affect negative; aggressive, tense, hostile affect	Affect negative; aggressive & differs for victim and aggressor

Bullying Affects Everyone:

- Those who are bullied
- Those who bully
- Bystanders

Olweus, D. (1993). *Understanding children's world's: Bullying at school*. UK: Blackwell Publishing

Some Characteristics of Bullies:

- Physical strength
- Age
- Need to dominate
- Braggart
- Frustration level, low
- Difficulty in conforming
- Oppositional
- Appear hardened
- Inflated view of self
- Early anti-social behavior
- Self esteem is average or above
- Varying school achievement

Peer Risk Factors for Bullying

- Friends/peers who have positive attitudes towards violence
- Exposure to models of bullying (family, friends, and the media)



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"Passive Victims" Tend To...

- Be quiet, cautious, and sensitive
- Be insecure, have little confidence
- Be physically weaker than peers (boys)



The Bully/Victim or Provocative Victim”

- Has difficulty reading social signals.
- Often is actively disliked by adults, including their teacher.
- May have reading/writing problems.
- May try to bully weaker students.

A Major Risk Factor for Being Bullied



Is the lack of a close friend

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Why Children Bully?



- Like to dominate others in a negative way
- Gain satisfaction from inflicting injury and suffering
- Receive “rewards” by bullying others (prestige, possessions)
- Power = self esteem

Why Children Bully?

- Learned behavior
- Intimidation
- Control & Power
- Humiliation
- Power domination
- Threats to one's safety
- Low self-esteem



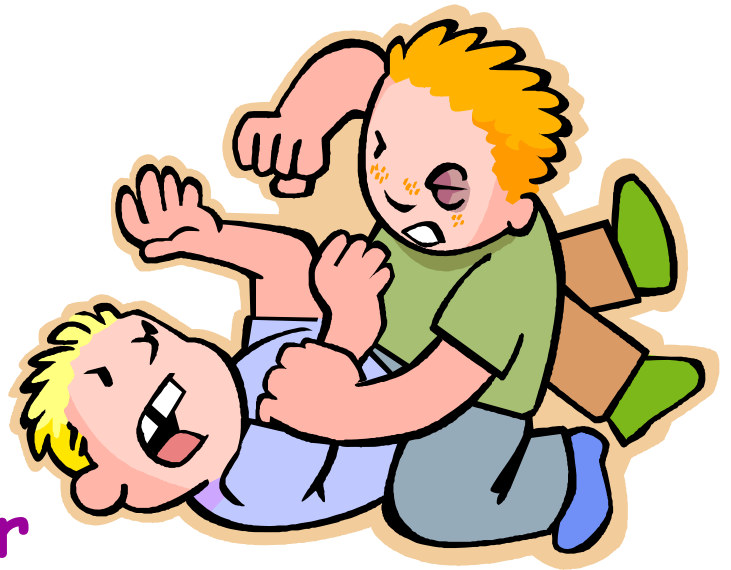
Why Children Bully?

- Group Behavior
- Demean others to build up themselves
- Go along to get along
- An area in which they are successful
- May lack appropriate behavior/social skills
- Because they can succeed in this area while failing in others



Bullying Behavior

- Often part of a conduct-disordered behavior pattern
- This pattern may continue into young adulthood
- Olweus study: Were 4 times is likely to have 3 or more convictions by age 24



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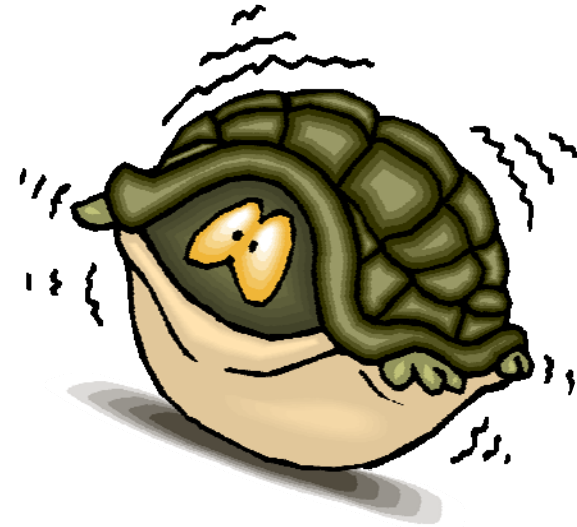
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Effects of Bullying

- **Physical**
 - Increased illnesses, particularly stress-related
 - Physical injuries
 - Attempted and completed suicides
- **Emotional**
 - Feelings of isolation
 - Difficulty in forming deep friendships

The Short & Long Term Effects of Being Bullied or Harassed:

- Lower self-esteem
- Lack of confidence
- Feelings of incompetence and powerlessness, isolation
- Increased illnesses (stress-related)
- Absenteeism & truancy
- Increase in physical injuries
- High rates of depression & anxiety
- Difficulty forming deep friendships
- Thoughts of suicide
- Attempted & completed suicides
- Impacts grades negatively



How Bullying Effects Observers or Bystanders



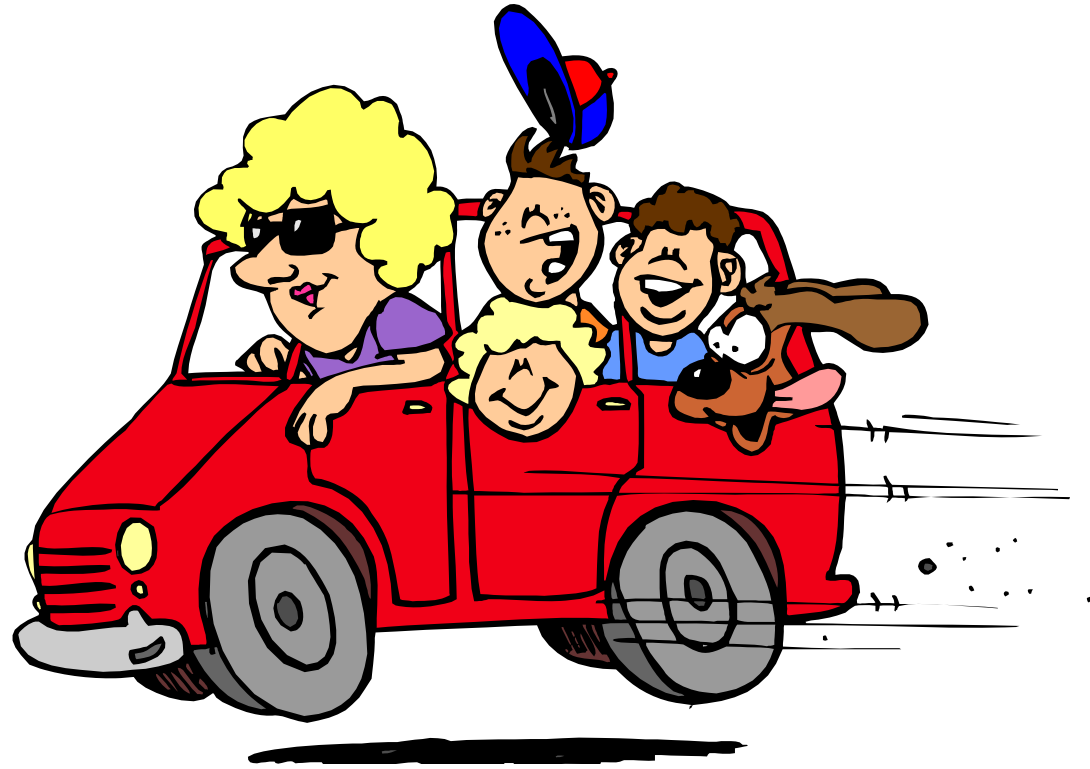
Olweus, D. (1993). *Understanding children's world's: Bullying at school*. UK: Blackwell Publishing

How Bullying Effects Bystanders

- **Feel afraid**
- **Feel powerless to change things**
- **Feel guilty**
- **Feel diminished empathy for victims**

Olweus, D. (1993). *Understanding children's world's: Bullying at school*. UK: Blackwell Publishing

Family Risk Factors of Bullies:



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Family Risk Factors

- Lack of parental involvement
- Lack of a warm family environment
- Have not learned to share
- Lack of supervision
- Overly-permissive parents
- Harsh discipline/physical punishment
- Haven't acquired social skills
- Less recreation with groups of friends they engage in more video games and TV after school

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Why we must take action against bullying



McGrath, M. (2003). *Bullying and Sexual Harassment Workbook*.

