

Adolescent Dating Violence: How Should Schools Respond?

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Educational leaders have a substantial degree of control over students and generally have a tremendous influence on the decisions that they make. District administrators are already involved in comprehensive efforts to stem sexual harassment, teen violence and bullying; therefore, they may be well positioned to identify and address the problem of teen dating violence. Unfortunately, school district failure to take action is far too common, despite the statutory duty to ensure the safety of all students during school hours and at school sponsored events. School districts can be held liable for student dating violence under Title IX, under 42 U.S.C. §1983 and under Tort liability.

Educational leaders have a substantial degree of control over students and generally have a tremendous influence on the decisions that they make. District administrators are already involved in comprehensive efforts to stem sexual harassment, teen violence and bullying; therefore, they may be well positioned to identify and address the problem of teen dating violence. Violence between intimate early adult couples is a noteworthy public health concern. Patterns of conflict that precipitate domestic violence in adult years may start with adolescent dating experiences (Henton et al, 1983). Even more important, the prevalence of partner violence has been found to increase with age (Milik, Sorenson, & Aneshensel, 1997; Thompson, 1991). Unfortunately, school district failure to take action is far too common, despite the statutory duty to ensure the safety of all students during school hours and at school sponsored events. Schools in many states have a responsibility to teach about teen dating violence and other states are coming on board with similar legislation. Whether or not they have these requirements, school leaders have an obligation to be aware of the problem, realize that even if it occurs off school grounds it may be brought into the school environment, understand the legal implications and teach students to engage as bystanders.

Teen dating violence is a pattern of controlling and abusive behavior of one person over another within a romantic relationship including verbal, emotional, physical, sexual and financial abuse. Lack of dating experience allows teens to be more vulnerable to dating violence where they are less likely to recognize the abuse. For example, on Sept. 14, 2005, Gerardo E. Martinez, a 29-year-old Warwick, Rhode Island man that Lindsay Ann Burke dated for two years, murdered her in a sudden rage after discovering a photo of another man in her purse. Lindsay had broken up with him before he found the picture. In his anger, Martinez broke Lindsay's nose, stabbed her multiple times in the head and chest, and slashed her throat with a 6-inch knife, before depositing her bloodied body in the bathtub of his apartment. Lindsay was a typical victim of teen dating violence. She didn't understand the obsession with control and manipulation as acute warning signs.

Statistics Related to Teen Dating Violence

Dating violence among high school students is prevalent and affects the mental health of the victim (CDC 2008b; Halpern, Oslak, Young, Martin, & Kupper, 2001; Howard & Wang, 2003; MMWR, 2006; Silverman, Raj, & Clements, 2004). Using data from the 2003 Youth Risk Behavior Survey (YRBS), the CDC analyzed the prevalence of physical violence victimization among high school students. YRBS is a component of the Youth Risk Behavior Surveillance System designed to measure the prevalence of health risk behaviors among high school students through biennial national, state, and local surveys. The 2003 national survey represented public and private school students in grades 9-12. Participants completed an anonymous, self-administered questionnaire. In 2003, the questionnaire included the following question about dating violence victimization: "During the past 12 months, did your boyfriend or girlfriend ever hit, slap, or physically hurt you on purpose?" Physical violence was defined as a response of "yes" to this question. The results indicated that 8.9 percent of students (8.9 percent of males and 8.8 percent of females) reported physical dating victimization during the 12 months preceding the survey. Participants also self-reported at-risk behaviors including being currently sexually active; defined as having sexual intercourse with at least one person during the 3 months preceding the survey, attempted suicide at least one time during the preceding 12 months, cigarette use at least one time in the preceding 30 days, episodic heavy drinking defined as five or more drinks in a row at least one time during the preceding 30 days, and physical fighting at

least one time during the past 12 months. These specific behaviors were selected to represent risks that are of public health concern among high school students. Data from this survey indicated that students reporting physical dating victimization were more likely to engage in four of the five risk behaviors (i.e., sexually active, attempted suicide, episodic heavy drinking, and physical fighting) than participants who did not report physical dating violence (MMWR, 2006).

