

# Sexual Harassment Prevention & Awareness

## Annual Training



**2018-19**  
**School Year**

[ REV 01 ]

# Sexual Harassment Topics

- Potential Impact
- What is Sexual Harassment?
- BOE Policy, Action, Process
- Protections & Remedies
- Is it Sexual Harassment?

# Potential Impact of Sexual Harassment

- Poor morale among employees and students
- Higher employee turnover and student dropout rates
- Increased absenteeism of employees and students
- Lower productivity by employees in the workplace and by students in the classroom

# Potential Impact of Sexual Harassment

- Expensive and lengthy litigation
- Employer liability
- Personal liability
- Termination of employment

# What is Sexual Harassment?

## ***Sexual Harassment:***

- Is a form of sex discrimination and is unlawful
- Includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender
- Includes unwelcomed conduct, either of a sexual nature or which is directed at an individual because of that person's gender

# What is Sexual Harassment?

## Unwelcomed Behavior

- Behavior is **unwelcomed** if the student or employee did not request or invite it and regards it as undesirable and offensive
- Adult-to-student quid pro quo cases are always presumed to be unwelcomed

# What is Sexual Harassment?

- Unwelcomed sexual advances
- Requests for sexual favors
- Other verbal or physical conduct of a sexual nature

## ***Two forms***

- quid pro quo
- hostile work environment

# What is Sexual Harassment?

## Quid Pro Quo

When submission to comply with the harassment is linked to an explicit or implicit term or condition of employee's employment or student's education

**~ or ~**

When submission to, or rejection of, the harassing conduct factors into decisions that affect an employee's employment or a student's education.

# What is Sexual Harassment?

## Hostile Work Environment

The conduct has the effect of substantially or unreasonably:

1. Interfering with an employee's work performance or a student's academic performance or participation in school activities,

or...

# What is Sexual Harassment?

## *Hostile Work Environment (con't)*

2. Creating an intimidating, hostile, or offensive working or educational environment.

The conduct must be sufficiently severe, pervasive and objectively offensive to a reasonable person.

# Who Commits Harassment?

Harassing conduct could be committed by anyone conducting business at the district

Supervisor → Employee

Employee → Non-Employee

Employee → Student

Student → Student

Employee → Supervisor

Non-Employee → Employee

Student → Employee

Co-Worker → Co-Worker

***INCLUDES:***

***INTERNS, VENDORS,  
CUSTOMERS, ETC.***

# What is Sexual Harassment?

## Hostile Work Environment Examples

- Verbal
- Non-Verbal
- Physical

# Verbal Harassment Examples

- Terms of endearment  
*(i.e.: hunk, girl, doll, babe, honey, etc.)*
- Noises  
*(i.e.: whistling, catcalls, kissing sounds, howling, smacking lips, etc.)*
- Bullying, yelling, name calling
- Comments on body, clothes, looks, manner of walking, anatomy, or spreading rumors about a person's sex life
- Discussions
  - *turning work discussions to sexual topics*
  - *discussing one's love life*
  - *asking about sexual fantasies, preferences, or history*
  - *holding intimate discussions with one's romantic partner within earshot of co-workers*
- Repeatedly asking a person for a date who is clearly not interested

# Non-Verbal Harassment Examples

- Elevator eyes and/or staring
- Blocking a person's path or following a person around
- Facial expressions  
*(i.e. winking, throwing kisses, licking lips or other sexual gestures with one's tongue, hands or other body movements)*
- Giving unwanted personal gifts
- Displaying sexually-suggestive visuals, such as calendars, pictures, comics, food displays
- Destroying or damaging another's work station, tools, equipment, or otherwise interfering with the individual's ability to perform their job
- Non-verbal bullying

# Physical Harassment Examples

- Giving a neck or shoulder rub
- Touching a person's body, hair or clothing with a body part or object
- Hugging, kissing or patting another
- Standing too close to, or brushing up against a person
- Touching or rubbing oneself in a private area or with sexual overtones
- Touching, leaning over, cornering or pinching someone

