

SEXUAL HARASSMENT

1 Hadassah, the Women's Zionist Organization of America, notes the growing complexities and
2 inequities in the ever-changing case law surrounding sexual harassment in the workplace and
3 schools.

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5 Recent Supreme Court rulings in several sexual harassment cases set new parameters for
6 behavior and definitions of sexual harassment in the workplace and schools. Hadassah believes
7 that some of these changes will make it easier for an employee, who has been harassed, to file a
8 lawsuit. However, students who are victims of sexual harassment now may be at a distinct
9 disadvantage.

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11 Prior to the ruling in *Burlington Industries vs. Ellerth*, a worker had to show evidence of the
12 adverse effects of the harassment -- such as denial of promotions, reduction in salary, or other
13 punitive actions taken against the worker. Now, even if the worker were treated well other than
14 the sexual harassment, the worker may still sue. But the Court also indicated that companies
15 should enjoy some measure of protection from lawsuits if they have a strong program in place to
16 prevent harassment and discipline any offenders.

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18 In *Gebser vs. Lago Vista Independent School District*, the Court ruled that a student must prove
19 that the school district acted with "deliberate indifference" to a sexual harassment complaint,
20 which makes a student's evidentiary requirements more stringent than an employee's. In other

21 words, there is less responsibility for a teacher who harasses a student than for a teacher who
22 harasses another employee.

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24 As the largest women's membership organization in the country, Hadassah believes that each
25 individual has the right to study, volunteer, and/or work in an atmosphere which promotes equal
26 opportunities and prohibits discriminatory practices, including sexual harassment. Even as the
27 Court continues to clarify the definitions and parameters of behavior surrounding sexual
28 harassment, we urge that employers and schools will work to create clear and comprehensive
29 prevention strategies and disciplinary guidelines to reduce and address any incidences of sexual
30 harassment.