



SEXUAL HARASSMENT

*Responses and Resources
for School Employees*



arizonaaea.org/helpdesk

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After a great deal of public debate, the #MeToo movement, Congressional hearings, and the fall of many celebrities and politicians, the consensus of American public opinion is that sexual harassment is morally wrong and unacceptable. The courts, including the United States Supreme Court, have officially confirmed that sexual harassment is a form of illegal sex discrimination. School districts have adopted policies to protect students and staff from unlawful treatment. It is critical for school employees to know these policies and learn their legal rights.

This booklet offers some tips on how to navigate the difficult area of sexual harassment. It contains a brief overview of the law of sexual harassment and various remedies available through the legal system. It also offers advice on how to prevent sexual harassment, how employees should respond when they and their co-workers are victims, and how to handle student complaints.

Sexual harassment issues can be complex and confusing. I hope that this Arizona Education Association booklet will help school employees assess their rights and duties with respect to sexual harassment.

School employees need to remember that harassment on the bases of age, race, national origin, religion, genetic information and disability, also violate Arizona and federal law. The information in this booklet is designed to cover those areas as well.

My thanks to Alice Finn Gartell for the original version of this booklet along with the Oregon Education Association.

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INTRODUCTION

Legal Terms in Sexual Harassment Law

Overview of the Law

Courts and administrative agencies use specific terms in sexual harassment claims. Claims can be filed by men or women who are victims of harassment. Don't forget that men can harass men and women can harass women.

Sexual harassment is discrimination on the basis of sex. The U.S. Supreme Court held in 2020 that Title VII of the federal Civil Rights Act prohibition of discrimination on the basis of sex includes Lesbian Gay Bisexual Transgender and Queer employees. After that decision, the Arizona Attorney General's Office acknowledged that the Arizona Civil Rights Act's prohibition of sex discrimination similarly applied to sexual orientation and gender identity cases.

Demands for Sexual Favors

Sexual harassment exists if you must submit to unwanted sexual conduct in order to obtain job benefits or to keep your job. Retaliation for refusing sexual advances is also considered unlawful discrimination. Courts label this scenario as "quid pro quo" ("this for that") discrimination.

Two types of employees can be victims of quid pro quo harassment: (1) the worker who is offered favorable treatment in return for sex and (2) the employee who cannot "earn" the favorable treatment because it is given to others in exchange for sex.

School districts can be liable for harm caused by supervisors who threaten or reward employees to extort sexual favors or retaliate against employees for refusing sexual advances.

Hostile Work Environment

Sexual harassment also exists when your work environment is "intimidating, hostile or offensive" due to unwanted verbal or physical conduct of a sexual nature. The conduct must be sufficiently severe or pervasive to alter the conditions of employment and create an abusive working environment. School employees should look for the following conduct, *if unwelcome*, as evidence of possible sexual harassment: sexual advances; sexual language, pictures, or jokes; physical touching, kissing, fondling, or groping; vulgarity or demeaning remarks related to gender.

You must show that the conduct actually created a hostile work environment because the incidents were sufficiently frequent, severe, or threatening to make it more difficult for you to work. A court will look at all of the circumstances and decide whether a "reasonable person" in the same situation would find that the workplace was "intimidating, hostile or offensive." Isolated instances of sexual jokes or name-calling generally are not considered illegal sexual harassment. Such rude behavior is

unprofessional, even if it is not illegal.

The behavior also must be either sexual in nature or designed to intimidate you because of your sex. For example, it is sexual harassment when a female bus mechanic is constantly having jokes played upon her, just to remind her that she has taken "a man's job." The test is whether the treatment as a result of her gender made it more difficult for her to do her job.

The term "hostile environment" is overused in American society. It does not mean that the people in the workplace hate each other or are unpleasant or uncivil. Here are the factors courts use to determine whether a hostile environment exists. All factors must be present.

- It must be on the bases of sex, race, age, disability, national origin, religion, genetic information, or another protected category. Sexual orientation and gender identity are protected categories. "She just doesn't like me," is not enough.
- It must be either severe or pervasive
- It must be subjectively offensive (you are offended)
- It must be objectively offensive (anyone would be offended)
- It must interfere with your work.

Retaliation

An employer cannot retaliate against employees because they have filed a sexual harassment complaint or testified or participated in an investigation or hearing. It is against the law for employers to take adverse employment action, such as a poor evaluation or demotion, against employees because of their opposition to sexual harassment.

