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Complaint Investigation: The Basics

by Marta Larson

This ARTICLE provides **basic information** for complaint managers on methods for investigating complaints. **There is no intent or pretense that the reader of this article will become a skilled complaint investigator.** However, this article provides an outline of needed skills and a discussion of investigative techniques pertaining to all kinds of harassment encountered in school, particularly harassment that may be a violation of civil rights, a criminal offense, or a serious violation of the school's behavior code. Further information is available in the reference materials listed at the end of this article.

Complaint Investigator: Role and Responsibilities

The complaint investigator is usually a district administrator, but if not, must at least be quasi-administrative. The complaint investigator should have full authority to consult the district's legal counsel and to review reports, files, confidential documents, and any other needed materials. The investigator should report directly to the superintendent on harassment complaints, regardless of who is designated as her/his official supervisor. **The investigator must also be completely independent** in the conduct of the investigation to avoid suspicion of a biased result.

The investigator must be knowledgeable. The complaint investigator should have written materials to assist her/him in investigating cases and receive training in investigation techniques. She/he should especially know the content of the district harassment policy, related state and/or federal laws, procedures for investigating cases, due process issues, methods for minimizing district legal liability, and requirements of the Freedom of Information Act. The complaint investigator should also know how to protect her/himself against charges of defamation, malicious interference with employment, and invasion of privacy charges arising from the investigation.

The investigator must be culturally sensitive. "If the complainant [or alleged harasser] is someone whose background might include culturally different ideas about touching others, the proper amount of physical space between individuals in the workplace, eye contact, or other aspects of physical relationships between relative strangers . . . [the investigator should] **learn what baseline assumptions or ideas play a part**" (Wagner, 1992, p. 54, emphasis added).

The investigator must also be sure she/he is communicating with the complainant, alleged harasser, and witnesses effectively. If there is a communication difficulty due to language differences, lack of speech, or developmental disabilities, an interpreter who is a neutral party and not a family member should be utilized.

The investigator should use a developmentally as well as culturally appropriate approach. When interviewing children, it is especially important to avoid leading them to make

statements. This is similar to concerns encountered by those investigating child abuse cases. Additionally, when interviewing students, the investigator should give them more time at the onset to become comfortable, so that they are able to tell their story as freely as possible.

The investigator is a neutral fact-finder. The investigator must keep her/his opinions private, even when hearing details of alleged behavior that are personally repugnant or seemingly unbelievable. Expressions of distaste or disbelief cause the appearance of prejudice and should be avoided. This can be particularly difficult when interviewing distraught persons where there is a strong urge to be sympathetic. The investigator should be sensitive without expressing conclusions and maintain a clear presumption of the accused harasser's innocence, balanced with concern for the alleged victim.

The investigator must make a **complete and careful investigation.** A complete investigation identifies instances of harassment, protects the district from being sued over incidents they should have known about, intercepts false charges, protects the district from liability for erroneous discipline, reduces or eliminates the amount of any damages that may be obtained by the complainant, protects possible future victims, and retains local control by avoiding court ordered remedies. The investigator must realize that a court appearance may result from the complaint investigation process and be prepared to testify regarding the preparation, objectivity, and thoroughness of the investigation.

It is not necessary to receive a formal complaint. The investigator must investigate all complaints. Even if a fearful complainant requests that the district not investigate, or is unwilling to file a formal complaint, the courts have found that districts are responsible for knowing about harassment through effective utilization of their complaint procedures and have held them responsible. However, this responsibility should not be used to elevate a relatively minor situation to the full investigation level if the problem can be solved by a simple intervention. For example, the complaint manager can go and look at graffiti in a rest room, determine whether it is offensive, and if so, have it promptly removed. In this specific situation, it is not necessary to open a file and investigate, although the situation should be monitored.

When a complaint is brought to the complaint manager's attention, she/he should **first attempt to resolve it at the informal level.** It is often better for the person who receives the complaint to pursue the possibilities of informal resolution. If the problem can not be resolved by informal means, it can be referred to a different person to investigate the complaint.

In complaints related to students, the investigator must determine whether there could be a violation of child welfare laws. **If the complaint is regarding any incident that must be reported to the police, that report should be made immediately** and the investigation placed on hold. In that case, the complaint manager should monitor the situation to ascertain whether the alleged harassment continues or escalates to a point requiring immediate intervention. If that should occur, the complaint manager should consult the district's legal counsel regarding how to proceed.

It is important to **conduct an investigation of all allegations,**

whether or not there is a criminal case being developed on the same situation. A criminal case does not relieve the district of the responsibility for conducting an internal investigation and determining whether there is probable cause for any district discipline. It may be that the completed internal investigation will be sealed until the criminal case is concluded so that there is no danger of prejudicing the results of the criminal case. Discipline may then be rendered following the completion of the criminal case.

Many times the complainant (and/or witnesses) will request assurances of **confidentiality** as they provide information about the case. The investigator should inform all parties that to the extent possible their privacy will be protected, but they should also be informed that there is no way to conduct an investigation without interviewing the accused party or parties and witnesses.

The investigator has a responsibility to **assure confidentiality in areas that she/he can control.** This includes not disclosing facts about the investigation to others, warning those interviewed against discussing the case with others, keeping records of the investigation in locked files, and limiting information dissemination to those who absolutely must receive it. This is even more urgent when the investigator considers the necessity of protecting her/himself against charges of defamation by the accused harasser.

The complainant and witnesses should also be protected by district policy against retribution from accused harassers or their supporters. The investigator has the duty to inform them of this and to monitor the situation during and following the investigation.

Key Steps in Conducting an Investigation

Complaint investigations should be done both **promptly and thoroughly.** The investigator should begin within a very few days after learning of a harassment situation and should finish with as much speed as possible, usually within a few weeks.

The investigator should plan **all interviews carefully.** She/he should prepare a list of detailed questions designed to gain information that might prove or disprove the complaint. The investigator should never **attempt to rely on memory.** She/he should avoid wasted time by determining in advance exactly what information is wanted from each person being interviewed. The investigator should be prepared for answers that lead into another angle of inquiry by predicting what the possible answers may be and planning how to pursue those issues. For further ideas on planning interviews, investigators may refer to the sample list of questions in Wagner (1992, pp. 133-138).

Review the complainant's statement. Try to determine the basis for the complaint and gain an understanding of the issues presented (Pearman & Lebrato, 1984, p. 7). Keep notes regarding questions that arise when reviewing the statement so that they can be pursued during the investigation.

The complainant should be interviewed first to clarify the details of the complaint. As a part of the interview, the complainant should be informed about the process that the investigation will follow. This includes the complainant's legal rights, what the investigator will do, what will happen and

when, the content and process of the investigation, and who will determine remedies following the investigation. Additionally, the investigator should ascertain whether the complainant has any immediate needs, such as fear, that might need to be addressed at once.

While maintaining a businesslike manner, the investigator should treat the complainant considerately and respectfully. **The complainant should be encouraged to be as specific as possible** in clarifying his or her statement including names, dates, frequency, places, and specific behavior (what happened, the complainant's response, and the outcome) along with the names and location of any witness(es). The investigator should make careful notes during the interview, both of questions that she/he asks, as well as the complainant's responses. A thorough written version of what is alleged to have happened based on the interview with the complainant, should be prepared and signed by the complainant and placed in the file. This list of allegations will later form the outline for part of the investigator's report.

An important part of the investigation is determining **the effect of the harassment** on the victim. The investigator should document whether the harassment is alleged to have had any negative effect on the complainant's job or academic performance, or whether the harassment is alleged to have created a hostile climate.

The investigator should **identify as specifically as possible the part or parts of the district policy or state/federal law that are alleged to have been violated.**

All interviews and efforts to obtain evidence should be aimed at proving whether the specified policy or law has been violated.

Assemble an investigative file and keep it in a secured location.

The file should be organized so that anyone opening it could determine the main issues involved in the case and the history of the investigation. Even while the investigation is underway, the file should be maintained so that if necessary another person could assist with or even assume responsibility for the investigation. The file can also serve as a memory device, enabling the investigator to ensure that no aspect of the investigation has been overlooked.

The investigator should **keep a time line of what happened as part of the process.** This "helps set the events in the sequence in which they occurred. You can analyze this time line in terms of what was happening in the workplace at the same time, looking at the big picture for possible motivating factors or triggering events" (Wagner, 1992, p. 52). Testimony of witnesses can be added to the time line as they are interviewed, adding a rich level of detail about what actually occurred.

Define and further plan the investigation. The plan for the investigation should include the determination of "**who** the alleged harassers were, **when** and **where** the incident took place, **what** was said or done by the parties, **whether** the incident was isolated or part of a continuing practice, the reaction of the complainant, **how** the complainant was affected, **whether** anyone else witnessed the incident, **whether** the complainant has talked to anyone else about the incident, **whether** there is any documentation of the incident, and **whether** the complainant has knowledge of any other target of harassment" (Lindemann & Kadue, 1992, p. 163, emphasis added).

The investigator should **limit the scope of inquiry**. Identify and exclude issues which are not disputed and/or have already been investigated. Screen out issues which are not relevant to district policy. Winnow the complaint down to the tightest possible list of issues for investigation.

It is helpful to prepare a step-by-step list of the investigation plan and check off each step as completed. This list should contain the names of all witnesses to be interviewed, as well as a list of all documentary evidence to be collected. Be sure to **include everyone who may have information, especially the alleged harasser**. Do not make the mistake of stopping the investigation once several witnesses or documents have been located that appear to substantiate or refute the allegations. This is especially true for the alleged harasser, as not interviewing this person could later be regarded as a weak point in the investigation. The list of witnesses may be supplemented during the course of the investigation as various interviews provide leads to other useful information or persons to interview. Similarly, the list of documentary evidence may grow as witnesses are interviewed.

Gather supporting documents and evidence. Often, it is prudent to gather these documents quickly before there is an opportunity for them to be removed from the files. The investigator should consider making unannounced visits to offices or other sites to obtain copies of documents. Another approach is to request that witnesses bring certain documents with them when they come to be interviewed, without revealing the purpose for the request. Some documentary sources of evidence include personnel file(s), student file(s), performance evaluations, and discipline records.

Visit the site where the harassment is alleged to have taken place. Sometimes such a visit can reveal specific information that tends to support or raise doubts regarding the allegations, such as physical layouts that would conceal actions from potential witnesses or make certain actions less likely to have occurred because there is no place for them to take place without witnesses. Occasionally, it can be determined that a specific action is physically possible or impossible based on site characteristics.

Conduct interviews. When interviewing the alleged harasser, begin by briefing the person on the process that the investigation will follow. Avoid using the term harassment to describe the complaint, but tell the person that “a serious matter has been raised, that she/he has been connected to it and that it involves unwelcome behavior on his or her part” (Wagner, 1992, p. 69). It is also a good idea to be sure that the alleged harasser understands that the ultimate aim of the investigation is to “end the illegal or inappropriate activity, if there is any, and take preventive measures to see that it does not recur” (Wagner, 1992, p. 70).

The investigator should be prepared to brief the alleged harasser on his or her due process rights. The alleged harasser should be advised that the investigation will be conducted in a neutral manner, cautioned regarding confidentiality, and warned against engaging in or organizing retaliation. **The allegations should be reviewed with the alleged harasser, and her/his version of the events should be elicited in the same detail requested of the complainant.** Assertions that the complainant had a motive to lie or that the conduct was welcome should be explored, and available documentation

should be secured. After the interview has been completed, a signed, written statement detailing all events that took place related to the alleged harassment incident should be prepared and signed by the alleged harasser and placed in the file.

If anyone who is to be interviewed wishes to have another party including a union representative or legal counsel present, this must be allowed. The representative should not be a family member unless the person being interviewed is a minor. The role of the representative is NOT to speak for the person being interviewed, and they should not be allowed to interfere with questions that the investigator is certain are proper. However, legal counsel may advise the person being interviewed not to respond to some questions, and there is little the investigator can do at that moment to compel a response to those questions. If there is a disagreement on whether a question is proper, note that down and fight it out later (Gregg, 1992 and 1993) after consulting the district’s legal counsel.

