

## Protect students from sexual harassment

Courts are holding school districts liable on grounds that they were deliberately indifferent in failing to prevent sexual harassment, including student-on-student assault.

By actively planning to address harassment, districts can avoid problems that jeopardize student safety, said Susan Strauss, an expert witness and a nationally recognized bullying and harassment consultant from Eden Prairie, Minn. Strauss said the definition of deliberate indifference can change from court to court. Generally though, school districts are found deliberately indifferent for inadequately investigating harassment, because they failed to take steps to keep students safe or to stop harassment, she said.

Strauss shared advice on how districts can reduce sexual harassment, including assault.

### 1. Thoroughly investigate.

■ **Use trained investigators.** Don't leave investigations to any untrained people, Strauss said. An investigator may be an assistant superintendent or Title IX officer. List their name, phone number, and office location in student handbooks, as required by Title IX. A Title IX coordinator must understand that Title IX goes beyond athletics and covers sex equity. Also, ensure that the investigator is competent and can distinguish harassment from bullying, she said.

■ **Define adequate investigation in policy.** Title IX requires that policy include reporting and investigative procedures, Strauss said. Even if police conduct a criminal investigation, the district must investigate allegations of harassment based on civil rights law. After receiving a harassment complaint, the investigator must interview witnesses, follow the district's harassment policy and procedure, and review student records to determine if the alleged harasser has a history of harassing misconduct.

■ **Decide to investigate.** Investigate based on the pervasiveness and seriousness of complaints, Strauss said. A report of a student telling dirty jokes "differs from a student who comes forward and says he was sexually assaulted, though both may require investigating," she said.

### 2. Keep students safe.

■ **Educate, involve students.** Teach K-12 students in age appropriate ways about sexual harassment; don't wait till middle school health class, Strauss said. "We see a ton of behaviors like this in elementary grades," she said. Ask students to rewrite district harassment policy in their own language so kids understand it, and ask a school attorney to review it, she said. Pro-

vide middle and high school students opportunities to speak out on harassment in facilitated focus groups, she said. Invite kids from the debate team, orchestra, and athletics to speak to peers in classes. Distribute surveys to students to identify unsafe areas of campus and examine the school social climate. Plan a harassment-themed poster contest, she said.

■ **Educate adults.** Determine whether district staff take sexual harassment seriously and train them to enforce policy campus-wide. Reassess the freedom students have from staff to roam campus unsupervised. Explore how parents can cooperate with schools.

### 3. Take reasonable steps to stop harassment.

■ **Address harassment.** Take action as soon as harassment is observed or reported, Strauss said. If a student tells a teacher that a classmate grabbed her inappropriately, the teacher must go beyond chiding the classmate. Report it as a sexual assault, she said.

■ **Separate victim, harasser.** If a district doesn't suspend or expel a harasser, separate a harasser from the victim. Some districts provide a harasser a tutor at home, Strauss said.

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### District, DOJ address sexual assault

The Department of Justice recently announced that Allentown, Pa., School District and the DOJ filed a consent decree under Title IX, to address alleged sexual assaults of 6- and 7-year-old students at Central Elementary School in 2003-04. *Doe v. The School Dist. of the City of Allentown*, No. 2:06-CV-1926 (E.D. Pa. 07/30/12). Title IX prohibits sexual harassment.

The statement says the district will:

- Retain a student-on-student harassment expert to draft and implement sexual harassment policy and procedure.
- Train administrators, faculty, staff, students, and parents on sex-based harassment.
- Create procedures to identify, monitor, and supervise students with a confirmed history of sexually harassing classmates.
- Ensure that harassment policies complying with Title IX are properly implemented, including prompt investigations, resolution, and reporting sexual harassment complaints and allegations.
- Develop policy for communicating with police, hospital, and child protection agencies about district allegations of sexual harassment.
- Submit annual compliance reports to the DOJ.

*Find the decree at [www.justice.gov/iso/opa/resources/990201273010810290492.pdf](http://www.justice.gov/iso/opa/resources/990201273010810290492.pdf).* ■