

TEEN DATING VIOLENCE:

DETECT, ADDRESS, AND PREVENT

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TODAY'S DISCUSSION

- The **problem** of teen dating violence
 - Teen dating violence is a major problem in our schools and communities
 - It persists across geographic, cultural, racial, ethnic, and socioeconomic lines
 - It can take many forms including physical, sexual, emotional, and economic abuse
- The **prevention** of teen dating violence through legislation
 - California law
 - Federal law
- What **further steps** should be taken to combat teen dating violence?

TEEN DATING VIOLENCE DOES NOT OCCUR IN A VACUUM

- Teen dating violence (TDV), also known as adolescent relationship abuse (ARA), is a major public health concern
- TDV/ARA is a problem in **all communities**, and exists across **geographic, cultural, racial, ethnic, and socioeconomic** lines
- TDV is the result of social attitudes and practices that normalize unhealthy behaviors in inter-personal relationships
 - Gender roles that reinforce unequal power and control
 - Teasing or name-calling
 - Extreme jealousy or possessiveness
- Teens in abusive relationships experience a greater incidence of serious risk behaviors

THE PROBLEMS OF TEEN DATING

WHAT IS TEEN DATING VIOLENCE?

WHY IS TEEN DATING VIOLENCE A PROBLEM?

WHY DOES TEEN DATING VIOLENCE HAPPEN?

WHAT IS TEEN DATING VIOLENCE?

- Teen dating violence is a **pattern of abusive behaviors**, perpetrated by an adolescent in a dating/romantic relationship in order to **gain power and maintain control** over their partner
- Teen dating violence can take many forms
 - Physical, sexual, emotional, economical
 - In person or electronically
 - In public or in private
 - Between a current or a past dating partner

FORMS OF TEEN DATING VIOLENCE

| Physical | Sexual | Verbal & Emotional | Economic |
|--|--|---|---|
| Coercion, intimidation, and threats | Unwanted sexual touching | Put downs, name calling, shaming, and insults | Preventing partner from going to school or work |
| Hitting, shoving, slapping, hair pulling, etc. | Getting partner drugged or drunk to force sex | Shifting responsibility to victim: “you made me do it” | Giving allowance or gifts to control partner |
| Restriction of clothing or activities | Demanding a “right” to, and coercing, sex | Isolating partner from family, friends, and community | Destroying partner’s property |
| Stalking | Birth control sabotage or refusing to use protection | Surveillance using cell phones, online networking, or friends | Stealing or demanding money from a partner |

WHY IS TEEN DATING VIOLENCE A PROBLEM?

IT OCCURS IN EVERY COMMUNITY

Other than differences by age and gender, teen dating violence rates are **consistent by race/ethnicity, geographic region, urbanicity, and household characteristics.**

WHY IS TEEN DATING VIOLENCE A PROBLEM?

IT IS EXTREMELY COMMON

- **2 out of 3 youths (ages 12 to 18) who were in a relationship or had been in one in the past year reported that they had been victimized (69%) or perpetrated violence (63%)**
 - Psychological abuse was the most commonly reported form of ARA (over 60%)
 - Rates of sexual abuse (18%) and physical abuse (18%) were lower, but substantial
 - 12% reported perpetrating physical and/or sexual abuse

WHY IS TEEN DATING VIOLENCE A PROBLEM?

IT IS EXTREMELY COMMON

- **1 in 5** female high school students report being physically and/or sexually abused by a dating partner
- **1 in 3** high school students experience either physical or sexual violence, or both, at the hands of someone they are dating
- **23%** of females and **14%** of males who ever experience rape, physical violence, or stalking by an intimate partner first experienced partner violence between 11 and 17 years of age
- **1 in 10** high school students has been purposely hit, slapped, or physically hurt by a girlfriend or boyfriend

Sources: Jay G. Silverman et al, *Dating Violence Against Adolescent Girls and Associated Substance Use, Unhealthy Weight Control, Sexual Risk Behavior, Pregnancy, and Suicidality*, 286 J. OF THE AM. MED. ASS'N, Aug. 2001, at 572; Kevin J. Vagi et al, *Teen Dating Violence (Physical and Sexual) Among US High School Students: Findings From the 2013 National Youth Risk Behavior Survey*, 169 J. OF THE AM. MED. ASS'N PEDIATRICS, 2015, at 474; Teen Dating Violence, Centers for Disease Control and Prevention (July 21, 2016),

https://www.cdc.gov/violenceprevention/intimatepartnerviolence/teen_dating_violence.html; Laura Kann et al, Youth Risk Behavior Surveillance Summary; U.S. 2013, U.S. Dept. of Health and Human Services, Centers for Disease Control and Prevention (2014).

