



Court Revives Title IX Peer-Harassment Case Against District

by Amy J. Borman and Maria Limbert Markakis

A three-judge panel of the U.S. Court of Appeals for the Sixth Circuit in Cincinnati revived a Title IX lawsuit alleging that administrators of a Michigan school district were deliberately indifferent to a year long pattern of sexual harassment against a male student by his peers.

In a two to one decision, the Court restored the suit against the Hudson, Michigan, area school district and Superintendent Kathy Malnar, overturning a summary judgment in their favor by a federal district court. The majority in *Patterson v. Hudson Areas Schools* said a jury should be given the chance to decide whether the District's response to the pattern of harassment, which mostly involved verbal reprimands of the harassers, was deliberately indifferent and thus could make the District liable under Title IX. Title IX prohibits sex discrimination in federally funded schools.

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“Given that Hudson knew that its methods were ineffective, but did not change those methods, a reasonable jury certainly could conclude that at some point during the period of harassment, the school district’s standard and ineffective response to the known harassment became clearly unreasonable,” the majority opinion said.

The lawsuit contends that beginning in the seventh grade, a male student was called “queer,” “fag,” “pig” and other names by some of his fellow students. The boy’s locker and school papers were defaced. School officials would reprimand the harassers, only to have other students continue to torment him, the family said.

The harassment culminated in high school, when he was assaulted by another male student in a locker room. That student was expelled and later plead guilty to a criminal charge.

The dissenting judge on the Sixth Circuit panel said schools cannot be liable under Title IX for failing to be “purged of all offensive behavior and be completely harassment free.”

This decision suggests that if schools do not take steps reasonable under the circumstances to end patterns of harassment, they could be open to lawsuit under *Patterson*. Please contact our office (419-241-6000) if you are interested in receiving further information about bullying incidents and appropriate responses to avoid lawsuits.



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