

Training Guidelines for Recognizing Sexual Harassment Clarksville-Montgomery County School System

DISTRICT POLICY ON SEXUAL HARASSMENT

It is the policy of the Clarksville-Montgomery County School System to maintain a working and learning environment that is free from sexual harassment. The district prohibits any form of sexual harassment, which is a form of sexual discrimination and is in violation of Title VII of the Civil Rights Act of 1964. Any allegation of sexual harassment when perpetrated on any student, employee or third party individual in a school setting by a student, employee or third party individual in a school setting will be promptly and properly investigated and appropriately handled based on the outcome of the investigation. CMCSS will act to investigate all complaints of sexual harassment, formal or informal, verbal or written and to discipline any student or employee who sexually harasses another student or employee of the system.

SEXUAL HARASSMENT DEFINED

- a. **Sexual Harassment is defined as unwelcome or unwanted sexual advances, requests for sexual favors, sexually motivated physical conduct or other physical, verbal or visual conduct or communication of a sexual nature, occurring on school property or at a school-sponsored event** when:
 1. Submission to or rejection of that conduct or communication by an individual is made a term or condition of or is used as a factor in decisions related to, either explicitly or implicitly, obtaining or retaining employment, or obtaining an education; or
 2. That conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment or education, or creating an intimidating, hostile or offensive employment or education environment.

- b. **The three elements of sexual harassment:**
 1. The behavior is unwanted or unwelcome;
 2. The behavior is sexual or related to the gender of the person;
 3. The behavior occurs in the context of a relationship where one person has more formal power than the other (such as a supervisor over an employee or a teacher over a student), or more informal power (such as one peer over another as a result of factors such as physical size, seniority, numerousness, etc.).

- c. **Sexual harassment can be covert or overt.** Examples include:
 1. Covert: pictures that are graphic, sexually explicit, degrading or humiliating; jokes with sexual overtones; suggestive behavior, obscene gestures, or insulting sounds; comments repeatedly emphasizing sexuality or the sexual identity of an individual.
 2. Overt: requests for social or sexual encounters or favors; personnel decisions based on sexuality or sexual behavior; physical touching, fondling, pinching or kissing, sexual assaults.

d. Three Types of Sexual Harassment:

1. **Quid Pro Quo Harassment:** Occurs when an authority figure explicitly or implicitly conditions employment and/or educational decisions upon the submission or rejection of unwelcome sexual conduct.
2. **Hostile Work Environment Harassment:** Occurs when unwelcome sexual conduct unreasonably interferes with an individual's job performance, ability to participate in or benefit from an educational program or activity. This type of harassment usually consists of severe, persistent or pervasive conduct sufficient to offend a reasonable person and adversely affect the employment atmosphere.
3. **Inverse harassment:** A third individual pursues a cause of action based on the allegation that another party did submit to sexual pressure and did receive a position that the third party should have received.

e. Totality of Circumstances: Annoying behavior such as occasional flirtation or infrequent vulgar language may not be sufficient to create a hostile environment. Courts generally look at the following factors to determine if a hostile work environment exists.

1. **Nature (verbal, physical, visual or combination) of the offense.** This may include jokes, touching, propositions, pornographic material, sexually derogatory language, non-sexual harassment directed at one sex.
2. **Pervasiveness of the conduct.** This may include frequency, openness, avoid ability of the victim, observance by others, persistency, others joined in perpetuating the harassment.
3. **Relative position of the harasser and the victim.** This takes into consideration the following as they relate to both the harasser and the victim: supervisor, management, peer, subordinate, outsider, and ages of both the harasser and the victim.
4. **Employer's good faith.** This includes announced policy, dissemination of policy and training provided to employees, effective enforcement, usable grievance mechanism, speed of action after the employer learned of the acts constituting the harassment, reasonableness of the investigation of complaints, punishment of the perpetrator, whether the harassment persisted after the perpetrator is instructed not to do it again.
5. **Extent of participation or reasonableness of the victim's actions.**
6. **Degree to which the harassment was outrageous or criminal conduct.**
7. **Extent of injury to the victim.**

f. Federal Laws That Prohibit Sexual Harassment

1. **Title VII of the Civil Rights Act of 1964:** Makes it an unlawful employment practice for an employer to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex or national origin.
2. **Title IX of the Education Amendments of 1972:** States that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits or, or be subjected to discrimination under any education program or activities receiving federal financial assistance.
3. **Section 1983 Liability:** Provides recourse for an individual who has suffered a deprivation of his/her constitutional rights at the hands of persons acting under the "color of the law."

