

## REDUCE SEXUAL HARASSMENT WITH LEADERSHIP, MODELING AND SENSITIVITY May 2018

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Beyond the headlines of high-profile sexual harassment incidents in politics and Hollywood, all workplaces – including schools – should be prepared to address sexual harassment in their cultures.

Workplaces should be friendly and welcoming, with collegiality during work hours. In fact, interpersonal relationships – collaboration, teamwork – often contribute to a worker's ability to thrive and succeed.

In today's modern work environment, co-workers often share jobs, rides, supervisory functions, celebrations – in and out of the workplace – and other responsibilities that bring them together. In these situations, there may be opportunities for the lines to blur between a business relationship and a personal relationship, ultimately leading to sticky situations and challenging behaviors among employees.

Regardless of the setting, in most instances, problematic interactions can be reduced through leadership, modeling and a clear understanding and sensitization as to what constitutes sexual harassment. By fostering this kind of culture, organizations may be able to prevent unethical behavior from sneaking into the workday.

### Discrimination and Power in the Law

Sexual harassment is prohibited by Title VII of the Civil Rights Act of 1964. This law addresses discrimination in employment based on sex, race, color, national origin and religion. Many states, including Rhode Island, have passed state laws which, in some cases, expand individuals' rights.

It is important to realize that these cases are about *discrimination* against an individual or individuals because of their sex. And, generally, these situations are all about an individual's *power* in the workplace; that power may influence opportunities for meaningful work, advancement and promotion, time off for medical needs and vacation, etc.

These cases are not about juvenile behaviors such as teasing or inappropriate sexually laced jokes in the work environment. However, such acts may be symptoms or evidence of such discrimination.

When it comes to sexual harassment, federal law outlines two basic types of claims: *hostile work environment* and *quid pro quo*.

### Two Types of Sexual Harassment

*Quid pro quo* is a request for sexual favors made explicitly or implicitly as a term or condition of employment. In *quid pro quo* claims, submission to or rejection of these sexual favors is used as a basis for tangible employment decisions.

For example, a department head might say to a teacher, “I need help picking out a birthday gift for my girlfriend. Why don’t you go to the mall with me, and I’ll see about getting you that raise we discussed.”

Or, a business manager might say to his office administrative assistant, “If you go on a date with me, I’ll give you those days off you requested.” Many cases in this area include a specific demand for sexual favors in exchange for workplace benefits.

A *hostile work environment* claim entails a series of unwanted sex-related actions or remarks that are so pervasive that they have the effect of altering conditions of employment or creating an intimidating work environment. The offensive behavior can be physical, written, visual or verbal.

Most legal cases in this area are filed against the employer. Businesses, organizations and school districts generally can incur liability if they actively participate in the bad behavior, allow such a culture to exist, or tolerate or fail to remediate it.

### **Policies, Procedure and Training: Five Action Items**

1. Establish a written policy. Just like the corporate workplace, all schools must have a written policy about sexual harassment, ideally as part of an employee handbook or policy manual.
2. Establish a written protocol for reporting and resolution. Workplaces must have a clear protocol for reporting instances of sexual harassment and a path towards remediation and/or fair resolution of claims.
3. Train and sensitize staff. All employees, not just managers and supervisors, should receive training. In a school environment, this includes principals, vice principals, business managers and department heads. And, of course, all teachers, assistants and aides, and custodial staff must be provided training, too.
4. Repeat the message. As with all employment law policies, careful updating and repeated reminders are critical. Opportunities for repeated reminders include: professional development workshops or other organization-wide settings as well as at new-employee or promotion orientations.
5. Follow through on reported claims. Beyond policy and training, the employer must make a commitment to fully and fairly investigate claims of sexual harassment and be prepared to follow each claim through to the point of resolution or remediation.

No matter the type of workplace, creating a healthy culture committed to preventing sexual harassment supports the well-being of your employees, the productivity of your day-to-day operations and the overall reputation of your business, school system, non-profit or other type of organization.



*This is the second in a three-part series on “Rules for Schools.” Our attorneys frequently provide coaching and training to school districts, businesses and other workplaces on topics that address sexual harassment prevention, reporting of child abuse, search and seizure limits (in a school setting), and other employment and discrimination topics.*

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