Preventing Inappropriate Employee-to-Student Relationships:

Strategies for Safer Schools

Charli Searcy, Legal Liability Risk Consultant
TASB Risk Management Fund

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Let’s Chat!

- Respond to questions and scenarios.
- Ask questions.
- Tell me what you know.
Who are you?

What school or district do you represent?

What is your job title?

What do you want to learn from this session?
Legal Disclaimer

The information presented in this training session should not be used as legal advice. Please consult your attorney if you have a legal matter to discuss or need guidance with understanding and/or applying legal principles discussed during this presentation.
Review Title IX basics

Identify behaviors that can lead to inappropriate relationships

Define sexual harassment per the new Title IX regulations

Explore strategies to prevent inappropriate relationships
Let’s Hear From You

What is a major challenge you face when addressing inappropriate relationships in your district or school?
• In Texas, a reported 429 cases of inappropriate employee-to-student relationships were opened between 2017-2018.

Source: Texas Education Agency (TEA)
Statistics compiled by Stop Educator Sexual Abuse Misconduct and Exploitation (SESAME) stated that:

- About 3.5 million 8th to 11th grade students who were surveyed reported having had physical sexual contact from an adult, primarily a coach or teacher, including unwanted touching and sexual intercourse.

- There was a statistical increase to 4.5 million children when taking into consideration other types of sexual misconduct such as being shown or subjected to sexually explicit images or language.

Governing Law
What is Title IX?

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving financial assistance.”

Source: 20 U.S.C. §1681
Title IX protects every student’s right to educational opportunities and benefits free from sex discrimination, which includes sexual harassment and sexual assault.

Source: The U.S. Department of Education, Office for Civil Rights
An institution may not:

- exclude
- separate
- deny benefits to, or
- treat differently

any person on the basis of sex unless authorized by Title IX or the U.S. Department of Education’s regulations.

Source: https://www2.ed.gov/about/offices/list/ocr/docs/dcl-title-ix-coordinators-guide-201504.pdf
Title IX

Requires designation of a Title IX coordinator

Prohibits sexual harassment and sexual assault

Includes employee-to-student sexual harassment

Applies to federally funded schools
Sexual Harassment Defined
Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

• Quid pro quo: This is when an employee of the district conditions the provision of an aid, benefit, or service to the recipient on an individual’s participation in unwelcome sexual conduct.
• Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school’s education program or activity.

• Sexual assault, dating violence, domestic violence, or stalking.
**Gebser Standard**

Employee-to-student sexual harassment

- Actually knew of the abuse.
- Had the power to end the abuse.
- Failed to act.
- The employee’s response amounted to deliberate indifference.

Notice

- K-12: A district is put on actual notice about a sexual harassment complaint when a report is made to any employee.

- All other schools: Notice to the Title IX coordinator or an official authority gives the school actual notice.
School or district’s response to the harassment is deliberately indifferent when it is clearly unreasonable in light of the known circumstances.
A delayed response, no response, or an improper response can be considered deliberate indifference.
Identifying Inappropriate Behaviors
Improper Educator-to-Student Relationships Defined

Involving a student in the same district:
An inappropriate employee-to-student relationship occurs when an employee of a school district engages in sexual behavior with a student in the district where the employee works.

Involving a student in another district:
An inappropriate employee-to-student relationship occurs when an employee in a position requiring State Board for Educator Certification (SBEC) engages in sexual behavior with a student in another district.

Source: Texas Penal Code, Section 21.12
This applies to:

- Teachers
- Teacher Interns or Teacher Trainees
- Librarians
- Education Aides
- Administrators
- Educational Diagnosticians
- School Counselors
- Nurses
- Audiologists
- Occupational Therapists
- Physical Therapists
- Marriage and Family Therapists
- Physicians
- School Psychologists
- Associate School Psychologists
- Licensed Professional Counselors
- Social Workers
- Speech Language Pathologists

Source: Texas Education Code, Section 21.003 (a) and (b)
Recognize

Encouraging your district to promote awareness of inappropriate interactions within its schools can foster a collaborative effort that may help to reduce or eliminate sexual misconduct.
Inappropriate Behavior

• Communications showing that the educator solicited a romantic relationship with the student;
• Making inappropriate comments about a student’s body;
• Making sexually demeaning comments to a student;
• Making comments about a student’s potential sexual performance;

Source: Texas Classroom Teachers Association: https://tcta.org/node/12941
Inappropriate Behavior

• Requesting details of a student’s sexual history;
• Requesting a date;
• Engaging in conversations regarding the sexual problems, preferences, or fantasies of either party;
• Inappropriate hugging, kissing, or excessive touching; and
• Suggesting that a romantic relationship is desired after the student graduates, including post-graduation plans for dating or marriage

Source: Texas Classroom Teachers Association: https://tcta.org/node/12941
Case Law Example
Alida Gebser ("Gebser") was an eight-grade student at a middle school in Lago Vista Independent School District.

