

## **STUDENT COMPLAINTS OF SEXUAL HARASSMENT**

The Board of Education recognizes that a student's right to freedom from discrimination includes the opportunity to learn in an environment untainted by sexual harassment. Sexually offensive speech and conduct are wholly inappropriate to the operation of the District and will not be tolerated. This policy or a version which provides students adequate notice of the prohibition against sexual harassment, the conduct that constitutes sexual harassment, and the complaint procedure for reporting sexual harassment shall be included in the student handbooks.

It shall be a violation of this Policy for any member of the District staff to harass a student through conduct or communications of a sexual nature as defined below or to have romantic or sexual relations with a student. Retaliation in any form against those persons alleging that sexual harassment has occurred or participating in the investigation of the complaint is also prohibited. It shall also be a violation of this policy for students or third parties (i.e., visiting speaker, or visiting athletic team) to harass other students through conduct or communications of a sexual nature as defined below.

Any teacher, counselor or administrator who receives a report, verbally or in writing, from any student regarding sexual harassment of that student must forward that report to the building principal or Title IX Compliance Officer within one school day or within a reasonable period of time if there is a good cause for the delay. Any building principal receiving a report of sexual harassment shall promptly notify the Title IX Compliance Officer.

The District's Title IX Compliance Officer is the Director of Pupil Services.

### 1. Definition

- a. Sexual harassment is unwelcome conduct of a sexual nature. Such conduct can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal or physical conduct of a sexual nature, when made by a member of the school staff or a third party (e.g., a visiting speaker or visiting athletes) to a student or when made by any student to another student. Such actions constitute sexual harassment when:
  - 1) Submission to such conduct is made, either explicitly or implicitly, a term or condition of a student's education;
  - 2) Submission to or rejection of such conduct by a student is used as the basis for academic decisions affecting that student; or

- 3) The conduct is so severe, persistent, or pervasive that it affects a student's ability to participate in or benefit from an education program or activity or creates an intimidating, hostile, or offensive academic environment;
  - 4) Sexual harassment, as defined above, may include, but is not limited to, the following:
    - a) Verbal harassment or abuse;
    - b) Pressure for sexual activity;
    - c) Repeated remarks to a person, with sexual or demeaning implications;
    - d) Unwelcome touching; or
    - e) Suggesting or demanding sexual involvement accompanied by implied or explicit threats concerning one's grades, etc.
- b. Unwelcome: Conduct is unwelcome if the student did not request or invite it and regarded the conduct as undesirable or offensive. Acquiescence in the conduct or failure to complain does not always mean the conduct was welcome.

## 2. Complaint Procedure

- a. Any student who alleges sexual harassment by any staff member or student in the District may complain directly to the Title IX Compliance Officer, guidance counselor, teacher, Superintendent, any other school employee whom the student trusts, or any other individual designated to receive such complaints. An individual who is complaining of sexual harassment is not required to work out the problem directly with the individual alleged to have harassed him or her.
- b. Retaliation against those who file a complaint or participate in the investigation of the complaint is prohibited. Therefore, filing of a complaint or otherwise reporting sexual harassment will not reflect upon the student's status nor will it affect future employment, grades, or work assignments. The person to whom the complaint was made shall, within one (1) school day, report the complaint to the Title IX Compliance Officer. If the Title IX Compliance Officer or Superintendent is the employee alleged to have engaged in the sexual harassment, the report shall be made to the Board.
- c. The right to confidentiality, both of the complainant and of the accused, will be respected consistent with the District's legal obligation, and with the necessity to investigate allegations of misconduct and take corrective action when this conduct has occurred.

3. Investigation

- a. The investigator should remember that the investigation requires a balancing of the accused's rights, the complainant's right to an environment free of sexual harassment, and the Board's interest in a prompt and fair investigation.
- b. The investigator shall meet with the complainant within a reasonable period of time from the time of making the complaint. However, the investigator is urged to meet with the complainant as soon as possible.
- c. Following the meeting with the complainant, the investigator shall conduct an adequate, reliable, and impartial investigation to determine if sexual harassment has occurred. The investigator shall provide the complainant with the opportunity to identify witnesses and other evidence. The investigation shall include a conference with the accused and the complainant, as well as any and all other methods which are considered necessary to determine whether harassment has occurred.

4. Post-Investigation Procedures

- a. Upon conclusion of the investigation, the investigator shall issue a written report. Although the facts and circumstances of a particular investigation may require an investigation to continue beyond forty-five (45) school days, it is recommended that the investigation and a report of the findings be completed within that time frame. The report shall include a determination of whether the accused was found to have engaged in harassment, was found not to have engaged in harassment, or whether the investigation was inconclusive. If the complaint is that a hostile environment exists, the District shall use a "preponderance of the evidence" standard to make such determination. The report shall be issued to the complainant, if an employee, or to the complainant's parents, if a student. A copy of the report shall also be sent to the Superintendent or his/her designee and the accused.
- b. A finding of no harassment or inconclusive evidence shall end the investigation.
- c. If harassment is found to have occurred, the investigator shall recommend what steps are necessary to ensure that the harassment is eliminated for the victim and other individuals affected by the sexual harassment and to correct its discriminatory effects on the complainant and others, if appropriate.

5. Discipline

A substantiated charge against a student in the District shall subject that student to disciplinary action, including suspension or expulsion, consistent with the Student Discipline Code.

LEGAL REFS: Title IX of the Education Amendments of 1972  
20 C.F.R. 1604.11

Adopted: September 26, 2016