Responding to Sexual Harassment

General Rules for Victims of Harassment

DOING NOTHING IS NOT AN OPTION.

Victims of sexual harassment may not know how to respond. If you experience sexual harassment, you should observe the following basic principles:

- Do not deny or ignore the problem. *Tell the harasser you object.* This may stop the conduct.
- Do not blame yourself. It is not your fault.
- Find out if your district has a sexual harassment policy and review it. It is usually Policy ACA.
- Seek advice from your Local Association on the best and safest way to report sexual harassment. Policy Regulation ACA-R has the process. The complaint form is at ACA-E. Recognize that your complaint may not be kept confidential because Arizona and federal law require the district to investigate.
- Find support from sympathetic co-workers and from your Association representative.

Write a detailed account of what happened and find witnesses who may have seen or heard the incident(s).

- Develop a plan on how to deal with future incidents of sexual harassment.
- Obtain counseling and/or medical treatment from an employee assistance program (EAP) or other trained professional if necessary.

Do Not Ignore Sexual Harassment

When sexual harassment occurs, do not ignore it. Victims often try to ignore sexual harassment because they are embarrassed or fear retaliation. Victims may blame themselves or deny that harassment is occurring. Some victims hope that by ignoring the abuse, it will go away. Experience shows that this is not the case.

Supervisors or co-workers who inflict harassment take silence as a cue to escalate unwanted abuse. Do not try to endure sexual harassment. Action is critical to make the harasser stop. Sometimes telling the co-worker or supervisor that the behavior is offensive is enough. This is the first step in responding to harassment. Sometimes a third party, such as a co-worker or appropriate Association representative, can help resolve a problem between co-workers before it becomes serious.

If the behavior continues after you ask the harasser to stop, report the problem to a district administrator or Human Resources. Early reporting is important to put a school district on notice that harassment is occurring. Policy ACA-R requires reporting in 30 days. If a complaint involves offensive sexual comments or inappropriate physical advances by co-workers, a district may try to avoid liability by claiming the district did not know of the hostile working environment. Thus, a prompt formal complaint can be critical to preserve your legal rights.

Obtain Assistance to Report and Stop the Harassment

When an employee reports sexual harassment, an investigation by Administration is likely to follow. You are encouraged to consult the appropriate Association representative to help you find witnesses or corroborating evidence to support your claim. Make sure to keep records of what has happened. A special diary filled with dates, times, and specific accounts of harassment can be critical proof that discrimination actually occurred. Be aware that you may need to disclose this information later.

Sometimes employees simply do not wish to report sexual harassment to their employer because they do not want their names used. Employees may be too afraid to say “no” to the harasser. Even employees who are afraid to say “no” should not allow unwanted physical touching. If a supervisor touches you, remove his or her hands from your body every time, even if you say nothing. An employee who does not want to confront the situation should not “go along” with the abuse by participating in sexual jokes or comments to be social. Do not laugh at offensive comments or tell your own sexual jokes. This could be misconstrued by the harasser.

When a victim is afraid to say “no” directly, the Association may be able to help. For example, the Association may contact an intermediary who has the harasser’s respect and ask that person to demand that the conduct stop. The Association also may help you file a grievance or discrimination complaint. It is not up to the victim to tell the district what to do to stop the harassment. This is the district’s responsibility. If they ask you, simply say you want the harassment to stop – they have to figure out how.

In any event, a victim should tell someone he or she trusts about the harassment, both to obtain emotional support and to use that person as a possible witness to corroborate the claim.

When you report harassment, be careful if district administrators try to get you to tell them what remedies you are seeking personally, such as firing the harasser or a specific amount of compensation for pain and suffering. Consult with the Association or its attorney. A wide range of remedies may be available, such as gender sensitivity training for co-workers or counseling for the victim.

Develop a Plan

You should consider how to respond to future objectionable conduct. You should have a specific plan in mind. Some individuals react to acts of harassment by trying to avoid conflict, making excuses for the harasser, or using other passive responses. Others may fight offensive remarks by using equally strong language in an attempt to “fight fire with fire.” Experts believe that neither passivity nor counter-aggression effectively responds to harassment. Counter-aggression may escalate the situation by triggering retaliation. An angry, emotional outburst can backfire, giving others the impression that the victim is unstable or at fault.