She joined a high school book discussion group led by Frank Waldrop ("Teacher"), a teacher at Lago Vista’s high school.

During the book discussion sessions, the teacher would make sexual comments to the students.

The teacher began directing more of his inappropriate remarks to Gebser, including during the substantial time the two of them were alone in his classroom.

Gebser began high school and was assigned to classes taught by the teacher in both semesters.
When the teacher visited Gebser’s home to give her a book, he initiated sexual contact with Gebser by kissing and fondling her. Afterward, the two began a sexual relationship.

Eventually, parents of two other students complained to the high school principal about the teacher’s comments in class.

Gebser did not report the relationship to school officials.

The principal arranged a meeting with the teacher and indicated that the teacher did not believe he had made offensive remarks. However, the teacher apologized to the parents and said it would not happen again.
Gebser v. Lago Vista

The principal advised the teacher to be careful about his classroom comments and told the school guidance counselor about the meeting. The principal did not report the parents’ complaint to the superintendent, who was also the district’s Title IX coordinator.

A couple of months later, a police officer discovered the teacher and Gebser engaging in sexual activity and arrested the teacher.

The district terminated the teacher’s employment and the Texas Education Agency revoked his teaching license.
Inappropriate Behaviors and Community Awareness in Gebser:

- The teacher making sexual comments to students.
- Inappropriate remarks being directed to a student.
- Spending substantial time with the student, including often being alone together in the teacher’s classroom.
- The teacher visiting the student’s home possibly under the pretext of giving her a book.
Inappropriate Behaviors and Community Awareness in Gebser:

- Initiating sexual contact with the student and beginning a sexual relationship with her.

- The parents of other students complaining about the teacher’s comments to the principal.

- The teacher downplaying his offensive remarks.
The teacher did little to conceal his behavior. He wrote notes to female students, let them drive his truck, touched them in an overly familiar way, and showed favoritism toward them.

The community recognized the teacher’s inappropriate behavior with a number of female students.

A number of complaints through various channels were made to the principal.

Jane Doe, a high school freshman, brought suit against the district, superintendent, and principal based on sexual harassment by her male biology teacher.

The Inappropriate Relationship

Doe v. Taylor

Jane Doe and the teacher began exchanging notes, telephoning, and eventually began a sexual relationship.

Coaches and students would frequently tease the teacher about his relationship with Doe.

Incidents over a course of time regarding the two were reported to the principal, as well as the superintendent.

No further action was taken other than brief consultations with the teacher and verbal warnings about his behavior.
The Inappropriate Relationship
Doe v. Taylor

The parents of Doe found photographs of, and notes from, the teacher to Doe. They reported this to the superintendent.

After no recourse from the district, the parents consulted an attorney.

Upon Doe’s parents finding more evidence of the continued relationship between Doe and the teacher, their attorney informed the superintendent.

The superintendent eventually ordered the teacher immediately suspended from employment.

The teacher resigned and pled guilty to criminal charges stemming from the molestation of Doe.
Inappropriate Behaviors and Community Awareness in Doe:

• Teacher’s overt behavior including writing notes to female students, letting them drive his truck, and touching them in an overly familiar way.

• The teacher showing favoritism toward female students.

• The community's awareness of the teacher’s inappropriate behavior.

• Numerous complaints about the teacher’s behavior.
Inappropriate Behaviors and Community Awareness in Doe:

• The teacher exchanging notes, telephoning, and beginning a sexual relationship with the student.

• Coaches and students teasing the teacher about his relationship with the student.

• Photographs of, and notes from, the teacher to the student.
Sexual Grooming

Some behavior that may be considered normal and nonsexual could develop into behavior known as sexual grooming, in which a perpetrator gains a minor’s trust to prepare him/her for sexual abuse.
Sexual Grooming

Sexual grooming can include, but may not be limited to:

• Getting the victim to become desensitized to inappropriate touching or sexual conversations.
• Isolating the student in order to spend time alone with them or requesting the student to stay late after class.
• Offering to give the student rides home after school especially when the student has alternative forms of transportation.
Employee Red Flags

- Does the employee focus on this student more than any other student? Does the employee seem to favor this student?
- Does the employee always seem to isolate him/herself with the student? Are they often seen together in secluded places?
- Is this behavior an appropriate response to the situation, or does it occur frequently, for no obvious reason?
Employee Red Flags

• Do the employee’s actions cross the boundaries of decency (i.e., hugging too long or too frequently, inappropriately touching, or making comments about the student’s appearance)?

• Does the employee give the student rides home, especially without the parents’ permission?

• Have there been complaints or rumors about the employee’s behavior?
Student Red Flags

• Does the student seem standoffish in the employee’s presence or enamored with the employee?

• Does the student tease the employee as if he/she is a peer?

