

ANTI-Harassment Memo

To: Superintendents and District Title IX/Section 504 Coordinators

From: Coordinator, Office for Civil Rights, Ohio Department of Education, Division of Career-Technical and Adult Education

Subject: Zero Tolerance Policy on Sexual, Racial and All Forms of Harassment by School Employees, Other Students, or Third Parties

Date: August 14, 2006

You will find two newspaper clippings on the vocational education website. One article addresses, "The New Rules of Sexual Harassment" and the other is titled, "Schools Not Liable in Sex Relations Suit." The latter Supreme Court decision allowed unsavory teachers and other school employees to harass students "at will" without the district's "arm of protection." Therefore, school systems nationally are working harder to formulate and publicize anti-harassment policies so students will feel comfortable about reporting these types of offenses. Nevertheless, as of May 25, 1999, student-on-student harassment, a Supreme Court decision was passed to make districts accountable.

In order that Ohio schools become in compliance with the following U.S. Department of Education, Office for Civil Rights mandates, we are requesting that you retrieve the following from the Office for Civil Rights website:

1. Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties. The URL address is: <http://www2.ed.gov/legislation/FedRegister/other/2000-4/110200b.html>.
2. Racial incidents and Harassment Against Students at Educational Institutions. The URL address is: <http://www2.ed.gov/about/offices/list/ocr/docs/race394.html>.

The above information should assist you in setting-up a comprehensive sexual and racial harassment policy and grievance procedure for both students and employees. However, this memorandum primarily addresses the student population.

You need to be aware that the U.S. Department of Education, Office for Civil Rights requires all educational institutions and school districts who receive federal funding or enjoy the use of federal funds, to appoint a Title IX Coordinator (which includes Title VI, race, color, national origin, and sex), and a Section 504 Coordinator (which includes race, color, national origin, sex and disability) to handle any and all alleged discrimination grievances as well as sexual and racial harassment complaints regardless of race, color, national origin, sex and disability. One employee may handle both or you may have a coordinator for Title IX and one for Section 504.

It is further recommended that you have two grievance procedures. However, this is at the local agency's discretion.

In the large urban areas, the main Title IX/Section 504 Coordinator should be the compliance officer or someone with decision making authority. You may wish to assign assistant Title IX/Section 504 Coordinators under the supervision of the main coordinator, both male and female, to accommodate employees, students, and parents/guardians who may feel more comfortable talking to someone of the same sex. Of course, the assistant Title IX/Section 504 Coordinators working under the district Title IX/Section 504 Coordinator should be appointed by the local board of education to ensure that the coordinator assistants are persons with decision making authority, as well as responsibility.

The sexual/racial harassment policy and grievance procedures must be posted in conspicuous destinations. It is important to let all students, employees and others involved know that they will be protected from coercion, intimidation, retaliation and discrimination for filing a complaint or assisting in an investigation.

Please feel free to use any of the grievances/policies which are applicable to your district, expressly if you do not have an adequate policy in force at this time. Just fill in the information for your district and have the "sample" policies approved by your local board. Then, distribute accordingly as mentioned in this memorandum.

With the above in mind, I have designed copies of sample policies and grievance procedures. I have also designed a sample letter to be sent to parents/guardians.

Lastly, according to the Civil Rights Act of 1991, if districts do not have in writing that they have made provisions for alleged discrimination or harassment, e.g., designation of persons with decision making power who may be contacted by the alleged discriminated and harassed, such as the district Title IX and/or Section 504 Coordinator. Also, no evidence of a timely, speedy, and prudent investigation; said districts may be liable for a maximum lawsuit up to \$300,000 in some instances.

I am offering the samples as recommendations only. The districts must choose the appropriate methodology they wish to take in order to protect their employees and students and to curtail the cost, liabilities, impact, and responsibilities of their district.

If you have any questions or need technical assistance, you may call me direct at (614) 644-6325 or (614) 466-4835.