The best response for a victim facing ongoing harassment is direct confrontation of the harasser:

- Identify the conduct which is objectionable.
- State that it is offensive and that it is sexual harassment.
- Demand that it cease.

For example, a bus driver could say to her supervisor: “You keep touching my bottom whenever I pass you in the bus barn. This is offensive sexual harassment. I demand that you stop it.” This could be done in front of a witness such as a grievance representative, Association leader, or other supportive person. Often, direct confrontation can be a very effective technique.

Victims of sexual harassment may suffer psychological injury. A teacher may give in to requests for sexual favors because of threats made by a principal. A custodian who works in an isolated location at night may experience nothing less than terror when faced with a co-worker who makes repeated, unwanted physical advances.

Employees who submit or endure the abuse initially may experience depression, anxiety, or post-traumatic stress disorder similar to that suffered by crime victims.

If you are assisting a sexual harassment victim, encourage the victim to seek counseling from a qualified professional.



A Brief Word on Responding to Co-Worker Harassment

When a complaint is made regarding sexual harassment the workplace may become “divided.” Even when the harasser is a manager, co-workers may side with the boss against the employee. Individuals who commit acts of harassment may be professionally competent and well-liked. Co-workers may be reluctant to label the person as a harasser. When the harasser denies that the acts occurred, the workplace may erupt into a full scale civil war. This problem is compounded when the person blamed for misconduct is a fellow employee. You should keep these tips in mind in a co-worker case:

1. Insist on as much confidentiality as possible when reporting the harassment. Make sure the district administrator does not share the complaint with other personnel to avoid feeding the gossip mill.
2. Obtain Association assistance immediately. The Association may suggest an informal mediation process or face-to-face “healing session” to de-escalate the problem. If you do not feel comfortable reporting what happened to the local grievance or building representative, call your Organizational Consultant.
3. Do not let the district blame you. You should not have to change your work assignment unless you want to make the change. The harasser is the one whose conduct, assignment, or habits must change.
4. Demand that the district provide training on sexual harassment to all employees at your work site so that others will become more supportive.
5. Recognize that harassers usually do not stop with one victim and that others probably support you more than you may know.

Preventing Sexual Harassment in the Workplace

School employees should work with the district administration to prevent sexual harassment before it occurs. According to the Equal Employment Opportunity Commission (EEOC) and best practices, prevention is the best tool for elimination of sexual harassment. The district should take steps to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, and informing employees of the right to raise, and how to raise, the issue of harassment.

Below are some suggestions for working with your local Association, the district, your co-workers, and students to prevent sexual harassment in the workplace.

Agreements with Local Associations

Most district policies contain prohibitions against employment discrimination, including discrimination based on race, sex, religion, and other forms of bias. If this general discrimination language is part of a district agreement with your Association, your Association may be able to file a grievance to object to discrimination based on sexual harassment. In addition to the general prohibition against sex discrimination, your agreement may contain specific language prohibiting sexual harassment and prohibiting retaliation for reporting sexual harassment or participating in an investigation.

Additionally, the Association can bargain for sexual harassment training for all staff. The training can be on district time and at district expense.

School District Policies

Effective sexual harassment policies will contain the following elements:

1. A strong statement that sexual harassment will not be tolerated;
2. A clear explanation of what constitutes sexual harassment. This may include a definition and examples of both “quid pro quo” sexual harassment and “hostile environment” sexual harassment;
3. Procedures for reporting and investigating sexual harassment;
4. Penalties for committing acts of sexual harassment;
5. Due process protections for the alleged harasser and reference to the district’s disciplinary procedures;
6. Provisions protecting those who report sexual harassment from retaliation (including protection of victims and witnesses); and
7. A process for distribution of the policy and training to understand the policy.

The policy should clearly advise employees and supervisors of the need to be respectful of each other’s rights. It is essential that the district policy be posted and distributed to all employees.

Sexual Harassment Awareness and Bystander Training

The district policy prohibiting sexual harassment should provide for awareness and bystander training of all employees. Training can center on sensitizing all employees on what constitutes sexual harassment and making all employees aware of reporting and investigation procedures.

Opportunities should be provided for discussion of what conduct and language may be unwelcome, hostile, intimidating, or offensive.

The school district may provide this training, or the training may be provided jointly by the Association and the



district. Special workshops also may be provided on asserting personal rights and learning how to tell a harasser to “back off.” Bystander training is now widely hailed by the EEOC and helps employees realize that DOING NOTHING IS NOT AN OPTION.