WHY IS TEEN DATING VIOLENCE A PROBLEM?

IT IS EXTREMELY COMMON

- Lesbian, gay, bisexual (LGB) youth are more likely to experience physical and psychological abuse, sexual coercion, and cyber dating abuse than their heterosexual peers
- While a large age difference is a risk factor for intimate partner violence, most teens who experience dating violence report that their offender was close in age
 - Only **10%** of abused women ages 15 to 17 have partners over the age of 21

WHY IS TEEN DATING VIOLENCE A PROBLEM?

IT EVADES DETECTION

- Some forms of teen dating violence may be difficult to discern, both to outsiders as well as to the adolescents involved in the abusive relationship
 - While TDV is not a new phenomenon, the rate at which teens have adopted technology to facilitate dating relationships outpaces the development of relevant literature
 - These technological developments present a new space for potential abuse to occur
- A 2014 study examining these new patterns of violence found that **cyber dating abuse is common and associated with teen dating violence and sexual assault**

WHY IS TEEN DATING VIOLENCE A PROBLEM?

IT EVADES DETECTION

- The 2013 National Youth Risk Behavior Survey found that **more than half of high school students who experience sexual or physical abuse by a dating partner have also been bullied electronically**
- The 2003 California Health Interview Survey found that **only 37.7% of teens who had experienced abuse talked to someone about the abuse**
- The vast majority of parents believe teen dating violence is not an issue, or admit they do not know if it is an issue

Sources: Kevin J. Vagi et al, *Teen Dating Violence (Physical and Sexual) Among US High School Students: Findings From the 2013 National Youth Risk Behavior Survey*, 169 J. OF THE AM. MED. ASS'N PEDIATRICS, 2015, at 474; Office of Women's Health, California Adolescent Health 2009 89, (2009 California Department of Health Care Services & California Department of Public Health); Family Violence Prevention Fund and Advocates for Youth, Women's Health, June/July 2004.

WHY IS TEEN DATING VIOLENCE A PROBLEM?

IT HAS LONG-LASTING, DAMAGING EFFECTS

Youth who experience teen dating violence are at significant higher risk for:

- Depression and/or anxiety
- Tobacco, alcohol, and drug use or abuse
- Antisocial behaviors and aggression
- **Suicide**
- Sexual risk behaviors
- **Pregnancy**
- Sexually transmitted infections
- Future victimization during college and beyond

Sources: California Adolescent Health Collaborative, Teen Dating Violence: Keeping California Adolescents Safe in Their Relationships, The Public Health Institute (2009); D.M. Ackard & D. Neumark-Sztainer, *Date Violence and Date Rape Among Adolescents: Associations with Disordered Eating Behaviors and Psychological Health*, 26 CHILD ABUSE AND NEGLECT, May 2002, at 455; Jay G. Silverman et al, *Dating Violence Against Adolescent Girls and Associated Substance Use, Unhealthy Weight Control, Sexual Risk Behavior, Pregnancy, and Suicidality*, 286 J. OF THE AM. MED. ASS'N, Aug. 2001, at 572.

WHY DOES DATING VIOLENCE HAPPEN?

- Violence is related to certain **risk factors**
- A goal of research on teen dating violence is to understand which youth are more vulnerable to experiencing violence in their relationship
- Identifying youth at risk for violence increases the likelihood of early intervention

WHY DOES DATING VIOLENCE HAPPEN?

Risks of having unhealthy relationships increases for teens who:

- Believe that dating violence is acceptable
- Are depressed, anxious, or have other trauma symptoms
- Display aggressive or delinquent behavior
- Use drugs or illegal substances
- Engage in early sexual activity or have multiple sexual partners
- Have a friend involved in dating violence
- Have conflicts with a partner
- Witness or experience violence in the home

PREVENTING TEEN DATING VIOLENCE

CALIFORNIA LAW

FEDERAL LAW

TEEN DATING VIOLENCE IS PREVENTABLE

- Schools are uniquely poised to educate teens about dating violence
- Schools have a **responsibility to educate and support teens**, who may not have other support systems or resources to deal with or prevent and stop dating violence
- Schools are often places where teen victims encounter their abusers, and ultimately, schools have a legal responsibility to address teen dating violence

CALIFORNIA LAW

DUTY TO PROVIDE SAFE SCHOOLS - CA CONST.

