

Students

**SUBJECT: SEXUAL AND OTHER HARASSMENT, DISCRIMINATION AND RETALIATION (STUDENTS)**

The Board of Education affirms its commitment to equal opportunity and non-discrimination and recognizes its responsibility to provide for all students an environment that is free of discrimination and harassment based on sex (with or without sexual conduct), gender, sexual orientation, race, color, creed, religion, national origin, political affiliation, age, marital status, military status, veteran status including Vietnam Era or disabled veteran status, disability, use of a recognized guide dog, hearing dog or service dog, or any other category protected by law. The District also does not tolerate any actual or attempted reprisals or retaliation against a student who raises a sincere and valid concern regarding harassment or discrimination. All such discrimination, harassment, and/or retaliation is, therefore, strictly prohibited by the District.

Sexual orientation is defined as heterosexuality, homosexuality, bisexuality, or asexuality, whether actual or perceived.

The Board also prohibits harassment based on the individual's opposition to discrimination or participation in a related investigation or complaint proceeding under the anti-discrimination statutes. This policy of nondiscrimination and anti-harassment will be enforced on School District premises and in school buildings; or school buses, and at all school-sponsored events, programs and activities, including those that take place at locations off school premises and in another state.

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 applicable laws and/or regulations, District policy and regulation, and the District Code of Conduct. 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, 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 and/or the Code of Conduct, will be subject to appropriate sanctions as warranted and in compliance with law. The application of such disciplinary measures by the District does not preclude the filing of civil and/or criminal charges as may be warranted.

**Harassment Prohibited - Definition**

As used in this policy, the term "harassment" refers to the conduct relating to or based upon a person's sex (with or without sexual conduct), gender, sexual orientation, race, color, creed, religion, national origin, political affiliation, age, marital status, military status, veteran status including Vietnam Era or disabled veteran status, disability, use of a recognized guide dog, hearing dog or service dog, or any other category protected by law which fails to respect the dignity and feelings of the individual. Harassment that is forbidden by this policy can take several forms, including but not limited to:

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There are two (2) types of sexual harassment: quid pro quo harassment and hostile environmental harassment. Quid pro quo harassment occurs when some benefit, such as a grade, credit, graduation, or other benefit, is conditioned upon receipt of sexual favors, or when some punishment will result from refusing to comply with a demand for sexual favors. Hostile environment harassment occurs when conduct of a sexual nature is sufficiently severe, persistent, or pervasive that it has the purpose or effect of unreasonably interfering with a student's performance or ability to benefit from his/her education, or creating an intimidating, hostile, offensive, or abusive school environment. The District will not tolerate sexual harassment between members of the same or opposite sex.

Prohibited sexual harassment includes, but is not limited to, requests for sexual favors and other verbal, visual or physical conduct of a sexual nature when:

- a) Submission to the conduct is explicitly made a term or condition of a student's academic status or progress;
- b) Submission to or rejection of the conduct by a student is used as the basis for academic decisions affecting the student;
- c) The conduct has the purpose or effect of having a negative impact on the student's academic performance; unreasonably interfering with the individual's education; or creating an intimidating, hostile, or offensive educational environment;
- d) Submission to or rejection of the conduct by the student is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the school.

Types of conduct which are prohibited in the District and which may constitute sexual harassment include, but are not limited to:

- a) Verbal conduct such as making or using sexually derogatory comments, epithets, slurs or jokes, making graphic verbal comments about an individual's body or appearance;
- b) Unwelcome sexual flirtations or propositions for sexual activity or unwelcome demands for or suggestions of sexual favors, including but not limited to repeated unwelcome requests for dates;
- c) Spreading sexual rumors;

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- d) Touching an individual's body or clothes (including one's own) in a sexual way, including but not limited to, grabbing, brushing against, patting, pinching, bumping, rubbing, kissing, and fondling;
- e) Cornering or blocking of normal movements;
- f) Displaying sexually suggestive drawings, images, pictures, written materials, and objects in the educational environment, regardless of the medium;
- g) Any act of retaliation against an individual who reports a violation of the District's sexual harassment policy or who participates in the investigation of a sexual harassment complaint.