Elicit a description of what happened from the perspective of the complainant or alleged victim, alleged harasser, and witnesses. Whenever possible, information obtained in interviews should be substantiated by documentary evidence. As each person is interviewed, try to fill in chronological gaps in the time line, clarify conflicting statements, examine inconsistencies in various witness statements, and clarify conflicts with information in documentary evidence. Pursue the facts upon which voiced opinions are based. If a person has difficulty remembering things, ask questions designed to refresh her or his memory such as “Was it before or after Spring Break?”

Witnesses can substantiate evidence, provide contradictory evidence, substantiate allegations, lead to other witnesses, direct you to other data, explain documents and other data, explain policies and procedures, and connect between policies and actual practice. Witnesses can include anyone who may have seen the alleged harassment occur and/or anyone who claims to have received the same treatment from the alleged harasser. **Reliable witness information is firsthand knowledge, not something that someone else told them, unless witnesses are verifying that the complainant told them about the situation, which is a type of evidence.**

It is important to realize that **not all witnesses will want to be interviewed**. If the initial contact is on the telephone, it is sometimes necessary to conduct the interview immediately, particularly if the witness seems reluctant. If an interview reveals that a witness may also be a perpetrator, stop the interview and review the person’s due process rights. Do not use group interviews, as each person’s testimony will taint the other’s recollections. After each interview is completed, a signed, written statement detailing the person’s testimony regarding all events that took place related to the alleged harassment incident should be prepared and signed by the witness and placed in the file.

Once a preliminary round of interviews has taken place and documentary evidence has been perused, other questions or documents often come to mind, and the investigator should follow up on these in a systematic manner. Many experts recommend re-interviewing the complainant, the alleged harasser, and witnesses whose testimony is countered by other testimony or documentary evidence. Lindemann and

Kadue (1992) suggest that,

All parties should have a full opportunity to rebut adverse statements. The investigator should consider sharing tentative determinations about the truth of a harassment claim with the alleged harasser in a final interview (p.166, emphasis added).

This may facilitate the retrieval of additional information that might help to complete the investigation.

The investigator must be certain that the investigation is complete. The investigator must be sure that evidence has not been overlooked and that all witnesses are interviewed. The investigation should not be stopped until all useful information has been explored even where it tends to duplicate other information already obtained. However, this duty to conduct a complete investigation should not be allowed to delay the prompt completion of the investigation.

Reaching a Conclusion

Analyze the information. Compare the facts and circumstances of the case with the definition of harassment on a point-by-point basis, noting areas where questions remain unanswered. This analysis process can actually begin very early in the investigation with facts and information obtained during the investigation fitted into the outline like pieces into a puzzle.

The versions of what happened are often different, so the investigator must decide which have more credence. Objective proof of the charges, such as the testimony of witnesses, is the most persuasive. Unfortunately, objective proof of harassment is rarely available. It is also necessary to determine whether any of the statements obtained could be false and whether any of those making statements have any motivation to be untruthful.

Careful consideration should be given to cases where it is the complainant's word against the alleged harasser's word. **The investigator must determine to what extent the alleged conduct is likely to have occurred and whether it fits the district's definition of harassment.** The investigator should be aware that the courts have been deciding many cases on the reasonable person standard, ruling that behavior that is considered offensive by a reasonable person of the same sex, age, cultural group, etc., will be considered harassment.

As the investigation nears completion, it is a good idea to **confer with the district's legal counsel.**

Counsel should be shown all of the documents generated, including . . . interview notes, . . . signed statements, and records or other documents pertinent to the situation (Wagner, 1992, p. 90-91).

The investigator and legal counsel must both be satisfied that they have arrived at a defensible recommendation for action and have a plan for addressing problematic issues that arise, especially if it is possible that the perpetrator will be fired or expelled from school.

If the investigator absolutely cannot ascertain who is telling the truth, and no documentation can be discovered, it may be

necessary to end the investigation with no conclusion, educate all involved regarding the district policy, and monitor the situation to see if further problems arise.

Prepare and submit the investigator's report of findings. The report should contain an executive summary section that summarizes the determination, findings, and information contained in the case file. This section should be as brief as is practicable, but it should be written clearly enough so that the reader does not have any questions that are left unaddressed.

Following the executive summary, **the findings should be listed and discussed individually.** Each allegation must be listed in this section along with a finding, conclusion, and all evidence that is available to support the conclusion. Each time a finding refers to documentary evidence, the item of evidence must be clearly referenced in the report, and copies of all documentary evidence should be included in the appendix to the report.

Another section of **the report should include anything that is found that is not harassment but is inappropriate.** This might include student disciplinary actions, personnel actions, supervisory practices, management decision making, and other actions that violate district policy, or state or federal law. Some of these actions may have been attempts to rectify the alleged harassment, or they may have been well-intentioned but incorrect behavior, and some may have been inappropriately motivated. Whatever the reasoning in undertaking these actions, they should be listed in the report and addressed by the proposed remedies.

The report should clearly state the investigator's proposed remedy or remedies if harassment has been proven or if other inappropriate actions are found. While the investigator is not always the person who sets the disciplinary action, she/he should provide a list of the potential courses of action for review by the administrator who will determine the final remedy. Care should be taken to assure that the remedy does not inadvertently punish the complainant.

The report should include a written follow-up plan in its final section to assure that no repetition of the harassment occurs and that no retaliation is taken. This follow-up plan should include regular contacts with both parties. Information about the follow-up plan should be given to both the complainant and the accused harasser, whether or not harassment is substantiated.

Once the report has been prepared, **all parties to the complaint, both the complainant and alleged harasser(s), should be informed of the results of the investigation.** In cases that end with no formal conclusion, to avoid any misunderstandings it is important to be sure that all parties understand that the complaint is neither upheld nor dismissed.

The institution should take action immediately upon receiving the report of findings. If a progressive discipline code is in effect, it should help to determine the appropriate disciplinary action. If disciplinary action is found to be appropriate, the action should be taken as soon as is possible after due process requirements are met.

A final responsibility of the investigator is to **keep records of the complaints investigated and to provide the superintendent and school board with periodic reports** (once or twice a year) on the number and types of complaints investigated and their disposition. This is necessary even if the superintendent and

board have been privy to some or all of the details of any of the investigations, as they should be monitoring the overall statistical picture to determine whether adjustments are necessary in any district policies and procedures.

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Checklist for the Evaluation of Grievance Procedures

Checklist for Evaluating the Content of Grievance Procedures

Listed below are a number of questions which may be used to evaluate the content of Title IX grievance procedures and determine possible needs for modification. Questions are organized into three sections: initiation and filing of the grievance; processing of the grievance; and basic procedural rights.

Initiation and filing of grievances:

Does the grievance procedure:

1. Provide clear and adequate definitions of who may grieve, of what issues may be covered by grievances, and of the terms used throughout the procedure?

Yes ___ No ___

2. Cover all students and employees?

Yes ___ No ___

3. Clearly state the form and procedure for filing of grievances?

Yes ___ No ___

4. Specify any applicable time limits for the initiation of a grievance?

Yes ___ No ___

5. Provide for assistance to grievants in the filing/preparation/processing of a grievance?

Yes ___ No ___

6. Specify the responsibilities of institutional/agency staff for the receipt and initial handling of grievances?

Yes ___ No ___

7. Provide methods for informal and prompt resolution of grievances when further processing is not needed?

Yes ___ No ___

Processing of grievances:

Does the grievance procedure:

1. State the number and levels of steps for grievance processing and the criteria for initial referral to each level?

Yes ___ No ___

2. State the form of grievance presentation and processing (oral/written; hearing officer/hearing panel; etc.) at each step?

Yes ___ No ___

3. Specify the criteria and procedure for the assignment of initial hearing levels?

Yes ___ No ___

4. Delineate procedures and responsibilities for notification of all parties at each processing level?

Yes ___ No ___

5. Delineate timelines for all activities within the grievance procedure?

Yes ___ No ___

6. Specify the procedures which shall be used in conducting grievance hearings?

Yes ___ No ___

--amount of time allocated to each hearing?

Yes ___ No ___

--amount of time allocated to each party to the grievance?

Yes ___ No ___

--right of each party to representation and assistance?

Yes ___ No ___

--right of each party to present witnesses and evidence?

Yes ___ No ___

--right of each party to question witnesses?

Yes ___ No ___

--roles of persons involved in the hearing?

Yes ___ No ___

--right of grievant to determine whether hearing shall be open to the public?

Yes ___ No ___

--provisions/requirements for recording the hearing?

Yes ___ No ___

7. Specify any requirements for submission of written information by grievants or respondents?

Yes ___ No ___

8. State the form and timelines for the preparation of grievance decisions?

Yes ___ No ___

9. Clearly state the procedures and timelines for the grievant's acceptance or appeal of grievance decisions?

Yes ___ No ___

10. Specify the roles and selection of persons involved in grievance processing?

Yes ___ No ___

Basic procedural rights:

Does the grievance procedure:

1. Provide grievants with the right to appeal to progressive levels of decisionmaking?

Yes ___ No ___

2. Provide assurances regarding the impartiality of hearing officers?

Yes ___ No ___

3. Provide for confidentiality of grievance proceedings if so desired by the grievant?

Yes ___ No ___

4. Provide for grievants' access to relevant institutional/agency records?

Yes ___ No ___

5. Provide for the protection of grievants and respondents from harassment and entry of information into student and personnel files?

Yes ___ No ___

6. Provide for confidentiality of grievance records if so desired by grievant?

Yes ___ No ___

Checklist for Evaluating the Implementation of a Grievance Procedure

The following checklist focuses on the implementation of Title IX grievance procedures. It is designed to be used as a guide for assisting Title IX coordinators and administrators in the installation of a grievance process or the improvement of the operation of an existing process.

Pre-implementation:

1. Has a written Title IX grievance procedure been prepared which provides for the prompt and equitable resolution of complaints of sex discrimination?

Yes ___ No ___

2. Has the Title IX grievance procedure been reviewed to ensure its compliance with any existing standards specified by relevant State and local laws/regulations, contracts with employee organizations, etc.?

Yes ___ No ___

3. Has the Title IX grievance procedure been reviewed and approved by institutional/agency governance?

Yes ___ No ___

4. Has the grievance procedure or a summary of the procedure been published and disseminated to all students and employees?

Yes ___ No ___

5. Have orientation or briefing sessions been held with students and employees to ensure their understanding of the grievance procedure and its use?

Yes ___ No ___

6. Have all employees with responsibility for the implementation of the procedure been provided briefing and information on the procedure and the requirements of the Title IX regulation?

Yes ___ No ___

7. Have persons serving as hearing officers been provided with basic orientation on grievance processing and in-depth training on the Title IX regulation, interpretive guidelines, and judicial precedents?

Yes ___ No ___

8. Have the specific assignments of staff roles and responsibilities been made for all tasks within the grievance procedure?

Yes ___ No ___

9. Have the responsibilities of the Title IX coordinator been delineated and a statement of these disseminated to all employees and students?

Yes ___ No ___

10. Is the grievance procedure available for allegations of sexual harassment?

Yes ___ No ___

Filing and initial processing of grievances:

1. Is information regarding the nature of the grievance procedure and the coverage of the Title IX regulation easily available to all employees and students?

Yes ___ No ___

2. Has a form or outline been developed which clearly states the information required for the filing of a grievance?

Yes ___ No ___

3. Can students and employees file grievances at places of maximum convenience and accessibility?

Yes ___ No ___

4. Are personnel available for assisting students and employees in the filing of grievances?

Yes ___ No ___

5. Is opportunity provided for the clarification of grievance issues and for prompt and informal resolution of grievances when further processing is not needed?

Yes ___ No ___

6. Do notification forms used at all grievance stages provide grievants and respondents with full information regarding their rights and responsibilities in the grievance process?

Yes ___ No ___

Grievance processing:

1. Are timelines and requirements for promptness fully observed in the handling of grievances at each step of grievance processing?

Yes ___ No ___

2. Are stated notification procedures fully observed?

Yes ___ No ___

3. Are grievance hearings conducted according to specified procedures?

Yes ___ No ___

4. Are records of grievance hearings maintained?

Yes ___ No ___

Grievance follow-up, monitoring, and reporting:

1. Are all grievance decisions reviewed for their implications for modification of policy, procedure, or practice beyond specified corrective steps?

Yes ___ No ___

2. Are all identified modifications and corrective steps broken down into their specific tasks, staff responsibilities, and implementation timelines?

