

Issue

The Title IX Final Rule: Addressing Sexual Harassment in Schools

Adverse K-12 schools' policies may have unintended effects of sexual harassment. II. The Department of Education's *Notice to the Schools*. III. The Final Rule.

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6XPPDU\ RI 0DMRU 3URYLVLRQV RI WKH 'HSDUWPHQW RI

6H[XDO +DUDV	WPHQWOH ;	VWDWXWH DSSOLHV	WR SHUVRQV	LQ WKH 8QLWHG	6V
2FFXUULQJ LQ	UDHFRRO	HGHUDO ILQDQFLDO	DVVLVWDQFH	8QGHU WKH)LQDO	5X
3(GXFDWLRQ	3URJUDP	RU DFWLYLW\	DJDLQVW	D	
\$FWLYLW\`	DQG 7KH	WPHOH ;	VWDWXWH DQG H[LVLWLQJ	UHJXODWLRQV	FRQWDLQ
8QLWHG 6WDW	WKH 'HSDUWPHQW	ZLOO FRQWLQXH	WR ORRN	WR WKH\H	GHIQLWL
(GXFDWLRQ	SURJUDP	FRQWDLQ	WLRQV	HYHQWV	RU FLUFXPVWDQ
VXEVDQWLDO	FRQWURO	RYHU ERWK	WKH UHVSRQG	HQW DQG	WKH
LQFOXGHV	DQ\ EXLOG	LQJ RZQH	RU FRQWURO	OHG E\	D VWXGHQW
SRVWHFRQ	GDU\ LQVWLWX	WLRQ	VXFK DV	D IUDWHU	QLW\ RU VRUR
7LWOH ;	DSSOLHV	WR DOO	RI D VF	KRRO	V HGXFDWLRQ
RQ FDPSXV	RU RII	FDPSXV	\$ VF	KRRO	PD\ DGGUHV
RXWVLGH	7LWOH ;	V MXULV	GLFWLRQ	LQ DQ\	PDQQHU
SXUVXLQJ	GLVFLSOL	QH			

\$FFHVVLEOH 7KH SURJUDP 5XOH H[SDQGV D VF KRRO V REOLJDWLRQV WR HQVXUH
 WR 7LWOH ; & RLVGH LQ D WRRUGLQDWRU
 7KH HPSOR\HH GHVLJQDWHG E\ D DU DVFV IP FRROGA0PDUH LWV

6XPPDU\ RI 0DMRU 3URYLVLRQV RI WKH 'HSDUWPHQW RI

	<p>7KH 7LWOH ,; &RRUGLQDWRU PXVW SURPSWO\ FRQWDFW WKH FRP VXSSRUWLYH PHDVXUHV FRQVLGHU WKH FRPSODLQDQW\ V ZLVKHV FRPSODLQDQW RI WKH DYDLODELOLW\ RI VXSSRUWLYH PHDVXUHV H[SODLQ WR WKH FRPSODLQDQW WKH SURFHVV IRU ILOLQJ D IRUP 6FKRROV PXVW IROORZ D JULHYDQFH SURFHVV WKDW FRPSOLHV GLVFLSOLQDU\ VDQFWLRQV RU RWKHU DFWLRQV WKDW DUH QRW V 6FKRROV PXVW QRW UHVWULFW ULJKWV SURWHFWHG XQGHU WKH \$PHQGPHQW DQG)RXUWHHQWK \$PHQGPHQW ZKHQ FRPSO\LQJ ZLW 7KH)LQDO 5XOH UHTXLUHV D VFKRRO WR LQYHVWLJDWH VH[XDO FDQ EH ILOHG E\ D FRPSODLQDQW RU VLJQHG E\ D 7LWOH ,; &RRU 7KH)LQDO 5XOH DIILUPV WKDW D FRPSODLQDQW\ V ZLVKHV ZLWK UHVSHFWHG XQOHVV WKH 7LWOH ,; &RRUGLQDWRU GHWHUPLQH V RYHU WKH ZLVKHV RI WKH FRPSODLQDQW LV QRW FOHDUO\ XQUHD ,I WKH DOOHJDWLRQV LQ D IRUPDO FRPSODLQW GR QRW PHHW W QRW RFFXU LQ WKH VFKRRO\ V HGXFDWLRQ SURJUDP RU DFWLYLW\ FODULILHV WKDW WKH VFKRRO\ V XWWSRWHV WKH DFWLYLQDOOHDGURQV LQ DQ\ PDQQHU WKH VFKRRO GHHPV DSSURSULDWH XQGHU WKH V</p>	
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6FKRRO\ V 0DQGDWRU\
5HVSQRVH 2EOLJDWLRQV

