

Lesson 4 **Applying Title IX**

Lesson Objectives

Students will be able to

- Evaluate the protections Title IX provides against sexual harassment
- Analyze a court opinion that prohibits sexual harassment on the basis of Title IX
- Draft a proposed addition to the Title IX regulations that explicitly prohibits sexual harassment

Materials

- Handout 8: *Davis v. Monroe County Board of Education* and teacher annotations.

Lesson Assessments

- Class discussion and factor list about *Davis v. Monroe County Board of Education*

Instructional Activities

Anticipatory Set

- Instruct students to respond to the following prompt by reading it first and then discussing it with a partner. Next, have students share out some of their answers.

You are a lawyer. A woman walks into your office and complains that her fifth-grade daughter, Lisa, is being bullied at school by a fifth grade boy, Gerald. The mother states that over the course of the last few months, Gerald attempted to touch Lisa's breasts and genital area. Gerald also made vulgar statements such as "I want to get in bed with you" and "I want to feel your boobs." In multiple instances, Gerald acted in a sexually suggestive manner. These incidents took place during school hours in the classroom, gym, and hallway of Lisa's public elementary school. Lisa reported each of these incidents to her teachers. Although Lisa's teachers and principal were aware of Gerald's behavior, the school took no action against Gerald and made no effort to separate Gerald and Lisa. Gerald has been charged with, and pleaded guilty to, sexual battery for his misconduct.

In what way might Title IX come into play in a situation like this?

Direct Instruction

Unit 3: Lesson 4

Title IX: Gender Equality in Public Education

- Remind students that they have been studying the statutory language of Title IX, along with specific regulations implementing it. Point out that neither the statutory text nor the regulations refer explicitly to sexual harassment or bullying. Nonetheless, the Supreme Court has ruled that Title IX protects against this type of conduct. It has concluded that harassment of students—when committed by school employees, other students, or others—can amount to gender discrimination prohibited by Title IX. Ask students why that might be, and elicit volunteer responses.
- Explain that the Supreme Court has reasoned that when students become victims of harassment because of their gender, and that harassment interferes with the student’s academic performance or emotional and physical well-being, it creates a discriminatory environment which the statute forbids.

Guided Practice

- Distribute **Handout 8: *Davis v. Monroe County Board of Education***, which provides excerpts from a 1999 Supreme Court opinion. Explain that in this case, a mother sought damages from the school board because another student sexually harassed her daughter. The facts of the case are from the Do Now activity at the beginning of class. As students read through the case, instruct them to highlight and take notes responding to the following question:
 - When does harassment amount to gender discrimination so that it is forbidden under Title IX? What factors does the court consider?
- When students have finished reading and annotating, call on volunteers to list factors that the court considers. List them on the board, or have students come up to the board one at a time to write a factor that they found. Discuss and clarify each factor as it is listed.
- Explain that Title IX does not provide *explicit* protection against sexual harassment. But if a regulation were to be drafted, it could either replicate the factors considered in *Davis*, or it could provide greater or lesser protection. Ask students if they think the *Davis* factors are sufficient to protect against sexual harassment, or if they think the factors are too strict or too loose. Allow students to discuss the question with a partner before sharing their thoughts with the class.

Independent Practice

- Instruct students to refer to **Handout 4: Code of Federal Regulations - Athletics** from Lesson 2, and **Handout 6: Code of Federal Regulations - Marital or Parental Status** from Lesson 3. Remind them that these are examples of how Title IX has been implemented in specific contexts: athletics, and marital/parental status. Explain to students that now they will be writing their own regulation to apply Title IX to a new context: sexual harassment. In writing the regulation, students should consider:
 - The factors listed in the *Davis* opinion
 - Ideas from the class discussion of *Davis*
 - Examples from the Code of Regulations on athletics and marital/parental status

Unit 3: Lesson 4

Title IX: Gender Equality in Public Education

- Students may work in groups of three or four to draft a new set of regulations that will provide explicit protection against harassment and bullying on the basis of gender.
- Allow students to work together for the remainder of the class period on drafting their proposed regulation.