- All students and staff of public primary, elementary, junior high, and senior high schools, and community colleges, colleges, and universities have the inalienable right to attend campuses which are **safe, secure** and **peaceful**
- Maintaining a safe learning space is particularly relevant to combating teen dating violence
 - School officials are in a unique position to recognize and respond to warning signs
 - School officials can play a key role in implementing preventive measures against teen dating violence

CALIFORNIA LAW

DUTY TO COMBAT DISCRIMINATION AND HARASSMENT - CAL. EDUC. CODE

- California public schools have an affirmative obligation to combat **racism, sexism**, and other forms of **bias**, and a responsibility to provide **equal education opportunity**
- Harassment on public school grounds directed at individuals on the basis of personal characteristics or status, infringes on the obligation of school districts to provide a safe learning environment for students
- Such harassment jeopardizes equal education opportunity as guaranteed by the California and the United States Constitution

CALIFORNIA LAW

DUTY TO CREATE SCHOOL DISTRICT SAFETY PLANS - CAL. EDUC. CODE

- All California public schools (K-12), in conjunction with local law enforcement agencies, are required to develop a **comprehensive school safety plan** that develops strategies aimed at the prevention of, and education about, potential incidents involving crime and violence on the school campus
- California schools must submit these safety plans to California's Department of Education and these plans must be reviewed or revised once a year
- Willful failure to make such a report may result in a fine up to \$2,000 against the school district or county of education

CALIFORNIA LAW

DUTY TO FOSTER AN ENVIRONMENT FREE FROM DISCRIMINATORY ATTITUDES- CAL. EDUC. CODE

- Educators and administrators in public schools have a duty to foster and create an environment on campus that is free from **discriminatory attitudes, practices, events, or activities** in order to prevent acts of hate violence
- Hate violence includes on-campus incidents of teen dating violence and sexual violence

CALIFORNIA LAW

DUTY TO RESPOND TO HATE VIOLENCE – CAL. EDUC./PENAL CODE

- Public schools (K-12) are required to create a school environment that is free from **discriminatory attitudes and practices** and **acts of hate violence**
- Hate violence (defined by Penal Code) includes acts by persons that “willfully injure, intimidate, interfere with oppress, or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him or her by the Constitution or laws of this state” in whole or in part because of one or more of the actual or perceived characteristics of the victim, including gender and sexual orientation

CALIFORNIA LAW

DUTY TO REPORT REASONABLE SUSPICION OF CHILD ABUSE - CAL. PENAL CODE

- **Child abuse** includes sexual abuse and the willful harming, injuring, or endangering of the person or health or health of a child
- Recent studies on teen dating violence are conflicted about whether it usually involves mutual physical aggression or one-sided physical aggression
 - A more nuanced view of physical aggression in TDV suggests that although non-sexual violence by both partners is often reciprocal, sexual violence has dramatic gender differences
 - **Females sustain significantly more sexual violence than males**
- In cases where teen dating violence involves **mutual physical aggression**, it would likely be classified as a mutual affray between minors and fall outside the purview of the child abuse law

Sources: CAL. PEN. CODE § 11165.6; *Is Mutual Abuse Real?* DOMESTICSHELTERS.ORG (Jun 15, 2015), <https://www.domesticshelters.org/domestic-violence-articles-information/is-mutual-abuse-real#.WMgfUBLyvBI>; *The Myth of Mutuality*, TEEN DATING VIOLENCE TECHNICAL ASSISTANCE CENTER, (July 2009), <http://www.breakthecycle.org/sites/default/files/Myth%20of%20Mutuality.pdf>; Monica H. Swahn et al., *Nonreciprocal and Reciprocal Dating Violence and Injury Occurrence among Urban Youth* (West J. Emergency Med., 2010), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2941364/pdf/wjem11_3p264.pdf; Maura O'Keefe, *Teen Dating Violence: A Review of Risk Factors and Prevention Efforts*, NATIONAL ELECTRONIC NETWORK ON VIOLENCE AGAINST WOMEN (Apr. 2005), <http://www.stdhivtraining.org/resource.php?id=240>.

