

IS IT SEXUAL HARASSMENT?

A hostile environment is created when **sexual harassment** is:

- sufficiently **severe**, OR
- **objectively offensive**, AND
- **persistent or pervasive**

so that it unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the school's educational environment.

SEVERE

- Physical is more likely to be severe without need for repetition. "Attempts to grab a female student's breasts or attempts to grab any student's genital area or buttocks." (OCR Guidance)
Please note: When anyone grabs or touches another's genitals, buttocks, or breasts (either outside or inside clothing) it could be considered assault or battery depending on the age of the offender. Consult with the Placement & Appeal Department and/or school police.
- non-consensual sexual intercourse or contact
- consider the ability of the victim to escape the harassment (age, disability, etc.)
- may be accompanied by threats or violence

OR

OBJECTIVELY OFFENSIVE

- Would a reasonable person consider the behavior offensive?
- Consider the age and relationships of students involved.
- Does it involve physical threats, humiliation, intimidation, ridicule, abuse?
- If the behavior is objectively offensive, consider severity, pervasiveness, persistence.

AND

PERSISTENT

- repeated (consider intensity, duration, was it welcome)
- continuing beyond the usual
- not stopping or going away
- continuing to do something even though others want you stop

PERVASIVE

- widespread
- openly practiced
- well-known among students or employees
- occurring with regularity
- known but nobody talks about it

OR

*Even though an incident may not be considered sexual harassment at the moment, if the behavior becomes persistent or pervasive, it may become sexual harassment. Monitor and implement proactive interventions, remedies, and/or consequences to prevent recurrences.

*You may not legally suspend for "Sexual Harassment" in K-3rd. Offenses in K-3rd can still be egregious, but you need to apply other means of correction or intervention.