

SEXUAL HARASSMENT

The Board of Education recognizes that harassment of students, employees (including all staff, part-time, seasonal and temporary workers regardless of immigration status, applicants for employment and both paid and unpaid interns), volunteers, visitors and non-employees and others in the school environment (including contractors, subcontractors, vendors, consultants and persons providing services pursuant to contract and their employees) on the basis of sex, gender and/or sexual orientation is abusive and illegal behavior that harms targets and negatively impacts the school culture by creating an environment of fear, distrust, intimidation and intolerance. The Board further recognizes that preventing and remedying such harassment in schools is essential to ensure a healthy, nondiscriminatory environment in which students can learn, employees and others in the school environment can work productively.

Sexual harassment is a form of sex discrimination and is unlawful under federal, state and, where applicable, local law. Sexual harassment includes harassment on the basis of actual or perceived or self-identified sex, sexual orientation, gender identity, gender expression and transgender status. Sexual harassment of a student can deny or limit the student's ability to participate in or to receive benefits, services, or opportunities from the school's program.

Sexual harassment includes unwelcome conduct which is either of a sexual nature or which is directed at an individual because of that individual's sex when:

- a. submission to that conduct is made either explicitly or implicitly a term or condition of an individual's employment or a student's education;
- b. submission to or rejection of such conduct is used as the basis for decisions affecting an individual's employment or a student's education; or
- c. the conduct has the purpose or effect of unreasonably interfering with an employee's or other person's work or a student's school performance or creating an intimidating, hostile or offensive work or educational environment, even if the complaining individual is not the intended target of the sexual harassment.

Sexual harassment can include unwelcome advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature, or verbal, nonverbal or physical aggression, intimidation or hostility that is based on actual or perceived gender and sexual stereotypes. Examples of sexual harassment can be found in Regulation 0110-R.

The Board is committed to providing an educational and working environment that promotes respect, dignity and equality and that is free from all forms of sexual harassment. To this end, the Board condemns and strictly prohibits all forms of sexual harassment on school grounds, school buses and at all school-sponsored activities, programs and events including those that take place at locations outside the district, or outside the school setting if the harassment impacts the individual's education or employment in a way that violates their legal rights such as when employees or others in the school environment travel on district business, or when

harassment is done by electronic means, including on social media. For employees, sexual harassment is considered a form of employee misconduct. Sanctions will be enforced against all those who engage in sexual harassment, and against supervisory and managerial personnel who knowingly allow such behavior to continue or engage in retaliation.

Sexual harassment may subject the district to liability for harm done to targets. Harassers may also be individually subject to civil liability if sued in a court of law or criminal liability if prosecuted.

Under various state and federal laws, students, employees and others in the school environment have legal protections against sexual harassment in the school environment as described above. These laws are listed at the end of this policy in the references section. Additionally, local laws (county, civil, town, village) may apply to the district. The district's Code of Conduct also addresses appropriate behavior in the school environment. Sexual harassment can occur between persons of all ages and genders.

In order for the Board to effectively enforce this policy and to take prompt corrective measures, it is essential that all targets of sexual harassment and persons with knowledge of sexual harassment report the harassment immediately. The district will promptly investigate all complaints of sexual harassment, either formal or informal, verbal or written. To the extent possible, all complaints will be treated in a confidential manner. Limited disclosure may be necessary to complete a thorough investigation. If the complainant reports that they feel unsafe at school due to the nature of the complaint, the district will determine if accommodations need to be made until the issue is resolved.

If, after appropriate investigation, the district finds that a student, an employee or a third party in the school environment has violated this policy, prompt corrective action will be taken in accordance with the applicable collective bargaining agreement, contract, district policy and state law.

The district may only include nondisclosure agreements (to not disclose the underlying facts and circumstances of a sexual harassment complaint) in any sexual harassment settlement agreement or resolution if it is the complainant's preference. Any such nondisclosure agreement shall be provided to all parties. Complainants shall have 21 days to consider any such nondisclosure provision before it is signed by all parties, and shall have seven days to revoke the agreement after signing. Nondisclosure agreements shall only become effective after this seven-day period.

No district contract or agreement may include a binding arbitration clause for sexual harassment requiring arbitration before filing a court action.

All complainants and those who make sexual harassment complaints or participate in the investigation of a complaint of sexual harassment have the right to be free from retaliation of any kind when they do so with a good faith belief that sexual harassment has occurred. Such prohibited retaliation can include, but is not limited to, discipline, discrimination, demotion,

denial of privileges, or any action that would keep a person from coming forward to make or support a sexual harassment claim. Such actions need not be employment or education related or occur in the workplace or educational environment to constitute unlawful retaliation.

The Superintendent of Schools is directed to develop and implement regulations for reporting, investigating and remedying allegations of sexual harassment. These regulations are to be attached to this policy. In addition, training programs shall be established for students and annually for employees to raise awareness of and sensitivity to the issues surrounding sexual harassment, including condemnation of such conduct, sanctions for harassment and to implement preventative measures to help reduce incidents of sexual harassment. Age-appropriate instructional materials will be incorporated into the curriculum to educate students so that they can recognize and reduce the incidence of sexual harassment.

This policy shall be posted in a prominent place in each district facility, on the district's website, and shall also be published in student registration materials, student, parent and employee handbooks, and other appropriate school publications.

The policy committee shall annually review this policy to ensure its effectiveness and compliance with applicable state and federal law, and to recommend revisions to Board, as needed.

Ref: Education Amendments of 1972, Title IX, 20 U.S.C. §1681 *et seq.*
Title VII of Civil Rights Act (1964), 42 U.S.C. §2000-e; 34 CFR §100 *et seq.*
Executive Law §296-d
Labor Law §201-g
Civil Practice Law and Rules §§5503-b, 7515
General Obligations Law §5-336
Davis v. Monroe County Board of Education, 526 U.S. 629, 652 (1999)
Gebser v. Lago Vista Independent School District, 524 U.S. 274 (1998)
Faragher v. City of Boca Raton, 524 U.S. 775 (1998)
Burlington Industries v. Ellerth, 524 U.S. 742 (1998)
Oncale v. Sundowner Offshore Services, Inc., 523 U.S. 75 (1998)
Franklin v. Gwinnett County Public Schools, 503 U.S. 60 (1992)
Meritor Savings Bank, FSB v. Vinson, 477 U.S. 57 (1986)
Office for Civil Rights *Revised Sexual Harassment Guidance (January 19, 2001)*
Office for Civil Rights, *Dear Colleague Letter: Sexual Harassment Issues (2006)*
Office for Civil Rights, *Dear Colleague Letter: Bullying (October 26, 2010)*

Cross Ref: 5030 Student Complaints, 5300 Code of Conduct, 5320 Harassment and Bullying Prevention and Intervention, 9130 Staff Student Relations, 9140.1 Building Principal and Classroom Teacher Evaluation and 9620 Anti-Harassment in the School District

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