CALIFORNIA LAW

DUTY TO DISCIPLINE OFFENDERS – CAL. EDUC. CODE

- Students are generally recommended for **suspension** for teen dating violence related assaults that cause serious physical injury to another person (except in self-defense) and for committing or attempting to commit sexual harassment or sexual violence on or off campus
- If superintendent or principal determines that a pupil committed **sexual harassment**, the pupil may be suspended or recommended for expulsion
- If the superintendent or principal determines that a pupil committed, attempted to commit, threatened to commit, or participated in, an **act of hate violence** and the pupil is between the grades of 4 and 12, the pupil may be suspended or recommended for expulsion

CALIFORNIA LAW

DUTY TO SUPERVISE STUDENTS

- School officials and school districts can be liable for injuries caused by violent acts that could have been prevented through the proper supervision of students and employees
- Standard of care is the degree of care which **a person of ordinary prudence with comparable duties would exercise under the same circumstances**
 - Ordinary care requires foreseeing and avoiding any situations that could be potentially dangerous, even if the precise injury has never occurred before
 - School authorities must take reasonable preventive measures if they are aware of threats of violence, even if no previous acts of violence or injuries had occurred at a particular location
- No supervision is required where the school has no reason to think any is required

Sources: Barbara J. Glaeser & Kevin F. Calcagnie, *The ABC's of School Liability in California: A Primer for Lawyers, School Districts and Educators*, CONSUMER ATTORNEYS OF CALIFORNIA, (Nov. 2005), <http://faculty.fullerton.edu/lorozco/lawglaeser.pdf>; *Hoyem v. Manhattan Beach City Sch. Dist.* 22 Cal.3d 508, 513 (1978); *Ziegler v. Santa Cruz City High Sch. Dist.* 335 P.2d 709, 713 (1959).; *Leger v. Stockton Unified School Dist.* 202 Cal.App.3d 1448, 1460 (1988); *Hoff v. Vacaville Unified Sch. Dist.* 19 Cal.4th 925, 937 (1988).

