



**ATIXA Tip of the Week  
Newsletter  
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**Third Party Harassment**

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**I have a situation where a student alleges she was sexually harassed by two vendors (non-students who work in the cafeteria through a contract with a third party) on a regular basis. The harassment included verbal innuendos and touchy-feely behavior, including touching on the buttocks on an almost daily basis by one of them. Most of this occurred when the student herself was working in the cafeteria (it was a job for an income unrelated to her studies), but it also extended to when they crossed paths on campus when she was off the clock. She has since quit that job, but as a student, does not want to step foot in the cafeteria building, which also happens to house other student services.**

**I'm understanding the 2001 Guidance that we have to address this as third-party harassment, at least as far as it extends to the harassment, that occurred when she was off the clock and in student mode. My course of action is to speak with the contracting company and inform them that they must re-assign these individuals away from our campus.**

**Leadership is taking issue with this, since I have not conducted an investigation, and we have not provided the contracting company an opportunity to complete their own internal HR investigation. I understand their concern, but we have no ability to effectively sanction the vendors directly, and in any case, their HR investigation is of no consequence to our obligations under Title IX. My understanding is that I have to take steps to stop the harassment, prevent its recurrence, and remedy the effects. Since these vendors work food service, I don't think re-assigning them to another food place on campus resolves the issue, so informing the contractor that they must be re-assigned away from campus seems the most effective and Title IX-compliant course of action.**

- 1. Is my understanding of the 2001 Guidance correct?**
- 2. Should I call these vendors in for an interview?**
- 3. If so, what if they simply deny the allegations? Do I then conduct a full investigation and provide them respondent rights, etc.?**

Great question. This is one of those areas not specifically addressed by guidance. I don't think the law requires you to investigate, explicitly, and I don't think barring the accused from campus is the best course of action available to you. However, I can make a suggestion for how to approach this.

Why not bar the accused from campus, pending the results of the investigation by their employer? Give the contractor the chance to do the right thing. If they do, your problem is solved. If not, you can approach this as an employee relations issue with the employer. Ultimately, you might bar them permanently, but at least you'll have given the employer the chance to do the right thing first.

Of course, I am assuming this is Aramark on some other significant vendor. If this is a company that lacks HR or an investigative capacity, then you might be better off temporarily barring the accused, investigating yourself, and presenting your findings to the employer for them to act upon. Again, you can bar them permanently if the employer does not take appropriate action, which is why the first approach is probably your best bet, as you might wind up in the same place either way, and you might as well do it in the way that is least time-consuming for you.