Yes ___ No ___

3. Are all staff notified of their specific responsibilities related to the implementation of modifications and remedial steps?

Yes ___ No ___

4. Are staff provided information and assistance necessary to the implementation of modifications and corrective steps?

Yes ___ No ___

5. Are periodic surveys and reviews made to assess the implementation of modifications and corrective steps and to identify any related problems?

Yes ___ No ___

6. Are regular reports regarding the implementation of modifications and corrective steps required of all staff?

Yes ___ No ___

7. Are records of grievances, grievance processing, and modifications and corrective steps maintained for a three-year period?

Yes ___ No ___

8. Are all detailed grievance records (those identifying involved parties) maintained on a confidential basis and without notation in student or personnel files?

Yes ___ No ___

9. Is a set of open records regarding grievance resolutions and precedents (parties unidentified) available to students, employees, and other interested persons?

Yes ___ No ___

10. Are regular reports of grievance precedents and compliance efforts disseminated to all students, employees, and governance persons?

Yes ___ No ___

11. Are continuing assessments made of the understanding of students and employees regarding Title IX provisions and the Title IX grievance procedure?

Yes ___ No ___

From *Title IX Grievance Procedures: An Introductory Manual*, originally developed by the National Foundation for the Improvement of Education, and revised and reprinted by the U.S. Department of Education, Office for Civil Rights, 1987. This publication provides suggestions which schools may find useful in formulating and implementing grievance procedures for addressing allegations of discrimination, including allegations of harassment; it is not intended to establish compliance standards.

Investigating Complaints

Implementing the Harassment Investigation

A thorough investigation, followed by prompt remedial action, is the best course of action to take when an incident of harassment is reported. But did you know that how you investigate can protect you from liability? Here are some things you should do to help keep your internal investigations on the up-and-up.

Before the investigation.

- DO select the proper investigator. The person should be familiar with board policies and procedures.
- DO plan the investigation. Decide whom you will interview and what physical evidence you will need.
- DO prepare a strategy so you can gather the necessary information in the fastest manner possible with minimal disruption to the work force.

When speaking with witnesses.

- DO prepare your questions in advance to assure that you ask all witnesses the same questions.
- DO interview witnesses in private, and emphasize that those with a legitimate “need-to know” will be given interview information.
- DO take detailed notes during the interview, including the name of the witness, the date and time of the interview, when it was held, who was present, and -- most importantly -- what was said.
- DO have the witness write up his/her own statement and have him/her sign it.

After the investigation.

- DO assess the information you've gathered, and decide if there's enough evidence to make a fair and reasonable decision.
- DO summarize your findings. Complete a report, showing precisely how you handled the investigation and what facts you found to be true.
- DO take appropriate action based on the facts of the investigation. Make sure the action is consistent with policy and past practice.

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What Everyone Needs to Know about Handling Harassment

- Take the report seriously. Assure the person that the complaint or problem is being taken seriously and that the institution will respond to the problem promptly.
- Listen, sympathize, but don't judge. Listen to what the person has to say, sympathize, but make no judgment or commitment regarding the allegations or how the investigation will be conducted. Do assure the person that the institution takes harassment seriously and will not tolerate it.
- Don't delay. If you are not the individual designated to process harassment complaints, tell the complainant who is responsible and offer to help contact that person. If that person is not immediately available, tell the complainant you will follow through immediately after this interview. Then do it as soon as possible. Delays of even a few days can make investigations difficult or send a signal to the complainant that the institution is not taking the complaint or problem seriously.
- Respond to concerns. If the complainant expresses or indicates fear, assure the person that the institution will do everything in its power to ensure confidentiality (but make no promises), prevent retaliation and stop further harassment. If you are the person designated to process complaints or investigate them, answer any questions about the complaint process that will not jeopardize the investigation. If you are not the appropriate person to process a complaint, assure the complainant that his or her questions will be answered by the appropriate person.
- Document. Write a detailed summary of what the complainant told you, including your observations of the person's demeanor. Submit it to the individual who will be processing the complaint.
- Follow up on the complaint. Check with the complainant the next day to ensure that he or she is getting needed assistance.
- Avoid using “Dangerous Words,” such as “It's just teasing—no big deal.”

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Legal Issues Associated With Investigations

- Confidentiality. Tell persons interviewed that you will try to ensure that the complaint process will be kept as private as possible. But DO NOT PROMISE COMPLETE CONFIDENTIALITY because that may be impossible to deliver. Restrict all comments to a “need-to-know” basis.
- Non-retaliation. While absolute confidentiality cannot and should not be promised to anyone involved in a harassment investigation, a pledge of non-retaliation can and should be made immediately.

- Defamation. Avoid making any statement or comment about an alleged harasser. Restrict all comments to a “need-to-know” basis and have solid proof to substantiate any comments made to those entitled to hear them.
- Safeguard documents. Keep pertinent records and documents safe and restrict access to those who have a legitimate need to see the information.

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On What Should Investigations Focus?

- On the effect of the behavior.
- On expected standards of behavior, as delineated in the policy, training, handbooks, etc., to see that they have been met.
- On context. When, where and in front of whom did the alleged action take place? Was it public or private? Were there witnesses? Did the situation occur on the job, on the campus or off the premises? Was it education or business-related? How were remarks spoken and body language used?
- On welcomeness. Was the behavior welcome? Was there a prior relationship? (Remember that a prior relationship is not a defense against sexual harassing behavior.)
- On patterns of behavior. Previous harassment? Prior unfounded complaints? Weak performance and evaluations?
- On establishing credibility. Seek corroboration. Consider timing of complaint and whether the complainant's delay in reporting it was justifiable.

Seek corroboration by determining if the complainant:

- told someone else about what happened;
- wrote about the behavior in a diary;
- changed behavior (e.g., dropped a course, experienced lower grades, avoided the alleged harasser, withdrew socially, developed symptoms of worsened physical or emotional health); or
- wrote a letter to the alleged harasser about the behavior.

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How to Ensure a Successful Investigation

- Take all complaints and claims seriously. Never belittle, downplay or ignore a claim.
- Keep an open mind. Do not presume guilt or innocence. Do not make determinations based on the appearance, position or reputation of the people involved.
- Investigate promptly. Try to begin with 24 hours and end within 10 days, if at all possible.
- Document all parts of the investigation. Create a separate confidential file accessible only to investigators that includes interview notes, corroborating documents and the final written report. Check with legal counsel about obtaining signed statements from all parties. Do not require complainants to write a statement or complaint themselves if they prefer to make oral statements. However, they should agree with any statement you have put in writing and so indicate by initialing or signing it.
- Preserve privacy. Ask parties not to discuss the investigation except with designated personnel. Explain the reason for this, and that this is a request, not an order.
- Act in a neutral and professional manner. Remain calm and appropriately sympathetic, but do not take sides.

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Checklist and Survey: Is Harassment a Problem in Your School?

by Marta Larson

THIS ASSESSMENT has two parts: a checklist and a survey. The checklist is intended to help school personnel assess their school or district's effort to prevent harassment from occurring. The survey is intended to help school personnel assess the level of harassment actually occurring in their building. The survey does not ask the actual number of harassment events that occur but rather assesses general awareness of harassment events.

The checklist and survey can be used separately or together. They apply to harassment of both students and staff. You may want to include a definition of harassment (see pages 14-16) when circulating these materials, along with an explanation of how the results will be used and reassurance that individual responses will be kept confidential. The checklist and survey are updated versions of my checklist and survey originally published in *Title IX Line*, Vol. IV, No. 1, Fall, 1983, by our office.

Checklist: What Has Been Done to Prevent Harassment in Your School?

Check each action that has been taken in your school or district, count the number of check marks, and turn to Scoring the Checklist to see how your district rates.

1. Do you have a specific policy against harassment and a written code of conduct that publicizes it?

- Do you have such a policy?
- Does the policy address sexual, racial/ethnic, sexual orientation, and differently-abled harassment?
- Does the policy contain the minimum elements of a definition, procedures, sanctions, and prescribed method for notifying people?
- Is there a procedure to inform new employees and students of the policy?
- Is there any reference to harassment in the student discipline code?
- Does the student handbook contain policy language regarding harassment?
- Does the employee handbook contain policy language regarding harassment?
- Do union contracts and affirmative action plans for the district contain policy language regarding harassment?
- Are student job training work sites notified of the harassment policy?
- Are vendors and salespersons visiting the district apprised of the policy?

2. Do you have a grievance procedure to handle complaints about harassment and to monitor its effectiveness? (This may or may not be the same as other grievance procedures.)

- Do you have a grievance procedure for harassment?
- Does the grievance procedure provide an opportunity for informal consultation and, where appropriate, informal resolution before moving into formal procedures?
- Does the grievance procedure provide for impartial investigation that includes fact finding, careful review, due process, and opportunity for appeal?
- Does the grievance procedure include an appropriate remedy based on the severity of offense and institutional corrective action where there is a finding of harassment?
- Has information about this procedure been disseminated to employees and students?
- Is a similar grievance procedure written into any union contracts?
- Has this procedure been disseminated to vendors and salespersons visiting the district?

3. Are you prepared to receive and respond to complaints?

- Is there at least one complaint manager in every building in the district, including non-instructional sites such as the bus garage or district administration building?
- Are there complaint managers of both genders, and is the group balanced by ethnicity, race, and linguistic group?
- Do all students and staff know the name and location of at least two complaint managers?
- Are those wishing to file a complaint allowed to go to any complaint manager they feel comfortable with, rather than being required to see the one in their building?
- Have the complaint managers and investigators received regular yearly training?
- Do the complaint managers meet on a regular basis to engage in group problem solving and to identify their needs for further training and support?
- Are the complaint managers given released time from their regular duties to attend to complaint management and record keeping tasks?
- Do the complaint managers have access to training and legal advice regarding the proper processing of complaints and potential legal liability?
- Do administrators work cooperatively with complaint managers, i.e., are sanctions and remedies actually applied?
- Does the administration and school board receive regular statistical reports by building and district regarding the number and type of formal and informal complaints filed and their disposition?

4. Do you foster an atmosphere of prevention by sensitizing students and staff to the issue of harassment? Does the definition of harassment make it clear that sexual, racial/ethnic, sexual orientation, and differently-abled harassment are included?

- Does the district mission statement reflect a commitment to mutual respect for all people?
- Has there been a training program for district administrators in the past two years?
- Has there been a training program for district employees including job training supervisors in the past two years?
- Has there been a training program for students in the past two years?
- Do staff members model the use of appropriate language and behavior at all times?
- Are pamphlets and/or posters advising students and employees about the nature of harassment and its legal implications easily found around the school?
- Has a school-wide conference or speakout been held to sensitize the school community to the issue of harassment?
- Is information about preventing harassment and what to do if it occurs a routine part of the K-12 curriculum?
- Do staff members promptly intervene in situations where they observe harassment?
- Is offensive graffiti that violates the harassment policy promptly removed?
- Do student leaders take an active role in the effort to prevent harassment?
- Have events where harassment flourishes, such as “flip-up” days and pep rally cross-dressing skits, been eliminated?
- Have past incidents of harassment been resolved fairly and appropriately?
- Do students and staff members feel comfortable talking openly about harassing incidents, problematic areas, and attitudes?

5. Have you reached out to populations of students known to be particularly vulnerable to harassment?

- Have support groups been established for students enrolled in vocational or academic classes that are nontraditional for their gender, race, or ethnicity?
- Are students who drop vocational or academic classes that are nontraditional for their gender, race, or ethnicity routinely surveyed to establish the reason for dropping and to determine whether harassment played any role in their decision?
- Are student placement work sites routinely visited and evaluated for freedom from harassment?

SCORING THE CHECKLIST

37-44 points: Your district has obviously embarked upon a well planned and determined effort to eliminate harassment.

27-36 points: Although your district has many good points in its efforts to prevent harassment, there are still a few areas where improvements should be made. Locate the points on the checklist that you didn't check off and consider how you can improve the situation in those areas.

17-35 points: While you are making some efforts to prevent harassment in your district, you need to supplement that effort in many areas. Consider administering the survey to determine the level of harassment in your district, and use the results of the survey to begin identifying areas to concentrate on.

