

**SUBJECT: SEXUAL HARASSMENT OF STUDENTS**

The Board of Education affirms its commitment to non-discrimination and recognizes its responsibility to provide for all District students an environment that is free of sexual harassment and intimidation. Sexual harassment is a violation of law and stands in direct opposition to District policy. Therefore, the Board prohibits and condemns all forms of sexual harassment by employees, school volunteers, students, and non-employees such as contractors and vendors which occur on school grounds and at all school-sponsored events, programs and activities including those that take place at locations off school premises or those that take place in another state.

**Sexual Harassment**

Sexual harassment is unwelcome conduct of a sexual nature. It includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. For the purposes of this policy, sexual harassment also includes sexual violence. Sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. Sexual violence includes, but is not limited to: rape, sexual assault, sexual battery, and sexual coercion.

Sexual harassment can originate from a person of either sex against a person of the opposite or same sex, and from students, District employees, or third parties such as visitors or school volunteers.

**Prohibited Conduct**

Sexual harassment can be verbal, non-verbal, or physical. Examples of such conduct may include, but are not limited to, the following:

- a) Verbal abuse or ridicule, including innuendoes, stories and jokes that are sexual in nature and/or gender-related. This might include inappropriate sex-oriented comments on appearance, including dress or physical features.
- b) Direct or indirect threats or bribes for unwanted sexual activity.
- c) Asking or commenting about a person's sexual activities.
- d) Unwelcome and unwanted physical contact of a sexual nature including, but not limited to, physical acts such as assault, impeding or blocking movement, offensive touching, or any physical interference with normal work or movement.
- e) Displaying or distributing pornographic or other sexually explicit materials such as magazines, pictures, internet material, cartoons, etc.
- f) The use of profanity and/or other obscenities that are sexually suggestive or degrading in nature.
- g) Unwelcome staring, leering, or gesturing which is sexually suggestive in nature.
- h) Unwelcome and/or offensive public displays of sexual/physical affection.
- i) Clothing that reflects sexually obscene and/or sexually explicit messages, slogans, or pictures.
- j) Demanding sexual favors of a student, insinuating that refusal to acquiesce in such favors will adversely affect a student's grades, references, academic/scholastic placement, and/or participation in extracurricular activities.

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- k) Engaging in sexual conduct with an individual who is unable to consent due to his/her age, use of drugs or alcohol, intellectual disability, or other disability.
- l) Any other unwelcome and unwanted sexually oriented and/or gender-based behavior which is sexually demeaning, belittling, intimidating, or perpetrates sexual stereotypes and attitudes.

The Board acknowledges that in determining whether sexual harassment has occurred the totality of the circumstances, expectations, and relationships should be evaluated including, but not limited to, the ages of the harasser and the victim; the number of individuals involved; and the type, frequency and duration of the conduct. The Board recognizes that sexual harassment can originate from a person of either sex against a person of the opposite or same sex, and from a third party such as a school visitor, volunteer, or vendor, or any other individual associated with the School District. Sexual harassment may occur from student-to-student, from staff-to-student, from student-to-staff, as well as staff-to-staff. The District will designate, at a minimum, two (2) Complaint Officers, one (1) of each gender.

In order for the Board to enforce this policy, and to take corrective measures as may be necessary, it is essential that any student who believes he/she has been a victim of sexual harassment in the school environment, as well as any other person who is aware of and/or who has knowledge of or witnesses any possible occurrence of sexual harassment, immediately report such alleged harassment; such report shall be directed to or forwarded to the District's designated Complaint Officers through informal and/or formal complaint procedures as developed by the District. Such complaints are recommended to be in writing, although verbal complaints of alleged sexual harassment will also be promptly investigated in accordance with the terms of this policy. In the event that the Complaint Officer is the alleged offender, the report will be directed to the next level of supervisory authority.

Upon receipt of an informal/formal complaint (even an anonymous complaint), the District will conduct a thorough investigation of the charges. However, even in the absence of a complaint, if the District has knowledge of or has reason to know of or suspect any occurrence of sexual harassment, the District will investigate such conduct promptly and thoroughly. To the extent possible, within legal constraints, all complaints will be treated confidentially and privately. However, disclosure may be necessary to complete a thorough investigation of the charges, and any disclosure will be provided on a "need to know" basis.

