
Note: This policy addresses discrimination, harassment, and retaliation ~~AGAINST involving~~ District employees. **FOR TITLE IX AND OTHER PROVISIONS REGARDING** ~~For~~ discrimination, harassment, and retaliation **AGAINST in-** ~~volving~~ students, see FFH. For reporting requirements related to child abuse and neglect, see FFG.

Definitions

Solely for purposes of this policy, the term “employee” includes former employees, applicants for employment, and unpaid interns.

Statement of Nondiscrimination

The District condemns and prohibits discrimination, including harassment, against any employee on the basis of race, color, ~~age, sex,~~ religion, **SEX**, national origin, **AGE, DISABILITY**, marital status, citizenship, military status, ~~disability,~~ genetic information, gender stereotyping and perceived sexuality, perceived or actual sexual orientation, gender identity or gender expression, or any other basis prohibited by law. Retaliation against anyone involved in the complaint process is a violation of District policy.

Discrimination

Discrimination against an employee is defined as conduct directed at an employee on the basis of race, color, ~~age, sex,~~ religion, **SEX**, national origin, **AGE, DISABILITY**, marital status, citizenship, military status, **GENETIC INFORMATION, OR ANY OTHER BASIS PROHIBITED BY LAW, THAT ADVERSELY AFFECTS THE EMPLOYEE’S EMPLOYMENT.**

IN ACCORDANCE WITH LAW, DISCRIMINATION ON THE BASIS OF SEX INCLUDES DISCRIMINATION ON THE BASIS OF BIOLOGICAL SEX, GENDER IDENTITY, SEXUAL ORIENTATION, GENDER STEREOTYPES, OR ANY OTHER PROHIBITED BASIS RELATED TO SEX.

~~disability~~ **Prohibited Conduct**

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In this policy, the term “prohibited conduct” includes discrimination, harassment, and retaliation as defined by this policy, even if the behavior does not rise to the level of unlawful conduct.

PROHIBITED CONDUCT ALSO INCLUDES SEXUAL HARASSMENT AS DEFINED BY TITLE IX. [SEE FFH(LEGAL)]

PROHIBITED HARASSMENT OF AN EMPLOYEE IS DEFINED AS PHYSICAL, VERBAL, OR NONVERBAL CONDUCT BASED ON AN EMPLOYEE’S RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, AGE, DISABILITY, MARITAL STATUS, CITIZENSHIP, MILITARY STATUS, genetic information, gender stereotyping and perceived sexuality, perceived or actual sexual orientation, gender identity or gender expression, or any other basis prohibited by law, ~~that adversely affects the employee’s employment.~~

Harassment

~~Prohibited harassment of an employee is defined as physical, verbal, or nonverbal conduct based on an employee's race, color, age, sex, religion, national origin, marital status, citizenship, military status, disability, genetic information, gender stereotyping and perceived sexuality, or any other basis prohibited by law, when the conduct is so severe, persistent, or pervasive that the conduct:~~

1. Has the purpose or effect of unreasonably interfering with the employee's work performance;
2. Creates an intimidating, threatening, hostile, or offensive work environment; or
3. Otherwise adversely affects the employee's performance, environment, or employment opportunities.

Examples

Examples of prohibited harassment may include:

1. Verbal harassment, **INCLUDING CYBERHARASSMENT**, such as offensive or derogatory language directed at another person's religious beliefs or practices, accent, skin color, gender identity, or need for workplace accommodation; offensive jokes; name-calling; slurs; or rumors; or
2. Physical harassment such as assault or aggression; threatening or intimidating conduct; impeding or blocking movement or any physical interference with normal work or movement; other types of aggressive conduct such as theft or damage to property; or visual forms of harassment such as derogatory drawings, cartoons, or posters; display of graffiti or printed material promoting racial, ethnic, or other stereotypes.