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Why We Must Take Action

- By age 24, 60% of identified bullies have a criminal conviction;
- Children who are repeatedly victimized sometimes see suicide as their only escape;
- Bullying is one of the most underrated and enduring problems in schools today;
- Schools are a prime location for bullying;

Why we must take action against bullying (*continued*)

- Bullies lose their popularity as they get older and are eventually disliked by the majority of students
- Primary age children who were labeled by their peers as bullies required:
 - More support as adults from gov't agencies
 - Had more court convictions
 - More alcoholism
 - More antisocial personality disorders
 - Used more mental health services



Why we must take action against bullying (*continued*)

- Many adults do not know how to intervene in bullying;
- Therefore behaviors are overlooked;
- Bullying occurs once every seven minutes;
- Bullying episodes are brief;
- Emotional scars can last a lifetime;
- Most bullying occurs close to school;
- Most victim unlikely to report bullying;



McGrath, M. (2003). Bullying and Sexual Harassment Workbook.

Bullies Tend To...



- Have a more positive attitude towards violence
- Be quick tempered
- May have difficulty in conforming to rules
- May have a history of aggressive behavior
- May have chronic disciplinary problems
- Uncontrolled anger

School Risk Factors



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School Risk Factors

- Lack of supervision during breaks, at recess, and on the playground
- Staff have indifferent or accepting attitudes towards bullying
- Staff don't know what to do
- Students have indifferent or accepting attitudes
- Student's don't know what to do

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Bullying and School Climate



Bullying has no place
in a safe school



Safe Schools

- **Are free of violence;**
- **Are nurturing, caring, and respectful of everyone;**
- **Are physically and psychologically healthy;**
- **Promote sensible risk taking;**
- **Enhance the well-being of all students**

Bully B'ware Productions; Coquitlam, BC, Canada

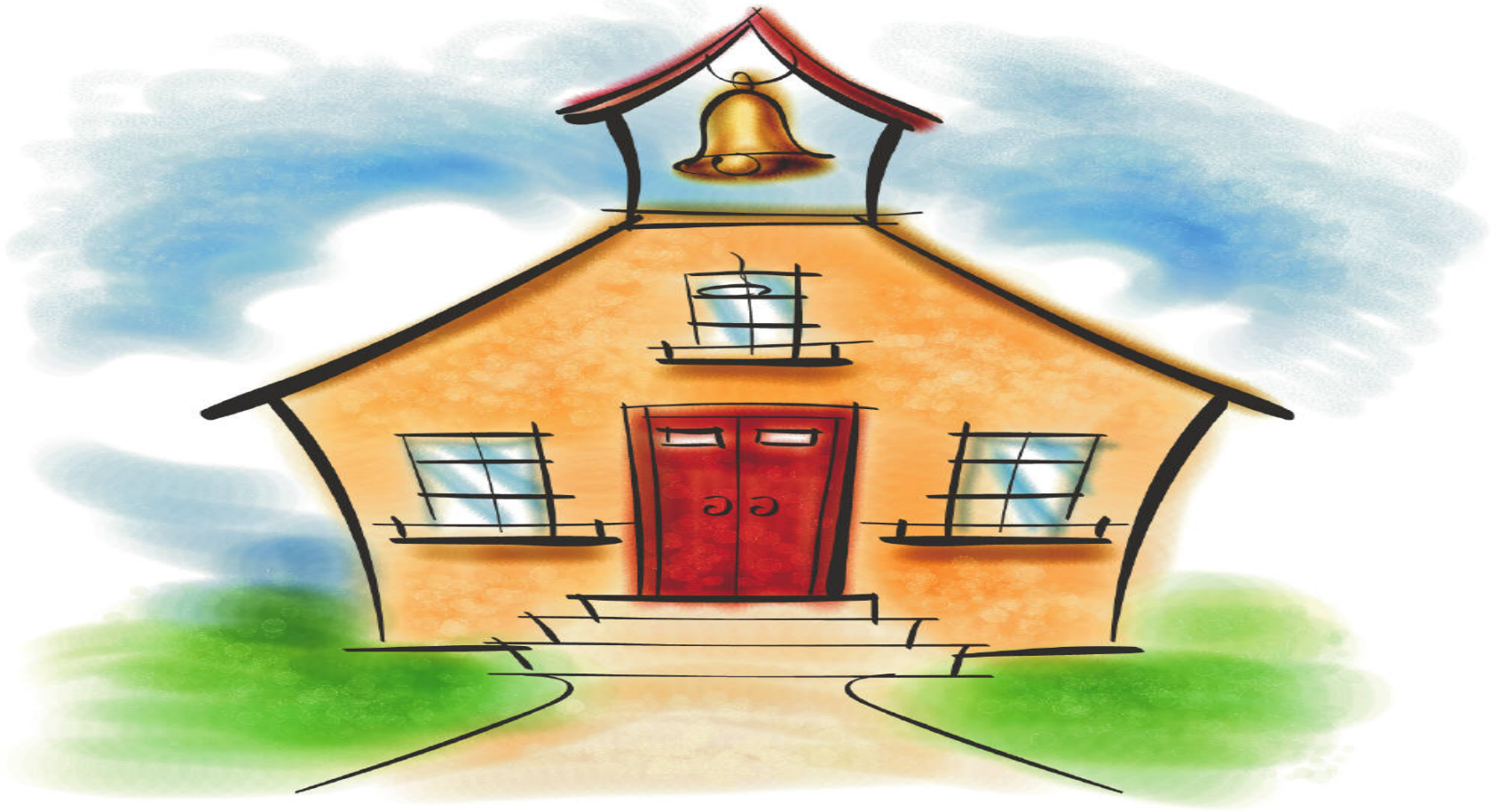
Bullying and School Climate

- **Interferes with student learning**
- **Creates a climate of fear and disrespect**
- **Students may perceive a lack of control or caring**