Based upon the results of the investigation, if the District determines that an employee and/or student has violated the terms of this policy and/or accompanying regulations, immediate corrective action will be taken as warranted. Should the offending individual be a student, appropriate disciplinary measures will be applied, up to and including suspension, in accordance with District policy and regulation, the Code of Conduct, and applicable laws and/or regulations. Should the offending individual be a school employee, appropriate disciplinary measures will be applied, up to and including termination of the offender's employment, in accordance with legal guidelines, District policy and regulation, the Code of Conduct and the applicable collective bargaining agreement(s). Third parties (such as school volunteers, vendors, etc.) who are found to have violated this policy and/or accompanying regulations will be subject to appropriate sanctions as warranted and in compliance with law. Staff members who receive such complaints will immediately inform the Civil Rights Compliance Officer. Where appropriate, the Civil Rights Compliance Officer may seek the assistance of the relevant Dignity Act Coordinator in investigating, responding to, and remedying student complaints of discrimination and/or harassment. In the event that the Civil Rights Compliance Officer is the alleged offender, the report will be directed to another Civil Rights Compliance Officer, if the District has designated an additional individual to serve in such capacity, or to the Superintendent.

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## **Prohibition of Retaliatory Behavior**

The Board prohibits any retaliatory behavior directed against complainants, victims, witnesses, and/or any other individuals who participated in the investigation of a complaint of sexual harassment. Follow-up inquiries shall be made to ensure that sexual harassment has not resumed and that all those involved in the investigation of the sexual harassment complaint have not suffered retaliation.

## **Finding That Harassment Did Not Occur**

At any level/stage of investigation of alleged harassment, if a determination is made that harassment did not occur, the Complaint Officer will so notify the complainant, the alleged offender and the Superintendent of this determination. Such a finding does not preclude the complainant from filing an appeal pursuant to District policy or regulation and/or pursuing other legal avenues of recourse.

However, even if a determination is made that harassment did not occur, the Superintendent/designee reserves the right to initiate staff awareness and training, as applicable, to help ensure that the school community is not conducive to fostering harassment in the workplace.

In all cases, the Superintendent will inform the Board of Education of the results of each investigation involving a finding that harassment did not occur.

## **Knowingly Makes False Accusations**

Employees and/or students who *knowingly* make false accusations against another individual as to allegations of harassment may also face appropriate disciplinary action.

## **Privacy Rights**

As part of the investigation, the District has the right to search all school property and equipment including District computers. Rooms, desks, cabinets, lockers, computers, etc. are provided by the District for the use of staff and students, but the users do not have exclusive use of these locations or equipment and should not expect that materials stored therein will be private.

## **Development and Dissemination of Administrative Regulations**

Regulations will be developed for reporting, investigating and remedying allegations of sexual harassment. An appeal procedure will also be provided to address any unresolved complaints and/or unsatisfactory prior determinations by the applicable Complaint Officer(s).

Such regulations will be developed in accordance with federal and state law as well as any applicable collective bargaining agreement(s).

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The Superintendent/designee(s) will affirmatively discuss the topic of sexual harassment with all employees and students, express the District's condemnation of such conduct, and explain the sanctions for such harassment. Appropriate training and/or "awareness" programs will be established for staff and students to help ensure knowledge of and familiarity with the issues pertaining to sexual harassment in the schools, and to disseminate preventative measures to help reduce such incidents of prohibited conduct. Furthermore, special training will be provided for designated supervisors and managerial employees, as may be necessary, for training in the investigation of sexual harassment complaints.

A copy of this policy and its accompanying regulations will be available upon request and may be posted at various locations in each school building. The District's policy and regulations on sexual harassment will be published in appropriate school publications such as teacher/employee handbooks, student handbooks, and/or school calendars.

Civil Rights Act of 1991, 42 United States Code (USC) Section 1981(a)  
Title VII of the Civil Rights Act of 1964, 42 United States Code (USC) Section 2000e et seq.  
Title IX of the Education Amendments of 1972, 20 United States Code (USC) Section 1681 et seq.  
34 Code of Federal Regulations (CFR) Section 100 et seq.  
29 Code of Federal Regulations (CFR) Section 1604.11(a)  
Education Law Section 2801(1)  
Executive Law Sections 296 and 297

Re-Adopted: January 25, 2012  
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