0-16 points: Your district should examine this issue from the standpoint of legal liability. Assess district policies and work toward basic awareness of the problem within the district. Set specific deadlines for completing each phase of the effort. Consider asking for assistance from an outside agency such as the Programs for Educational Opportunity.

Survey: Is Harassment a Problem in Your Building?

Please answer these questions as best you can.

1. Do you know of instances of harassment that have happened in your building?

yes no

If yes, what kind of harassment was it? (Check all that apply):

sexual racial/ethnic

sexual orientation differently-abled

If yes, was the harassment between:

students/students students/staff staff/staff

How many instances have you heard of in the past year?

one two to five six or more

2. Do you know of students who have dropped a class or had their grades affected because of harassment?

yes no

How many instances have you heard of in the past year?

one two to five six or more

3. Do you know of staff members who were denied promotions, were fired, or who quit because someone harassed them?

yes no

How many instances have you heard of in the past year?

one two to five six or more

4. In cases of harassment that you know about, what did the victim do? (Check all that apply.)

- ignore it
- complained to school authorities
- told harasser to stop
- complained to someone outside the school
- went along with it

5. What happened in cases of harassment which you know were reported to school authorities? (Check all that apply.)

- the charge was found to be true
- nothing happened
- the charge was found to be false
- the charge is still being processed
- action was taken against the harasser
- do not know what happened
- action was taken against the victim

6. In cases of harassment which you know of, if the victim did nothing, why do you think she/he did nothing? (Check all that apply.)

- did not know what to do
- did not want to hurt the harasser
- didn't think it was necessary to report
- was too embarrassed
- didn't think anything would be done
- didn't know it was against policy
- was afraid the harasser would get even
- thought it would make him/her uncomfortable with her/him in building
- didn't know it was against policy

7. How widespread do you think harassment is in this building?

- it goes on all the time
- it only happens to a few people
- it happens to a fair number of people
- it doesn't happen

Please check the categories that best apply to you:

male female

Your race/ethnicity? _____

Main language you speak? _____

Are you a student staff member other?

(If other, please specify.) _____

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Hate Crime School Survey

School Name _____ Elementary _____ Middle _____ Junior _____ High _____

This survey is being completed during week ____ of the current school year _____

Please indicate which of the following hostile acts have occurred during the year, the approximate number of times each act occurred and whether the victim was a student, administrator, other employee, or general public.

1. Buildings or other parts of the school grounds defaced with words or symbols:

Victim	<u>none</u>	<u>1-3</u>	Frequency <u>4-6</u>	<u>7-9</u>	<u>10+</u>
Student					
Teacher/ Admin.					
Other School Employee					
General Public					

2. Racial slurs or bigoted epithets:

Victim	<u>none</u>	<u>1-3</u>	Frequency <u>4-6</u>	<u>7-9</u>	<u>10+</u>
Student					
Teacher/Admin.					
Other School Employee					
General Public					

3. Symbolic acts of hate, acts traditionally threatening or offensive to members of a group:

Victim	<u>none</u>	<u>1-3</u>	Frequency <u>4-6</u>	<u>7-9</u>	<u>10+</u>
Student					
Teacher/ Admin.					
Other School Employee					
General Public					

4. Posting or circulating material based on stereotypes demeaning to members of a group:

Victim	<u>none</u>	<u>1-3</u>	Frequency <u>4-6</u>	<u>7-9</u>	<u>10+</u>
Student					
Teacher/ Admin.					
Other School Employee					
General Public					

5. Destruction, defacing or removal of posted materials, meeting places, memorials, etc.:

Victim	<u>none</u>	<u>1-3</u>	Frequency <u>4-6</u>	<u>7-9</u>	<u>10+</u>
Student					
Teacher/Admin.					
Other School Employee					
General Public					

6. Destruction of personal belongings:

Victim	<u>none</u>	<u>1-3</u>	Frequency <u>4-6</u>	<u>7-9</u>	<u>10+</u>
Student					
Teacher/Admin.					
Other School Employee					
General Public					

7. Physical violence:

Victim	Frequency				
	none	1-3	4-6	7-9	10+
Student					
Teacher/Admin.					
Other School Employee					
General Public					

8. Indicate which of the following groups have been victimized by hate crime incidents at your school. Please estimate the approximate percentage of total incidents suffered by each group:

Victim Group	% of Total Incidents
African American	_____
Arab/Middle Eastern	_____
Asian/Pacific Islander	_____
Filipino	_____
Latino	_____
Native American Indian/Alaska Native	_____
White	_____
Christian	_____
Islamic/Muslim	_____
Jew	_____
Gay/Lesbian	_____
Other _____	_____

9. On a scale of 1-10, please rate what you believe to be the comfort level of the overall school population with each group (1= very uncomfortable, 10 = very comfortable)

Victim Group	School Population Feels
African American	_____
Arab/Middle Eastern	_____
Asian/Pacific Islander	_____
Filipino	_____
Latino	_____
Native American Indian/Alaska Native	_____
White	_____
Christian	_____
Islamic/Muslim	_____
Jew	_____
Gay/Lesbian	_____
Other _____	_____

10. In the cafeteria and the classroom, do group members tend to sit only or primarily with members of their own group? If so, indicate for which groups this is true.

Victim Group	Members Keep to Themselves
African American	_____
Arab/Middle Eastern	_____
Asian/Pacific Islander	_____
Filipino	_____
Latino	_____
Native American Indian/Alaska Native	_____
White	_____
Christian	_____
Islamic/Muslim	_____
Jew	_____
Gay/Lesbian	_____
Other _____	_____

11. During the current school year, have you seen what you believe to be evidence of the presence of “supremacist” groups in your school such as Neo-Nazis or Ku Klux Klan?

Yes _____ No _____

If yes, name groups and what made you notice them.

Group

Evidence of presence on campus

Reprinted with permission from *Hate Crime: A Sourcebook for Schools Confronting Bigotry, Harassment, Vandalism and Violence*, Cristina Bodinger-DeUriarte and Anthony R. Sancho (1991), Southwest Center for Educational Equity, Southwest Regional Laboratory, 4665 Lampson Avenue, Los Alamitos, CA 90720.

Addressing Racial Harassment

A self-evaluation and planning guide for school districts

I. POLICIES/AWARENESS/EDUCATION

Formal Policy. Have we taken a formal position that racial harassment is contrary to district policy? Has our position been approved by the appropriate level of authority in the district?

Notes: _____

Is our policy clear, comprehensive, and consistent with legal requirements?

- Addresses racial harassment in district programs and activities.
- Is sufficiently broad to address the range of incidents where the district can be responsible, including harassment perpetrated by staff, agents, students, or others.
- Have we sought external review by persons or agencies knowledgeable of civil rights requirements?

Notes: _____

Do we take steps to ensure our policy is made known to all interested persons (e.g., post notice on bulletin boards, newspapers, district publications, mailings, copies maintained by designated officials, etc.)?

- How is it disseminated to:
 - students _____
 - parents _____
 - staff _____
- Is the notice recurring/ongoing?

Notes: _____

Have we designated a person or persons to coordinate our efforts to promote awareness and racial harmony?

- Does this person have adequate time and support to effectively execute these responsibilities? How do we determine whether appropriate support is provided?
- Is this person encouraged to present information regarding needs to administrators responsible for supporting such activities? How?

Notes: _____

Have we consulted with a diverse cross section of persons to identify needs and generate ideas for educational/awareness activities?

- Staff _____
- Parents _____
- Students _____
- Experts in the field _____
- Elected officials _____
- Business community _____
- Other community interests _____

Notes: _____

What steps should we take to promote cultural awareness, understanding, and mutual respect? Should we consider other (additional) activities (e.g., classroom activities, student advisory groups, extra-curricular cross-cultural appreciation activities such as art, music, student exchanges, guest speakers, field trips, cultural fairs, etc.)?

Notes: _____

Is our plan of training and other multicultural awareness programs effective?

- What is the feedback from staff and students regarding the effectiveness of these activities?
- Do we need to establish a specific interval to reevaluate our success?

Notes: _____

Do we have a crisis intervention plan?

- Have we had training on how to address a crisis?
- What situations call for outside assistance?
- Who has authority to set the plan in motion?

Notes: _____

II. COMPLAINTS/REMEDIES

Are our internal methods for handling concerns or complaints clear and well known? Have we determined that our methods of notice are effective?

- Do persons with concerns or grievances receive information on how to present them (to whom) and what steps will be followed when they use our process(es)?
- Are staff aware of the grievance process so they are prepared to respond to inquiries?
- Do we provide informal as well as formal avenues?
- How is the information regarding raising concerns or grievances disseminated? Is it published?
- Have we determined whether notice is reaching those who may need to present concerns or grievances?

Notes: _____

Do our methods of addressing a grievance ensure thoroughness, fairness, and impartiality (i.e., provide due process)?

- Are the staff involved in carrying out the process fully informed of the legal requirements in this area? How?
- Do we provide for an impartial investigation of complaints? How do we ensure this impartiality?
- Do we provide a full opportunity to provide evidence? How?
- Do we communicate our decisions (and the bases for such) clearly in writing? How and to whom?
- Do we reach prompt decisions? Do we have standards for timeliness? Do we adhere to our standards?

Notes: _____

Do we provide for effective remedies where there has been discrimination?

- Do we have standards that ensure our remedies fully correct the harm or injury?
- Are our remedies effective at preventing a recurrence? How do we evaluate the effectiveness of our remedies?

Notes: _____

Do we have a person designated to coordinate our complaint procedures? Are they provided training and information on their duties?

- Do we need to establish a specific interval to reevaluate the overall effectiveness of our complaint procedures?

Notes: _____

III. ONGOING REVIEW

Do we have an ongoing and periodic review of our overall efforts to address racial harassment?

- Is there a person responsible to initiate our periodic review?
- Have we established a specific interval for our review?
- Have we ensured the review will be comprehensive?

Notes: _____

From the U.S. Department of Education, Office for Civil Rights, Western Division, Seattle Office.

Preventing and Responding to Hate-Motivated Behavior

Preventing Hate-Motivated Behavior

Teachers, principals, counselors, parents, grandparents, and extended family members should model behavior for children which promotes dignity, respect, and appreciation of diversity for people from all backgrounds and cultures.

It is the *school's responsibility* to ensure that established school district standards of behavior are followed. Standards should promote respect for all people and for oneself. School personnel must demonstrate to students that each person is valued as are all cultural differences brought from home to school.

A Suggested Process

Specify the rules of conduct in documents, speeches, and orientation sessions that are held with students and faculty. Include the district and school policies concerning bigotry, all of the activities considered to violate policies and constitute unacceptable behavior, the procedures for reporting a hate crime, and the consequences for those who commit any hate-motivated behavior.

Assess the existing school climate, review incident reports, and identify potential problems. Perform a *Hate Crime School Survey** at the site and use the data to develop strategies for reducing hate-motivated incidents. Analyze the data to improve programs.

Adopt a curriculum or supplement the current curriculum through course content which includes or enhances multicultural components. *Provide staff training* which will help teachers to respond immediately and appropriately to hate-motivated incidents in the classroom, accurately report hate-motivated incidents, and provide needed assistance for the victim and offender.

Provide workshops for teachers, parents, families, and community partners which teach the importance of setting examples and provide the opportunity for participants to model positive behavior toward youths.

Involve community partners, such as government agencies, law enforcement, and other school sites, as resources. These partners are valuable resources for helping develop effective prevention plans.

Support student activity programs that promote appreciation and respect for differences among people. Support after-school, evening, and weekend events which demonstrate how students can harmoniously work together, learn from one another, and resolve conflicts among members of a dissimilar student body. Encourage existing student-focused programs promoting dignity and physical and emotional safety for all students. (refer to Resources).

* See Cristina Bodinger-deUriarte and Anthony R. Sancho, *Hate Crime: A Sourcebook for Schools Confronting Bigotry, Harassment, Vandalism, and Violence*. Southwest Regional Laboratory, 4665 Lampson Ave., Los Alamitos, CA 90720.

Reprinted with permission from *Hate-Motivated Behavior in Schools, Response Strategies for Administrators, School Boards, Law Enforcement and Communities*, Alameda County (CA) Office of Education (1997).

Responding to Hate-Motivated Behavior

Schools must have a clear set of procedures to follow when responding to hate-motivated incidents. Steps that ensure the safety of the victim, provide for appropriate disciplinary action for the perpetrator, and establish a standardized reporting system are important procedures to have in place at every school site.