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School Wide Interventions



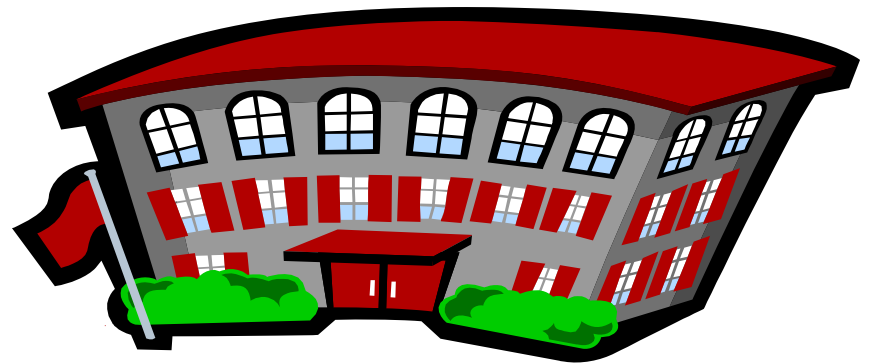
School-Wide Interventions

- Formation of a Bullying Prevention Team or Committee
- Training for the team/committee and all school staff personnel
- After school personnel have been trained, train students
- Administration of bully/victim questionnaire



School-Wide Interventions

- Develop school rules against bullying
- Increase supervision in “hot spots”
- Use consistent positive & negative consequences
- Provide for on-going staff discussion groups
- Parent Involvement



What Administrators Can Do

- Assess the level of bullying in the school:
 - Conducting focus groups
 - Student Surveys
 - Class Meetings
- Clearly convey to students the consequences of violating school rules.
- Notify students and parents of the school rules
- Help establish a climate that promotes understanding, acceptance, and appreciation for diversity.
- Provide positive recognition of inclusive, cooperative, respectful, and caring student behavior.
- Provide close monitoring of cafeteria, play-ground, and hot-spots where bullying is likely to occur away from adult supervision.
- Encourage students to report serious acts of bullying and harassment.

What Administrators Can Do

- Establish a confidential reporting system.
- Encourage teachers to develop classroom rules that address bullying.
- Encourage parents to discuss bullying with their children and the consequences of being a bully and a victim.
- Receive and listen receptively to parents who report bullying.
- Establish procedures whereby reports of bullying from parents are investigated and resolved.
- Confront bullies in private. Challenging a bully in front of peers may enhance his/her status and lead to further aggression.
- Positively recognize bullies for improvement (reduced incidents, or no more bullying).
- Teacher bystanders to befriend the victim.
- Create peer pressure against bullying and creating a climate of respect and caring.

Schools Can Employ the 3 R's

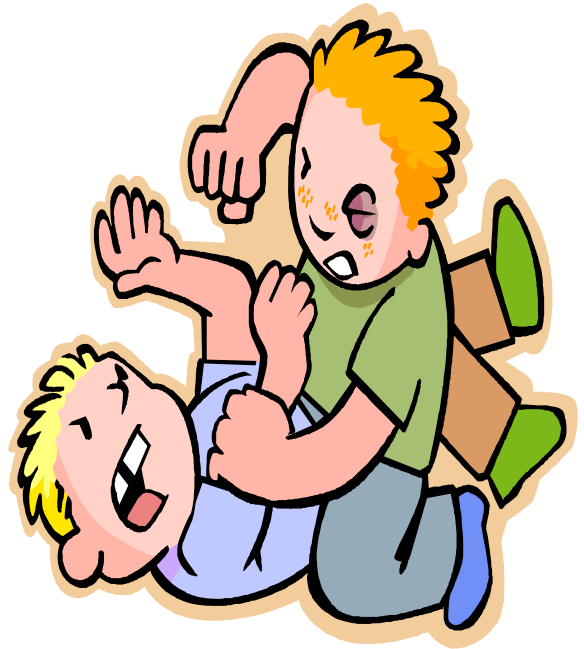
- **Rules**, Parents and educators must demonstrate they are in charge and won't tolerate bullying.
- **Rights**, Every student has the right to learn in a safe environment.
- **Responsibilities**, Educators must be responsible for supervision. Students must be responsible for respecting the rights of their classmates and themselves.



Beane, A. L. (1999). *The bully free classroom: Over 100 tips and strategies for teachers K-8*. Minneapolis, MN: Free Spirit Publishing, Inc. p. 9.

Use Appropriate Consequences

- Identify consequences currently being used with bullying that align with discipline policies.
- Assess which consequences are effective and which are not.
- Develop graduated sanctions and rewards that are developmentally appropriate.



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On-the-Spot Interventions: *The "Teachable Moment"*



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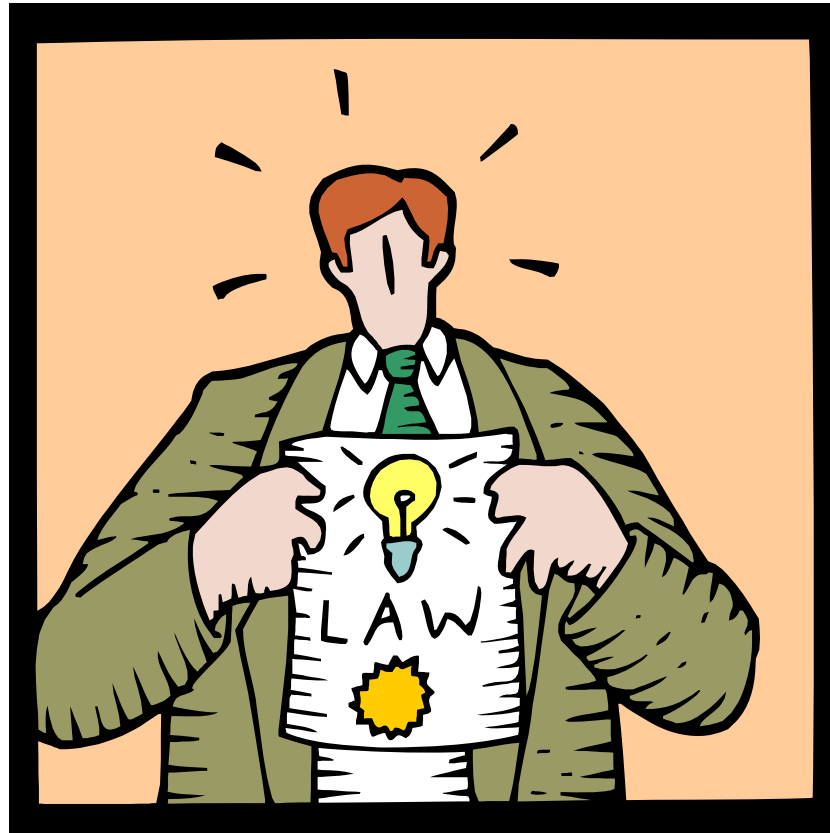
Teachable Moment

- Stop the bullying behavior
- **Support the victim**
- Name the bullying behavior
- Refer to the school rules
(discipline policies & procedures)
- **Impose immediate consequences
(as appropriate) as per discipline code**
- Empower the bystander

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Follow-Up Interventions



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Follow Up Interventions

- Report the incident, increase vigilance/supervision and communication.
- Identify staff person to talk with the students involved.
- Talk separately with the child who is bullied, and the children who bully.
- Begin by talking with the child who is bullied, then with the children who bully.
- Impose consequences for the children who bully.
- Talk with the students' parents.
- Follow-up with the students.

Children Who Bully Can Change



- Bullying behaviors and victimization experiences are relatively stable over time if there is no intervention.
- **BUT**, appropriate intervention can change behaviors.

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Sexual Harassment in Schools



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Some Dangerous Expressions

- It doesn't happen here.
- We don't have a problem.
- It's only harmless flirtation.
- She/he asked for it.
- She/he can't take a joke.
- She/he is too sensitive.
- It's the way she/he dresses.
- Boys will be boys.
- My behavior is harmless
- Everyone else does it.