# Misuse of District Technology

- Use of the computer to send and/or receive pornography or sexually suggestive material
- Use of the District's network for storage of such information
- Use of the District's printers to distribute information
- Use of email for such purposes

# Factors Used to Determine Harassment

**An investigator needs to examine the entire context:**

- Was the conduct verbal, physical or both?
- How frequently was it repeated?
- Was the conduct hostile or offensive?
- Was the alleged harasser a co-worker or a supervisor?
- Did others join in perpetrating the harassment?
- Was the harassment directed at more than one individual?
- Did the complainant participate in the exchange?

# Measures to Stop Harassment

- Apology
- Oral or Written Warning/Reprimand
- Training/Counseling to Understand Violation
- Monitoring the Situation to Prevent Retaliation
- Transfer or Reassignment
- Suspension (students or employees)
- Discharge

# Retaliation

- Any act of retaliation against persons who oppose sexual harassment, who file a complaint, who are witnesses, or who assist or participate in an investigation is prohibited and illegal.
- Retaliation includes, but is not limited to, threats, intimidation, ridicule, bribes, destruction of property, spreading rumors, stalking, harassing phone calls or any other form of harassment.

# Retaliation

**Any action to alter an employee's terms and conditions of employment *because* that individual engaged in protected activities.**

**Also includes retaliation.**

**Examples:**

- Sudden change in work schedule or work location
- Demotion

# What is Not Retaliation?

**A negative employment action is not retaliatory merely because it occurs after the employee engages in protected activity.**

# Supervisor's Responsibility

**Supervisors and managers are held to a high standard of behavior. They are:**

- Required to report any harassment reported to them or which they observe.
- Responsible for any harassment or discrimination they should have known about.
- Expected to model appropriate behavior.

# Mandatory Reporting

**Supervisors must report any harassment that they observe or know of, even if no one is objecting to it.**

- Harassment must be promptly reported to the employer.
- Supervisors and managers will be subject to discipline for failing to report suspected sexual harassment.
- Supervisors and managers will also be subject to discipline for engaging in retaliation.

# Board of Education Policies

**Board policies typically come in two forms:**

- General prohibition of Discrimination and Harassment
- Specific prohibition of Sexual Harassment

# Board of Education Policies

- What is the purpose of the District's policies?
- What do the policies prohibit?

# Purpose of District's Policies

Policies recognize that:

- Board is committed to non-discrimination and recognizes its responsibility to provide an environment that is free of harassment and intimidation as required by Federal and State law.
- District must provide an environment that is free of sexual harassment, including sexual violence.
- Sexual harassment including sexual violence is a violation of law and stands in direct opposition to District policy.

# What do the Policies Prohibit?

*Generally, they prohibit and condemn...*

- All forms of discrimination and harassment on the basis of race, color, creed, religion, national origin, political affiliation, gender, sexual orientation, age, marital status, military status, veteran status, disability, use of a recognized service animal, or domestic violence victim status
- And all forms of sexual harassment
- These policies apply to employees, volunteers, students, parents/guardians, contractors and vendors

**BE SURE TO REVIEW YOUR DISTRICT'S POLICIES!**

# School District Title IX Officer

- All inquiries or complaints should be directed to your Title IX officer:

**Mary Ann Murphy**  
Tully CSD, Title IX Officer

# What Should I Do If I Am Harassed?

- Contact your Title IX officer to obtain a complaint form to report harassment and file complaints.
- Submit the completed form to your Title IX officer.
- You may also make your report verbally to your Title IX officer.

# Have You Witnessed Harassment?

- Anyone who witnesses or becomes aware of potential instances of sexual harassment should report it to a supervisor, manager, designee, or your Title IX officer.
- It is unlawful for an employer to retaliate against you for reporting suspected sexual harassment or assisting in any investigation.

# Investigation and Corrective Action

- Anyone who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action.
- An investigation of any complaint should be commenced immediately and completed as soon as possible.
- The investigation is kept confidential to the extent possible.
- Any employee may be required to cooperate as needed in an investigation.