• Do the student and employee make jokes or references that only they understand?
Student Red Flags

• Does the student make positive or negative comments about the employee? What is being said regarding these comments?

• Has the student admitted to or bragged about being in an inappropriate relationship with the employee?

• Does the student seem withdrawn or depressed?

• Is the student failing his/her classes?
Let’s Hear From You

Scenarios
Would this be considered inappropriate behavior?

Once a week, the science teacher asks different students to stay an hour after school to help organize class projects and assist with planning for the national science fair.

No
Scenario # 2

Would this be considered inappropriate behavior?

A history teacher and one of his students are always seen together, even during lunch. Sometimes, the student stays late after school and the teacher takes her home.

**YES**
A teacher gives every one of her 7th grade students a hug at the end of class every Friday and tells them to have a great and safe weekend.

Depends
What about those behaviors that may seem neither right or wrong?

Hugs, pats on the back, and compliments may not necessarily be sexual harassment. However, these same gestures can become harassment depending on the intent of the initiator, the action itself, and the age of the person who is the recipient of this conduct.
Gerald, a second-grade student, is seen crying by his teacher. Gerald lets the teacher know that another student pushed him down and called him names. The teacher gives the student a hug and tells him that he will be fine and that she will have a talk with the student responsible.

Did the teacher act appropriately?
Mr. Smith noticed Kera, a tenth-grade student, sobbing in the hallway. He asked her what was wrong and Kera informed Mr. Smith that she just broke up with her boyfriend. Mr. Smith gave Kera a side hug as she continued to cry. He stated that there were many “fish in the sea.” He also told her that she was pretty and would have no problems finding another boyfriend.

Did the teacher act appropriately?
Suggestions for Preventing Inappropriate Relationships
Exercise awareness and act.
If a school knows of the misconduct, it must act!
Exercise Awareness and Act

• While some inappropriate behavior can be subtle, other behavior can be more obvious. Recognize signs that are easy to notice, and quickly act.

• Pay attention to interactions between employees and students and consider the context of such interaction.

• Understand that some perpetrators are viewed as likable teachers. They may use this characteristic to gain the trust of parents, co-workers, and the community.
Exercise Awareness and Act

- Be mindful of places where sexual harassment can take place and implement measures to restrict access to these places, especially after-hours.

- Take into consideration classes, projects, or extracurricular activities where the employee may spend a substantial amount of time with the student.
Exercise Awareness and Act

- Avoid telling the alleged victim or third-party reporter to forego or delay making a report or filing a complaint.

- Encourage good faith reporting among your employees.

- Without accusing, ask both parties questions. If you suspect, have witnessed, or have received a report or complaint of sexual harassment, promptly report to the Title IX coordinator or designated official.

- Ensure you consistently comply with reporting requirements, including SBEC reporting.
Update and implement your policies.
Update and Implement Your Policies

• Update your Title IX policies and procedures to comply with the new regulations.

• Set boundaries with clear, direct policies.

• Create restrictions and transparency in your policies.
  • Review your DH (LOCAL) policy on electronic communication.

• Consider TASB’s HR Model Employee Handbook suggestions on copying parents, employee’s immediate supervisor, or the district on any electronic communications sent to the student.
Update and Implement Your Policies

• Administrators and staff need to understand the district and school’s policies including the:
  • Definition of sexual harassment.
  • Instructions on reporting such incidents.
  • Discussion on confidentiality.
  • Contact information for individuals who can further assist students seeking help.
Educate your employees and students.
Educate Your Employees and Students

Create teacher and staff awareness

- **Train:** Ensure teachers and staff are trained on identifying sexual harassment and recognizing inappropriate employee-to-student interactions.

- **Follow protocol:** Require that employees follow proper protocol on addressing employee sexual misconduct complaints, especially if they are the alleged victim’s first point of contact.

- **Review policies:** Keep teachers and staff fully informed on policies concerning their conduct on and off campus, including social media engagement and electronic communications.
Educate Your Employees and Students

• Keep your Title IX personnel trained on their responsibilities to ensure they are properly assisting your district and school with complying with Title IX.

• Create a culture of openness and responsibility for administrators and staff to report any suspicion of sexual misconduct.

• Promote student awareness and education regarding sexual harassment.
Hire wisely.
Hire Wisely

• Screen applicants thoroughly.

• Understand and comply with the *Do Not Hire Registry*.

• Be aware of employees who have had previous allegations of sexual misconduct where the charges were dismissed.
Support your students.
Support Your Students

• Encourage parents and staff to pay attention to any behavioral changes a student may exhibit.

• Have options available for the victims to undergo counseling.
  • Students may also benefit from personal counseling by licensed counselors or psychologists.
Overall

Exercise awareness and act.

Educate your employees and students.

Update and implement your policies.

Hire wisely.

Support your students.
Questions?
Charli Searcy
Legal Liability Risk Consultant
charli.searcy@tasb.org