6XPPDU\ RI 0DMRU 3URYLVLRQV RI WKH 'HSDUWPHQW RI

7KH)LQDO 5XOH GHILQH V³IRUPDO FRPSODLQW' DV D GRFXPHQW II
 &RRUGLQDWRU DOOHJLQJ VH[XDO KDUDVVPHQW DJDLQVW D UHVSRL
 DOOHJDWLRQ RI VH[XDO KDUDVVPHQW DQG VWDWHV
 \$W WKH WLPH RI ILOLQJ D IRUPDO FRPSODLQW D FRPSODLQDQW
 WKH HGXFDWLRQ SURJUDP RU DFWLYLW\ RI WKH VFKRRO ZLWK ZKL
 \$ IRUPDO FRPSODLQW PD\ EH ILOHG ZLWK WKH 7LWOH ; &RRUGLQ
 XVLQJ WKH FRQWDFW LQIRUPDWLRQ UHTXLUH WR EH OLVWHG IRU
 DGGLWLRQDO PHWKRG GHVLJQDWHG E\ WKH VFKRRO
 7KH SKUDVH³GRFXPHQW ILOHG E\ D FRPSODLQDQW' PHDQV D GR
 WKURXJK DQ RQOLQH SRUWDO SURYLGHG IRU WKLV SXUSRVH E\ WK
 GLJLWDO VLJQDWHUH RU RWKHUZLVH LQGLFDWHV WKDW WKH FRP
 :KHUH WKH 7LWOH ; &RRUGLQDWRU VLJQV D IRUPDO FRPSODLQW
 SDUW\ GXULQJ D JULHYDQFH SURFHVV DQG PXVW FRPSO\ ZLWK UH
 FRQIOLFWV DQG ELDV
 7KH)LQDO 5XOH GHILQH V³VXSSRUWLYH PHDVXUHV' DV LQGLYLGXD
 SXQLWLYH QRQ GLVFLSOLQDU\ DQG QRW XQUHDVVRQDEO\ EXUGHQ
 HGXFDWLRQDO DFFHVV SURWHFW VDIHW\ RU GHWHU VH[XDO KDUI
 7KH)LQDO 5XOH HYDOXDWHV D VFKRRO V VHOHFWLRQ RI VXSSRU
 XQUHDVVRQDEOH LQ OLJKW RI WKH NQRZQ FLUFXPVWDQFHV DQG G
 EXW UHTXLUHV WKH VFKRRO WR RIIHU VXSSRUWLYH PHDVXUHV DG
 UHVSRRGHQW LV

*ULHYDQFH 3URFHVV QDO 5XOH SUHVFULEHV D FRQVLVWHQW WUDQVSDUHQW JUL

*HQHUDO 5HKLUDVVPHQW \$VLGH IURP KHDULQJV VHH ,VVXH EHZRZ WKH J
WR DOO VFKRROV HTXDOO\ LQFOXGLQJ . VFKRROV DQG SRVWHV

6XPPDU\ RI 0DMRU 3URYLVLRQV RI WKH 'HSDUWPHQW RI

5HTXLUH 7LWOH ,; SHUVRQQHO 7LWOH ,; &RRUGLQDWRUV LQYHV
LQIRUPDO UHVROXWLRQ SURFHVV WR EH IUHH IURP FRQIOLFWV RI
UHVSRRQGHQWV
7UDLQLQJ RI 7LWOH ,; SHUVRQQHO PXVW LQFOXGH WUDLQLQJ RQ
VFRSH RI WKH VFKRRO V HGXFDWLRQ SURJUDP RU DFWLYLWY KRZ
LQFOXGLQJ KHDULQJV DSSHDOV DQG LQIRUPDO UHVROXWLRQ SUR
LQFOXGLQJ E\ DYRLGLQJ SUHMXGJPHQW RI WKH IDFWV DW LVVXH
\$ VFKRRO PXVW HQVXUH WKDW GHFLVLRQ PDNHUV UHFHLYH WUDI
\$ VFKRRO V GHFLVLRQ PDNHUV DQG LQYHVWLJDWRUV PXVW UHFH
DSSO\ WKH UDSH VKLHOG SURWHFWLRQV SURYLGHG RQO\ IRU FRPS
,QFOXGH D SUHVXPSWLRQ WKDW WKH UHVSRRQGHQW LV QRW UHVS
UHJDUGLQJ UHVSRRQVLELOLW\ LV PDGH DW WKH FRQFOXVLRQ RI WK
5HFLSLHQWV PXVW SRVW PDWHULDOV XVHG WR WUDLQ 7LWOH ,;
DYDLODEOH IRU PHPEHUV RI WKH SXEOLF WR LQVSHFW
,QFOXGH UHVRQDEO\ SURPSW WLPH IUDPHV IRU FRQFOXVLRQ RI
UHVROXWLRQV ZLWK DOORZDQFH IRU VKRUW WHUP JRRG FDXVH C
'HVFULEH WKH UDQJH RU OLVW WKH SRVVLEOH UHPHGLHV D VF
D VFKRRO PLJKW LPSRVH RQ D UHVSRRQGHQW IROORZLQJ GHWHUPI
6WDWH ZKHWHHU WKH VFKRRO KDV FKRVHQ WR XVH WKH SUHSRQ
FRQYLQFLQJ HYLGHQFH VWDQGDUG IRU DOO IRUPDO FRPSODLQWV
IDFXOW\ DUH UHVSRRQGHQWV
'HVFULEH WKH VFKRRO V DSSHDO SURFHGXUHV DQG WKH UDQJH
UHVSRRQGHQWV
\$ VFKRRO V JULHYDQFH SURFHVV PXVW QRW XVH UHO\ RQ RU V
UHFRJQLJHG SULYLOHJH XQOHVV WKH SHUVRQ KROGLQJ VXFK SUL
\$Q\ SURYLVLRQV UXOHV RU SUDFWLFHV RWKHU WKDQ WKRVH UH
JULHYDQFH SURFHVV IRU KDQGOLQJ IRUPDO FRPSODLQWV RI VH[XI