Remedies for Harm From Sexual Harassment

Introduction

If you are injured by sexual harassment, there are several ways you may seek compensation or other remedies:

1. You can report it informally to anyone in authority. Go to the person in authority with whom you feel most comfortable.
2. You can file a formal, sexual harassment complaint or grievance with the district. In some instances, you may have to file with the district in order to preserve your right to seek other remedies.
3. You can file a charge of discrimination with federal (EEOC) or state (Arizona Civil Rights Division) civil rights agencies to force a government investigation and then sue in court.
4. You can sue in court for assault, personal injury claims, and perhaps other tort claims.
5. If you are physically or psychologically injured, in certain circumstances you can file a workers' compensation claim for injuries caused by sexual harassment. Consult with the Association attorney to see if this is advisable.
6. If the conduct involved physical assault, you can report it to the police for possible criminal charges.

The injured employee's course of action will depend upon the extent of the injuries, the severity of the harassment, and the remedies desired. Consult your Organizational Consultant or the Association Legal Team if you need help in deciding the best method for seeking your desired remedy.

Filing an Administrative Charge

Where and When to File

Several government agencies investigate sexual harassment claims. The major ones are: Arizona Attorney General's Office, Civil Rights Division (ACRD); Equal Employment Opportunity Commission (EEOC); U.S. Office of Civil Rights (OCR); and U.S. Office of Federal Contract -Compliance Programs (OFCCP). The OCR is involved if student harassment against a school employee occurs.

Regardless of which agency you choose, you must file a timely complaint. Generally, the deadline is within 180 days of the act of harassment for ACRD, 150 days for OCR and 300 days for

EEOC. There may be some additional time for filing, but do not delay! If you miss the deadline, contact an attorney. To file administrative charges of discrimination, you do not need an attorney.

The Equal Employment Opportunity Commission and the Arizona Civil Rights Division

The easiest route is to file a charge online with the EEOC or ACRD. The agency investigation may take one year or even longer, especially at the EEOC. Both agencies offer mediation before the investigation process. This step is encouraged as a way to more quickly resolve the issues.

After the investigation, the agency will issue a decision. This decision will spell out the agency's findings and conclusion on your case, including whether the agency believes unlawful discrimination occurred. If the agency finds in your favor, it may file a lawsuit on your behalf, although this is rarely done. You may recover compensation in that proceeding but federal law imposes caps on compensatory damages and punitive damages are not recoverable from school districts.

Whether or not the agency makes a favorable determination, it will issue you a “Right to Sue” letter if it does not take the case. This letter is required before you can file a sexual harassment lawsuit

The agency also may recommend mediation or conciliation to resolve the dispute. It is important to think about what you want ahead of time. You may wish to seek more than just back pay (if you lost your job or got demoted) and lost benefits, if any. You also may seek front pay for loss of future wages, reimbursement for out-of-pocket expenses, therapy or medical costs, credit for lost sick leave, or compensation for pain and suffering. Other kinds of damages which may be available are removal of negative materials from your main personnel file and training to prevent future harassment. Creative solutions are possible to help you return to a better work environment in mediation but usually not in a court proceeding. Consult your Organizational Consultant or the Association Legal Team before pursuing action with the EEOC or ACRD.

Filing in Court

If ACRD or EEOC does not file a lawsuit for you (which is usually the case), you may file your own lawsuit in court. AEA Legal does not fund litigation except in rare circumstances. You have only a very limited time (usually 90 days) from the time ACRD or EEOC issues its “Right to Sue” letter. You can file a lawsuit whether or not the agency decides in your favor. If you succeed, the employer may be required to pay for your attorney fees and costs. At this time, you can anticipate a three to five-year process from the time of the harassment incident and a court verdict.



Filing a Workers' Compensation Claim

You have a legal right to collect workers' compensation benefits for injuries you suffer while you are working. This sometimes includes physical, mental, or emotional injuries caused by sexual harassment.

If you need support or treatment as a result of sexual harassment, you should seek medical attention immediately. Ask your medical doctor to refer you to a psychiatrist or other qualified mental health professional. If the harassment caused you to suffer a serious mental or psychiatric injury, such as depression or post-traumatic stress disorder, you may consider filing a workers' compensation claim. It is much more difficult to obtain workers' compensation for a mental or psychiatric stress injury than for a physical injury. You must file a claim with the Industrial Commission and notify your employer as soon as possible after the injury occurs or after you become aware of it.

