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PREVENTING SEXUAL HARASSMENT:

DIGITAL TRAINING FOR MAINTAINING A SAFE ENVIRONMENT FOR STUDENTS & STAFF

SUMMARY OF SUBSTANTIVE CONTENT IN TRAINING

We have a responsibility to make sure that the school environment is a safe space. Every student, every teacher, every school employee should feel safe, and part of that involves making sure that our schools are free of any kind of sexual harassment.

Sexual harassment is defined in the law because it is a form of discrimination based on sex or gender. Sex refers to a person's biological sex, while gender refers to their gender identity, which may be different from their sex. Anytime we say "based on or because of sex" we are also referring to gender. Sexual harassment in the school context can occur between employees, between an employee and a student, or between students. There are two common types of sexual harassment that we will talk about: "quid pro quo" harassment and hostile environment harassment.

"Quid pro quo" is a Latin phrase that translates loosely to "something for something." Quid pro quo sexual harassment might occur when a supervisor promises a promotion to an employee in exchange for sexual favors. Or if the supervisor punishes an employee after the employee rejects the supervisor's sexual advances. Quid pro quo harassment may also be committed by an employee against a student. For example, a teacher offers to raise a student's grade if the student sends the teacher an inappropriate picture.

The other common type of harassment is called "hostile environment." That's what happens when we have verbal or physical conduct based on sex that creates an intimidating, hostile or offensive environment.

Sexual harassment can occur in many different ways. It might be physical, but it can also be purely verbal, or written, or through electronic communication. Sexual harassment can even occur through non-verbal actions. Sexual harassment can occur between people of any sex. It might be two people of the same sex or two people of a different sex. The common features of sexual harassment are that it is based on the person's sex, it is unwelcome, and it has an adverse effect on the other person. In the employment context, conduct based on sex includes conduct based on a person's sexual orientation or transgender status, or generally, a person's failure to behave as typically expected for their sex. Employees should use this same approach in determining whether conduct directed toward a student is "based on sex." If a student is called names because of his sexual orientation, that conduct could be considered "based on sex."

Employment Context

To meet the legal definition of sexual harassment, the behavior has to have the purpose or the effect of creating an intimidating, hostile or offensive working environment; or of unreasonably interfering with someone's work performance; or otherwise adversely affecting someone's employment opportunities. Even if the conduct does not meet the strict legal definition of "sexual harassment," it may still be inappropriate, unprofessional, or violate the District's standards of conduct.

With regard to adults in the workplace, the law makes a big distinction between welcome and unwelcome conduct. The law is designed to make sure that no one is subjected to sexual behavior on the job that is "unwelcome." A person might welcome attention from one person, but not welcome the same conduct from another. That's why it is important to refrain from romantic or sexual attention towards others at work. The same goes for behavior that is not directed at a person specifically but may have a negative effect on others at work. For example, an employee tells an off-color joke in the teacher's lounge. Engaging in unprofessional behavior like that can create a hostile work environment, even if the conduct is not directed at a specific person. The employee may have found that joke funny, but not everyone will. Everyone has a different set of life experiences and different opinions about sensitive topics like sex and gender. It's important to be respectful of the others around you and not to assume that your conduct will be welcome or reciprocated.

Employees experiencing sexual harassment have a number of options. An employee can certainly tell the other person that the conduct is not welcome and to stop it. But that's not always easy to do. The employee might be fearful of the person or their reaction. If an employee is not comfortable communicating their feelings directly to the other person, the employee can also report this conduct to his/her supervisor or an administrator at that employee's campus or department.

When a supervisor is seeking a sexual or romantic relationship with an employee they supervise or have more authority than, the power balance between the two employees is unequal. If the conduct is unwelcome, the employee can let the supervisor know that conduct is unwelcome and to stop it. If an employee does not feel comfortable talking about the issue with the supervisor, the employee can report to the Superintendent, the Director of Human Resources, any other administrator, or you can even take it to the Title IX Coordinator.

Issues of unwelcome conduct may arise if school employees are involved in a romantic or sexual relationship that ends. If the other person does not seem to understand the new boundaries, the employee may address it directly with him or

her or may speak to a supervisor or administrator. In addition to continuing advances and flirtations at work or school after they become unwelcome, another form of sexual harassment is called "dating violence," which is also a crime. Dating violence refers to an act of violence by a person who is, or has been, in a dating relationship with the other person. Any employee or student who feels they have been the victim of dating violence should immediately report it to a supervisor or administrator, and students may report it to any adult employee on campus.