Definition of Sexual Harassment

Unwanted, unwelcome, and unsolicited sexual advances; requests for sexual favors and other verbal, nonverbal, or physical conduct of a sexual nature when:

- submission to said conduct is made explicitly or implicitly a condition of employment or academic advancement;
- rejection of such conduct is used as a basis for decisions affecting employment or academic advancement;
- rejection of such conduct is used as a basis for decisions affecting employment or academic advancement;
- such conduct has the purpose or effect of unreasonably interfering with a person's work or academic performance or creating an intimidating, hostile or offensive work or learning environment.

Two Categories of Sexual Harassment

- **Quid Pro Quo**

...means something is given or withheld for something else. (aka sexual bribery)

- **Hostile Environment**

...a work or learning environment which interferes with a person's ability to function normally without intimidation, fear, or sexually harassing behaviors. It can be visual, verbal, or physical.

Behaviors and Sexual Harassment

Intent

(conscious or unconscious)



Behavior or Act

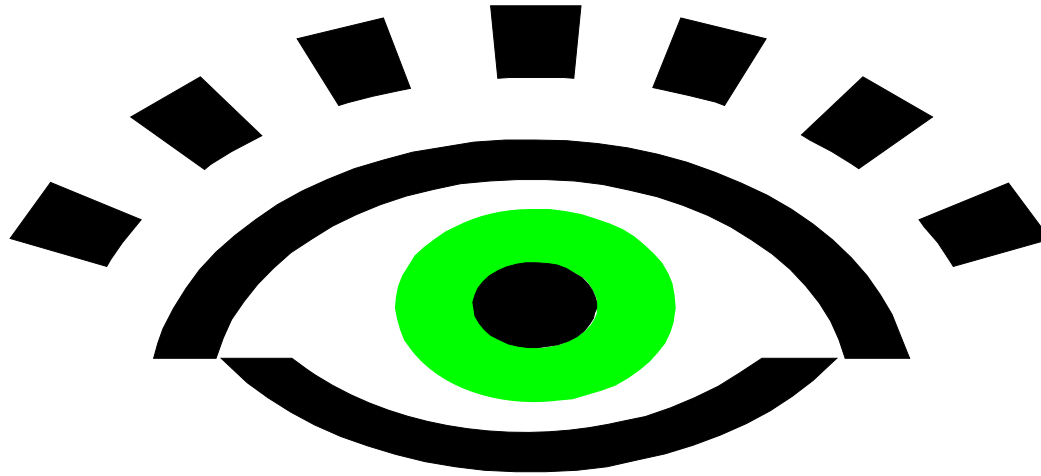
(visual, verbal, or physical)



Subjective Response

(the eye of the beholder)

Harassing behaviors are in



the EYE of the beholder

The POWER of Sexual Harassment



Sexual harassment
occurs
between persons of
unequal
authority or
PERCEIVED
unequal power.

Sexual Harassment Occurs:

Student to Student

Adult to Student

Student to Adult

Adult to Adult

Sexual Harassment Occurs:

Male to Female

Female to Male

Male to Male

Female to Female

Sexual Harassment -

Is not about

sexual attraction.

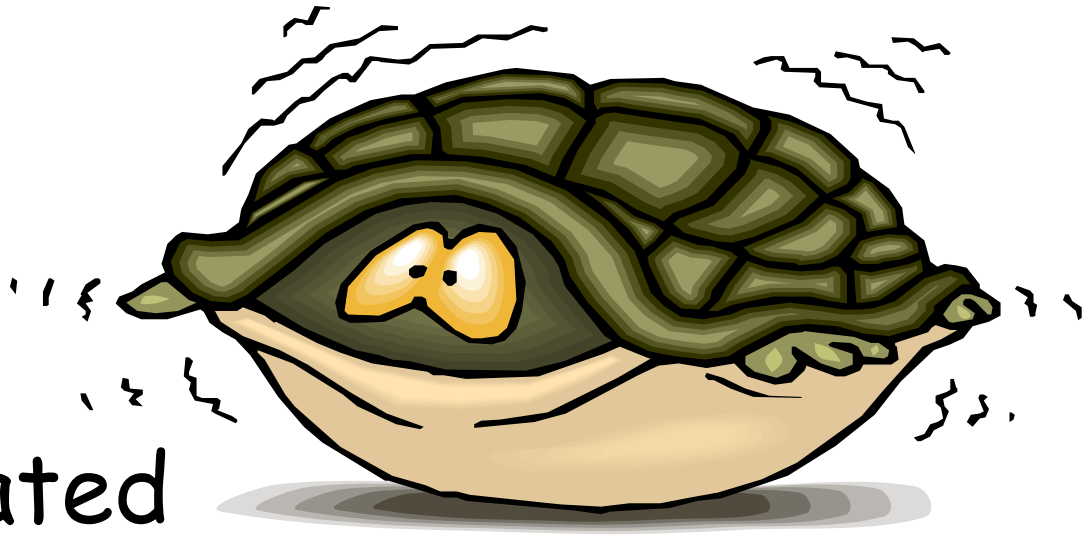


It is about

POWER!

Sexual Harassment is:

- Unwanted
- Unwelcomed
- Unsolicited
- Power motivated
- Illegal



Flirting is:

- **Wanted**
- **Welcomed**
- **Solicited**
- **Equality motivated**
- **Legal**



Sexual Harassment vs. Flirting

Makes the receiver feel:

Bad

Angry/Sad

Demeaned

Ugly

Powerless

Good

Happy

Flattered

Pretty

In control

Results in:

Negative

Self Esteem

Positive

Self Esteem

Sexual Harassment vs. Flirting

Is perceived as:

One-sided

Reciprocal

Demeaning

Flattering

Invading

Open

Degrading

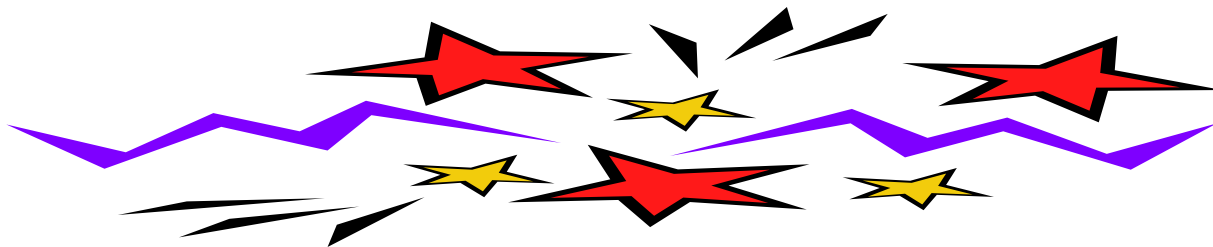
Compliment

The language of sexual harassment

Is

BEHAVIOR

SPECIFIC



Examples of Sexually Harassing Behaviors - Hostile Environment

- ✓ Rating Games
- ✓ Name calling
- ✓ Labeling a student as *Gay, Homo, Fag, Queer, Lesbian...*
- ✓ Hissing and moaning
- ✓ Animal sounds; barking and mooing
- ✓ Sexually explicit jokes
- ✓ Verbal taunting of a sexual nature
- ✓ A come on...
- ✓ Rumors
- ✓ Leering or staring
- ✓ Elevator eyes
- ✓ Winking
- ✓ Kissing/blowing kisses
- ✓ Pictures and cartoons
- ✓ Clothes (t-shirts, hats....)