Prompt filing and notice may be required in order to receive benefits. You must be able to prove by medical evidence that the sexual harassment was the substantial contributing cause of your mental injury.

If you accept workers' compensation benefits for the injury, you still have the right to pursue the district in a Title VII case at EEOC, but any workers' compensation monies you receive will be offset against any remedy you receive from such a case. You also cannot recover simultaneously in workers' compensation and tort. The basis for awarding workers' compensation benefits is complex and beyond the scope of this brief booklet. You can obtain a referral to a certified specialist in workers' compensation law from your Association.

Filing a Grievance

Many district agreements with local Associations have language forbidding sex discrimination. Because sexual harassment is a form of sex discrimination, you can file a grievance. The difficulty is the short period of time (five or ten days) you have to do this. Many times, the district has an internal process to handle these complaints.

Filing a grievance can be an excellent way to stop sexual harassment because you can demand that the district take prompt remedial action. Ask your Association representative to help you. Time is of the essence so act quickly!

Sexual Harassment and Students

Introduction

The most controversial aspect of sexual harassment in the school context is harassment involving students.

Students may bring lawsuits against school districts claiming that they are victims of sexual harassment. Students can claim harassment by school employees or other students. School employees should be aware of the law so they can protect themselves and their students from claims of unlawful sex

discrimination.

Student Claims Against School Employees

Courts have held K-12 school districts financially liable for sexual harassment of students by school employees when an administrator knew (or perhaps should have known) of the sexual harassment and failed to respond adequately. School districts should investigate alleged harassment promptly and take remedial steps to stop the harassment. Depending upon the severity of the harassment, the district may take disciplinary action, such as a reprimand, suspension, or dismissal. Sexual harassment also may lead to action against an employee's certificate. A district's failure to respond promptly and appropriately to stop sexual harassment can violate Title IX, the federal statute that prohibits sex discrimination in educational programs receiving federal aid.

There is one important difference between sexual harassment of adult co-workers and sexual harassment of students. Some sexual advances or flirtatious behavior may be "welcome" between consenting adults, and, therefore, may not meet the legal definition of sexual harassment. Such "welcome" sexual conduct may be inappropriate or unprofessional at work, and violate the district's policies even if it is not sexual harassment that violates Arizona and federal law. When similar sexual advances and flirtatious behavior occurs between an adult and a student, courts may not require proof that the conduct is "unwelcome." For example, one court required no proof that a teacher's attempt to fondle a 13 year old student was "unwelcome," in part because laws prohibit such sexual conduct between adults and children.

Most school districts have adopted policies addressing sexual harassment of students, both to protect students and to avoid financial liability. Districts should provide fair complaint procedures so that students are encouraged to bring allegations of sexual harassment to the attention of the school administration. Although most students report sexual harassment in good faith, a few students make false accusations. Unfortunately, some school districts also have overreacted to threats of sexual harassment lawsuits and have severely disciplined school employees for minor lapses in judgment. A fair sexual harassment policy should provide thorough investigations, discipline commensurate with the severity of the conduct, and due process protections.

Sexual harassment lawsuits do not fundamentally change how educators should relate to students. For many years, school employees have been aware that they must treat all students with respect. Now, school staff should be even more careful to limit physical contact and sexual conversations with students. Even innocent hugs and pats may be misinterpreted by some students. See *Teach But Don't Touch*, and *False Accusations*, available from your Organizational Consultant or the AEA Legal Team.



Student Versus Student

Districts may be legally responsible for sexual harassment between students, especially when school officials knew about the harassment and were indifferent to it. Every district should have a sexual harassment policy that includes students. A student sexual harassment policy should include at least some of the following:

1. Guidelines should state unequivocally that sexual harassment between students is forbidden. These guidelines should be clearly communicated to students, staff, and parents.
2. A policy should be created concerning student sexual harassment complaints. The policy should cover what behaviors are prohibited, how complaints will be handled, and what will happen to students guilty of harassment.
3. Students should be able to report peer harassment to a counselor, teacher, administrator, or other responsible employee. Victims should be given support and counseling to counteract the abuse.
4. Properly trained individuals should investigate complaints.
5. Students accused of harassment should receive due process prior to receiving any disciplinary sanction. The discipline should be appropriate for the type of misconduct.
6. School employees should be trained in how to handle and resolve sexual harassment complaints by students. Administrative support is critical.