It should be noted that the Centers for Disease Control (CDC) data represents only physical dating victimization and does not represent the number of students grades 9-12 subjected to emotional or sexual victimization by their boyfriends or girlfriends. Consequently, the inclusion of sexual and emotional victimization may significantly increase the number of students subjected to dating violence in high schools. Some research supports this assumption. Using the 1997 and 1999 Youth Risk Behavior Survey (YRBS) survey data from Massachusetts, Silverman, Raj, Mucci, and Hathaway (2001) found that approximately 20 percent of female public high school students reported experiencing physical and/or sexual violence from dating partners. Adolescent girls in this survey experiencing victimization were also found to be at a significantly higher risk for a broad range of serious health concerns including unhealthy weight control, risky sexual behavior, and seriously considering or attempting suicide. These risk factors were heightened for adolescent girls reporting both physical and sexual violence.

In a three-year study of single black females ages 14-18, 18.4 percent of participants reported a history of dating violence (Wingood, DiClemente, McCree, Harrington & Davies, 2001). Among the adolescents experiencing dating violence, 30 percent had been abused in the last six months. The researchers also report an association between a history of dating violence and adolescents' sexual health, their sexual behaviors, and perceived norms. The researchers concluded that "Adolescents' perception of the prevalence of dating violence and their own experience of abuse may shape their beliefs regarding dating as normative and adversely influence their perceptions about safer sex and healthy relationships (p3)."

Using the National Longitudinal Study of Adolescent Health, Halpern, Oslak, Young, Martin, & Kupper (2001) examined the frequency of psychological and physical dating violence among 12-21 year-olds who reported up to 3 romantic relationships that occurred in the past 18 months. Overall, 32 percent of respondents reported experiencing either psychological or physical dating violence in the previous 18 months. Most violent behaviors were psychological, with swearing being the most common. Twelve percent reported being the victim of physical

violence, while 10 percent reported having been pushed and 3 percent reported having something thrown at them. Data indicates that about 20 percent of the participants reported only psychological violence and about 10 percent reported physical violence. The majority of adolescents reporting physical violence also experienced psychological violence.

These studies indicate that at a minimum, 10 percent of high school students are victims of dating violence in one form or another. Among female students that date in high school some data indicate that as many as 30 percent may be victims of dating violence. The data also indicates that victims of dating violence have an increased risk of drug and/or alcohol use, suicide ideation or attempt, and risky sexual behavior. These studies also indicate that for at least some of the victims, dating violence is considered normative. In fact, teens as a general rule have little dating experience and may not understand that their partner's behavior is abusive (Carlson, 2003). In short, dating violence impacts the mental and physical health of the victims and as such is a serious school safety issue.

In dating violence, one partner tries to maintain power and control over the other through abuse. Dating violence is spread across all economic, racial and social lines. Most victims are young women and they are at greater risk for serious injury. Teen dating violence is often invisible because teenagers are inexperienced with relationships, and are pressured by peers to act violently, want independence from parents, and have unrealistic "romantic" views of love.

Teen violence is influenced by belief systems that some teenagers possess. Young men may believe that they have the right to "control" their female partners, that masculinity is heightened with physical aggressiveness, that they "possess" their partner, that they have a right to demand intimacy, and that they may lose respect if they are attentive and supportive of their girlfriends. Similarly, young women may believe that they are responsible for solving problems in relationships, that their boyfriend's jealousy, possessiveness or even physical abuse is "romantic", that abuse is normal because their friends are also being abused, and that there is no one to ask for help (ACADV, 2011).

Why School Leaders Should Address Teen Dating Violence

Why should schools take action on dating violence? There are several reasons that schools have an obligation to be cognizant of dating violence that is occurring and to address it proactively:

1. Schools force interaction between a batterer and a victim in a way that most other environments do not;
2. Schools have a duty to provide protection for their students, including defending them from physical harm inflicted by other students. Most, if not all, schools have developed comprehensive policies regarding sexual harassment among students. Given that dating violence is a form of sexual harassment, schools are legally obligated to extend their efforts to battle sexual harassment to include dating violence;
3. Schools have an opportunity to address the teen abuser's behavior more than any other setting. Developmentally, teens are in formative years to create lifelong patterns. Teens that witness adults in their lives overlook, ignore and minimize teen dating violence are at greater risk for carrying over a propensity for violence into adulthood;
4. Schools and school districts are liable for known sexual harassment that occurs on school campuses. Dating violence and sexual harassment are almost identical in definitions and behavior patterns. Schools could potentially be civilly liable to a student who experiences dating violence on campus, informs the school of the problem, and yet finds that nothing is done to help or to punish the batterer;

Understanding that teen dating violence and domestic violence share the same underlying cause, the patterns are the same for adults and adolescents, and that violence and abuse between couples are learned behaviors that can be unlearned, gives schools a powerful incentive to combat future domestic violence among adults by preventing it in today's adolescents (Carlson, 2003).