Some conduct may violate the harassment policy because it creates a hostile environment for others, (e.g., a third-party overhearing a joke). Although sexual harassment is limited to unwelcome actions, private and consensual conduct may at some point also become unwelcome. Students who participate in a consensual relationship, and who at some point wish to discontinue the relationship, should tell the other participant, either verbally or in writing, that the conduct is no longer welcome and, therefore, must cease. Any person advised that conduct previously acceptable to a student is now unwelcome must cease such conduct immediately. Any conduct of a sexual nature following such notice may be determined to be sexual harassment.

Harassment Based on Race, Color, Creed, Religion, National Origin, Political Affiliation, Age, Marital Status, Gender, Sexual Orientation, Military Status, Veteran Status Including Vietnam Era or Disabled Veteran Status, Disability, Use of a Recognized Guide Dog, Hearing Dog or Service Dog, or Any Other Category Protected By Law

Harassment based on race, color, creed, religion, national origin, political affiliation, age, marital status, gender, sexual orientation, military status, veteran status including Vietnam Era or disabled veteran status, disability, use of a recognized guide dog, hearing dog or service dog, or any other category protected by law can include any verbal, written, or physical act in which such protected categories are used to make a student uncomfortable at school; or interferes with a student's performance ability to benefit from his/her education; or creates an intimidating, hostile, offensive or abusive school environment.

Harassment based on race, color, creed, religion, national origin, political affiliation, age, marital status, gender, sexual orientation, military status, veteran status including Vietnam Era or disabled veteran status, disability, use of a recognized guide dog, hearing dog or service dog, or any other category protected by law may take many forms. While it is impossible for the District to provide an exhaustive list, the following is a list of some examples of harassing behavior that the District will not tolerate:

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- a) Jokes that refer to race, color, creed, religion, national origin, political affiliation, age, marital status, gender, sexual orientation, military status, veteran status including Vietnam Era or disabled veteran status, disability, use of a recognized guide dog, hearing dog or service dog, or any other category protected by law.
- b) Posting or distributing cartoons, drawings, or any other material that negatively reflects a person's race, color, creed, religion, national origin, political affiliation, age, marital status, gender, sexual orientation, military status, veteran status including Vietnam Era or disabled veteran status, disability, use of a recognized guide dog, hearing dog or service dog, or any other category protected by law.
- c) The use of slurs or other offensive language.
- d) Practical jokes, horseplay, or teasing that makes fun of or insults a person's race, color, creed, religion, national origin, political affiliation, age, marital status, gender, sexual orientation, military status, veteran status including Vietnam Era or disabled veteran status, disability, use of a recognized guide dog, hearing dog or service dog, or membership in any other category protected by law.
- e) Any act of retaliation against an individual who reports a violation of this policy or who participates in the investigation of a complaint made pursuant to this policy.

Any student who believes he/she is a victim of discrimination, harassment and/or retaliation by any individual, including any student, teacher, or other employee of the District, must report all incident(s) of such conduct to the District's designated Complaint Officers or any other District employee. The District's two (2) Complaint Officers are Carol Townsend and James LiPuma.

All District employees must report any allegations of, or indications of, discrimination or harassment of which they are aware to the Complaint Officer immediately, but no later than five (5) school days. If an employee receives a complaint and it is not clear whether it involves discrimination or harassment, the employee shall report it to a Complaint Officer, who will determine whether the complaint is to be handled pursuant to this policy. District employees who become aware of a potential complaint also must instruct students that they may file a complaint with a Complaint Officer. In the event that one (1) Complaint Officer is the alleged offender, then the other Complaint Officer shall be contacted. In addition, in any case in which a Complaint Officer deems it appropriate, he/she may appoint a designee to handle or assist with the handling of a complaint. In the remainder of this policy or its accompanying regulations, any reference to the Complaint Officer also includes a designee.

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**SUBJECT: SEXUAL AND OTHER HARASSMENT, DISCRIMINATION AND RETALIATION (STUDENTS) (Cont'd.)**

Upon receipt of an informal/formal complaint, a Complaint Officer will conduct an immediate investigation of the charges. However, if a Complaint Officer has knowledge of or has reason to know of any alleged discrimination/harassment, the District is obligated, even in the absence of a complaint, to investigate such conduct promptly, thoroughly, and as confidentially as possible within the constraints of the law. 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 District's investigation, immediate and corrective action will be taken, including but not limited to, discipline, training, or other remedial measures; transfer of students or employees may also be effected. Such action taken with respect to students may include, but is not limited to, warning, detention, in and out-of-school suspension, transfer to alternative school, or other disciplinary action by the District, consistent with the requirements of applicable procedures of the Code of Conduct and the Education Law.

