

SEXUAL HARASSMENT

The District is committed to providing equal employment and educational opportunities and, therefore, forbids discrimination against any employee, student, applicant for employment or any other person on the basis of gender. The District further forbids sexual harassment by any employee or student. This policy also applies to non-employee volunteers and contractors whose work is subject to the control of District personnel.

Definitions:

- A. **Appeal Officer:** The person designated to hear an appeal from a determination of responsibility for sexual harassment. The Appeal Officer will not be the Compliance Officer, Investigator, or initial Decision Maker. School superintendent or appointee is designated as the Appeal Officer.
- B. **Compliance Officer:** An employee who is designated to coordinate compliance efforts with Title IX and to investigate complaints under Title IX. The District HR administrator is designated as the Compliance Officer and may be reached at 1001 West Danforth, Edmond, OK 73003-4801 or by telephone at (405) 340-2800.
- C. **Complaint:** A written complaint alleging that a policy, procedure, or practice of District discriminates on the basis of sex, sexual orientation, or gender identity.
- D. **Complainant:** A student, an employee, or any other person who submits a Complaint as defined above.
- E. **Day:** Day means a working day; the calculation of days in processing a complaint shall exclude Saturdays, Sundays, and holidays.
- F. **Decision Maker:** This person will determine sanctions and remedies after the investigation is completed. The building administrator where the complainant is assigned is designated as the Decision Maker.
- G. **Investigator:** The party in charge of gathering facts and interviewing parties and witnesses. The Principal or designee is designated as the Investigator for these matters.
- H. **Respondent:** The person alleged to be responsible for the violation alleged in the complaint. The term may be used to designate persons with responsibility for a particular action or those persons with supervisory responsibility for procedures and policies in those areas covered in the Complaint

I. Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

(1) An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;

(2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or

(3) a. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), (Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent, including rape, fondling, incest and statutory rape.);

b. "Dating violence" as defined in 34 U.S.C. 12291(a)(10) (is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.);

c. "Domestic violence" as defined in 34 U.S.C. 12291(a)(8), (A felony or misdemeanor crime of violence committed by: (1) a current or former spouse or intimate partner of the victim; (2) a person with whom the victim shares a child in common; (3) a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; (4) a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state; or (4) any other person against an adult or youth victim who is protected from that person's acts under domestic or family violence laws.

d. "Stalking" as defined in 34 U.S.C. 12291(a)(30) (engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others; or suffer substantial emotional distress.)

J. Unwelcome Conduct of a Sexual Nature: Unwelcome conduct of a sexual nature may include, but not be limited to, the following:

a. Verbal or physical sexual advances, including subtle pressure for sexual activity, flirtation, advances, and/or propositions of a sexual nature;

b. Touching, pinching, patting, or brushing against;

c. Unwarranted displays of sexually suggestive or sexually explicit objects or pictures, including greeting cards, articles, books, magazines, or cartoons;

d. sexual assault;

e. comments regarding physical or personality characteristics of a sexual nature; and

- f. sexually-oriented kidding, teasing, double meanings, and jokes.

Conduct of a sexual nature involving employees may constitute sexual harassment when the allegedly harassed employee has indicated, either orally or by his or her conduct, that it is unwelcome. If the employee has initially welcomed such conduct by active participation, the employee must give specific notice to the alleged harasser that such conduct is no longer welcome in order for any such subsequent conduct to be deemed unwelcome.

Specific Prohibitions:

A. Administrators and Supervisors:

1. It is sexual harassment for an administrator or supervisor to use his or her authority to solicit sexual favors or attention from subordinates or District's patrons when the individual's failure to submit will result in adverse treatment or when the individual's acquiescence will result in preferential treatment.
2. It is sexual harassment for an administrator or supervisor to subject any student to any unwelcome conduct of a sexual nature or to engage in a sexual relationship with a student.
3. Administrators and supervisors who either engage in sexual harassment or tolerate such conduct by other employees or students shall be subject to sanctions, as described below.

B. All Employees:

1. It is sexual harassment for a non-administrative and/or nonsupervisory employee to subject any District employee or patron to any unwelcome conduct of a sexual nature.
2. It is sexual harassment for a non-administrative and/or nonsupervisory employee to subject any student to any unwelcome conduct of a sexual nature or to engage in a sexual relationship with a student.
3. Employees who engage in such conduct shall be subject to sanctions, as described below.