Engaging Bystanders

The term bystander can mean many things. For some, the term is passive, such as innocent bystanders who could not, or did not, do anything in a dangerous situation. For others the term includes more engagement such as someone who witnesses a car crash and calls for help or someone who "stands by" a friend when he or she is being harassed. Everyone is a bystander in one way or another to a wide range of events that contribute to sexual violence. Sometimes, we say something or do something, but at other times we say nothing or ignore the situation. We are all affected in some way by sexual violence and we need to decide what we need to say and do as an act of prevention.

It is important to understand a continuum of behaviors that range from those that are healthy, age-appropriate, respectful and safe behaviors to the opposite end with sexual abuse, rape and sexual violence. It is important to intervene along the continuum rather than waiting until a behavior moves further toward sexual violence.

Healthy, age appropriate, mutually respectful and safe	Mutually flirtatious and playful	Age-inappropriate or non-mutual	Harassment	Sexually abusive and violent
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A key role for bystanders is to invite and encourage requests for assistance. This can be accomplished by highlighting stories of hope, responsibility and change for survivors, and by making sure that those at risk to abuse know that they can get help. *When school leaders begin to see themselves, and the people they work with, as involved bystanders, bystander engagement can become the norm.*

Becoming an engaged bystander involves making focused observations, asking passionate questions, and having knowledge of what to do at various points along the continuum of inappropriate and violent behaviors. Unfortunately, there is often little motivation for individuals to speak up and tremendous pressure to keep silent when they see or sense something is wrong. Often people do not respond because they are concerned about their own safety, or they do not know what to do; they may also feel that the level of behaviors they witness do not warrant intervention. Individuals are more likely to intervene when they know what to do in various situations.

Developing a Multi-level Approach to Bystander Intervention

Individual level: Schools can provide knowledge, skills and training on how to help. It is important that individuals can recognize a pattern of warning behaviors that demand a conversation or an action. It is critical that school personnel protect anonymity of individuals involved.

Relationship level: It is important for school counselors to be equipped to tell survivor stories that include a friend or family member who spoke up to change the course of events. Stories of bystander intervention should also be included when we speak about offenders or those at risk for perpetration, sexual harassment or violence.

Community level: Promoting bystander engagement at a community level can be accomplished by creating organizational policies that encourage bystander engagement or by changing the dynamics of a particular peer culture (Katz, 2006). For example, an increasing number of programs address men and women as bystanders in their college or university (Foubert et al., 2006; Banyard, 2004; Katz 2006). Official university endorsement of these programs sets the stage for a new social norm that encourages “standing up” and “speaking out.” One example, Mentors in Violence Prevention, trains student leaders, including college and high school student athletes, to use their status as respected members of the community to speak out against rape, battering, sexual harassment, gay-bashing, and all forms of sexist abuse and violence (<http://www.northeastern.edu/sportinsociety/>). Another group, Men Can Stop Rape, has created a culture that encourages young men to respect girls and to refuse to participate in school rituals that disrespect women (<http://www.mencanstoprape.org/>).

Schools cannot only educate students to engage but can also engage teachers, coaches and administrators. For example, in an open letter to coaches, Dan Lebowitz, Executive Director of Sport in Society at Northeastern University, listed ten things that male coaches can do to prevent teen gender violence:

1. Realize that gender violence is a men’s issue that affects girls and women that you care about.
2. Don’t remain silent—confront sexist behavior of your student-athletes and colleagues.
3. Understand your own attitudes and actions on and off the field may perpetuate sexism and violence and work towards changing them.
4. Gently offer your help and support if you suspect that a female student- athlete close to you is being abused or has been sexually assaulted.
5. Be a role model for your student-athletes. Respect women and treat them as equals.
6. Get your team involved in preventing gender violence—white ribbon day campaigns, fundraisers, etc. are great ways to help support people working to end gender violence.