SEX-BASED HARASSMENT

AS REQUIRED BY LAW, THE DISTRICT SHALL FOLLOW THE PROCEDURES BELOW AT RESPONSE TO SEXUAL HARASSMENT—TITLE IX UPON A REPORT OF SEX-BASED HARASSMENT, INCLUDING SEXUAL HARASSMENT, WHEN SUCH ALLEGATIONS, IF PROVED, WOULD MEET THE DEFINITION OF SEXUAL HARASSMENT UNDER TITLE IX. [SEE FFH(LEGAL)]

Sexual Harassment

Sexual harassment is a form of sex discrimination defined as unwelcome sexual advances; requests for sexual favors; sexually motivated physical, verbal, or nonverbal conduct; or other conduct or communication of a sexual nature when:

1. Submission to ~~THE~~ such conduct is **EITHER EXPLICITLY made a term** or **IMPLICITLY A** condition of **AN EMPLOYEE'S** employment, **OR WHEN SUBMISSIONS** ~~Submission~~ to or rejection of ~~THE~~ such conduct is the basis for an employment action affecting the employee; or

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2. The conduct is so severe, persistent, or pervasive that it has the purpose or effect of unreasonably interfering with the employee's work performance or creates an intimidating, threatening, hostile, or offensive work environment.

Examples

Examples of sexual harassment may include sexual advances; touching intimate body parts; coercing or forcing a sexual act on another; jokes or conversations of a sexual nature; and other sexually motivated conduct, **CONTACT, OR** communication, **INCLUDING ELECTRONIC COMMUNICATION** ~~or contact.~~

Retaliation

~~The District prohibits retaliation against an employee who makes a claim alleging to have experienced discrimination or harassment, or another employee who, in good faith, makes a report, serves as a witness, or otherwise participates in an investigation.~~

The District considers workplace bullying to be unacceptable and shall not tolerate it under any circumstances.

Workplace bullying shall be defined as engaging in written or verbal expression, expression through electronic means, or physical conduct that occurs in the workplace that:

1. Has the effect or will have the effect of physically harming another employee, damaging the employee's property, or placing the employee in reasonable fear of harm to the employee's person or of damage to the employee's property;
2. Is sufficiently severe, persistent, and pervasive that the action or threat creates an intimidating, threatening, or abusive work environment for the employee;
3. Exploits an imbalance of power between the employee perpetrator and the employee victim through written or verbal expression or physical conduct; and
4. Interferes with the victim's employment or substantially disrupts the operation of the work location.

Examples of retaliation may include termination, refusal to hire, demotion, and denial of promotion.

Retaliation may also include threats, reporting procedures, unjustified negative evaluations, unjustified negative references, or increased surveillance.

Workplace bullying shall not include the legitimate exercise of employee management, including task assignment, employee coaching, and work-related employee discipline.

ANY employee who believes that he or she has experienced prohibited conduct or believes that another employee has experienced prohibited conduct should immediately report the alleged acts. The employee may report the alleged acts to his or her supervisor or campus principal.

Alternatively, the employee may report the alleged acts to one of the District officials below.

Definition of District Officials

For the purposes of this policy, District officials are the Title IX coordinator, the ADA/Section 504 coordinator, and the Superintendent.