If you discover that a student is being harassed, handle the matter professionally as you would any other type of serious student misconduct. If the misconduct is minor, such as an isolated inappropriate comment, perhaps a strong warning or in-school suspension is appropriate.

More serious misconduct, such as touching of intimate areas without consent, may be child abuse as well as sexual harassment. School employees must immediately report suspected child abuse to the Arizona Department of Child Safety or law enforcement. Consult the booklet entitled *Child Abuse* published by AEA, (available through your Organizational Consultant or the AEA Legal Team) for more detailed information on reporting requirements. Also check your district's policies on child abuse reporting. Document what you do and any directives given to you by the administration or police. Such records will be important if you become a witness in a legal proceeding. If you are unsure of what to do, make sure to get clear and, if possible, written instructions from your supervisor.

Student Harassment of School Employees

School employees may confront situations where they experience harassment by students. Some students try to intimidate a teacher through use of physical contact or inappropriate sexual language. Older students may make sexual propositions to teachers. Such conduct can constitute "hostile environment" sexual harassment.

A teacher who is sexually harassed by a student must document the offensive conduct and follow existing student disciplinary rules. If the student fails to correct his or her behavior, more severe steps should be considered. These include notifying the student's parents and the Administration. If these measures are unsuccessful, you should not let it drop. Go back to the supervisor and complain. If your supervisor is not being responsive, consider going to his or her supervisor or to your Association. You have the right to a harassment-free environment.

Document your efforts in writing.

Remember that if you are the victim of any form of sexual harassment, the district has a legal duty to investigate and correct the situation. This is true whether the harasser is a student, parent, co-worker, or supervisor. The district may face legal sanctions if it does nothing to remedy a hostile working environment. Try not to be alone with the student so you are not accused of being at fault. A student could try to blame you for inciting sexual propositions to take the "heat" off himself or herself. Proper documentation and early reporting are helpful to prevent a student from trying to turn the tables against you.

What to Do If You Are Propositioned by a Student

1. If you are sexually propositioned by a student, politely tell the student you are not interested.
2. If a polite rejection does not stop the advances, report the situation in writing to the principal and school counselor. This will put the district on notice that you are being treated inappropriately.
3. You should try to develop a mutually agreeable strategy with the administration on how to deal with any future advances. Insist that the district treat the situation seriously.
4. If these steps do not help, consider taking the actions described in the Remedies section of this booklet. Consult your Association.



Common Sense Rules to Prevent False Claims of Harassment or Abuse

Avoiding False Accusations by Students

See: *Teach But Don't Touch*.

1. **Avoid being alone with a student of either sex.** Risky situations include keeping a student in for recess, make-up tests, counseling, tutoring, and afterschool detention. Arrange to have the activity within sight of another adult. If you must be alone with a student, leave the door open and inform another adult. Avoid repeated one-to-one contact with an individual student. For example, instead of assigning one child to help clean up after class, ask two students to help.
2. **Avoid physical contact with students which could be misunderstood as sexual in nature.** Whenever possible keep your own "personal space." If younger students hug you, tell them that it is polite to ask permission first. Whenever possible, ask permission before touching a student. Develop a repertoire for reinforcing student behavior and giving praise without touching students. Do not ask students to touch you, give you a back rub, or sit in your lap.
3. **Avoid using physical force to enforce discipline.** Do not touch a child in anger. Use verbal commands and other disciplinary methods. Do not grab students to move them in a particular direction or touch them to get their attention. On rare occasions, a school employee must use physical force in self-defense or briefly restrain a student to prevent injury to the student or others. Use the minimum force necessary to prevent harm, and immediately call for help. Ask your district for special training if you work with students who require frequent touching or restraints.
4. **Avoid sending written communications to students, giving gifts to students, or socializing with students in situations which could be misconstrued as personal or romantic.** Do not invite students to your home or the movies unless it is a group activity with other adults present. If you reward students with a special out-of-school activity, obtain written permission from the parents and an administrator.
5. **Maintain a professional relationship with students.** Do not try to be a "pal" to a student. Make certain that the student clearly understands that you are the adult. As an adult, you are responsible for setting appropriate limits on the relationship. Do not use profanity or drink alcohol in front of students or at work. Do not tease or ridicule students. A student may misinterpret innocent teasing or comments on physical appearance.