In the case of alleged sexual harassment, you never have to take your complaint to the person you are complaining about. So that teacher can take the complaint directly to the superintendent, any other administrator, or even to the Title IX Coordinator. School policy and the law also prohibit any sort of retaliation against a person who reports sexual harassment or participates in a sexual harassment investigation.

Employees of the school district are protected from sex discrimination by Title VII of the landmark 1964 Civil Rights Act. Eight years after that law was passed, Congress passed Title IX of the Education Amendments of 1972. It outlaws any kind of sex discrimination by educational institutions that receive federal financial assistance. So, Title IX is the law we talk about when we talk about sex discrimination against students. Title IX requires schools to take action to prevent sexual harassment, and to take corrective action when it happens.

It is the District's Title IX Coordinator who has the responsibility for coordinating the response to a report of sexual harassment involving students. Your district must designate a person as the Title IX Coordinator. The law requires that every district have a person who carries that title, although the Title IX Coordinator may do many other things as well. If you hear complaints or concerns from a parent or a student, you may need to refer them to the Title IX Coordinator. You will also see the name and contact information for the Title IX Coordinator in various school publications, such as an employee or student handbook. All of this is designed to make sure that employees, students and their parents understand that the district takes its responsibilities under Title IX seriously, and so that they know who to contact with concerns.

Another aspect of the Title IX regulations that you need to understand is your duty as an employee to report potential sexual harassment so that the district can take action. The district must respond promptly if it has actual knowledge of sexual harassment. The district will determine if sexual harassment occurred, and if it did, will take corrective action to ensure that the sexual harassment does not continue.

This means that preventing sexual harassment of students is not just the responsibility of the Title IX Coordinator and the principal. It's the responsibility of every teacher

every paraprofessional, every coach, every bus driver, every substitute teacher, and every custodian. Every employee. If an employee of the school has knowledge of sexual harassment, the district is required to address the problem. Employees themselves aren't responsible for reaching any conclusion on sexual harassment – you must report any conduct that you see, hear, or that is reported to you and that appears to be motivated by a person's sex, gender, sexual orientation, or transgender status or that is sexual in nature.

Schools are responsible when they have “substantial control” over the harasser and the situation in which the harassment occurs. In most instances, the school does not have control over what students do away from school, on the weekend or when school is out of session. But the school does have control over school sponsored events. This would include extracurricular activities, field trips, and overnight trips.

What if a bus driver hears a group of kids in the back of the bus picking on another student? The driver does not see any physical contact, but he could hear some pretty ugly name calling directed at a 4th grade boy. The driver asks: Is this sexual harassment? Is it bullying? What should I do about it? There is a lot of overlap between bullying and sexual harassment, but remember, bullying can only occur between students, while sexual harassment may occur between students, employees, or both. Sexual harassment is based on the person's sex. Bullying conduct does not have to be motivated by sex or any other specific characteristic of the victim. It could be motivated by a number of other reasons that are not sex. The school district has a responsibility to try to prevent bullying or harassment from occurring or continuing, and to take corrective action whenever the issue is discovered.

If the students on the bus are picking on another student because of his sex, or his failure to behave in a way that is generally expected for his sex, then it might constitute both bullying and sexual harassment. Either way, the bus driver should do something about it. The driver should try to stop the behavior if possible and should quickly report this behavior to the transportation director or a campus administrator in accordance with school policy.

In addition to reporting concerning behavior between students, employees are also responsible for reporting inappropriate conduct “based on sex” between an employee and a student. Note that the distinction between welcome and unwelcome behavior is relevant only when you are talking about conduct between two employees or between two students. Sexual contact between an employee and a student is a crime, regardless of the student's age or whether the conduct was “welcome.” Maintaining appropriate boundaries and avoiding the appearance of an inappropriate relationship with students requires you to pay attention to the language you use, the jokes and personal stories you tell, and how and why you make

physical contact with students. It certainly requires caution in your use of electronic communication with students, as addressed by your employee handbook.

Just because an incident is not sexual harassment does not mean that we should ignore it. It's a violation of the school's code of conduct. Remember: the way you prevent sexual harassment is by addressing the little things that can escalate to sexual harassment. That includes teaching students about appropriate and respectful social interactions with their peers and authority figures. The school has a responsibility to respond to sexual harassment, and you have an obligation to report it. If you are unsure about whether something you have seen or heard should be reported, best practice is to err on the side of caution. Better to report and not need to than to not report conduct that could be harming a student or coworker.

Any employee with questions about the information presented in this training video should contact their supervisor or the Title IX Coordinator for your District.