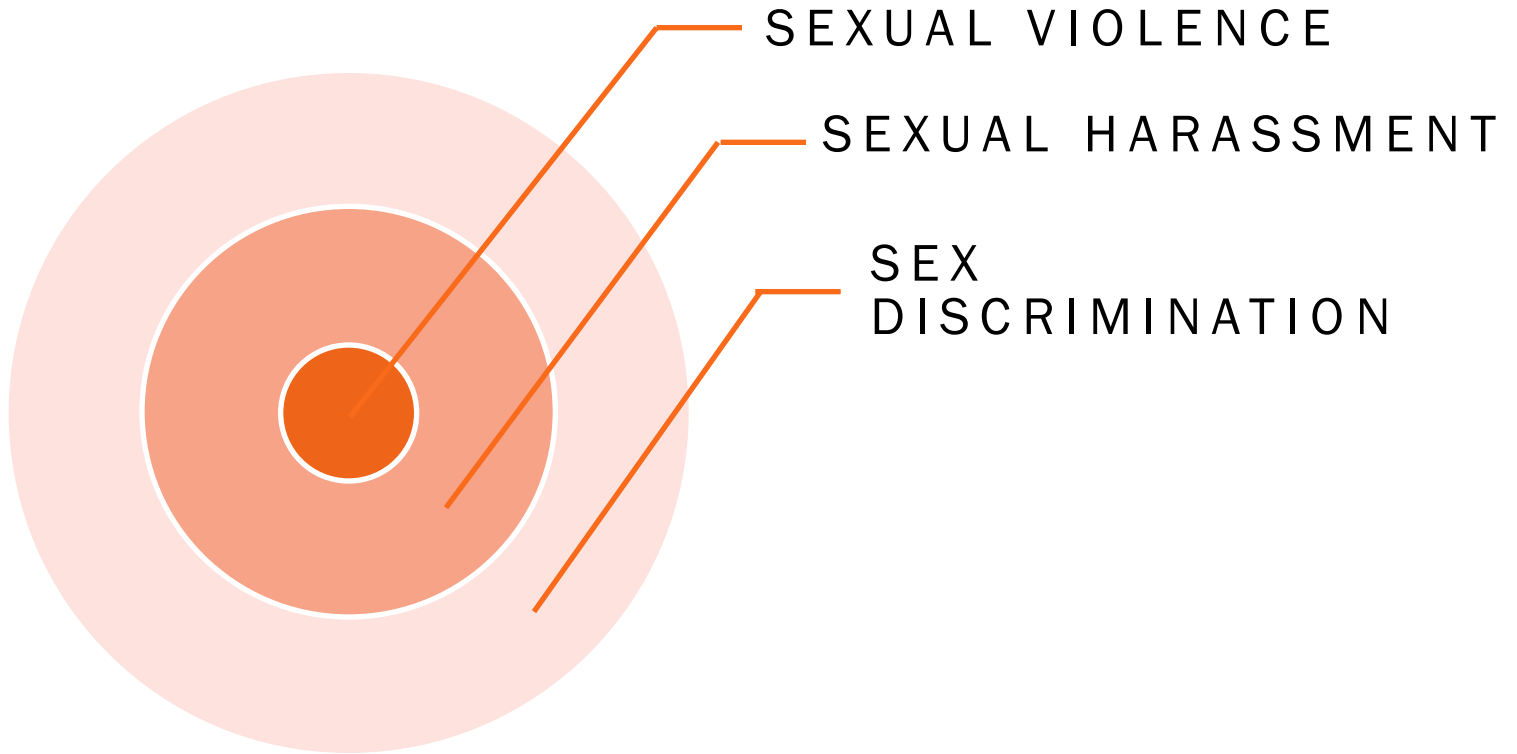
FEDERAL LAW

DUTIES UNDER TITLE IX

- Schools that receive federal funds can be liable under Title IX for **failing to adequately respond to teen dating violence and sexual violence against students**
 - Sexual violence, which includes teen dating violence, is a form of sexual harassment, and sexual harassment is a form of sex discrimination under Title IX
- Title IX does not explicitly include sexual assault as a form of sex-based discrimination in the education setting, but two U.S. Supreme Court cases establish that **sexual assault is a form of sex discrimination**
 - *Gebser v. Lago Vista Independent School District* (1998)
 - *Davis v. Monroe County Board of Education* (1996)

FEDERAL LAW

DUTIES UNDER TITLE IX



FEDERAL LAW

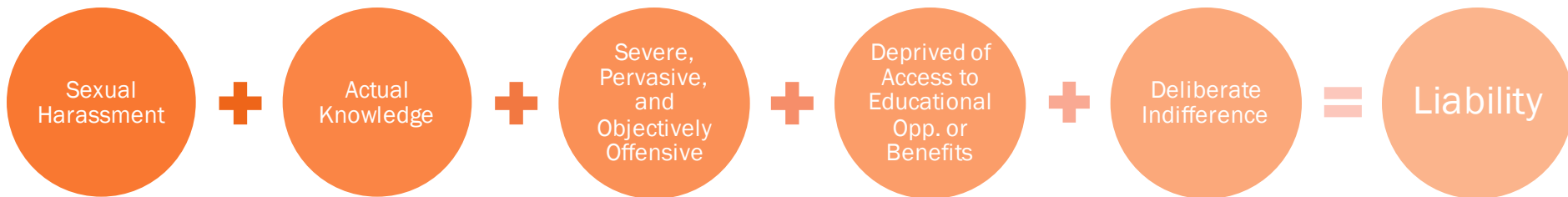
DUTIES UNDER TITLE IX

- School liability for teen dating violence is based on the “**deliberate indifference**” **standard**, which can be found in two circumstances:
 - 1) If a school district **fails to affirmatively act** to protect its students
 - 2) If a school district acts in a way that is **ineffective or inadequate in protecting its students**, even though it knows or reasonably should know that its actions are ineffective or inadequate

FEDERAL LAW

DUTIES UNDER TITLE IX

- School districts are liable for student-on-student sexual harassment, and accordingly teen dating violence, when:
 - 1) A student has been sexually harassed,
 - 2) The school has actual knowledge of the harassment,
 - 3) The harassment was severe, pervasive, and objectively offensive,
 - 4) The harassment caused the student to be deprived of access to educational opportunities or benefits, and
 - 5) The school is deliberately indifferent to the harassment



Sources: *Gebser v. Lago Vista Indep. Sch. Dist.*, 524 U.S. 274 (1998); *Davis v. Monroe Cty. Bd. of Educ.*, 526 U.S. 629 (1999); *Doe v. Petaluma City Sch. Dist.*, 949 F. Supp. 1415 (N.D. Cal. 1996); *Monteiro v. Tempe Union High Sch. Dist.*, 158 F.3d 1022 (9th Cir. 1998).