Immediately:

1. *Stop the behavior* and address the problem. Discuss the incident with the student(s) involved and interview possible witnesses. Provide immediate and reasonable consequences for the perpetrator (based on school and district disciplinary guidelines).

Later the same day:

2. *Provide immediate staff response* to all reports of hate-motivated incidents. Notify school administrators and law enforcement officers of the incident and request assistance, if necessary. Get assistance for the teacher if he or she is uneasy in dealing with this issue.

3. *Activate all student rumor control networks* on campus so that they can disseminate accurate information across the campus before rumors spread.

4. *Provide victims of hate-motivated behavior or crime with support* and assistance, including referral to victim support agencies, if appropriate.

5. *Inform the victim's and perpetrator's parents* that the school is taking the incident seriously. Ask family members whether they are aware of any indicators of hate-motivated behavior at home and whether their observations may be documented and shared.

6. *Report in writing* all hate-motivated behavior. Reports should include a description of the behavior and name(s) of the student(s) involved. Inform the district office staff of all planned follow-up activities (refer to Appendix C).

7. *Follow the district's media relations plan* so the assigned spokesperson can take command of distributing the information quickly and accurately.

As soon as possible:

8. *Proceed with appropriate disciplinary action* consistent with district policy and the California *Education Code*. Law enforcement officers may proceed with a concurrent investigation based upon California *Penal Code* violations.

9. *Provide appropriate sensitivity training* and diversity education for the perpetrators and their families.

10. *Implement follow-up activities* with the students, staff, and community:

- Have law enforcement officers take photographs of graffiti and have district personnel paint out all graffiti before students arrive at school so that the message is not seen by students.
- Work with students who are in formal and informal leadership roles to plan activities which will restore campus harmony: e.g., campuswide "No Put-Down" campaigns.
- Utilize school or district crisis response teams to support the students.

- Provide staff with effective strategies on how to respond to taunts and slurs in the classroom: e.g., establish “No Slur Zones” in the classroom or perform sensitivity exercises with students.

USING THE TEACHABLE MOMENT.

Teachers need to be provided the necessary training which enables them to recognize and appropriately respond to hate-motivated incidents that occur in their classrooms. When teachers are aware of such acts and are comfortable responding to them, they can use this teachable moment to talk with students. This discussion helps students to understand the damage and hurt that can be brought about by such behavior.

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Working with Victims and Perpetrators

A student's embarrassment or fear of retribution often prevents the student from reporting the incident. Staff members must strive to maintain an atmosphere of trust, safety, and confidentiality so that students feel comfortable sharing their experiences.

School staff should provide support in the following ways to a student victimized by hate-motivated behavior:

1. Assist the victim in filling out any required school district and law enforcement reports and be sensitive to any cultural and language needs of the student. The staff should also encourage the student to inform his or her parents about the incident.
2. Help the student preserve evidence from the incident, including written materials, drawings, and graffiti. Staff should also help the student identify responsible parties and possible witnesses.
3. Ensure that the student receives appropriate medical treatment or counseling support. Often the student will minimize the injury or harm and refuse such assistance. Staff should still offer the immediate assistance and longer-term support.
4. Offer the student and family assistance in contacting other resources, such as law enforcement, victim-witness assistance programs, local media, and community organizations.
5. Break through feelings of isolation the student might have by encouraging discussions with and support from family, friends, and other students.
6. Assure the student that the school will treat the incident with appropriate seriousness by using classroom and group settings to talk about what makes a school feel safe and secure. Assure the student that the staff will work hard to create a safe environment for all students.

School staff should work in the following ways with a student who has perpetrated a hate-motivated act:

1. Talk with the perpetrator and try to determine his or her level of intent to hurt or harm. Determine whether the student has had any prior contact with other hate groups on campus, in the neighborhood, or through the Internet.
2. Assist the perpetrator in contacting his or her parents and arrange for any necessary meetings with the school or police. When meeting with parents, be alert to any verbal clues regarding hate-motivated feelings.
3. Explain what type of forms will be filled out and how the student's behavior is going to be described and reported. Inform the perpetrator as to what disciplinary action will be taken.
4. Consider, if appropriate, face-to-face discussions with the victim (restorative justice techniques). Be sensitive to public ridicule and embarrassment because that rarely changes a person's behavior for the better.
5. Promote rehabilitation and higher levels of awareness for perpetrators and parents by having them view videos, read stories, and perform meaningful, positive deeds within the community.

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Working with the Media

Schools cannot wait until hate-motivated incidents become a concern before developing a media-response plan. Having clear procedures in place before an occurrence will help avoid ill-prepared confrontations with the media.

Preparing Before an Incident

Confer with district-appointed media spokespersons to develop a clear strategy. Document the plan and keep it accessible. Maintain an accurate list of media addresses so the appointed spokesperson can send a news release quickly to control rumors and calm the community. Remember to include the ethnic press and radio and cable television stations.

Designate a capable, accessible individual and a back-up contact at each school site to field media calls. Name these contacts in written school procedure papers in case legal action is taken later.

Know state laws and district policies as they relate to hate-motivated behavior.

Have appropriate staff members attend a media-awareness workshop and in-service training on the district's media guidelines.

Form cooperative working relationships with the press before an incident occurs. Be sensitive to the media's reporting deadlines and balance them against the need to gather accurate information. When prepared ahead of time, the

district, not the media, will be able to take charge of the interview.

Prepare a boilerplate statement and news release ahead of time. Take time to construct responses to anticipated questions. Think through answers carefully; get legal advice when possible (refer to Appendix D).

Link with other “zones of influence,” such as schools, churches, and YMCAs, to share ideas.

Responding After an Incident

Maintain a professional tone and take the time to thank the media for their concern. Do not become defensive.

Set up a press conference if warranted. This allows the district to answer all questions at one time, ensuring uniform dissemination of information.

Assign a district team to protect the victim and perpetrator from the media. Meet with the families and assist them in dealing with reporters.

Invite the media back to the school at a later date to observe positive campus activities. Examples of these activities are:

- Curriculum instruction and activities that teach students about the importance of accepting and appreciating diversity among people
- Schoolwide presentations or programs that highlight cultural pluralism
- School and community partnership activities that promote the value and importance of all children

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Sample Hate-Motivated Behavior Incident Report

_____ School District

I. Incident:

School _____
 Location _____
 Date _____
 Time _____
 Form completed by _____
 Phone _____
 Title _____

2. Perpetrator(s):

	Male	Female	Ethnicity							Grade	Perpetrator attend school? Yes/No
			A	AI/AN	B	F	H	PI	W		
1											
2											
3											
4											

Ethnic Code Key
 (taken from CBEDS)
 A—Asian
 AI/AN—American Indian or Alaskan Native
 B—Black, not of Hispanic Origin
 F—Filipino
 H—Hispanic
 PI—Pacific Islander
 W—White

3. Victim(s):

	Male	Female	Ethnicity							Grade	Perpetrator attend school? Yes/No
			A	AI/AN	B	F	H	PI	W		
1											
2											
3											
4											

4. Type of Bias:

Race Sexual Orientation Religion Sex (gender)
 Disability National Origin Other: _____

5. Type of Incident:

PERSONAL

Body language/gestures Physical assault - no weapon(s) used
 Verbal slurs/threats
 Harassment Physical assault - weapon(s) used
 Extortion/theft

PROPERTY

Graffiti
 Property damage
 Arson
 Cross burning
 Other: _____

(See page 3 for instructions on completing the form.)

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6. Narrative Description of Incident

7. Action Taken

8. Assistance Needed at Site to Prevent Further Incidents

9. Additional Comments

10. Other Agency Reports Filed?

Yes No Agency/report title/number/name _____

This incident reporting form originated from *Freedom From Fear*, a final report of the California Lieutenant Governor's Commission on the Prevention of Hate Violence, May, 1992. Reprinted with permission from *Hate-Motivated Behavior in Schools, Response Strategies for Administrators, School Boards, Law Enforcement and Communities*, Alameda County (CA) Office of Education (1997).

Instructions for Filling Out the Incident Report Form

Following instructions carefully will ensure uniform reporting for all sites. It is important for each site to record all hate-motivated incidents so that the district may plan appropriate interventions.

The Purpose of Hate-Motivated Behavior Incident Reporting

Hate-motivated behavior is a contemporary issue that schools cannot afford to ignore. The board has resolved to require all hate-motivated incidents to be reported using the *Hate-Motivated Behavior Incident Report*. The district, along with local law enforcement personnel, will use information gathered from these forms to shape a program of interventions aimed at preventing recurrence or escalation of problems in schools and neighborhoods where patterns of hate crimes emerge. We urge your cooperation in using this form.

Filling Out the Form

1. Incident:

School, Location, Date, and Time. This information refers to the incident itself. Be as specific about the location as possible (e.g., SE corner of upper playground, in hallway by classroom X, corner of Tennyson and Ruus).

Form Completed by. Enter the name and title of the person completing the form (you). If possible, include a phone number where you can be *easily* reached.

2. Perpetrator(s): Enter data regarding those who started or were the aggressors of the incident. The "Perpetrator attend school?" box refers to whether the perpetrator was a student at the school or not. If there are more than four perpetrators, mention should be made in the narrative section (item 6).

3. Victim(s): Enter data regarding those who were the victims of the incident. Again, if there are more than four victims, note that in the narrative section (item 6).

4. Type of bias: This check-off section is intended to represent your best judgment about the motivation behind the actions which led to the report. It may be helpful to interview the victims and the perpetrators in order to ascertain the true motivation. "Other" should be used if none of the six categories accurately describes the motivation.

5. Type of incident: The definition should be self-explanatory. Harassment is a pattern of the first two personal incidents repeated over time. "Other" should be used to describe either personal or property damage not covered by the categories.

6. Narrative description: Be as specific as possible in order to give a clear picture of the dynamics and scale of the incident to anyone trying to plan interventions. Attach separate sheet(s) if necessary.

7. Action taken: What steps did you take, or do you plan on taking, in response to the incident? What, if any, school district reports were filed?

8. Assistance needed: What type of district support do you believe might be useful in addressing the hate-crime pattern at your site?

9. Additional comments: Indicate any additional relevant information you feel is important.

10. Other reports: Record any disciplinary action taken under California *Education Code* Section 48900.3 or any work orders for graffiti removal if related to hate-motivated crime.

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Preventing Hate Speech, Behavior and Crime:

A School Site Count-Down Primer

by Hilda Quiroz

This collection of ideas and resources may lead to a response specific to the needs of a school site as it prepares or continues to respond to hate motivated behavior. At best, the list is a compass as it communicates the direction of trends and practices in the field of violence prevention and, at minimum, a *time-saver* as it compiles a collection of springboard resources, issues and ideas.

Contents

- 10 Websites to Visit
- 9 Promising Violence Prevention Approaches
- 8 Questions to Ask About Your School Community
- 7 Ideas to Turn Cultural/Historical Celebrations Into Meaningful Anti-Bias Activities
- 6 Prevention Skills to Teach Kids
- 5 Behavior Theories and Models to Recognize and Understand
- 4 Goals of an Anti-Bias Curriculum
- 3 Content Themes to Teach
- 2 Key Elements of Positive Relations to Build Upon
- 1 Truth about the Kids We Teach

10 Websites to Visit

- *Teaching Tolerance* Magazine: classroom activities and resources K-12
www.splcenter.org/teachingtolerance/tt-l.html
- Not In Our Town/Not In Our Town II: videos, catalyst for discussion, curriculum, model campaign and forums
www.igc.org/an/NIOT.html [not in service]
- Search Institute: Developmental Assets research / resources
www.search-institute.org
- Anti-Defamation League: classroom videos, curriculum K-12
www.adl.org
- Creating Safe Schools: sexual harassment and sexual orientation
www.youth.org/loco/PERSONProject/Handbook/appendix9.html
- Hate-Motivated Behavior in Schools Manual: download
www.cde.ca.gov/spbranch/safety/crym.html
- STAR (Students Talk About Race) Note: Bay Area program temporarily down but worth investigating
www.pfaw.org/star/home.html
- Multicultural Pavilion at the University of Virginia: multicultural education, curry.edschool.virginia.edu/go/multicultural/

- Juvenile Justice Clearinghouse: Healing the Hate: National Bias Crime Prevention Curriculum for Middle Schools (document # 165479)
www.ncjrs.org
- Resolving Conflict Creatively Program, National Center: *Dynamite Site!* for educators and school sites
www.benjerry.com/esr/index.html [not in service]

9 Promising Violence Prevention Approaches

- Partnerships that include family, peers, community and the media.
- Programs at all grade levels K-12.
- Programs that meet the developmental needs of students.
- Program content that promotes personal and social skills.
- Interactive teaching techniques.
- Ethnic identity/culturally sensitive material matched with the needs of the target population.
- Teacher training and staff development that ensures fidelity to your program.
- Activities that promote a positive school climate.
- Activities that model and foster norms against violence, aggression and bullying.