7. Approach gender violence as a men's issue- view your student-athletes not as perpetrators or possible offenders, but as empowered bystanders who can confront abusive peers.
8. Mentor and teach the boys you coach about how to be men in ways that do not involve degrading and abusing girls and women.
9. Challenge gender stereo types- do not equate poor athletic performance of your male student- athletes to girls and women.
10. Refuse to purchase any magazines, videos, or music that portrays women in a degrading or violent manner. (Lebowitz, 2011)

Lebowitz has another letter for female coaches:

1. Realize that gender violence is major problem that deeply affects the lives of all girls and women.
2. Focus on how you, as an empowered bystander, can support female student athletes by confronting the behavior of abusive males.
3. Gently offer your help and support if you suspect that a female student-athlete close to you is being abused or has been sexually assaulted.
4. Educate and empower your female student athletes to end sexism and not tolerate abuse.
5. Familiarize yourself with the resources available to girls in your school, on your team, and in your community.
6. Support women and men who are working to end gender based violence.
7. Recognize and speak out against homophobia and gay-bashing.
8. Support women's sports as a means of teaching girls to be confident in their athletic abilities and strong in body and spirit.
9. Respect yourself and use your strength as an example to empower other women and girls around you.
10. Refuse to purchase any magazines or videos, or music that portrays women in a degrading or violent manner. (Lebowitz, 2011)

While these letters were directed to student athletes, and specifically to prevent sexual violence against women, the same techniques can be used for the entire student body and should include sexual violence against either gender and include additional emphasis on gay-bashing and homophobia.

Guidance from the Office of Civil Rights

According to Russlynn Ali, Assistant Secretary for Civil Rights, the sexual harassment of students, including sexual violence, interferes with students' right to receive an education free from discrimination and, in the case of sexual violence, is a crime. Sexual violence is a form of sexual harassment covered under Title IX (Ali, 2011). The definition of sexual harassment is "unwelcome conduct of a sexual nature including unwelcome advances, requests for sexual favors, other verbal, nonverbal or physical conduct of a sexual nature". According to the Office of Civil Rights 2001 Guidance, when a student sexually harasses another student, the harassing conduct creates a hostile environment if the conduct is sufficiently serious that it interferes with or limits a student's ability to participate in or benefit from the school's program. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the harassment is physical (OCR, 2001). If a school knows or reasonably should know about student-on-student harassment that creates a hostile environment, Title IX requires the school to take immediate action to stop the harassment, prevent its reoccurrence, and address the damage that it has done. Most importantly, schools have an obligation to respond to student-on-student sexual harassment that initially occurred off school grounds, outside a school's education program or activity that creates a hostile environment at school. If a student files a complaint with the school, the school must process the complaint according to their established procedures. Because students often experience the continuing effect of off-campus sexual harassment in the educational setting, schools should consider the effects of the off-campus conduct when evaluating whether there is a hostile environment on campus.

School Safety

School districts have the authority to enact rules and policies regarding student behavior and the responsibility to enforce those rules in order to protect students and staff. Administrators have the discretion to deal with on-campus and school related behavior. Student handbooks, board policies and state laws provide guidance for administrators to deal with student behavioral issues. They have the power to address school violence and most districts use this power in order

to protect staff and students. Sadly, even though dating violence is a behavior that is punishable it is not often outlined in policy.

State Legislative Responses

Following the horrific murder of Lindsay Ann Burke, Rhode Island Attorney General Patrick Lynch along with Nebraska Attorney General Jon Bruning, proposed a resolution to combat teen dating violence that eventually became law in both states. According to Bruning, dating is happening at younger ages and teen dating violence has increased dramatically in the state of Nebraska. As of February, 2011, there are 14 states that have laws that urge or require school boards to develop curriculum on teen dating violence.