C. Students:

1. It is sexual harassment for a student to subject any District employee, patron, or fellow student to any unwelcome conduct of a sexual nature.
2. Students who engage in such conduct shall be subject to sanctions, as described below.

General Prohibitions:

- A. District prohibits unwelcomed conduct of a sexual nature as defined above.
- B. District prohibits sexual harassment by any District employee or student, or by anyone participating in any District program. "Sexual harassment" includes the conduct defined above and also includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment if:
 - 1. submission to the conduct is made either an explicit or implicit condition of employment, instruction, or participation in a District program;
 - 2. submission to or rejection of the conduct is used as a basis for an instruction, participation or employment decision affecting the harassed student, employee, or other person;
 - 3. the conduct substantially interferes with a student's learning, an employee's work performance or person's participation in a District program;
 - 4. the conduct, either by intent or by effect, creates an intimidating, hostile, or offensive work or learning environment;
 - 5. the conduct is directed toward a student, regardless of the basis by an adult employee or volunteer; or
 - 6. submission to or rejection of the conduct is used as a basis for providing the District's services or participation in the District's programs.
- C. Circumstances of sexual harassment:

Sexual harassment can occur in a variety of circumstances, including, but not limited to, the following:

- 1. the individual who is sexually harassed, as well as the harasser, may be female or male and does not have to be of the opposite sex from the harasser;
- 2. the harasser can be the supervisor of the individual who is sexually harassed, an agent of the employer, a supervisor in another area, a coworker, a subordinate, an instructor, or a non-employee.
- 3. the individual who is sexually harassed does not have to be the specific person to whom the harasser directs the conduct which constitutes sexual harassment but must be a person who was directly affected by the offensive conduct of the harasser; and
- 4. unlawful sexual harassment may occur without economic injury to or discharge of the individual who is sexually harassed.

Report, Investigation, and Sanctions:

- A. Victims of sexual harassment are encouraged to report such claims by utilizing the process set forth in Policy 5165. Students may also report

complaints of sexual harassment to the principal of the building at which the student attends school.

- B. Once an allegation of sexual harassment has been reported, District is deemed to have actual knowledge and must act. Actual knowledge may be attributed to any District employee. Once, District has actual knowledge, District will notify parents of the Complainant and the Respondent, or the Respondent if the parties are over the age of eighteen (18), of the accusation of sexual harassment. In addition, District will offer supportive measures to students, such as counseling and/or changing classrooms.
 - 1. Supportive Measures are free, individualized services designed to restore or preserve equal access to education, protect safety, or deter sexual harassment. Supportive measures are not punitive or disciplinary and do not unreasonably burden any other person. Supportive measures may be provided to both the Complainant and Respondent and no formal complaint is necessary to implement the measures. Supportive measures will be kept confidential and will be implemented by the Title IX Coordinator/Compliance Officer. The District HR administrator will serve as the Title IX Coordinator/Compliance Officer for the District.
 - 2. Supportive measures may include, but are not limited to counseling services, extension of deadlines, modifications of work or class schedules, mutual restrictions on contact between individuals, and/or modified schedules.
- C. If the Complainant desires to proceed with a Complaint, then, within ten (10) days of an alleged violation, the Complainant shall submit a written and signed Complaint to the Compliance Officer. The Complaint shall, at a minimum, state the Complainant's name, the nature of the alleged violation, the date of the alleged violation, the names of persons responsible, any witnesses, and the requested action or relief sought.
- D. The Compliance Officer may offer supportive measures, will notify parents if students are involved, and will notify the designated Investigator who will investigate allegations of discrimination. Additionally, the Compliance Officer may direct an investigation without a written complaint according to the procedures set forth herein whenever the Compliance Officer deems such action to be appropriate.
- E. Within ten (10) days of receiving the Complaint from the Compliance Officer, the Investigator shall notify the Respondent of the Complaint.