Examples of Sexually Harassing Behaviors - Hostile Environment

Continued:

- ✓ Notes
- ✓ Graffiti
- ✓ Bumping into someone on purpose
- ✓ Blocking someone's path
- ✓ Hand gestures
- ✓ Lip licking/smacking
- ✓ De "panting"
- ✓ Flip-up day
- ✓ Wedgies
- ✓ Towel snapping
- ✓ Unwelcome touching

Sexually Harassing Behaviors

Criminal Touching

Behaviors that can be considered criminal touching sexual harassment.

Grabbing or pinching of the buttocks

- Touching, fondling or pinching of the breasts
- Grabbing of the vaginal or genital area

Assumptions About Sexual Harassment

- We don't have a problem.
- It's only harmless flirtation.
- She/he asked for it.
- She/he can't take a joke.
- She/he is too sensitive.
- It's the way she/he dresses.
- Boys will be boys.
- My behavior is harmless.
- Everyone else does it.
- It doesn't happen here.

The Laws on Sexual Harassment

- ❖ **Title VII of the 1964 Civil Rights Act**, as amended prohibits employment discrimination based on sex;
- ❖ **The Civil Rights Act of 1991**, establishes private and public liability for the acts of supervisors and employees that constitute sexual harassment of employees;
- ❖ **Title IX of the Education Amendments of 1972**, prohibits sex discrimination of employees and students in educational institutions receiving Federal funds;
- ❖ **United States Constitution, Equal Protection Clause of the 14th Amendment**, creates public institutional liability for institutional sexual harassment of students and employees including compensatory and punitive damages;
- ❖ **Executive Order 11246**, which covers federal contractors of higher education institutions;
- ❖ **Common Law Torts**, related to sexual harassment;
- ❖ **Other state and municipal laws**, including those on rape, sexual abuse, sexual assault, and child molestation.

Is it Sexual Harassment or a Criminal Act?

When the unwanted advances of a sexual nature move to rape, stalking, and sexual molestation they can also violate criminal laws depending on the local jurisdictions definitions of these crimes.

Schools need to ensure that the necessary steps in according due process rights of employees and students, while at the same time not causing any unnecessary delay in affording the protection provided by Title IX to the complainant.

US Department of Education Office for Civil Rights. 2001. Revised sexual harassment guidance: Harassment of student by school employees, other students, or third parties.

Who Gets Harassed Most Often?

- Females in non-traditional fields
- Women in graduate school
- Women and girls of color
- Young, inexperienced unassertive, socially isolated girls or boys, women or men
- Gay, lesbian, bi-sexual and transsexual persons
- Persons with disabilities, physical or emotional
- Persons temporarily vulnerable due to a life crisis

Who Gets Harassed Most Often?

Continued...

- Undergraduate assistances or young female teachers at the college and high school level
- Female students who work in dormitories as resident advisors
- Students and other persons in menial or low-level jobs
- Persons who have been sexually assaulted or abused, including victims of incest
- Persons who are economically disadvantaged
- Persons who are single or divorced

Factors Used to Evaluate Hostile Environment in Schools

1. The degree to which the conduct affected one or more students' education.
2. The type, frequency, and duration of the conduct.
3. The identity of and relationship between the harasser(s) and individual(s) harassed.
4. Number of individuals involved.
5. The age and sex of the alleged harasser(s) and the individual(s) harassed.
6. The size of the school, location of the incidents, and context in which they occurred.
7. Other incidents at the school.
8. Incidents of gender-based, but non sexual harassment.

US Department of Education Office for Civil Rights. 2001. *Revised sexual harassment guidance: Harassment of student by school employees, other students, or third parties.*

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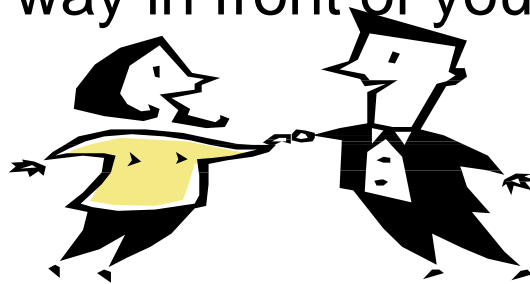
Factors Used to Evaluate Hostile Environment Sexual Harassment: "Welcomeness"

1. Student did not invite it.
2. Consent
3. If elementary students are involved welcomeness will not be an issue. "OCR will never view sexual conduct between an adult school employee and an elementary school student as consensual (USDOE, p. 8)."
4. Witnesses
5. Credibility of the allegedly harassed student and alleged harasser.
6. The behavior of the harassed after the harassing incident.
7. Evidence of the harassed filing a complaint.
8. Other contemporaneous evidence.

US Department of Education Office for Civil Rights. 2001. *Revised sexual harassment guidance: Harassment of student by school employees, other students, or third parties.*

Determining if your behavior is.....

1. Would you want (or mind if) the behavior was written up in the local newspaper?
2. Is there a power difference or perceived power difference?
3. Would you want someone to act this way towards someone you cared about?
4. Would you act this way in front of your grandparents or parents?



Sexual Harassment Versus Inappropriate Behavior

1. Is the conduct sexual in nature or is it gender based?
2. Is the conduct unwelcome or unwanted?
3. Is the conduct *severe, persistent, pervasive*?
4. Does the conduct unreasonably interfere with work or school?
5. What evidence is there for unreasonable interference?

Contributing Factors That Can Lead to Sexual Harassment

- Social norms encourage it.
- Lack of clear communication.
- Sex role stereotyping.
- Adult attitudes.
- Lack of sexual harassment policy, procedures, and training.
- Lack of follow through on complaints.
- No consequences for the harasser.
- The victim does not report it.

Sexual Harassment Occurs in Schools/Districts

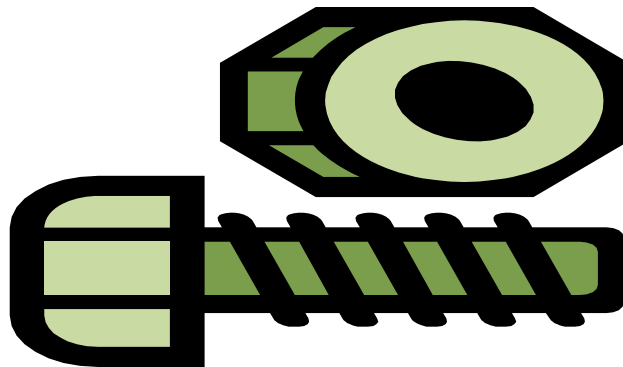


1. That have no policies or procedures.
2. Where policies and procedures are not disseminated.
3. Where information on gender equity is limited.
4. In classes and activities that are based on traditional gender roles.
5. Fail to provide training on bullying and harassment.
6. In schools or districts where students and teachers are not held accountable for knowing or should have known...
 - condone or ignore behaviors or programs that demean females, such as sexually orientated skits or wet T-shirt contests;
 - do not intervene informally or officially when sexual harassment occurs;
 - do not support victims;

Schools Most Likely to Have Harassment Problems they... *(continued)*

- do not quickly remove graffiti;
- do not punish people who harass;
- do not inform students, staff, faculty, or community about what happened to the offender(s);
- were class or programs are primarily all-male or all-female;
- fail to provide training on sexual harassment to same gender teams or groups (e.g., athletic teams)
- failed to provide training to international or students coming from cultures that treat women differently than they are treated in the United States.

