

### **EMPLOYEE COMPLAINTS OF SEXUAL HARASSMENT**

The Board of Education recognizes that an employee's right to freedom from discrimination includes the opportunity to work 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.

It shall be a violation of this policy for any member of the District staff or a third party (i.e., visiting speaker or a visiting athletic team) to harass an employee through conduct or communications of a sexual nature as defined below. This includes harassment by a supervisor or another co-employee.

1. Definition

- a. Sexual harassment of employees is unwelcome conduct of a sexual nature. Such conduct can include unwelcome sexual advances, requests for sexual favors, and verbal, nonverbal or physical contacts of a sexual nature when submission to such conduct is made a condition of employment or a basis of an employment decision. Sexual harassment also may be found to have occurred when the above-mentioned conduct has the purpose or effect of unreasonably interfering with work performance or creating an intimidating, hostile, or offensive working environment.
- b. Sexual harassment, as defined above, may include but is not limited to the following:
  - 1) Basing an evaluation, recommendation, transfer, etc. on an employee's refusal or submission to sexual advances.
  - 2) Jokes, stories, cartoons, or pictures that convey a sexual message, and/or place the opposite sex in demeaning roles, thereby creating a hostile working environment for the sex which is the subject of the jokes, stories, cartoons, or pictures.
  - 3) Unwelcome touching.
  - 4) All types of verbal harassment and abuse of a sexual nature.
  - 5) Pressure for sexual activity.
  - 6) Any other remarks or actions to a person, with sexually demeaning implications.

- c. Unwelcome: Conduct is unwelcome if the employee 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. Retaliation against those who file a complaint or participate in the investigation of the complaint is prohibited.
- b. The intent of the following reporting procedure is to provide a quick and fair resolution of complaints of sexual harassment.
- c. The staff member desiring to file a sexual harassment complaint must present the complaint, in writing to the Title IX Compliance Officer. The District's Title IX Compliance Officer is the Director of Pupil Services. The Title IX Compliance Officer or his/her designee shall promptly investigate the matter unless otherwise designated by the Board.
- d. If the Title IX Compliance Officer is the employee alleged to have engaged in sexual harassment, the complaint shall be sent directly to the President of the Board. The Board will either conduct the investigation set out below, or appoint an investigator in its place.
- e. 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, which shall include the opportunity to identify witnesses and other evidence, to determine if sexual harassment has occurred. 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 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. 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.
- 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. An individual who complains of sexual harassment shall not be required to work out the problem directly with the person alleged to have harassed him or her. To determine whether a hostile environment exists, the District will use a "preponderance of the evidence" standard.

5. Discipline

If sexual harassment is found to have occurred, the person who engaged in such harassment may be disciplined. The discipline must be reasonably calculated to end the harassment and to remedy its effects on the complainant, and others, if appropriate. Any discipline must include a directive that the employee not engage in such harassment in the future.

6. Notice

Written notice of the outcome of the complaint shall be provided to the complainant and the accused.

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

Adopted: September 26, 2016