- F. Within ten (10) days of notification, the Respondent shall submit to the Investigator a written answer or response which shall confirm or deny the facts upon which the allegation is based, indicate acceptance or rejection of the Complainant's requested action, and/or outline alternatives. The Respondent may also identify witnesses who should be contacted to provide input during the investigation.
- G. Within ten (10) days of receiving the Respondent's answer, the Investigator shall initiate an appropriate investigation which may include, but is not limited to, interviewing both the Complainant and the Respondent and any witnesses identified by either party, identifying any documents or tangible evidence supporting or opposing the Complaint, and undertaking any further investigation deemed appropriate by the Investigator. The investigation should be concluded within thirty (30) days after receiving the Respondent's answer, but the Investigator may extend the period of time for an investigation by notifying the Complainant and the Respondent.
- H. Within ten (10) days after completion of the investigation, the Investigator shall render a written decision and shall provide a copy of the written decision to the Complainant, Respondent, and the Compliance Officer. The written decision shall be a summary report containing a synopsis of the evidence and findings of fact as well as the conclusion regarding the Complaint. Additionally, if the Investigator determines that the allegations of the Complaint are substantiated, the decision shall be provided to the Decision Maker to take appropriate disciplinary action.
- I. Within ten (10) days of receipt of the Investigator's decision, if either the Complainant or the Respondent is not satisfied with the decision of the Investigator, either may submit a written request to the Compliance Officer for a hearing or determination of responsibility.
- J. Within ten (10) days of receiving a written request for a hearing or determination of responsibility, the Compliance Officer shall determine if a hearing is necessary on a case-by-case basis. If the Compliance Officer determines that a hearing is necessary, a written hearing is conducted. A written hearing consists of each party having ten (10) days from receipt of the investigation report to submit written, relevant questions that the party wants asked of another party or witness. Both parties will be provided with the answers and follow-up questions.
- K. Determination of Responsibility: The Decision Maker will review the investigation to determine responsibility and will issue a written Determination of Responsibility which:
 - a. Identifies the allegations that potentially constitute sexual harassment;

- b. Describes the District's procedural steps taken from receipt of the Complaint to the determination;
- c. Includes Findings of Fact to support the determination;
- d. Includes Conclusions regarding applicable discipline;
- e. Includes a statement of, and rationale for, the result as to each allegation, including a determination of responsibility, any disciplinary sanctions, and whether remedies to restore or preserve equal access to the District's educational programs or activities will be provided to the Complainant; and
- f. The procedures and permissible basis for appeals.

Appeals: Within ten (10) days of receipt of Decision Maker's determination of responsibility, dismissal of a complaint or any allegations therein either party may appeal for one of the following reasons:

1. A procedural error affected the outcome.
2. New evidence that was not reasonably available at the time of the determination and could affect the outcome;
3. Conflicts of interest on the part of the Compliance Officer, Investigator, or Decision Maker that affected the outcome.

If an appeal is made, District will provide written notice of the appeal to both parties. Both parties will be provided an equal opportunity to submit a written statement in support of or challenging the determination within ten (10) days of receipt of the written notice to both parties of the appeal being filed. The appeal will be heard by an appeal decision-maker who is not the Compliance Officer, the Investigator, or the original Decision Maker. The appeal decision-maker cannot have a conflict of interest or bias against complainants and respondents generally or the particular complainant and respondent. The appeal decision-maker will receive training as mandated by law. The decision of the appeal decision-maker will be final and nonappealable. The written decision of the appeal decision-maker will be provided within ten (10) days of the deadline for written statements supporting or challenging the initial determination. The written decision will be provided simultaneously to both parties.

Extension of Time: Except as otherwise provided, any time limits established by this policy and these procedures may be extended by mutual consent of the parties involved.

Retaliation: No person shall take any retaliatory action against a Complainant, a Respondent, or any person who participated in the investigation of alleged discrimination. Employees or students who engage in prohibited retaliation may be disciplined as set forth in District policies.

Confidentiality of Records: All records, complaints, notes, documents, and statements made during or relating to allegations of discrimination shall be maintained on a confidential basis by the Compliance Officer. However, in the event official proceedings relating to such allegations are initiated by a party or District, such records may become public in accordance with law. District shall maintain information pertaining to Complaints under this policy for three (3) years after completion of the investigation.