# Investigation Process

- Your Title IX officer will conduct an immediate review of the allegations, and take any interim actions.
- Relevant documents, emails or phone records will be requested, obtained, and preserved.
- Interviews will be conducted.
- The individual who complained and the individual(s) accused of sexual harassment are notified of final determination and that appropriate administrative action has been taken.

# Additional Protections & Remedies

## NYS Division of Human Rights (DHR)

**A complaint alleging violation of the Human Rights Law may be filed either with DHR or in NYS Supreme Court.**

- Complaints may be filed with DHR anytime **within one year** of the alleged sexual harassment.
- You do not need to have an attorney to file.
- More information: [www. DHR.ny.gov](http://www.DHR.ny.gov)

# Additional Protections & Remedies

## United States Equal Employment Opportunity Commission (EEOC)

- An individual can file a complaint with the EEOC anytime **within 300 days** from the alleged sexual harassment.
- You do not need to have an attorney to file.
- A complaint must be filed with the EEOC before you can file in federal court.
- More information: [www. EEOC.gov](http://www.EEOC.gov)

# Additional Protections & Remedies

## Local Protections

**Many localities enforce laws protecting individuals from sexual harassment and discrimination.**

- Contact your county, city or town to find out if laws exist.

**Harassment may constitute a crime if it involves things like physical touching, coerced physical confinement or coerced sex acts.**

- Contact the local police department.

# Is it Sexual Harassment?

For the past year, an employee has occasionally been fondled by her supervisor against her will.

**Absolutely. Any form of unwelcomed physical contact of a sexual nature is considered sexual harassment.**

# Is it Sexual Harassment?

An employee likes to tell sexually-explicit jokes at team meetings. A co-worker tells her that he finds her jokes offensive and asks her to stop. She stops.

Probably not. Since the employee ceased engaging in this behavior after she was asked to stop, her conduct most likely did not rise to the level of sexual harassment.

# Is it Sexual Harassment?

Mechanics (all male) use foul language and frequently whistle and hoot at female bus drivers. One driver complains to her supervisor but the supervisor takes no action.

- The behavior at issue appears to be pervasive and unwelcomed. As such, the mechanics, as the perpetrators, violated District policy.
- The supervisor also violated District policy by failing to take action to address the behavior.
- As a result, the mechanics, supervisor and the District are potentially liable for a breach of the District's Sexual Harassment Policies.

# Is it Sexual Harassment?

A male student is drunk at prom and exposes himself to two female students. The next day he is extremely embarrassed and apologizes profusely to the female students.

Maybe. A single act of unwelcomed behavior of a sexual nature may constitute a violation of the District's policies prohibiting sexual harassment.

# Questions?

*IF YOU HAVE ANY QUESTIONS ABOUT...*

## **Your district's policy or policies**

- ▶ Contact: your supervisor and/or  
Mary Ann Murphy, Tully CSD Title IX Officer

## **Any information in this training session**

- ▶ Email: [shp@ocmboces.org](mailto:shp@ocmboces.org)  
*shp = sexual harassment prevention*

## *TULLY CSD BOE POLICY 3410*

- The Board of Education recognizes that a learning environment that is safe and supportive can increase student attendance and improve academic achievement.
- A student's ability to learn and achieve high academic standards, and a school's ability to educate students, is compromised by incidents of discrimination or harassment, including but not limited to bullying, taunting, hazing and intimidation.

# DASA | DIGNITY for ALL STUDENTS ACT

## *TULLY CSD BOE POLICY 3410*

The District condemns and prohibits all forms of discrimination and harassment of students based on actual or perceived

- race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex;
- by school employees or students on school property or at school-sponsored events and activities that take place on or off of school property.

In addition, any act of discrimination or harassment outside of school-sponsored events which can reasonably be expected to materially and substantially disrupt the educational process may be subject to discipline.

# Thank You

Mark Pettitt  
Director, Labor Relations  
OCM BOCES