

When deciding if an education provider has met its duty to respond to a human rights claim, tribunals are likely to think about:

- ◆ the procedures in place at the time to deal with discrimination and harassment
- ◆ how quickly the organization responded to the complaint
- ◆ how seriously the complaint was treated
- ◆ the resources made available to deal with the complaint
- ◆ if the organization provided a healthy environment for the person who complained
- ◆ how well the person who complained was told about the action taken.

Educators can prevent many cases of sexual harassment by having a clear, comprehensive anti-sexual harassment policy in place. In cases of alleged sexual harassment, the policy will alert all parties to their rights, roles and responsibilities. Policies must clearly set out how the sexual harassment will be dealt with promptly and efficiently. The OHRC's *Policy on preventing sexual and gender-based harassment* includes suggested contents of an anti-sexual harassment policy.

Everyone should know about the anti-sexual harassment policy and the steps in place for resolving complaints. This can be done by:

- ◆ giving policies to everyone as soon as they are introduced

- ◆ making all teachers, school staff, students, etc. aware of them by including the policies in orientation material
- ◆ training people, including people in positions of responsibility, about the policies, and educating them on human rights issues.

An effective sexual harassment policy can limit harm and reduce liability. It also promotes the equity and diversity goals of educational institutions.

Education providers should monitor their environments regularly to make sure they are free of sexually harassing behaviours. Taking steps to keep a poison-free environment will help make sure that sexual harassment does not take root, and does not have a chance to grow. You can help to prevent sexual and gender-based harassment before it happens by:

- ◆ showing a clear attitude that sexual and gender-based harassment will not be tolerated
- ◆ showing a clear attitude that discrimination based on sexual orientation, including homophobic bullying, will not be tolerated
- ◆ having an effective anti-sexual and gender-based harassment policy in place and making sure all students know about it
- ◆ communicating clearly to the student body the consequences of all forms of sexual and gender-based harassment, including online sexual and gender-based harassment
- ◆ including online harassment prevention measures in sexual harassment and school Internet policies

- ◆ teaching students and staff about sexual harassment, including gender-based harassment, sex-role stereotyping, and homophobic comment and conduct
- ◆ using role-playing and educational exercises to help students be more aware of the impact of sexual and gender-based harassment on others
- ◆ teaching students media literacy to help their critical thinking and to ask appropriate questions about what they watch, hear and read
- ◆ teaching students how to protect themselves from online sexual and gender-based harassment
- ◆ respecting the confidentiality of students who report sexual and gender-based harassment and related bullying. This may encourage other students to report harassment
- ◆ making sure staff have enough resources, training and tools to spot sexually harassing behaviours, and to identify and report incidents when they do occur.

### For more information:

To find out more about what you can do to prevent and address sexual and gender-based harassment in education, see the Ontario Human Rights Commission's *Policy on preventing sexual and gender-based harassment* at [www.ohrc.on.ca](http://www.ohrc.on.ca)

For more information on the human rights system in Ontario, visit: [www.ontario.ca/humanrights](http://www.ontario.ca/humanrights)

To file a human rights claim (called an application), contact the Human Rights Tribunal of Ontario at:  
Toll Free: 1-866-598-0322  
TTY: 416-326-2027 or  
Toll Free: 1-866-607-1240  
Website: [www.hrto.ca](http://www.hrto.ca)

To talk about your rights or if you need legal help with a human rights application, contact the Human Rights Legal Support Centre at:  
Toll Free: 1-866-625-5179  
TTY: 416-314-6651 or  
Toll Free: 1-866-612-8627  
Website: [www.hrlsc.on.ca](http://www.hrlsc.on.ca)

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**Sexual harassment is a type of discrimination based on sex. When someone is sexually harassed in school, it can undermine their sense of personal dignity and safety, disrupt their education, and interfere with their ability to reach their full potential in life. If left unchecked, sexual harassment in the school setting has the potential to escalate to violent behaviour, including sexual assault.**

A student experiencing sexual harassment may stop doing their school work and taking part in school-related activities. They may skip or drop classes, or they may drop out of school entirely. Psychological effects may include anxiety, depression, disrupted sleep, loss of appetite, inability to concentrate, lowered self-esteem, loss of interest in regular activities, social isolation, and feelings of sadness, fear or shame. Some students may abuse drugs and/or alcohol to cope. In extreme cases, students may think about or even attempt suicide.

Under the *Ontario Human Rights Code*, sexual harassment is “engaging in a course of vexatious comment or conduct that is known or ought to be known to be unwelcome.” In some cases, one incident could be serious enough to be

sexual harassment. Some examples of sexual harassment are:

- ◆ asking for sex in exchange for a benefit or a favour
- ◆ repeatedly asking for dates, and not taking “no” for an answer
- ◆ demanding hugs
- ◆ making unnecessary physical contact, including unwanted touching
- ◆ using rude or insulting language or making comments toward girls and women (or boys and men, depending on the circumstances)
- ◆ calling people sex-specific derogatory names
- ◆ making sex-related comments about a person’s physical characteristics or actions
- ◆ saying or doing something because you think a person does not conform to sex-role stereotypes
- ◆ posting or sharing pornography, sexual pictures or cartoons, sexually explicit graffiti, or other sexual images (including online)
- ◆ making sexual jokes

- ◆ bragging about sexual prowess
- ◆ bullying based on sex or gender
- ◆ spreading sexual rumours or gossip (including online).

## Applying the *Human Rights Code* in education

The *Ontario Human Rights Code* prohibits sexual harassment in education. “Education” includes primary, secondary and post-secondary education, and school activities such as sports, arts and cultural activities, school functions, field trips and tutoring. Sexual harassment may also occur as part of school rituals, such as when initiating new students, new players in team sports, or new members of sororities and fraternities.

More and more, students are being sexually harassed online. Technology, such as email, blogs, social networking sites, chat rooms, dating websites, text messaging features, etc., provides new frontiers for the sexual harassment.

**Example:** The Ontario College of Teachers withdrew a 29-year-old teacher’s license because he sexually harassed a female student through e-mail. He used a false name and sent messages to the student that included information about what she had been wearing that day, what route she took to school, and sexual suggestions.

Educators may be liable for a poisoned environment if school technology is used to sexually harass someone. They may also be liable when private electronic devices are used on school premises to harass someone.

## Gender-based harassment and bullying

Gender-based harassment is a form of sexual harassment that is used as a “gender policing tool” to enforce conformity with sex-role stereotypes. Gender-based harassment can be particularly damaging to adolescent students who are struggling with their identities, and trying to come to terms with their sexuality, peer pressure and a desire to fit in. Students who are perceived as not conforming to stereotypical gender norms may be particularly vulnerable to gender-based harassment.

Gender-based harassment in schools is often used as a form of bullying. This seems to happen regularly in primary, middle and high school. Students may use sexual information to gain control and power over another person.

**Example:** To ostracize a rival, a girl starts a rumour that another girl is sexually promiscuous and performs sex acts on boys behind the school.

Sexist and homophobic name-calling, jokes and conduct may also be used as a way to bully and shun a person. In some cases, gender-based

harassment may look the same as harassment based on sexual orientation, or homophobic bullying.

**Example:** A grade 9 male student who has many female friends and is more interested in the arts than athletics is repeatedly called “fag,” “homo,” “queer,” etc. by a group of boys in the school.

## Preventing and responding to sexual harassment

Education providers have a legal duty to take steps to prevent and respond to sexual harassment. They must make sure they keep poison-free environments that respect human rights. From a human rights perspective, it is not acceptable to ignore sexual harassment, whether or not someone has formally complained or made a human rights complaint.