State	Description of Law
Connecticut	2010 Conn. Acts, P.A. 91 (2010 HB 5315) Includes teen dating violence and domestic violence education as part of the in-service training program for certified teachers, administrators and pupil personnel. 2010 Conn. Acts, P.A. 137 (2010 HB 5246) Requires the Commissioner of Public Health to develop one public service announcement issued by the Department of Public Health through a televised broadcast for the purpose of preventing teen dating and family violence.
Florida	2010 Fla. Laws, Chap. 217 (2010 SB 642/HB 467) Requires a comprehensive health education taught in the public schools to include a component on teen dating violence and abuse for students in grades 7 through 12. Would require district school boards to adopt and implement a dating violence and abuse policy and provides policy requirements. Also would require the Department of Education to develop a model policy that includes school personnel training. Fla. Stat. § 784.046 A victim of dating violence that has reasonable cause to believe he or she is in imminent danger of becoming the victim of another act of dating violence, or any person who has reasonable cause to believe he or she is in imminent danger of becoming the victim of an act of dating violence, or the parent or legal guardian of any minor child who is living at home and who seeks an injunction for protection against dating violence on behalf of that minor child, has standing in the circuit court to file a restraining order against the accused dating violence abuser.
Georgia	Ga. Code Ann. § 20-2-314 (2003 SB 346) The State Board of Education is required to develop a rape prevention and personal safety education program and a program for preventing teen dating violence for grades 8 through 12. Local boards may implement such programs at any time and for any grade level local boards find appropriate, and the state board shall encourage the implementation of such programs. In addition, the state board shall make information regarding such programs available to the Board of Regents of the University System of Georgia.
Illinois	Ill. Rev. Stat. ch. 105, §110/3 (2009 HB 973) Amends the Critical Health Problems and Comprehensive Health Education Act. Provides that the Comprehensive Health Education Program may include instruction on teen dating violence for specified grade levels. Ill. Laws, P.A. 95-876 (2007 SB 2023/HB 1330) Requires the State Board of Education to convene an Ensuring Success in School Task Force to develop policies and procedures for addressing the educational and related needs of youth who are parents, expectant parents, or victims of domestic or sexual violence to ensure their ability to stay in school, and successfully complete their education. Adds one member appointed by the Minority Leader of the Senate and one member appointed by the Minority Leader of the House of Representatives to the Task Force. The Task Force will issue a final report to the General Assembly in Spring of 2009.
Massachusetts	2010 Mass. Acts, Chap. 256 (2010 SB 2583) Requires school districts to implement a specific policy to address teen dating violence in public schools. These policies are required to clearly state that teen dating violence will not be tolerated, and need to include guidelines for addressing alleged incidents of teen dating violence. 2010 Mass. Acts, Chap. 92 (2010 SB 2404) Requires the Department of Elementary and Secondary Education to establish standards that will provide for instruction in the issues of nutrition, physical education, AIDS education, violence prevention, including teen dating violence, bullying prevention, conflict resolution and drug, alcohol and tobacco abuse prevention.
Nebraska	Neb. Rev. Stat. § 43 Sec. 79-2,142 (2009 LB 63) (originally LB 64, but added to LB 63 during session) Section 43-47 adopts the Lindsay Burke Act passed in Rhode Island in 2007. Would require the state department of

	education to develop a model policy for schools to address teen dating violence through their curriculum.
New Jersey	N.J. Stat. Ann. §18A:35-4.23 (2003 SB 487/AB 3081) Creates the Domestic Violence and Child Abuse Education Fund and allows the board of education to teach the psychology and dynamics of teen dating violence when appropriate in elementary, middle and high school.
Ohio	Ohio Rev. Code Ann. §3313.60, 3313.666, and 3319.073 (2009 HB 19) Enacts the Tina Croucher Act. Requires school districts to adopt a dating violence prevention policy and to include dating violence prevention education within the health education curriculum. 2007 HB119 (Appropriations Bill) Requires the Franklin County Child and Family Health Services to support the Compdrug Teen Dating Violence Prevention Project. Comp Drug Inc. is an organization that offers services in prevention, intervention and treatment programs for persons with substance abuse problems and the largest provider of institutional and community based corrections programs.
Pennsylvania	2010 Pa. Laws, Act 104 (2010 HB 101) Amends the terms and courses of study in the Public School Code of 1949 and provides for dating violence education.
Rhode Island	R.I. Gen. Laws §16-85, 16-21-30, and 16-22-24 (2007 SB 875/HB 6166) Establishes the Lindsay Anne Burke Act which requires the Department of Education to develop a model dating violence policy to assist school districts in developing policies for dating violence reporting and response. The model policy shall be implemented on or before April 1, 2008. Each school district's policy should include a policy for responding to incidents of dating violence and to provide dating violence education to students, parents, staff, faculty and administrators, in order to prevent dating violence and to address incidents involving dating violence. Click here to view Rhode Island Department of Education's policy on teen dating violence.
Tennessee	Tenn. Code Ann. §49.1-220 (2006 SB 595) This act urges the Department of Education to develop a sexual violence/teen dating violence awareness curriculum for presentation at least once in grades 7 and 8 and at least once and preferably twice in grades 9 through 12. The curriculum is intended to increase awareness of teen dating violence and sexual violence, including rape prevention strategies, resources available, etc.
Texas	2011 House Bill 2496 (signed by Governor 6/17/2011) Creates a teen dating violence court program that includes a 12-week course to educate children who engage in dating violence and encourage them to refrain from engaging in that conduct. This law also provides for the deferral of adjudication and dismissal of certain dating violence cases. Tex. Education Code Ann. §37.0821 (2007 HB121) Schools are required to develop and implement a dating violence policy. The school policy should provide training for teachers and administrators and awareness education for students and parents. It should also enforce protective orders or school based alternative including counseling for affected students. The policy is also required to addressing safety planning.
Virginia	2011 Va. Acts, Chap. 634 Requires that any family life education curriculum offered by a local school division is to include the Standards of Learning objectives related to dating violence and the characteristics of abusive relationships to be taught at least once in middle school and at least twice in high school. (SB 906 of 2011) Va. Code Ann. § 22.1-207.1 (2007 HB 1916) Develops curriculum guidelines for teaching teen dating violence and all family life education in schools. The guidelines promote parental involvement, foster positive self concepts and provide mechanisms for coping with peer pressure and the stresses of modern living according to the students' developmental stages and abilities. The Board shall also establish requirements for appropriate training for teachers of family life education, which shall include training in instructional elements to support the various curriculum components.
Washington	Wash. Rev. Code §28A.300.185 (2005 HB 1252) Requires the state school superintendent to develop a model curriculum. The model curriculum shall include, but is not limited to, instruction on developing conflict management skills, communication skills, domestic violence and dating violence, financial responsibility, and parenting responsibility.

