SEXUAL HARASSMENT PREVENTION

Sacramento City Unified School District
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WHAT IS SEXUAL HARASSMENT?
Discrimination law

• **Federal**
  – **Title VII**: 1964 Civil Rights Act. Prohibits discrimination based on specified categories, including sex, in the employer/employee context.

• **State**
  – **California Fair Employment and Housing Act**: Prohibits discrimination based on specified categories, including sex, and sexual orientation, in the employer/employee context.
Discrimination Law

• Sexual harassment is a type of sex discrimination.

• The definition of sexual harassment is essentially the same under both state and federal law:
  – Unwanted and unwelcome;
  – Sexual in nature; and,
  – Detrimental effect on working conditions.
Quid Pro Quo Harassment

• “You do something for me and I’ll do something for you.”

• Implicitly or explicitly conditioning tangible job benefits on consenting to sexual conduct or advances
Hostile Work Environment

- Conduct must be “severe and pervasive”
  - How frequent is the conduct? What about the “stray remark”?
  - How severe is the conduct?
  - Does it unreasonably interfere with an employee’s work performance?
- Courts judge these factors under the Reasonable Man/Woman Standard
Forms of Harassment

- Verbal
- Non-Verbal
- Written
- Physical
Hostile Work Environment

• Term has become a “catch all” for complaints about general work environment.

• A bad work environment alone ≠ “harassment” or “discrimination”

• How do you handle complaints about “Equal Opportunity Jerks”?
State Law re Sexual Orientation

- The FEHA provides protection based on sexual orientation.
- The Education Code provides protection based on “gender” and “sexual orientation.”
- The law also prohibits harassment based on failure to conform to gender stereotypes.
State Law re Students

• Education Code § 210.7:
  – “Gender” means sex, and includes a person’s gender identity and gender related appearance and behavior whether or not stereotypically associated with the person’s assigned sex at birth.

• Education Code § 212.6:
  – “Sexual orientation” means heterosexuality, homosexuality, or bisexuality.
STUDENTS AND SEXUAL HARASSMENT
Students and Sexual Harassment

• Students have a right to be free from sexual harassment in the educational activities.

• Look to:
  – Board Policies
  – Student Behavior/Discipline Guidelines
  – Education Code § 212.5
Students and Sexual Harassment

- Harassment so severe that it effectively bars access to an educational benefit
- District has actual knowledge of harassment
- District acts with deliberate indifference
- Does not apply to simple acts of teasing and name-calling
PREVENTING AND CORRECTING SEXUAL HARASSMENT
Prevention Through Education

• Title VII requires a notice be posted in conspicuous places on the premises, setting forth the pertinent sections of the statute and information pertaining to the filing of a complaint.

• Managers and supervisors can help Human Resource Services by ensuring that the notice remains posted and unobstructed.
Prevention Through Education

• Managers and supervisors are role models; model equal treatment and respect and never engage in sex-based jokes or banter
Prevention Through Enforcement

- Employees are personally liable for sexual harassment that they commit
- Employers are liable for failure to prevent and correct harassment
INVESTIGATING COMPLAINTS
Responding To Complaints

- Review District policy
- Process employee complaints in accordance with policy
- Evaluate need for police/CPS involvement
- Listen to the complainant with an open mind
Responding To Complaints

• Do not prejudge the complainant or the accused
• Advise the complainant and accused of any relevant policies and provide copies of same
• Advise the complainant and accused of the investigation process
• Do not promise confidentiality
• Call Human Resource Services
During the Investigation

• Keep the complainant informed (i.e., Who will investigate? When they may be called? General time line for resolution?)