Note. To date no one has identified the precise elements of effective violence prevention programs. These approaches come from expert assumptions and findings from other prevention fields. There are several program evaluations underway at present that are being funded by the CDC. Modified from the Journal of School Health, December 1997.

8 Questions To Ask About Your School Community

- What evidence of hate incidents or crimes exist in our larger community?
- What is the evidence or potential for hate motivated behavior at our school site?
- Is my staff trained to recognize and productively respond to hate speech and behavior?
- Can my staff accurately report a hate motivated incident?
- Can my staff support both the victims and perpetrators of hate motivated behavior?
- What kinds of classroom programs do we have that teach students the information, skills and attitudes to recognize, respond to or resist hate motivated behavior?
- What kinds of school site activities do we have that model the behavior norms that prevent hate speech and behavior?
- What community partnerships exist or need to be established to prevent and respond to hate motivated behavior?

7 Ideas to Turn Cultural/Historical Celebrations Into Meaningful Anti-Bias Activities

- Begin by viewing your cultural/historical celebrations calendar as a potential anti-bias curriculum.
- Design your calendar of events to genuinely reflect the face of your school community.
- Examine your calendar and identify a core of themes or values that weave through all the events. Communicate these themes year round. Highlight and connect these common themes to your observances and celebration activities.
- Tap your family and larger community to insure that your activities do not present misinformation, stereotypes, or misuse symbols or activities. Strive to build an awareness and understanding of a culture beyond a way of dress, a kind of music or dance or food.
- Identify structured and purpose-driven classroom activities and opportunities for dialogues to accompany the events. Treat the event day like a quality lesson plan with identified objectives, from an opening right through the opportunity for reflection and closure.
- Commit the time, staff and resources needed to orchestrate the program. Student representation is a must. Tap students beyond the traditional student activities council.
- Build the program into a predictable pattern of events each year that opens meaningful dialogues, connects school to real life, people and families, validates differences as gifts and strengths, identifies similarities, and builds respectful and trusting relationships for the best and most trying times ahead.

6 Prevention Skills to Teach Kids

- Communicating to
 - express oneself interpersonally.
 - resist pressure.
 - negotiate and manage conflict.
 - advocate for the respect and well being of self and others
- Decision making
- Critical thinking and social problem solving
- Social perspective taking
- Anger management
- Accessing community resources

5 Behavior Theories and Models to Recognize and Understand

Note. No single education, social, psychological or behavior theory can account for all the complexities of human behavior. Most prevention education and intervention programs exist as an integration of ideas, definitions and proposals. Many *effective* and *powerful* teachers in this area *routinely* and *instinctively* apply similar ideas and approaches based on their own teaching, learning and life experiences.

- Health Belief Model . . . The model requires students to: define a problem behavior or risk, personalize the problem or risk and conclude a realistic degree of personal risk (*perceived susceptibility*). Students identify consequences of the risk or behavior (*perceived severity*). Students develop an expectation of benefits from using newly learned skills, information and attitudes (*perceived benefits*). Students identify strategies to reduce barriers to applying their learning to eliminate or reduce risk (*perceived barriers*). Students identify triggers, strategies to activate "readiness" to act (*cues to action*). Students engage in confidence and skill building, they demonstrate desired behaviors (*self-efficacy*).
- Theory of Planned Behavior . . . This theory presents the idea that the best predictor of a desired behavior is the expression of behavioral intent. It requires students to: 1. Assess their attitude toward a targeted behavior based on their personal values, background and experience. 2. Examine the influential norms of family, friends and the media and assess their desire to comply with these. 3. Develop self-confidence and self-efficacy (attitudes, knowledge, skills) to claim, express behavioral intent and carry out the behavior.
- Stimulus Response Theory . . . This theory posits that a behavior can be shaped by the response to that behavior. A teacher, school and community can reinforce the likelihood that students will engage and promote a targeted behavior by recognizing and rewarding, as well as celebrating progress and achievements based on that behavior.
- Social Cognitive Theory . . . The theory transitions *ideas* to *suggested actions* for prevention and intervention programs.
 - Provide social support.
 - Include credible role models.
 - Provide for self-monitoring.
 - Provide for self-initiated rewards/incentives.
 - Teach key skills.
 - Approach the behavior change in small steps.
 - Model positive outcomes.
 - Teach problem solving and stress management.
 - Build a value for the behavior.
 - Correct misinformation and misperceptions.
 - Promote the desired norm.
 - Consider the student, the behavior and the environment as a collective dynamic.
- Community Empowerment Model . . . The model presents the need for responsive dialogues within a forum of community partnerships. It addresses the need for a common community agenda based on felt needs, shared power and responsibility as well as the awareness of and pooling of needed resources.

Sources: Bill Kane, Ph.D. UNM. *Innovative Programs In Education and Health Behavior and Health Education Theory, Research and Practice* 2nd Edition, Jossey-Bass.

4 Goals of an Anti-Bias Curriculum

- To foster a positive self-identity within the context of group identity
- To facilitate knowledgeable, empathic interactions with people who are different from oneself
- To foster critical thinking about bias
- To help children stand up for themselves and others in the face of bias

Deman-Sparks, Louise and the ABC Task Force. *Anti-Bias Curriculum: Tools for Empowering Young Children: Washington, D.C. NAYEC, 1989.*

3 Content Themes That Build/Promote the Desired Norm

- Communication of school policy . . . negative consequences of violence for perpetrator(s), victim(s), families and friends, bystanders and society at large
- Information about prejudice, sexism, racism and male-female relationships
- Courtesy, compassion, caring and respect for one another

Violence Prevention Research Center, University of Illinois and the National School Safety Center.

2 Key Elements of Positive Relationships to Model/Build Upon

- Trust . . . certainty . . . security . . .reliance . . .faith. . . belief
- Respect . . . honor . . . high regard . . . consideration

1 Truth about the Students We Teach

- Students who feel strongly connected to family, community and school are at a lower risk for violence. At minimum these relationships require genuine intention on the part of adults, quality role models, adequate time and the highest priority. It is out of these relationships that *hope is born*. Where there is hope many good things follow . . . even in the face of adversity.

“We Mustn’t Just Stand Against Something— We Must Also Stand For Something”

-Hilda Quiroz, E1R Associates

Become Informed

Take responsibility for educating yourself about the issues. Don’t take a passive role and wait for others to share their culture or history with you. Seek out information about other people, places, and beliefs. It’s easier to develop relationships with individuals from other cultures and races when you show that the learning process is mutual.

Recognize Your Own Hesitations

Confront your own discomfort about interfering in racial tension. Face the limitations your own attitudes may place on your ability to act. Seek information to help educate yourself against your own pre-set attitudes, set priorities for yourself, and be prepared to take action against hate acts.

Accept Conflict as Part of a Healthy Life-style and Learn to Manage it

Conflict and tension are normal, healthy aspects of life. They enable us to grow. Stop viewing conflict as bad, learn how to recognize it, manage it and make it work for you.

Become an Active Listener

If you listen closely, you can hear people, especially young people, tell you about hurt they have had or are having in their lives. When you begin to see situations through their eyes, you will begin to create healing solutions, or at least be able to refer them to someone who can help. Sometimes it’s just a matter of listening and showing concern.

Become a Role Model

Practice anti-bias, multicultural values in every aspect of your daily life. Show others that you respect and value the talents and diversity of everyone by projecting true enjoyment of unique cultural observances. Be non-judgmental but understand the issues of human dignity, justice, and safety, and make it clear that these are non-negotiable.

Work Collaboratively with Others

Support efforts that combat prejudice and appreciation in all its forms. Social change is long-term, and it is easy to get discouraged, but together we have the strength and vision to make a difference.

Guidelines for Challenging Racism and Other Forms of Oppression, Cross Cultural Consultation, 1998.

TIPS FOR ADDRESSING HATE BEHAVIOR IN SCHOOL

The sample responses below might be helpful when addressing particular situations:

Name Calling:

You seem really upset at something John has done or said. But instead of telling John what it was that you didn’t like, you called him a word that is used to hurt people. If you tell him what you don’t like, it will help John not to do it again. Name calling hurts and it doesn’t solve anything.

Exclusion:

Why did you leave Tony out?

Tony, why do you think you were left out?

What things are important about being a good playmate?

Can Tony change the color of his skin?

Can you change the color of yours?

Do you think that skin color has anything to do with being a fun playmate?

Making Fun of Differences:

We sometimes think others are strange simply because they are new to us. We don’t think we look or act strange because we are used to ourselves.

Do you think we could look strange to people that don’t know us?

When your family came here from another country do you think they sounded funny to other people?

Do you think others made fun of the way they talked?

How do you think you would sound to other people if you were trying to learn a new language?

Harassing Behavior:

Did Sally do something to make you angry?

What do you want to accomplish by bothering her?

Do you understand that your teasing isn't going to help you or Sally?

Have you ever been teased?

How did you feel?

Can you think of ways that you could tell your friends not to tease or hurt other people's feelings?

How would you feel if you got your friends to stop hurting someone else's feelings?

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Guidelines for Determining Hate Motivation

Law enforcement agencies, reporting groups, government agencies, and other victim assistance organizations use a number of guidelines to determine whether hate motive is involved in an incident or attack. The following are some of the more common factors to consider. No one factor is conclusive in itself.

1. Were the offender and victim of different racial, religious, ethnic/national origin, or sexual orientation groups?
2. Did the victim appear to be a member of a particular racial, religious, ethnic/national origin or sexual orientation group, even though he or she in fact is not part of that group?
3. Were there bias-related comments, written statements, or gestures made by the offender?
4. Were bias-related drawings, markings, symbols, or graffiti left at the incident scene?
5. Were certain objects, items, or things that represent bias used or left behind at the incident scene, e.g., hoods, Confederate flags, burning crosses, swastikas?
6. Has the offender been previously involved in similar hate incidents, or is the offender a member of a hate group?
7. Does the perpetrator have an understanding of the incident's impact on the victim, the victim's family, or the community?
8. Did the victim's family recently move into the area? Is the victim's family acquainted with their neighbors and local community groups?
9. Was the victim a member of a racial, religious, ethnic/national origin, or sexual orientation group that is overwhelmingly smaller than other groups where the victim lives or the incident took place? This factor may lose some significance with the passage of time, i.e., it is the most significant when the victim first moves into the neighborhood, becoming less significant as time passes without incident.
10. Was the victim visiting a neighborhood where previous hate crimes have been committed against other members of his/her racial, religious, ethnic/national origin, or sexual orientation group?
11. Was the victim engaged in past or current activities promoting his/her racial, religious, ethnic/national origin, or sexual orientation group?
12. Although the victim may not be a member of the targeted racial, religious, ethnic/national origin, or sexual orientation group, was he or she a member of an advocacy group supporting the precepts of the victim's group?

13. Did the incident coincide with a holiday relating to, or a day of particular significance to, a racial, religious, ethnic/national origin, or sexual orientation group?

14. Have there been other incidents occurring in the same locality, at or about the same time, and have the victims all been of the same racial, religious, ethnic/national origin, gender or sexual orientation group?

15. Has the victim or victim's community been subjected to repeated attacks of a similar nature?

16. Does a substantial portion of the community where the incident occurred perceive that the incident was motivated by bias?

17. What was the manner and means of attack? For example, does the color of paint, the use of particular words or the spelling of words, or the use of symbols or signs suggest a possible hate motive?