Title IX Coordinator

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	Reports of discrimination based on sex, including sexual harassment, may be directed to the designated Title IX coordinator. [SEE DIA(EXHIBIT)]
ADA / Section 504 Coordinator	Reports of discrimination based on disability may be directed to the designated ADA/Section 504 coordinator. [SEE DIA(EXHIBIT)]
Superintendent	The Superintendent shall serve as coordinator for purposes of District compliance with all other NONDISCRIMINATION anti-discrimination laws.
Alternative Reporting Procedures	<p>An employee shall not be required to report prohibited conduct to the person alleged to have committed THE CONDUCT. Reports concerning prohibited conduct, including reports against the Title IX coordinator or ADA/Section 504 coordinator, may be directed to the Superintendent.</p> <p>A report against the Superintendent may be made directly to the Board or Board President. If a report is made directly to the Board or Board President, the Board shall appoint an appropriate person to conduct an investigation.</p>
Timely Reporting	<p>Reports of prohibited conduct shall be made as soon as possible after the alleged act or knowledge of the alleged act. A failure to promptly report may impair the District's ability to investigate and address the prohibited conduct.</p> <p>TO ENSURE THE DISTRICT'S PROMPT INVESTIGATION, REPORTS</p>
Notice of Report	<p>Any District supervisor who receives a report of prohibited conduct shall immediately notify the appropriate District official listed above and take any other steps required by this policy.</p> <p>ANY DISTRICT EMPLOYEE WHO RECEIVES A REPORT OF PROHIBITED CONDUCT BASED ON SEX, INCLUDING SEXUAL HARASSMENT, SHALL IMMEDIATELY NOTIFY THE TITLE IX COORDINATOR.</p>
Investigation of REPORTS OTHER THAN TITLE IX the Report	<p>THE FOLLOWING PROCEDURES APPLY TO ALL ALLEGATIONS OF PROHIBITED CONDUCT OTHER THAN ALLEGATIONS OF HARASSMENT PROHIBITED BY TITLE IX. [SEE FFH(LLEGAL)] FOR ALLEGATIONS OF SEX-BASED HARASSMENT THAT, IF PROVED, WOULD MEET THE DEFINITION OF SEXUAL HARASSMENT UNDER TITLE IX, SEE THE PROCEDURES BELOW AT RESPONSE TO SEXUAL HARASSMENT—TITLE IX.</p> <p>The District may request, but shall not REQUIRE insist upon, a written report. If a report is made orally, the District official shall reduce the report to written form and ask the complainant to confirm its accuracy.</p>

INITIAL ASSESSMENT	Upon receipt or notice of a report, the District official shall determine whether the allegations, if PROVED ^{proven} , would constitute prohibited conduct as defined by this policy. If so, the District official shall immediately authorize or undertake an investigation, regardless of whether a criminal or regulatory investigation regarding the same or similar allegations is pending.
INTERIM ACTION	If appropriate, the District shall promptly take interim action calculated to prevent prohibited conduct during the course of an investigation.
DISTRICT INVESTIGATION	<p>The investigation may be conducted by the District official or a designee, such as the campus principal, or by a third party designated by the District, such as an attorney. When appropriate, the campus principal or supervisor shall be involved in or informed of the investigation.</p> <p>The investigation may consist of personal interviews with the person making the report, the person against whom the report is filed, and others with knowledge of the circumstances surrounding the allegations. The investigation may also include analysis of other information or documents related to the allegations.</p>
Concluding the Investigation	<p>Absent extenuating circumstances, the investigation should be completed within ten District business days from the date of the report. The investigator shall inform the complainant if additional time is necessary. Even if additional time is necessary, the investigation shall be completed within 30 calendar days from the date of the report, except only in the most extraordinary cases and with the approval of the Superintendent.</p> <p>The investigator shall prepare a written report of the investigation. The report shall be filed with the District official overseeing the investigation. The complainant shall be informed of the results of the investigation.</p>
District Action	<p>If the results of an investigation indicate that prohibited CONDUCT ^{harassment} occurred, the District shall promptly respond by taking appropriate disciplinary or corrective action reasonably calculated to address the CONDUCT ^{harassment}. Appropriate disciplinary or corrective action should be initiated as soon as feasible after the completion of the written investigative report.</p> <p>The District may take action based on the results of an investigation, even if the conduct did not rise to the level of prohibited or unlawful conduct.</p>
Confidentiality	To the greatest extent possible, the District shall respect the privacy of the complainant, persons against whom a report is filed,

and witnesses. Limited disclosures may be necessary in order to conduct a thorough investigation and comply with applicable law.

Appeal

A complainant who is dissatisfied with the outcome of the investigation may appeal through DGBA(LOCAL), beginning at the appropriate level.

The complainant may have a right to file a complaint with appropriate state or federal agencies.