Grievance Procedures Nuts and Bolts



Basic Procedural Rights in any Grievance Procedure

- Prompt and Equitable
- Timelines
- Right to Representation
- Access to Records
- Impartial Decision Makers
- Protections From Harassment and Retaliation
- Right to Appeal
- Confidentiality



What is a Grievance?

- An assertion or claim that a set of rules or regulations have not been followed.
These may be:
 - Local
 - State
 - Federal law or regulation
 - Contractual agreement



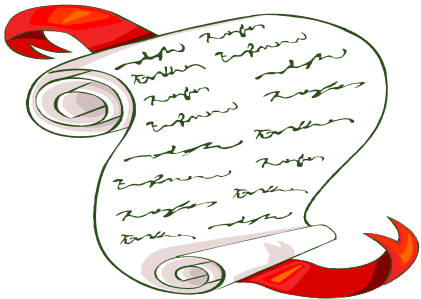
What is a Grievance Procedure?

- It is a method by which an individual or group may express a complaint to an agency or institution alleged to be violating a particular rule and without fear of reprisal:
 - Receive a fair hearing
 - Resolve the issue at hand



Function of a Grievance Procedure is to:

- Determine whether a violation of a rules or regulation has occurred, and
- Determine appropriate means for correcting and redressing the issue.



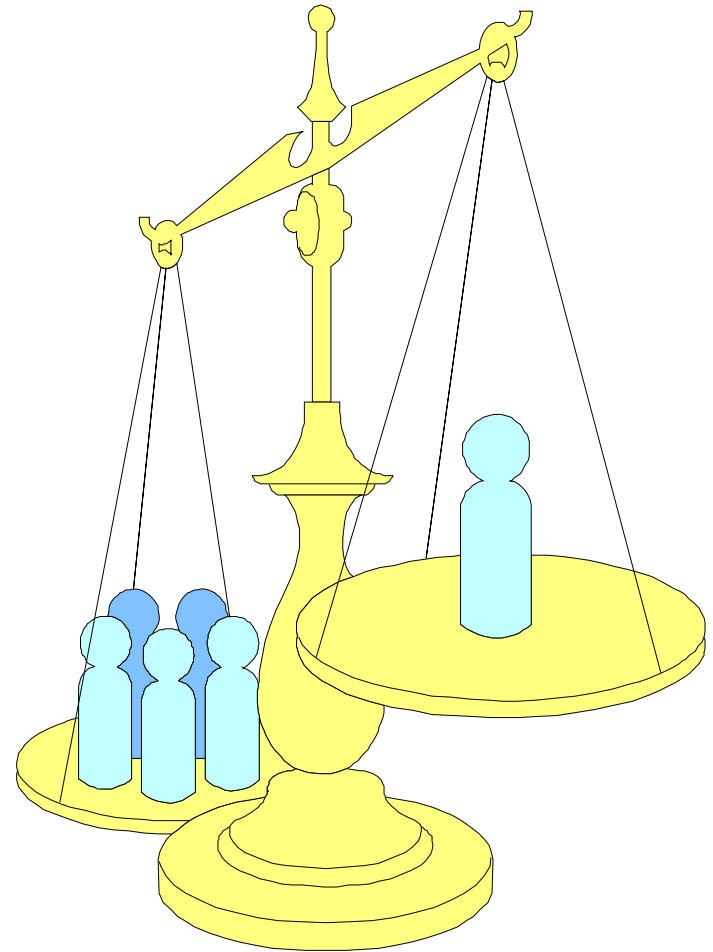
Title IX

- Grievance Procedure Is Required to Address:
 - Sex Discrimination
 - Sexual Harassment



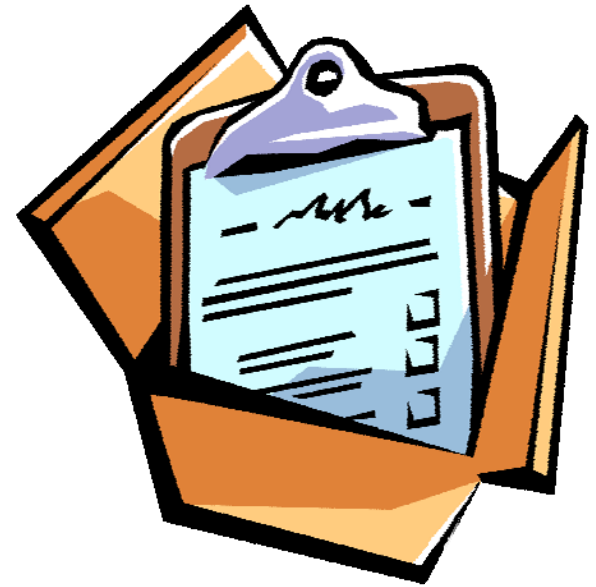
A Single Grievance Procedure Can Address Complaints about:

- Sex (Title IX)
- Race
- National Origin
- Disability
- Harassment/Bullying
- Age
- Sexual Orientation



Grievance Procedure Content

- Initiation and filing of grievances
- Processing of grievances
- Basic procedural rights



Basic Components of a Grievance Procedure

- Provisions related to the initiation of grievances;
- Provisions related to the processing of a grievance; and
- Procedural rights of the parties



Initiation of a Grievance or Complaint

- Who may grieve
- What constitutes a grievance
- Time limits
- How the grievance shall be initiated
- Assistance available to grievant

Processing a Grievance

- Number and level of steps
- Form of processing
- Requirements of notification
- Timelines
- Procedures of meetings or hearings
- Requirements for filing
- Specification of Forms
- Role(s) of those involved



Basic Components of a Grievance Procedure

I. Provisions related to the initiation of a grievance

- A. The definition of who may grieve
- B. The definition of what constitutes a grievance
- C. The stipulation of time limits for the filing of a grievance
- D. The stipulation of the manner or form in which grievances shall be filed (written)
- E. The stipulation of any assistance available to grievants for the initiation and presentation of a grievance

II. Provisions related to the processing of grievances

- A. The number and level of steps in the grievance process
- B. The form of grievance presentations or processing at each step
- C. Requirements for notification of involved parties at various phases of the grievance process
- D. Timelines governing the various actions or steps within the grievance process

Basic Components of a Grievance Procedure (continued)

E. Procedures which shall govern the conduct of grievance meetings or hearings at any step of the grievance process, e.g.,