6XPPDU\ RI 0DMRU 3URYLVLRQV RI WKH 'HSDUWPHQW RI

3DJHR I

6XPPDU\ RI 0DMRU 3URYLVLRQV RI WKH 'HSDUWPHQW RI

<p>6WDQGDUG (YLGHQFH :U 'HWHUPLQDWL</p>	<p>RIKH)LQDO 5XOH UHTXLUHV WKH VFKRRO\ V JULHYDQFH SURFHVV W UHVSRQVLELOLW\ LV WKH SUHSRQGHUHQFH RI WKH HYLGHQFH VWD RIQDO 5XOH PDNHV HDFK VFKRRO\ V JULHYDQFH SURFHVV FRQVLW RI HYLGHQFH IRU DOO IRUPDO FRPSODLQWV RI VH[XDO KDUDVPHQ LQFOXGLQJ IDFXOW\ PHPEHU 7KH GHFLVLRQ PDNHU ZKR FDQQRW EH WKH VDPH SHUVRQ DV WK ZULWWHQ GHWHUPLQDWLRQ UHJDUGLQJ UHVSRQVLELOLW\ ZLWK IL FRQGXFWRFFXUHG UDWLRQDOH IRU WKH UHVXOW DV WR HDFK D UHVSRQGHQW DQG ZKHWKHU UHPHGLHV ZLOO EH SURYLGHG WR W 7KH ZULWWHQ GHWHUPLQDWLRQ PXVW EH VHQW VLPXOWDQHRXV DSSHDO</p>
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<p>\$SSHDOV</p>	<p>7KH)LQDO 5XOH VWDWHV WKDW D VFKRRO PXVW RIIHU ERWK SDUW UHVSRQVLELOLW\ DQG IURP D VFKRRO\ V GLVPLVVDO RI D IRUPDO EDVHV SURFHGXUDO LUUHJXODULW\ WKDW DIIHFWHG WKH RXWFRP WKH RXWFRPH RI WKH PDWWHU DQG RU 7LWOH ; SHUVRQQHO KDG WKH PDWWHU \$ VFKRRO PD\ RIIHU DQ DSSHDO HTXDOO\ WR ERWK SDUWLHV RQ</p>
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,QIRUPDO 5HWHU\LVLRQ 5XOH DOORZV D VFKRRO LQ LWV GLVFUHWLRQ WR FKR
 DV PHGLDWLRQ RU UHVWRUDWLYH MXVWLFH VR ORQJ DV ERWK SD
 LQIRUPDO UHVROXWLRQ \$Q\ SHUVRQ ZKR IDFLOLWDWHV DQ LQIRU

6XPPDU\ RI 0DMRU 3URYLVLRQV RI WKH 'HSDUWPHQW RI

5HWDOLDWL 3URKLELWHG	RQH)LQDO 5XOH H[SUHVVO\ SURKLELWV UHWDOLDWLRQ &KDUJLQJ DQ LQGLYLGXDO ZLWK FRGH RI FRQGXFY YLRODWLRQV WKH VDPH IDFWV RU FLUFXPVWDQFHV DV D UHSRUW RU IRUPDO FR LQWHUIHULQJ ZLWK DQ\ ULJKW RU SULYLOHJH VHFXYHG E\ 7LWOH 7KH VFKRRO PXVW NHHS FRQILGHQWLDO WKH LGHQWLW\ RI FRPS SHUPLWWHG E\)(53\$ DV UHTXLUHG E\ ODZ RU DV QHFHVVDU\ WR &RPSODLQWV DOOHJLQJ UHWDOLDWLRQ PD\ EH ILOHG DFFRUGLQJ 7KH H[HUFLVH RI ULJKWV SURWHFWHG XQGHU WKH)LUVW \$PHQG &KDUJLQJ DQ LQGLYLGXDO ZLWK D FRGH RI FRQGXFY YLRODWLRQ WKH FRXUVH RI D 7LWOH ,; JULHYDQFH SURFHGHG LQJ GRHV QRW FR UHVSQRVLELOLW\ DORQH LV QRW VXIILFLHQW WR FRQF
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