18. Does the incident indicate possible involvement by an organized group? For example:

A. Has a specific hate group claimed responsibility for the crime?

B. Is there printed literature involved?

C. Does the name of the group in the literature suggest hate motivation?

D. Does the name of the group suggest a "copy-cat" syndrome?

E. Is there documented or suspected organized group activity in the area?

F. Was this group actually involved, or was this a fear or scare tactic?

19. Are there historical animosities existing between the victim's and the offender's group?

20. Is there an ongoing neighborhood problem that may have initiated or contributed to the incident? Could the incident be retribution for some conflict with a group in the community, a segment of the population, etc.?

21. Has there been prior or recent news coverage of incidents of a similar nature?

From the U.S. Department of Justice, Federal Bureau of Investigation, *Hate Crime Data Collection Guidelines*, 1992, pages 2-3; *Uniform Definitions and Guidelines for Identification of Crimes Motivated, All or in Part, by Race, Ethnicity, Religion and Sexual Orientation*, S.B. 2080, from *Final Report*, Attorney General's Commission on Racial, Ethnic, Religious and Minority Violence, 1986, Appendix E.

Graffiti Removal Protocol of the University of Massachusetts

Amherst

Physical Plant Division Policies and Procedures Manual January 3, 1996

From: Acting Assistant Director for Customer Service & Work Management

Subject: Policy on Graffiti Removal

Purpose: To establish a protocol on graffiti removal

Discussion: Massachusetts has enacted a Civil Rights law which states:

Any person who willfully, intentionally and without right, or wantonly and without cause, destroys, defaces, mars, or injures a church, synagogue, or other building, structure, or place used for a school, educational facility or community center . . . shall be punished by a fine of not more than two thousand dollars or . . . by imprisonment in house of correction for not more than two and one-half years.

Physical Plant has historically removed or covered any offensive graffiti as soon as possible. As a result of the Civil Rights law stated above, graffiti may constitute a violation of law. It is therefore essential that graffiti of an offensive nature be investigated by Public Safety before we remove it. This policy is meant to clarify those incidents requiring reporting to the Public Safety Department.

Action: Upon notification of the existence of graffiti on the campus of the University or other University owned property, consideration shall be given to notifying the Public Safety Department. If the graffiti consists of any one of the following categories, the Public Safety Department shall be notified and removal postponed until their investigation is complete:

- repetitive instances or persistent patterns
- a high degree of visibility
- victim is identified
- perpetrator is identified
- inciting to violence
- targeted to particular group(s) or includes threats or intimidation

Examples: swastikas, epithets in public places or on personal property, hate graffiti clearly aimed at individuals by naming them, being placed on their belongings, etc.

The only graffiti that can be immediately removed is that which does not suggest any of the above. Examples: small graffiti in bathrooms and other public places which is general and vague.

It is imperative to report graffiti to the appropriate person(s). Graffiti that involves Public Safety shall be removed immediately after the investigation is complete, maintaining records of all materials and time required to do so.

Conflict Intervention Teams

A Response to School Crises

SUMMARY

In school year 1992-1993, two urban high schools in the greater Boston area were closed down for several days in the aftermath of racial riots among their students. In each instance, Massachusetts Attorney General Scott Harshbarger's office organized and oversaw a team of experienced mediators who entered the school and worked quietly behind the scenes to resolve the conflicts that had precipitated the crisis, thus helping the schools to reopen safely. The success of these mediation interventions led to the formal creation of what is now known as the Conflict Intervention Team (CIT). CIT has provided emergency mediation services to 23 Massachusetts schools that were in or on the verge of a crisis.

DESCRIPTION

The Conflict Intervention Team, established in 1992, is a program sponsored by the Massachusetts Office of the Attorney General (OAG) in collaboration with the Massachusetts Association of Mediation Programs and Practitioners (MAMPP) and the Massachusetts Department of Education (DOE). The mission of CIT is to provide emergency mediation services to schools to restore a sense of calm and safety in the aftermath of, or in anticipation of, large-scale conflict resulting from racial tensions.

When a school perceives the threat of violence, it is encouraged to call the Attorney General's office for assistance. If the situation is determined to be serious, the office will arrange a meeting at the school to assess the situation, recommend a course of action, and begin to implement the strategic plan for mediation intervention. Often the plan involves several days of intense interviews with students, small and large group mediation sessions and facilitated discussions among all involved in the conflict. To carry out the plan, the CIT assembles a team of experienced community mediators. Often, after an Intervention, the CIT will write a detailed report for the school which outlines, from the perspective of the students and staff who talked with the CIT, the causes of the conflicts and recommendations for changes that would prevent further outbreaks.

GOALS

There are three main goals of CIT:

1. To use mediation as a constructive and respectful forum for discussing and resolving racial disputes and other disputes involving intolerance of differences.
2. To educate school systems and law enforcement officials that CIT is available to help restore calm and a safe environment in the aftermath of severe outbreaks of violence.
3. To train experienced adult and student mediators, from every region of Massachusetts, to respond to school emergencies.

PROTOCOLS FOR CIT

The Attorney General's office and its partners at MAMPP and the DOE have developed a set of protocols which guide the operation of CIT. The protocols outline the roles and responsibilities of each agency and the roles and responsibilities of on-site CIT supervisors and mediators. The protocols also provide an overview of the objectives for each stage of an Intervention: assessment; planning; implementation; and follow-up.

Fifteen hours of advanced mediation training is required of all mediators who participate on CIT; an additional seven hours of training is required for mediators who supervise and lead the actual Interventions.

BENEFITS AND RESULTS

Since its inception, the Conflict Intervention Team has responded to requests for assistance from 23 schools. In each instance, the CIT, under the auspices of the Attorney General's office, has succeeded in resolving the conflicts that had precipitated the crisis and has helped to restore a sense of calm and safety to the school. A total of 108 mediations has been conducted during these Interventions, with 106 resulting in agreement (see attached statistics). Whenever possible, the CIT follows up the short-term Intervention by assisting schools with the development of peer mediation programs to deal with conflict over the long term. (The Attorney General's office has offered funds for a SCORE (Student Conflict Resolution Experts) program on five occasions.)

The use of mediation has proven a very effective method for intervening in large-scale conflict resulting from racial tension. When students are very angry and frustrated, they need a safe and constructive forum for airing their feelings and concerns. Without such an outlet, further conflict and, perhaps, violence are almost guaranteed. Once the students have had the opportunity to air their feelings and to feel that their issues have been heard, they are able to talk with one another and to work with mediators to recommend ways to improve the general climate of their school.

REPLICABILITY

The model for CIT is based on a unique and effective partnership among the OAG, MAMPP and DOE. Each agency has a role to play in making CIT work: in providing oversight, in educating people about its availability, in providing experienced mediators to make up the teams.

In 1994, Attorney General Harshbarger's office received the Ford Foundation's Innovations in State and Local Government Award for its SCORE and CIT programs. With the money received as a result of this award, staff from the OAG and MAMPP worked with the North Carolina Attorney General's office and the North Carolina state association of mediators to set up a Conflict Intervention Team in that state. A team of 30 mediators in North Carolina was trained to become members of their CIT, and representatives from the North Carolina AG's office and department of education attended the training.

The Massachusetts Conflict Intervention Team recently received a 3-year grant from the Hewlett Foundation. One of the mandates of the grant award is to replicate CIT in three to six additional states. The OAG, MAMPP and DOE have all the operational and training materials and trainers to assist other states that are interested in creating an emergency response team of mediators like the Massachusetts Conflict Intervention Team.

Conflict Intervention Teams— Intervention Highlights

URBAN HIGH SCHOOL

In May 1993, two staff from the Attorney General's office organized and supervised a team of 22 DOE, MAMPP and community mediators to offer mediation services to the students and staff at this high school in the wake of a melee that occurred at the school between approximately 100 white and black students. The mediators acted as a sounding board for students who were upset by the events and also mediated student-student conflicts as they were identified. Eighty-five students had one-on-one private discussions with mediators during the 10 days that the mediators were present in the school. Ten formal mediation sessions were conducted, and all of them resulted in agreements. General areas of concern raised by the students were passed on to the administration for further action or consideration. At the end of this intense intervention, it was the consensus of those involved that, while the most immediate sources of tension had been alleviated, the situation remained volatile. It was felt that the safest course of action would be to leave some mediation capacity at the school for the remainder of the school year.

SUBURBAN HIGH SCHOOL

In October 1994, CIT was called in by the principal in response to recent racial tensions between African-American and white students resulting from a series of incidents that took place at a party on a Friday night. Staff from the OAG and MAMPP coordinated the four-day intervention. Twenty-four community mediators, including four students from the SCORE program at Boston English High School, volunteered their time to work with students at this suburban high school. A total of 44 intake interviews took place in an effort to sort out what happened and to determine who needed to come to mediation. As a result of these intakes, 13 mediations took place involving 38 students, some of whom participated in more than one mediation. A large group mediation involving the 10 key students resulted in joint recommendations to the administration. A written report with recommendations was sent to school officials.

URBAN MIDDLE SCHOOL

In February 1996, a CIT was called into this school in response to a conflict among 21 eighth-grade boys divided along racial and friendship lines. Each group complained of name-calling, bullying and disrespect by the other group. One student and five adult mediators participated in the Intervention. A total of

21 individual intakes was conducted resulting in six 2-party mediations. The final mediation, involving all 21 boys, lasted four hours and resulted in an agreement to treat each other with respect and to coexist peacefully.

SUBURBAN MIDDLE SCHOOL

This five-day middle school conflict intervention was coordinated by MAMPP and OAG staff in April 1995. The CIT was called into this school by the principal after a series of incidents between white and black students escalated into a large group fight. Several students were suspended from school, and a few received minor injuries. The CIT team comprised two coordinators and 15 mediators, including six student mediators (four student mediators from Brighton High School and two student mediators from Boston English High School). Over the course of the five-day intervention, two parent intakes and 37 student intakes were conducted. A total of 12 mediations was held (nine two-party mediations, two multi-party mediations and one large group mediation), with all but one reaching agreement.

RURAL JUNIOR/SENIOR HIGH SCHOOL

In April 1995, the Conflict Intervention Team was called into this school following a three-week period of escalating harassment between a group of white girls and a group of Puerto Rican girls. The school is situated in a small rural town in Massachusetts. Out of 400 students in grades 7-12, there are only 10 students of color. This five-day intervention was coordinated by the OAG with the assistance of one community mediator. Eight intakes were done, resulting in four 2-party mediations and one large group mediation, all of which were successful. The conflict was racially based and reflected a lack of tolerance for cultural differences.

URBAN HIGH SCHOOL

In October 1996, the OAG received a call from the Superintendent of Schools requesting assistance at this school in response to reports of serious racial tensions between white and Hispanic students. A small group of students had brought their concerns to the Superintendent, stating that there were strong rumors that weapons would be brought into the school the next day to deal with a small group of white students who were allegedly making racial slurs. The Superintendent arranged for extra police presence and called for CIT assistance. The four-day Intervention was coordinated by two staff from the OAG with assistance from 10 community mediators. During the Intervention, intake interviews were conducted with 62 students. With information from the intakes, six two-party and one five-party mediation were conducted, all resulting in agreement. On the last day of the Intervention, 18 white, Hispanic and black students, with the assistance of mediators, discussed openly their frustrations with one another. Eventually they decided to work together to prepare a set of recommendations to present to the Superintendent. These recommendations were included in the CIT's written report. Since the Intervention, the Superintendent has provided funding for a peer mediation program and diversity training.

From a report on the Conflict Intervention Team program by the Massachusetts Office of the Attorney General.

Erasing Hate

A Guide to Your Civil Rights in School: Your Right to Be Free from Discrimination, Harassment and Hate-Motivated Violence

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From the Desk of
Attorney General Scott Harshbarger

Every student has the right to attend school safely, regardless of their race, color, religion, national origin, ethnic background, gender, sexual orientation or disability. Hate-motivated violence, harassment and discrimination may interfere with a student's academic performance and physical and emotional well-being. It may also affect a student's ability to enjoy his or her school education.

Teachers and school administrators can play an enormously important role in ensuring that your civil rights are protected so that you and other students can take full advantage of the numerous educational opportunities offered by the Commonwealth's public schools. If your civil rights are being violated, however, this guide can serve as a source of information about the laws protecting you and the resources available for reporting hate-motivated harassment, discrimination or violence.