Employees are hereby placed on notice that if an employee engages in acts which the District determines to be acts of discrimination, harassment or retaliation, such acts are outside of the course and scope of the employee's employment. Discipline of employees may include, but is not limited to, warning, reprimand, fine, suspension, and termination consistent with applicable laws and collective bargaining agreements. Such conduct may result in the employee having to obtain his/her own legal counsel, result in a money judgment against the employee personally, or the filing of criminal charges.

**Prohibition of Retaliatory Behavior (Commonly Known as "Whistle-Blower" Protection)**

The Board prohibits any retaliatory behavior directed against complainants, victims, witnesses, and/or any other individuals who participate in the investigation of a complaint of discrimination and/or harassment. Any such retaliation may result in discipline up to and including discharge. Complainants, victims, witnesses, and/or any other individual who participated in an investigation who experience retaliation from anyone should report it to a Complaint Officer immediately. Follow-up inquiries shall be made to ensure that discrimination and/or harassment has not resumed and that all those involved in the investigation of the discrimination/harassment complaint have not suffered retaliation.

The District encourages the filing of good faith complaints. However, the filing of knowingly false complaints is prohibited. A student who knowingly makes a false complaint of any form against any other person shall be subject to discipline including, but not limited to, a warning, detention, in or out of school suspension, transfer to an alternative school, or other disciplinary action by the District, consistent with the requirements of applicable procedures of the Code of Conduct and the Education Law.

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**SUBJECT: SEXUAL AND OTHER HARASSMENT, DISCRIMINATION AND RETALIATION (STUDENTS) (Cont'd.)****Privacy Rights**

As part of any 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.

**Finding That Discrimination/Harassment Did Not Occur**

At any level/stage of investigation of alleged discrimination/harassment, if a determination is made that such discrimination/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 discrimination/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 discrimination/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 discrimination/harassment did not occur.

**Development and Dissemination of Administrative Regulations**

The Board directs the Complaint Officers to develop and maintain regulations for resolving discrimination/harassment complaints by students. The Superintendent, Complaint Officer and/or their designees shall affirmatively discuss the topic of discrimination/harassment with all students and employees, express the District's condemnation of such conduct and explain the sanctions for discrimination/harassment. A copy of this policy and its accompanying regulation will be available upon request and may be posted in various locations in each school building. The policy and regulation shall be made available to all students and will be published in appropriate school publications such as teacher/employee handbooks, student handbooks, and/or school calendars.

Age Discrimination in Employment Act, 29 United States Code (USC) Section 621

Americans With Disabilities Act, 42 United States Code (USC) Section 12101 et seq.

Prohibits discrimination on the basis of disability.

Section 504 of the Rehabilitation Act of 1973, 29 United States Code (USC) Section 794 et seq.

Prohibits discrimination on the basis of disability.

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**SUBJECT: SEXUAL AND OTHER HARASSMENT, DISCRIMINATION AND RETALIATION (STUDENTS) (Cont'd.)**

Title VI of the Civil Rights Act of 1964, 42 United States Code (USC) Section 2000d et seq.

Prohibits discrimination on the basis of race, color or national origin.

Title VII of the Civil Rights Act of 1964, 42 United States Code (USC) Section 2000e et seq.

Prohibits discrimination on the basis of race, color, religion, sex or national origin.

Title IX of the Education Amendments of 1972, 20 United States Code (USC) Section 1681 et seq.

Prohibits discrimination on the basis of sex.

Civil Rights Law Section 40-c

Prohibits discrimination on the basis of race, creed, color, national origin, sex, sexual orientation, marital status or disability.

Education Law Section 2801(1)

Executive Law Section 290 et seq.

Prohibits discrimination on the basis of age, race, creed, color, national origin, sex, sexual orientation, disability, military status, marital status, or use of a recognized guide dog, hearing dog or service dog.

Military Law Sections 242 and 243

NOTE: Refer also to Policies #6121 -- Sexual and Other Harassment, Discrimination and Retaliation (Employees and Third Parties)

#6122 -- Complaints and Grievances by Employees

#7550 -- Complaints and Grievances by Students