**RESPONSE TO
SEXUAL
HARASSMENT—
TITLE IX**

**GENERAL
RESPONSE**

**FOR PURPOSES OF THE DISTRICT'S RESPONSE TO
REPORTS OF HARASSMENT PROHIBITED BY TITLE IX,
DEFINITIONS CAN BE FOUND IN FFH(LEGAL).**

**WHEN THE DISTRICT RECEIVES NOTICE OR AN ALLEGATION
OF CONDUCT THAT, IF PROVED, WOULD MEET THE DEFINI-
TION OF SEXUAL HARASSMENT UNDER TITLE IX, THE TITLE
IX COORDINATOR SHALL PROMPTLY CONTACT THE COM-
PLAINANT TO:**

- **DISCUSS THE AVAILABILITY OF SUPPORTIVE
MEASURES AND INFORM THE COMPLAINANT THAT
THEY ARE AVAILABLE, WITH OR WITHOUT THE FILING
OF A FORMAL COMPLAINT;**
- **CONSIDER THE COMPLAINANT'S WISHES WITH RE-
SPECT TO SUPPORTIVE MEASURES; AND**
- **EXPLAIN TO THE COMPLAINANT THE OPTION AND
PROCESS FOR FILING A FORMAL COMPLAINT.**

**THE DISTRICT'S RESPONSE TO SEXUAL HARASSMENT
SHALL TREAT COMPLAINANTS AND RESPONDENTS EQUI-
TABLY BY OFFERING SUPPORTIVE MEASURES TO BOTH
PARTIES, AS APPROPRIATE, AND BY FOLLOWING THE TITLE
IX FORMAL COMPLAINT PROCESS BEFORE IMPOSING DIS-
CIPLINARY SANCTIONS OR OTHER ACTIONS THAT ARE NOT
SUPPORTIVE MEASURES AGAINST A RESPONDENT.**

**IF A FORMAL COMPLAINT IS NOT FILED, THE DISTRICT RE-
SERVES THE RIGHT TO INVESTIGATE AND RESPOND TO
PROHIBITED CONDUCT IN ACCORDANCE WITH BOARD POL-
ICIES AND ADMINISTRATIVE PROCEDURES.**

**TITLE IX FORMAL
COMPLAINT
PROCESS**

**TO DISTINGUISH THE PROCESS DESCRIBED BELOW FROM
THE DISTRICT'S GENERAL GRIEVANCE POLICIES [SEE
DGBA, FNG, AND GF], THIS POLICY REFERS TO THE GRIEV-
ANCE PROCESS REQUIRED BY TITLE IX REGULATIONS FOR**

RESPONDING TO FORMAL COMPLAINTS OF SEXUAL HARASSMENT AS THE DISTRICT'S "TITLE IX FORMAL COMPLAINT PROCESS."

THE SUPERINTENDENT SHALL ENSURE THE DEVELOPMENT OF A TITLE IX FORMAL COMPLAINT PROCESS THAT COMPLIES WITH LEGAL REQUIREMENTS. [SEE FFH(LEGAL)] THE FORMAL COMPLAINT PROCESS SHALL BE POSTED ON THE DISTRICT'S WEBSITE. IN COMPLIANCE WITH TITLE IX REGULATIONS, THE DISTRICT'S TITLE IX FORMAL COMPLAINT PROCESS SHALL ADDRESS THE FOLLOWING BASIC REQUIREMENTS:

- 1. EQUITABLE TREATMENT OF COMPLAINANTS AND RESPONDENTS;**
- 2. AN OBJECTIVE EVALUATION OF ALL RELEVANT EVIDENCE;**
- 3. A REQUIREMENT THAT THE TITLE IX COORDINATOR, INVESTIGATOR, DECISION-MAKER, OR ANY PERSON DESIGNATED TO FACILITATE AN INFORMAL RESOLUTION PROCESS NOT HAVE A CONFLICT OF INTEREST OR BIAS;**
- 4. A PRESUMPTION THAT THE RESPONDENT IS NOT RESPONSIBLE FOR THE ALLEGED SEXUAL HARASSMENT UNTIL A DETERMINATION IS MADE AT THE CONCLUSION OF THE TITLE IX FORMAL COMPLAINT PROCESS;**
- 5. TIME FRAMES THAT PROVIDE FOR A REASONABLY PROMPT CONCLUSION OF THE TITLE IX FORMAL COMPLAINT PROCESS, INCLUDING TIME FRAMES FOR APPEALS AND ANY INFORMAL RESOLUTION PROCESS, AND THAT ALLOW FOR TEMPORARY DELAYS OR THE LIMITED EXTENSION OF TIME FRAMES WITH GOOD CAUSE AND WRITTEN NOTICE AS REQUIRED BY LAW;**
- 6. A DESCRIPTION OF THE POSSIBLE DISCIPLINARY SANCTIONS AND REMEDIES THAT MAY BE IMPLEMENTED FOLLOWING A DETERMINATION OF RESPONSIBILITY FOR THE ALLEGED SEXUAL HARASSMENT;**
- 7. A STATEMENT OF THE STANDARD OF EVIDENCE TO BE USED TO DETERMINE RESPONSIBILITY FOR ALL TITLE IX FORMAL COMPLAINTS OF SEXUAL HARASSMENT;**
- 8. PROCEDURES AND PERMISSIBLE BASES FOR THE COMPLAINANT AND RESPONDENT TO APPEAL A DETERMINATION OF RESPONSIBILITY OR A DISMISSAL OF**