6. **Do not be drawn into discussions of sexually explicit topics, such as suggestive jokes or song lyrics.** Discourage such conversations in your presence.
7. **Do not use the school computer for anything that you would not want your boss or mother or one of your student's parents or the general public to see.** For example, do not send emails with sexual innuendos or risqué jokes or view adult Internet sites on the school computer. Information on a school computer is not private. Most emails and searches can be traced, even if they have been deleted. Be careful when putting personal information on the Internet. Remember, parents and students may find your Web site or social media information.
8. **If a student confides in you regarding a personal topic of a sexual nature, either invite another adult to join the conversation or report the conversation in writing to the school counselor immediately.**
9. **Avoid transporting students in your personal vehicle.** Being alone in a car with a student exposes you to accusations of misconduct in a situation where it is your word against the student's word. In addition, you may be liable for an accident.
10. **Avoid any romantic contact with current or former students, even if the students are over 18 years old.**

Avoiding Accusations by Co-workers

Use common sense to avoid false accusations of sexual harassment by co-workers.

1. **Treat co-workers with respect.** Do not call coworkers childish, insulting, or use other offensive words such as "girl," "bitch," or "sweetie." Do not make inappropriate comments about someone's physical appearance or dress.
2. **Avoid telling sexual jokes or discussing sexually explicit topics with co-workers.** Refrain from sending suggestive or off-color emails, cards, or correspondence.
3. **Do not hug, kiss, or massage another person at work unless you ask first and are certain the conduct is welcome. Even if welcome, do not do this in front of others.**
4. **If you ask a co-worker for a date and that person refuses, do not ask again.**
5. **If a co-worker tells you that your conduct or words are offensive, stop. "No" means NO!**
6. **"No" is a complete sentence.**

Seek Assistance to Respond to Accusations

If you or a colleague are accused of sexual harassment, you should take it seriously. Often the police are called in when students are involved due to Arizona's mandatory reporting laws for child abuse. You should consult with a lawyer before answering any questions by the police. Be sure to get competent advice in advance of any questioning by the district or by the police. In most districts, you have the right to Association representation in any meeting which could lead to discipline. If the alleged victim is also an Association member, it may be appropriate to have different Association representatives to assist you and the alleged victim. In serious cases, the Association may refer you to an attorney. Be sure to contact arizona.org/helpdesk or your Organizational Consultant.

RESOURCES

State Agencies

ARIZONA ATTORNEY GENERAL'S OFFICE

Civil Rights Division (ACRD)
2005 N. Central, Phoenix, Arizona 85004
(602) 542-5025

and

400 W. Congress Street, South Bldg, Ste. 315
Tucson, Arizona 85701-1367
(520) 628-6504
www.azag.gov/civil-rights

ARIZONA INDUSTRIAL COMMISSION

800 W. Washington,
Phoenix, Arizona 85007
Worker Compensation Claims: (602) 542-4661
www.azica.gov/divisions/claims-division

Federal Agencies

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

3300 N. Central Avenue, Ste. 690
Phoenix, Arizona 85012
(602) 640-5000 or (800) 669-3362 (Publications)
www.eeoc.gov

OFFICE OF FEDERAL CONTRACT COMPLIANCE

U.S. Department of Labor – OFCCP
230 N 1st Ave
Suite 503
Phoenix, AZ 85003-1705
Phone: 602-514-4660
Fax: 602-514-4698
www.dol.gov/agencies/ofccp

U.S. DEPARTMENT OF EDUCATION: OFFICE OF CIVIL RIGHTS

Denver Office
Office for Civil Rights
U.S. Department of Education
Cesar E. Chavez Memorial Building
1244 Speer Boulevard, Suite 310
Denver, CO 80204-3582
Telephone: 303-844-5695
FAX: 303-844-4303; TDD: 800-877-8339
Email: OCR.Denver@ed.gov

A Final Note

For more information and assistance, contact your local association, arizonaaea.org/helpdesk, or your AEA Organizational Consultant.

arizonaaea.org/helpdesk
(877) 828-1983



This brochure is a general guide for AEA members and is not intended to provide complete information or legal advice on specific problems. Changes in laws and cases may modify the information provided. To find Arizona statutes on the Internet, go to www.azleg.gov.



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