FEDERAL LAW

DUTIES UNDER TITLE IX

- Title IX regulations require that each educational institution has **written policies and procedures** in place to respond to sex discrimination
- Failure to adopt such policies and procedures opens educational institutions up for lawsuits under Title IX

FEDERAL LAW

DUTY TO PROVIDE EQUAL PROTECTION OF THE LAWS

- The Ninth Circuit held that the deliberate indifference and failure to act of school administrators in situations of student to student sexual harassment can constitute **evidence that the school district violated the student's constitutional right under the Equal Protection Clause**
- Failing to respond to teen dating violence opens schools up to liability under the Equal Protection Clause

FEDERAL LAW

DUTY TO TRAIN EMPLOYEES ON SEXUAL HARASSMENT POLICIES

- School districts can be liable for **failing to train employees on sexual harassment**
- Because teen dating violence is a form of sexual harassment, this may be an area that schools should include in their sexual harassment training
- The Ninth Circuit has held that school districts have the legal duty to train employees when:
 - 1) The need for training is **obvious**, and
 - 2) It is **highly foreseeable that a student's constitutional rights will be violated** if the district fails to implement such training

Sources: *A Guide to Addressing Teen Dating and Sexual Violence in a School Setting*, PEACE OVER VIOLENCE, (Feb. 2008),

http://www.peaceoverviolence.org/media/downloadables/ca_tdv_a_guide_to_addressing_teen_dating_violence_daoe.pdf; *Plumeau v. Sch. Dist. No. 40*, 130 F.3d 432, 439 n.4 (9th Cir. 1997).

LA COUNTY'S RESPONSE TO TDV

RESOLUTION TO PROMOTE HEALTHY RELATIONSHIPS AND PREVENT TEEN DATING VIOLENCE IN THE LOS ANGELES UNIFIED SCHOOL DISTRICT

- Sets **distinct goals** for how the school district should **promote healthy teen relationships**
- Demonstrates LAUSD's commitment to create a school climate that encourages healthy relationships
- Addresses ways to prevent all forms of adolescent dating abuse
- Contains provisions on how LAUSD should **respond** to teen dating and sexual violence, **preventive education** of teen dating violence for its students, **parent engagement and education** strategies, and **data collection and reporting** requirements

CA RESPONSE TO TDV

CALIFORNIA EDUCATION CODE §51225.36
(2015)

- States that school districts requiring a course in health education to graduate high school need to include **instruction in sexual harassment and violence**
 - This includes, but is not limited to, the **affirmative consent** standard
 - The affirmative consent standard is laid out in Educ. Code §67386, which originally only applied to community colleges and universities (2014)

CA RESPONSE TO TDV

CALIFORNIA HEALTHY YOUTH ACT (2016)

- Requires school districts to provide students with **comprehensive sexual health and HIV prevention education** at least once in middle school and once in high school
- This act is different from past legislation because it includes new language about adolescent relationship abuse and reinforces a focus on healthy attitudes, behaviors, and relationships

CA RESPONSE TO TDV

CALIFORNIA HEALTHY YOUTH ACT

- **Goals:**

- 1) Provide pupils with the knowledge and skills necessary to protect their **sexual and reproductive health** from HIV, other STIs, and unintended pregnancy
- 2) Provide pupils with the knowledge and skills they need to develop **healthy attitudes** concerning adolescent growth and development, body image, gender, sexual orientation, relationships, marriage, and family
- 3) Promote **understanding of sexuality** as a normal part of human development
- 4) Ensure pupils **receive integrated, comprehensive, accurate, and unbiased sexual health and HIV prevention instruction** and provide educators with clear tools and guidance to accomplish that end
- 5) Provide pupils with the knowledge and skills necessary to have **healthy, positive, and safe relationships and behaviors**

CA RESPONSE TO TDV

RESOLUTION COMMEMORATES FEBRUARY AS
TEEN DATING VIOLENCE AWARENESS AND
PREVENTION MONTH

- February is Teen Dating Violence Awareness and Prevention Month, as proclaimed by Concurring Senate Resolution in 2017 proposed by Senator Connie Leyva

FURTHER STEPS

TO COMBAT TEEN DATING VIOLENCE

FURTHER STEPS

- **Goal: for every school district in California to have a comprehensive Teen Dating Violence policy implemented – including education, prevention and training**
 - Contact CWLC for more information on working with schools to implement a model teen dating violence policy!
- **Goal: ensure that educators, administrators, students and parents are aware of the legal protections available to them and are able to pursue any necessary legal action**
- **DETECT** (eyes open!), **ADDRESS** (say something!), and **PREVENT** (implement policies and procedures and train!)

QUESTIONS?

Please visit the California Women's Law Center website for more information about
Teen Dating Violence www.cwlc.org

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