_____ the minimum time allotted for the grievance hearing

_____ the time allocated to each party

_____ the right of each party to representation

_____ the right to present witnesses and evidence

_____ the right to question opposing witnesses

_____ the moderation of hearing

_____ the right to confidential or public grievance meetings or hearings

F. Requirements for the filing or submission of written information by the grievant or the respondent

G. The specification of the form which grievance decisions shall take at each step

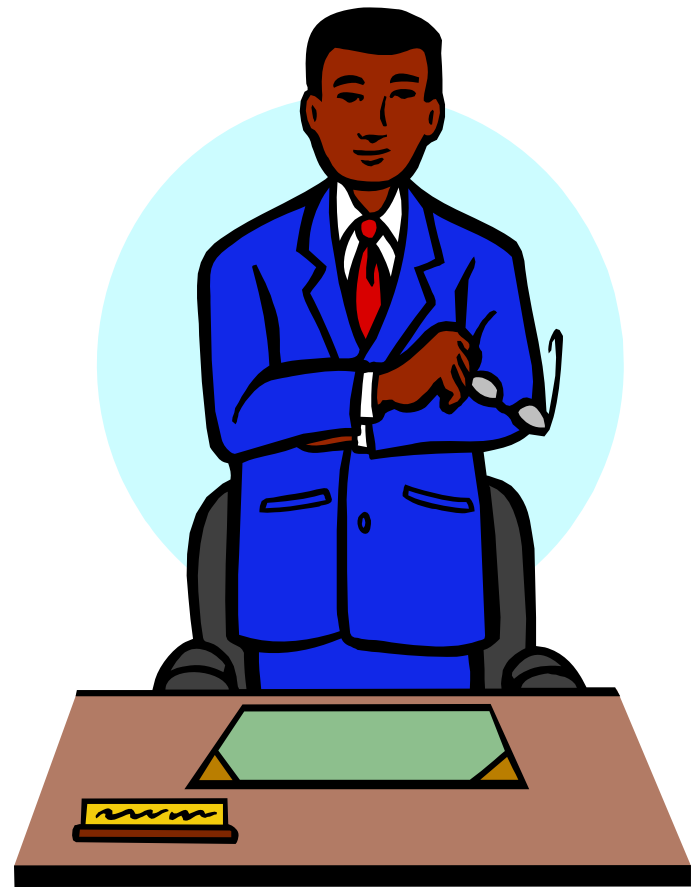
H. The roles and selection of persons involved in the grievance investigation and process

Basic Components of a Grievance Procedure (continued)

- III. Provisions related to the basic procedural rights of the parties to the grievance**
 - A. The right of appeal**
 - B. The right of all parties to impartial decision makers**
 - C. The access to relevant agency and institutional records**
 - D. Protection from harassment and retaliation**
 - E. Confidentiality of grievance proceedings**

School Officials Have:

- A duty to train
- A duty to investigate
- A duty to remedy
- A duty to monitor



Deliberate Indifference

School officials may be personally liable if they maintain a practice, custom, or policy of deliberate indifference or reckless disregard for known instances of harassment or abuse based on sex. This can include concealing complaints of sexual harassment and sexual abuse or in discouraging the complaints or reports of such conduct.

Cases of reference are:

Stoneking v. Bradford Area School District (1992) 5. Ct. 840

Gebser v. Lago Vista Independent School District. US Supreme Court, June 1998.

From: (1999). Sexual Harassment Investigation Training, MaryJo McGrath

Duty to Protect

- School personnel have a duty to protect students from known or reasonably foreseeable harm occurring during or in connection with school activities.
- School personnel are responsible for properly monitoring and disciplining subordinates such as teachers over whom they have supervisory authority.

Avoiding Charges of Deliberate Indifference

- Investigate information of is conduct personally.
- Reprimand the employee verbally and in writing.
- Avoid making excuses or justifications for misconduct.
- Record complaints and incidents of inappropriate conduct in personnel file.

The court found that even if the above actions are ineffective to prevent or stop the abuse, they are sufficient to negate "deliberate indifference".

Formal Complaint Procedures Should Include:

- 1. Notice to students, parents, and employees of the process including how, where and with whom complaints can be filed.**
 - At the building level it is recommended that the names of a male and female be identified whom victims can go to when they feel they have been harassed. This can be a person other than the building Title IX coordinator.
- 2. The opportunity for a prompt, impartial and thorough investigation, which can include the opportunity to present witnesses and other evidence.**
 - Remember if the Title IX Coordinator is not the one conducting the investigation, be sure to inform him or her of the investigation proceedings.
- 3. It is advisable to maintain the *CONFIDENTIALITY* of the alleged harasser, victim, and witness to the extent possible with each given case.**
 - Confidentiality should be maintained as long as doing so does not preclude the school from responding effectively.

Formal Complaint Procedures Should Include:

4. **Notification to the complainant of the outcome of the complaint maintaining any legally required privacy restrictions.**
 - The ***Family Educational Rights and Privacy Act*** (FERPA) and its regulations preclude a school from releasing certain personal information about students. This may prevent the school from telling a complainant about the sanctions imposed on the harasser.

5. **Effective remedies when discrimination is found**
 - Remedial action by the school and district should be taken as soon as possible; doing so sends the message to the victim and others of the seriousness of this violation of school rules.

 - Remediation needs to take into consideration the severity of the incident, the age and identity of the victim and harasser.

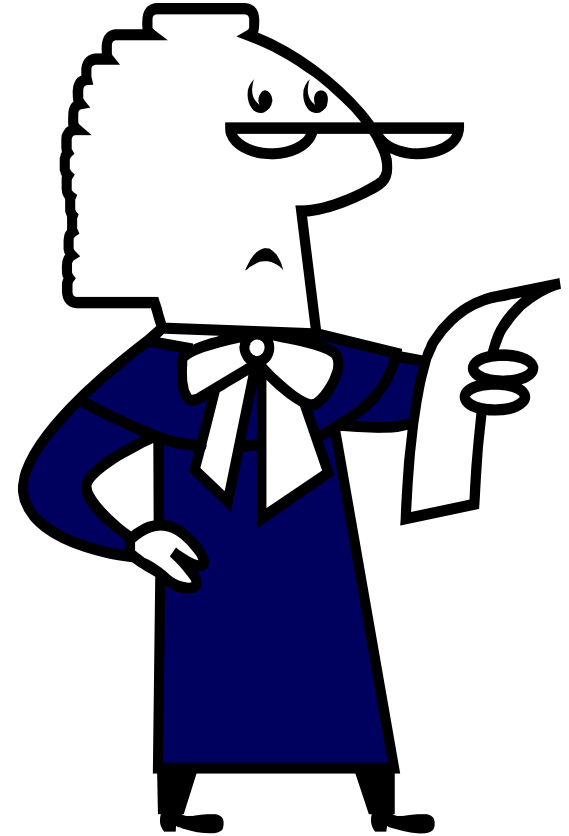
Sources of Guidance

- School District Counsel
- Professional Organizations
- Local Law Enforcement
- County / District / States Attorney



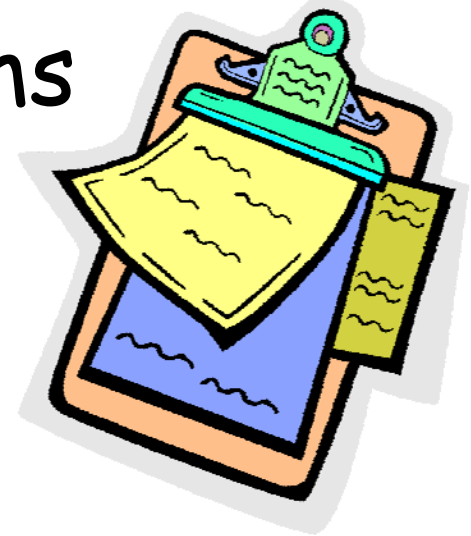
Follow the Policy

- What are the steps outlined by the district policy?
- What is necessary to do to comply with it?
- Are there timelines?
- What outcomes does the policy provide?



Investigation: An Overview

- Who should conduct the investigation?
- How to start an investigation
- Witness interviews
- Hostile environment claims
- Preparing report
- Actions to be taken



The Investigator

- Ability to keep all information confidential;
- Knowledgeable about sexual harassment;
- Objective and impartial;
- Good interviewing skills;
- Thorough and accurate recorder of information.