There are an additional 4 states that have introduced legislation in 2011 which directs school districts to address dating violence within the curriculum. For example, Oregon HB2438 is proposing a directive to boards of education to adopt policy related to teen dating violence. Additionally it would direct the Department of Justice to use monies in Oregon Domestic and Sexual Violence Services Fund to provide state and local services related to teen dating violence and to conduct studies related to teen dating violence (NCSL, 2011).

Legal Implications for School Districts

School districts face the strong possibility of potential legal liability for failing to address teen dating violence (Carlson, 2003). School districts can be held liable for student dating violence under the following three legal theories. First, a student can claim under Title IX that she suffered a hostile educational environment as a result of the abuser's behavior and the school overlooking the problem. Second, a student can bring a constitutional claim under 42 U.S.C. §1983, alleging that the school or district acted under cover of law to deprive the victim of her constitutionally protected rights. Third, under tort liability, a student can claim negligent infliction of emotional distress by the school district or can allege third-party tort liability.

Title IX: 42 U.S.C. §1983

The courts, including the U.S. Supreme Court, have held that schools can be held liable for student-on-student sexual harassment under Title IX. In *Franklin v. Gwinnett County Public Schools (1992)* the Supreme Court held that students who suffer sexual harassment at school at the hand of their teachers have a private right to action under Title IX. In *Davis v. Monroe County Board of Education (1999)* the court permitted an award of monetary damages from the school board in the case of student-on-student sexual harassment. It is important to note that a school official who has the authority to institute corrective measure must have the actual knowledge of the misconduct alleged by the plaintiff. Actual knowledge by definition means that the school must actually know of the incidents by either observing the behavior or being told about it by an involved party or a third-party observer. The school official must have been deliberately indifferent to the misconduct. Deliberate indifference can include a failure to respond to allegations of sexual harassment. The misconduct that the school official ignored must have been so "severe, pervasive, and objectionally offensive" that it barred the victim's access to educational opportunity (Carlson, 2003).

A schools deliberate indifference to sexual harassment, resulting in lost educational opportunity due to the hostile educational environment, sets off a sex discrimination claim under Title IX. In order to demonstrate sex discrimination, the plaintiff must show by direct or indirect evidence that the discrimination was intentional. In order to impose liability under Title IX, the plaintiff should be able to demonstrate that she spoke with school officials about her partner's

behavior, that the school did nothing in response and that her partner's behavior intensified to the point where she could no longer safely attend school. Sexual assault and dating violence involve similar behaviors, such as slapping, punching and inappropriate touching.

Section 1983 requires a plaintiff to prove two elements. First she must show that the conduct complained of was committed by a person acting under color of state law. Such as a school board, school officials or school district. The plaintiff must also show that the conduct complained of deprived her of her rights secured by the Constitution or other federal statutes. In order to prove these two elements and hold a school liable as a state actor, a victim can assert two theories: The "custodial duty theory" and the "special danger" theory (Carlson, 2003).