For the sake of all students, as well as the larger community, each of us must make sure that every student has a safe physical and emotional environment in which to learn.



HATE CRIMES

You have the right to attend school without being the victim of physical violence, threats of harm, intimidation or damage to your personal property. A hate crime occurs when you or a fellow student is targeted for physical assault, threat of bodily harm or intimidation, at least in part because you are a member of a different race, color, religion, ethnic background, national origin, gender or sexual orientation from the offender or because you have a disability.

Certain types of language or conduct may indicate the potential that a hate crime has occurred. Some indicators that a crime was hate-motivated include:

- Use of racial, ethnic, religious, sexual or anti-gay slurs;
- Use of symbols of hate, such as a swastika or a burning cross;
- Similar behavior by the wrongdoer towards other students from the same racial, ethnic or religious group or against students of the same sexual orientation or gender; and
- Where the incident occurs while the victim was participating in an activity promoting a racial, religious, ethnic/national origin, disability, gender or sexual orientation group, such as a meeting of the National Association for the Advancement of Colored People (NAACP), membership in a students' gay rights alliance or in a disability rights demonstration.

Hate crimes most frequently occur in the following ways:

- A physical attack or a threat of bodily harm, on the basis of a student's race, color, religion, national origin, ethnic background, gender, sexual orientation or disability;
- Intimidating or threatening language based on a student's race, color, religion, national origin, ethnic background, gender, sexual orientation or disability; or
- Damage to a student's personal property or belongings because of the student's race, color, religion, national origin, ethnic background, gender, sexual orientation or disability.

HARASSMENT

Harassment in school occurs when a student or adult's behavior or inappropriate language creates a hostile, offensive or intimidating school environment. A single incident, depending on its severity, may constitute illegal harassment.

A hostile, offensive or intimidating school environment may be created by behaviors such as the following:

- Degrading, demeaning, insulting or abusive verbal statements or writings of a sexual or racial nature or related to a student's race, color, religion, national origin, ethnic background, gender, sexual orientation or disability;
- Graffiti, slogans or other visual displays (such as swastikas and burning crosses) which contain racial, ethnic, religious

slurs or insults based on the student's gender, sexual orientation or disability;

- Treatment of a student in a more or less favorable way because the student submitted to or rejected sexual advances or requests for a social relationship; and
- Unwelcome sexual advances, including same-gender harassment.

DISCRIMINATION

Every student is entitled to equal educational opportunities. A student may not be subjected to discipline or more severe punishment for wrongdoing nor denied the same rights as other students because of his or her race, color, religion, national origin, ethnic background, gender, sexual orientation or disability, including in:

- Course Registration
- Guidance Counseling and Course Instruction
- Extra-Curricular Activities and Athletic Programs

Students with disabilities are protected under federal and state law from discrimination. Such students are entitled to: (1) have their programs and activities in a physically accessible location; (2) be ensured "effective communication," including, where necessary, the provision of additional aids and services; and (3) reasonable modification of a school's policies and practices, where necessary, to receive an equal opportunity education. Students with special educational needs may be entitled to an individualized educational program.

WHAT YOU SHOULD DO IF YOU ARE A VICTIM OF A HATE CRIME, HARASSMENT OR DISCRIMINATION

If you have been physically attacked, threatened with physical harm or discriminated against while in school or while participating in a school-related activity, because of your race, color, religion, national origin, ethnic background, gender, sexual orientation or disability, or if you witness these acts against another student:

- Notify your local police in an emergency or if you or another **student's personal safety is in danger**.
- In all circumstances where you are the subject of any serious incident of harassment or any incident involving intimidation, threat of violence or physical attack, you should **notify a school official**.
- For non-serious forms of harassment or discrimination only, you may want to try to speak with the person you feel has harassed you or discriminated against you -- for example, the teacher, coach, other student or administrator -- to request that the offensive conduct stop. Only do this if you feel safe and are comfortable doing so. If you do not feel safe or comfortable doing this alone, ask someone you trust -- such as a parent, a good friend, a family member, the school nurse, a teacher or your guidance counselor -- to accompany you.

- Talk about the situation with your parents, your guardian or another adult whom you trust.

- If there is still a problem, make an appointment with your school principal to explain why you believe your rights have been violated.

- If your principal feels that your rights are not being violated, or if you are unable to meet with him or her, talk with your school superintendent.

- If you still feel that your concerns are not being appropriately addressed, you may file a formal complaint with your school superintendent and the school committee. Your school committee must respond to you in writing within 30 days of your filing a complaint.

- You may also request an investigation of your complaint by contacting your school district's Office of Equity or the person designated to coordinate or handle harassment and discrimination complaints in your school district.

WHERE ELSE CAN YOU TURN FOR HELP

Your school should take appropriate action to protect you from physical harm and to stop hate-motivated harassment or intimidation and prevent it from happening again. If it does not, you should report the incident to one or more of the agencies listed below.

- **Massachusetts Department of Education (DOE)**
350 Main Street
Malden, MA 02148
(617) 388-3300

The state DOE's Problem Resolution System allows you, your parents and others to file a complaint if you believe you have been harassed or discriminated against.

- **Massachusetts Office of the Attorney General, Civil Rights Division**
One Ashburton Place
Boston, MA 02108
(617) 727-2200

The Attorney General's Civil Rights Division reviews complaints of harassment, intimidation and discrimination in schools and determines appropriate legal action, including obtaining a restraining order.

- **United States Department of Education, Office for Civil Rights**
John W. McCormack Building
Post Office and Court House, Room 222
Boston, MA 02109
(617) 223-9662

The Office for Civil Rights receives and investigates complaints of discrimination and harassment.

- **Massachusetts Commission Against Discrimination (MCAD)**
One Ashburton Place
Boston, MA 02108
(617) 727-3990 or (413) 739-2145
The MCAD investigates complaints about discrimination in any public school program or course of study. Filing must occur within 6 months of the alleged unfair educational practice or harassment incident.

- **Massachusetts Department of Social Services (DSS)**
1-800-KIDS-508: State-wide Child Abuse/Neglect Reporting Line; 800-792-5200: Child at Risk Hotline/evenings, nights and weekends
DSS investigates reports involving a student under 18 years old who suffers physical or emotional injury from abuse (including sexual abuse) or severe neglect (including malnutrition).

- **United States Department of Justice**
Community Relations Service (CRS)
99 Summer Street, Suite 1820
Boston, MA 02110
(617) 424-5715
CRS is a specialized federal conciliation service that assists school districts to manage and prevent school racial and ethnic conflicts and disruptions.

OTHER RESOURCES

- **American Civil Liberties Union (ACLU) of Massachusetts**
(617) 482-3170
The ACLU provides free legal advice and advocacy to students and educates students on issues of discrimination, harassment, civil rights and civil liberties.

- **Anti-Defamation League (ADL)**
(617) 457-8800
The ADL provides advocacy, support and legal referral services to victims of hate crimes, harassment and discrimination. The ADL's "World of Difference" Program works with schools to fight anti-Semitism, prejudice, bigotry and racism.

- **Asian American Resource Workshop: SafetyNet Hate Violence Prevention Project**
(617) 542-4800
SafetyNet assists Asian Americans in reporting hate crimes and obtaining access to police, prosecutors and to the court system and provides free and confidential support and referral services. Interpretive services are available.

- **Boston Alliance of Gay & Lesbian Youth (BAGLY)**
1-800-42-BAGLY
BAGLY is a youth-run, adult-advised social support group to discuss issues of concern to gay, lesbian, bisexual and transgender (GLBT) youth. BAGLY also offers a peer counseling program and referrals to professional services.

- **Boston Asian: Youth Essential Services (YES)**
(617) 482-4243
Boston Asian YES provides violence prevention, counseling, crisis intervention, gang prevention and substance abuse services for Asian youth in the Greater Boston area.

- **Boston Gay and Lesbian Adolescent Social Services (GLASS)**
(617) 266-3349
Boston GLASS provides social services, peer support, educational opportunities and health promotion activities for GLBT and questioning young adults ages 25 and under.

- **Childhelp USA National Child Abuse Hotline**
1-800-4-A-CHILD
The Child Abuse Hotline provides crisis counseling and referral to any caller in an abuse-related situation.

- **Children's Law Center of Massachusetts**
(781) 581-1977
The Children's Law Center represents students and provides advocacy and training on issues affecting the civil and legal rights of students and their education.

- **Coalition for Asian Pacific American Youth (CAPAY)**
(617) 287-5689
CAPAY is a youth-run organization that focuses on improving race relations, providing peer support and developing leadership skills for Asian Pacific-American youth.

- **Domestic Violence Ended (DOVE) Youth Hotline**
(617) 773-HURT or (617) 471-1235
DOVE's Youth Hotline provides a safe, confidential and anonymous place for young adults to talk about domestic violence issues and receive support and referral services.

- **Fenway Community Health Center**
(617) 267-2535 (Gay and Lesbian Peer Listening Line)
(617) 267-0900, ext. 308 (Violence Recovery Program)
The Peer Listening Line is staffed by volunteers who provide support to callers with questions regarding their sexual orientation and access to community services. The Violence Recovery Program provides support and referral services to victims of hate crimes and harassment.

- **Gang Peace**
(617) 442-1919
Gang Peace provides peer-based education and training to youth ages 9 through 25, with an emphasis on rehabilitating gang members and youth at risk, providing programs in violence prevention and intervention, crisis management, mediation and HIV education.

- **Gay & Lesbian Advocates & Defenders (GLAD)**
1-800-455-GLAD or (617) 426-1350
GLAD provides legal information, referrals and may provide direct legal representation to students and their families to assist students who have been harassed or discriminated against on the basis of sexual orientation and/or HIV status.

- **Governor's Commission on Gay and Lesbian Youth**
(617) 727-7200, ext. 312
The Commission provides information on their reports, how to start a Gay/Straight Alliance (GSA) and how to find out about existing GSAs and other GLBT support services.

- **Governor's Task Force on Hate Crimes**

(617) 727-6300

The Task Force provides assistance and referrals for civil rights issues in schools.

- **La Alianza Hispana - Youth Outreach Program**

(617) 427-7175

La Alianza Hispana provides programs and services to the Latino community of Greater Boston, including intervention and referral services to victims of violence and harassment.

- **Lawyers' Committee for Civil Rights Project to Combat Racial Hate**

(617) 482-1145

The Lawyers' Committee provides free legal services to children and their families who have been harassed or discriminated against on the basis of race or national origin.

- **Massachusetts Advocacy Center**

(617) 357-8431

The Advocacy Center provides legal representation to income-eligible youth with special needs or disabilities and who face suspension or expulsion from school due to disciplinary concerns.

- **Massachusetts Office on Disability (MOD)**

1-800-322-2020 or (617) 727-7440 (Voice and TDD)

MOD sponsors recreational and educational programs for youth with disabilities to share concerns about day-to-day issues and coping strategies, independence and self-care.

- **National Association for the Advancement of Colored People (NAACP)**

Boston (617) 265-7900 New Bedford (508) 991-4416

Springfield (413) 734-2765 Framingham (508) 879-7612

Lawrence (978) 975-5177 Cambridge (617) 661-9223

The NAACP provides counseling and legal referral services to African-American youth and empowers youth to resolve problems relating to violence, harassment and discrimination.

- **National Coalition of Advocates for Students (NCAS)**

(617) 357-8507

NCAS seeks equal access to quality public education for children of vulnerable groups, including children of color, children recently immigrated to the United States and children with disabilities.

- **National Conference for Community and Justice**

(617) 227-9155

The National Conference trains youth from diverse racial, ethnic and religious groups to develop leadership skills to address prejudice and intolerance and develop strategies for inclusion.

- **Samariteens**

1-800-252-TEEN

Samariteens provides a free and confidential service staffed by teenage volunteers dedicated to assisting teenagers in need and also provides suicide prevention and intervention strategies.

- **Sociedad Latina**

(617) 442-4299

Sociedad Latina offers treatment and counseling services to Latino youth and programs designed to prevent HIV/AIDS transmission, substance abuse, teen pregnancy and domestic violence.

- **Urban League**

Eastern Massachusetts Office - (617) 442-4519

Springfield Office - (413) 739-7211

The Urban League provides services and advocacy programs relating to education for people of color, with a focus on poor and low income urban areas.