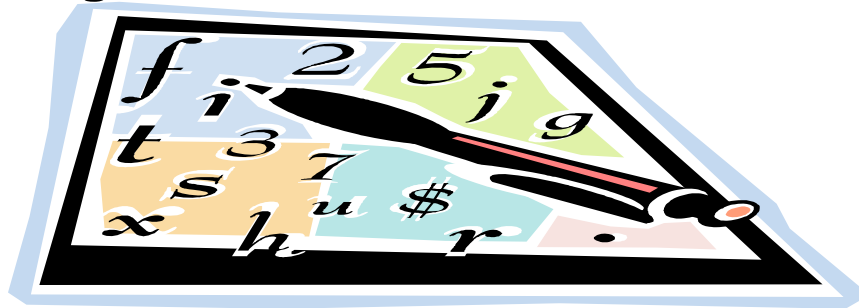
Starting an investigation

- Acknowledge receipt of the complaint;
- Select investigator
- Relevant documents
 - Complaint
 - policies and procedures
 - Files: alleged victim and alleged harasser
 - Prior complaints
 - State/federal laws and or statutes



Investigation: Con't

- Selection of legal counsel if investigator is not an attorney;
- Determine what resources may be needed
 - Financial
 - Support services
- Prepare list of potential witnesses;
- Determine how information will be kept.
- Save guard rights of all involved



Witnesses: a few guidelines

- Prepare outline of issues and questions you will ask witness;
- Explain to the witness:
 - Why the interview
 - How information may be used
 - Importance of providing complete and accurate facts
 - Importance of providing all possible witnesses;
 - Need for confidentiality
 - Prohibition of retaliation



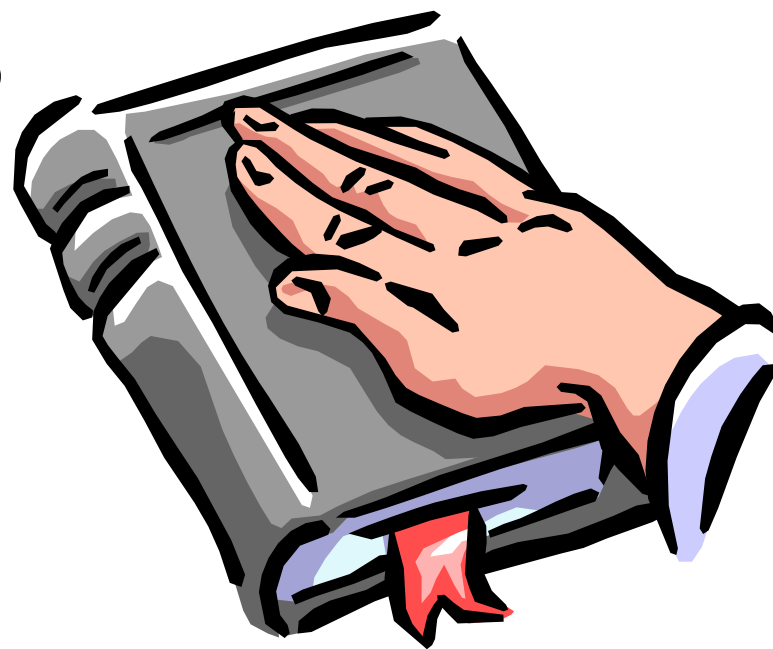
Witnesses

- Take detailed notes, including questions asked;
- Chronological order if possible
 - What, when and where
 - Who was present
 - Who did and said what to whom
 - Was the act part of a pattern or an isolated incident?
 - Is there other material to support or contradict what happened?
 - Notes
 - Recordings
 - Photographs



Witness, Con't.

- Separate witness statements from personal observations;
- Go over notes with witness to determine completeness and allow for opportunity to add or correct;
- Request that witness contact investigator if he/she recalls further information;
- Re-interview at least once both the victim and the alleged harasser/bully



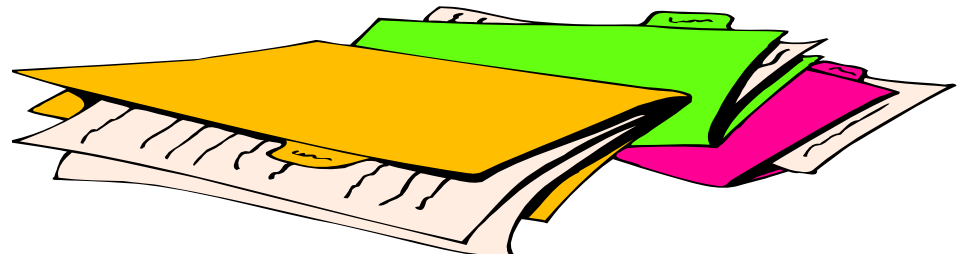
Hostile Environment Claim: Primary Elements

- Type of conduct?
- Frequency?
- Hostile or offensive?
- Relationship to alleged harasser;
- Participation of others;
- Was behavior directed at more than one person?
- Response of a reasonable person



Preparing Report: Basic Format

- Chronology of all steps take in investigation and witnesses interviewed;
- Final interview statements for each witness
- Evidence
 - Corroborative or contradictory
 - Documentation
- Summary
 - Factual findings
 - Support of conclusion



Appropriate Action

- Policy/discipline codes
- Required changes, if any
 - Policies
 - Environment
 - Personnel
- Resources for change
- Are the changes "working"?
- FERPA
- Monitoring
 - Victim
 - Harasser/bully



Policy Notification

It Is Required



Notification

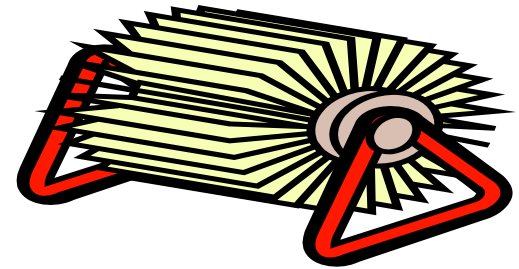
Title IX ***REQUIRES*** that every recipient of federal funds publish notification of:

Notification of non-discrimination on the basis of sex and

Availability of a grievance procedure.

Title IX Requires Publication

- Name and title of employee(s) responsible for Title IX compliance
- Office address
- Telephone number of the employee



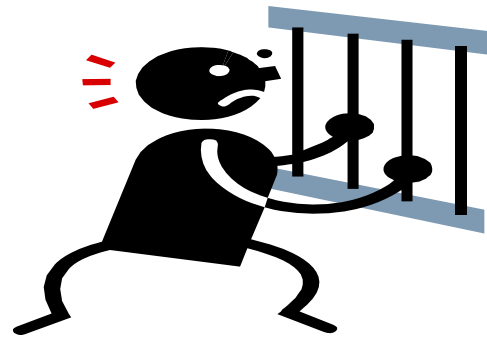
Policy Notification

- Widely Disseminated
 - In language that is readily understood
 - Age appropriate
 - Translated
 - All publications and information
 - Students
 - Staff
 - Parents
 - Community



Requirement

A recipient is **NOT** in compliance with the requirements of Title IX if it does not have *both* a *policy* and a *grievance procedure* in place regardless of whether or not discrimination has occurred.



Ensuring Adequate Notice

- Copies of policy and procedures available at various locations
- Publish as a separate document
- Identify individuals who can explain policy and procedures
- Include in major publications
 - Handbook
 - Web-sites