Custodial Duty Theory: To prevail under the custodial duty rule, a student must first show that she had a special relationship with the school or school district, and then must demonstrate that the school exhibited deliberate indifference to her plight as a victim. The special relationship theory applies to prison inmates, and foster children within the physical and legal custody of the state. In some courts, students are considered to have a special relationship with their schools because they are required to attend under state truancy laws and are "owed some duty of care" by the school (Carlson, 2003).

Special Danger Theory: The special danger theory does not require evidence of custodial duty imposed on the school; rather, this theory is usually invoked when a school affirmatively created the victim's peril, increased the risk of harm, or acted to render the victim more vulnerable to harm. Additionally, the plaintiff must show that the harm was foreseeable. The foreseeability of harm is the premise for liability under a tort concept. This failure to address a student's peril can raise the level of liability to affirmative action and render the school liable for student injuries. Under the Special Danger Theory, the victim simply must demonstrate that the school's inaction or minimal attempts to deal with a student violence problem led to increased risk to her safety. At the heart of the Special Danger Theory is the foreseeability. Dating violence is a pattern of control involving violence and other forms of abuse, not just a series of isolated incidents (Carlson, 2003).

Third Party Tort Liability Under Common Law

Under common tort law, schools can be held liable for the failure to protect students from the tortious acts of third parties. Therefore, schools and school districts can be held civilly liable

under a negligence theory or tort liability for student dating violence on school campuses. Under this theory, a court may impose liability if a plaintiff shows either that school was aware of the violence or abuse, or that conduct resulting in injury was foreseeable but the school did nothing or very little to control the conduct. This theory stems from the legal doctrine *in loco parentis*.

What Schools Must Do

Recipients of federal financial assistance must comply with the procedural requirements outlined in the Title IX implementing regulations which include:

- A. Disseminate a notice of nondiscrimination;
- B. Designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title IX; and
- C. Adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee sex discrimination complaints.

These requirements apply to all forms of sexual harassment, including sexual violence, and are the same requirements for preventing and responding to sex discrimination.

A school's grievance procedures provide for prompt and equitable resolution of sexual harassment or sexual violence complaints. In order to be in full compliance with Title IX the following elements must be in place:

1. Notice to students, parents of elementary and secondary students, and employees of the grievance procedures, including where complaints may be filed;
2. Application of the procedures to complaints alleging harassment carried out by employees, other students, or third parties.
3. Adequate, reliable, and impartial investigation of complaints, including the opportunity for both parties to present witnesses and other evidence.
4. Designated and reasonably prompt time frames for the major stages of complaint process;
5. Notice to parties of the outcome of the complaint; and
6. An assurance that the school is taking steps to prevent recurrence of any harassment and to correct its discriminatory effects of the complainant and others.

Conclusion

Unfortunately, school district failure to take action is far too common, despite the statutory duty to ensure the safety of all students during school hours and at school sponsored events. Schools in many states have a responsibility to teach about teen dating violence and other states are coming on board with similar legislation. Whether or not they have these requirements, school leaders have an obligation to be aware of the problem and to realize that even if it occurs off school grounds it may be brought into the school environment. Understanding the legal implications and teaching students to engage as bystanders is an increasingly important function of school administrators.

Because school leaders have a substantial degree of influence over students and can make an impact on young lives, they are equipped to handle violence between intimate late teen couples. Often late teen/young adult couples are vulnerable to dating violence because they are less likely to recognize the abuse. The Lindsay Burke Act in many states addresses the need for educating students about this very topic. Statistics show that nearly 9 percent of students reported physical dating victimization. It is important to remember that schools force interaction among students. If the students are involved in a dating relationship and it becomes violent, the batterer and the victim are forced to interact at school. Schools have the duty to protect students from physical harm and sexual harassment. If the students are in the environment together, the problem will spill over into the school environment. Schools have an opportunity to address teen abuser's behavior more than any other societal institution. Developmentally, teens are in formative years, creating lifelong patterns. By teaching students to engage as bystanders they are not only intervening on teen violence but they are gaining an understanding of what is not appropriate for their own dating relationships. Finally, schools are legally liable for known sexual harassment that occurs on school campuses. Schools need to make sure that they follow procedural guidelines regarding Title IX and provide prompt and equitable resolution of sexual harassment or sexual violence complaints.

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