IMPORTANT LESSONS RELATED TO SEXUAL HARASSMENT

You never know. . . The typical harasser is a middle aged, adult male who is married with children. He is usually a churchgoer and highly respected in the community because of the time he spends in activities benefiting children. He may be viewed as a 'success' or a 'winner.' Adult female perpetrators defy profiling. The highest percentages of adult violators are coaches, drama, music, and special education teachers and others who have opportunities to isolate certain students in the course of activities. Student perpetrators may be leaders, popular, or otherwise appear to have a lot going for him/her.

LESSON: Perpetrators may be high functioning in all other areas of their lives. TAKE EVERY COMPLAINT SERIOUSLY.

Anyone can be a perpetrator. . .

Perpetrator		Victim
Administrator	against	Administrator, Employee, Student, Third Party*
Employee	against	Employee, Student, Third Party*, Administrator
Student	against	Student, Third Party*, Administrator, Employee,
Third Party*	against	Employee*, Student*

* In the school environment.

LESSON: Anyone can be the perpetrator. Sexual harassment by a person of the opposite gender is more typical, though a person of the same sex may be the harasser. **EVERY COMPLAINT MUST BE GIVEN THE SAME CONSIDERATION THROUGHOUT THE ENTIRE PROCESS.**

Indicators of Sexual Harassment Can Be Very Subtle.

Sexual harassment is an act of domination or violence. It is not about sensuality. Perpetrators often search for a potential victim by initiating minor violations of one's personal boundaries and then watching for the potential victim's reaction. The perpetrator may make subtle invasions of the intended victim's boundaries, such as:

▪ Leaning to close	▪ Incidental, but nonetheless, inappropriate touching
▪ Strange looks or staring at body parts	▪ Conversations that are too long & too personal
▪ Too persistent in asking for attention or a date	

The perpetrator may use personal warmth, friendliness, compliments special attention, assistance or "counseling" to nurture a trust or bonding with the intended victim. Once the relationship is established, the perpetrator makes sexual demands of the victim.

LESSON: Harassment complaints may not need to be the result of a blatant act to be valid. Early in the process, the victim may say that the perpetrator looks at him/her weird or makes them feel uncomfortable. Check for boundary violations. **EARLY, SUBTLE SIGNS MAY NOT BE SEVERE ENOUGH TO WARRANT DISCIPLINARY ACTION. THEY CAN BE IMPORTANT IN MAKING NECESSARY INTERVENTIONS TO PRECLUDE MORE SERIOUS HARASSMENT LATER.**

HELPING STUDENTS DISTINGUISH SEXUAL HARASSMENT

FRIENDSHIP/FLIRTING

I feel liked!
I feel respected!
I feel attractive!
I feel happy!
I feel confident!
I love coming to school!
I feel like being with others!

SEXUAL HARASSMENT

I feel sad!
I feel angry!
I feel helpless!
I feel ashamed!
I feel embarrassed!
I don't want to go to school!
I want to avoid others!

WHAT SHOULD A VICTIM DO?

- Tell the harasser that they dislike the activity/behavior and expect it to stop. **NO MEANS NO!** If the victim does not feel comfortable confronting the harasser, they should ask the supervisor, building administrator or one of the District's Non-Discrimination Officers to help make the harasser aware of the need to stop the unwelcome sexual behavior.
- If the harasser does not stop the harassment, the victim should:
 - Keep a written record of all harassing acts.
 - Tell their friends/colleagues about the problem so they can observe and, if necessary, corroborate the claims of harassment.
 - Tell a member of administration or management that he or she has been sexually harassed.

Associated Documents: [HUM-A047](#) Sexual Harassment
[HUM-F036](#) Sexual Harassment Report Form
[HUM-F037](#) Report of Investigation of Sexual Harassment Complaint by Student
[HUM-F038](#) Report of Sexual Harassment Complaint by Employee
[HUM-P019](#) Reporting Allegations of Sexual Harassment
[HUM-M001](#) Employee Handbook
Title VII of the Civil Rights Act of 1964