A TITLE IX FORMAL COMPLAINT OR ANY ALLEGATIONS THEREIN;

- 9. A DESCRIPTION OF THE SUPPORTIVE MEASURES AVAILABLE TO THE COMPLAINANT AND RESPONDENT;**
- 10. A PROHIBITION ON USING OR SEEKING INFORMATION PROTECTED UNDER A LEGALLY RECOGNIZED PRIVILEGE UNLESS THE INDIVIDUAL HOLDING THE PRIVILEGE HAS WAIVED THE PRIVILEGE;**
- 11. ADDITIONAL FORMAL COMPLAINT PROCEDURES IN 34 C.F.R. 106.45(B), INCLUDING WRITTEN NOTICE OF A FORMAL COMPLAINT, CONSOLIDATION OF FORMAL COMPLAINTS, RECORDKEEPING, AND INVESTIGATION PROCEDURES; AND**
- 12. OTHER LOCAL PROCEDURES AS DETERMINED BY THE SUPERINTENDENT.**

STANDARD OF EVIDENCE

THE STANDARD OF EVIDENCE USED TO DETERMINE RESPONSIBILITY IN A TITLE IX FORMAL COMPLAINT OF SEXUAL HARASSMENT SHALL BE THE PREPONDERANCE OF THE EVIDENCE.

OF HARASSMENT OR DISCRIMINATION, FILES A COMPLAINT OF HARASSMENT OR DISCRIMINATION, SERVES AS A WITNESS, OR OTHERWISE PARTICIPATES OR REFUSES TO PARTICIPATE IN AN INVESTIGATION.

RETALIATION MAY ALSO INCLUDE THREATS, INTIMIDATION, COERCION, UNJUSTIFIED NEGATIVE EVALUATIONS, UNJUSTIFIED NEGATIVE REFERENCES, OR INCREASED SURVEILLANCE.

Records Retention

THE DISTRICT SHALL RETAIN COPIES OF ALLEGATIONS ~~Copies of reports alleging prohibited conduct, investigation reports, and related records~~ **REGARDING ANY PROHIBITED CONDUCT IN ACCORDANCE WITH** ~~shall be maintained by the District for~~ **DISTRICT'S RECORDS CONTROL SCHEDULES, BUT** ~~at least five years.~~ **NO LESS THAN THE MINIMUM AMOUNT** ~~a period of~~ **TIME REQUIRED BY LAW.** [See CPC]

[FOR TITLE IX RECORDKEEPING AND RETENTION PROVISIONS, SEE FFH(LEGAL) AND THE DISTRICT'S TITLE IX FORMAL COMPLAINT PROCESS.]

Access to Policy AND PROCEDURES

INFORMATION REGARDING THIS ~~This policy~~ **AND ANY ACCOMPANYING PROCEDURES** shall be distributed annually to District employees. Copies of the policy **AND PROCEDURES** shall be

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POSTED ON THE DISTRICT'S WEBSITE, TO THE EXTENT PRACTICABLE, AND readily available at each campus and the **DISTRICT'S** District administrative offices.