

A-0350 ACAB SEXUAL HARASSMENT INVOLVING STUDENTS

Prohibition Against Sexual Harassment. Sexual harassment is prohibited.

Types of Prohibited Sexual Harassment. Sexual harassment is unwelcome conduct of a sexual nature. It can take two forms:

Quid pro quo harassment occurs when a school employee or a person of authority, causes a student to believe that he or she must submit to unwelcome sexual conduct in order to participate in a school program or activity. It can also occur when an employee or a person of authority causes a student to believe that the employee or person of authority will make an educational decision based on whether or not the student submits to unwelcome sexual conduct.

Hostile environment harassment occurs when unwelcome conduct of a sexual nature is so severe, persistent or pervasive that it affects a student's ability to participate in or benefit from an education program or activity, or creates an intimidating, threatening or abusive educational environment. A hostile environment can be created by a school employee, another student or someone visiting the school.

Examples of Sexual Harassment. Sexual harassment can take many forms and can occur on or off school campus (i.e. on field trips, on off-campus athletic events). Girls can sexually harass girls and boys can sexually harass boys. Depending upon the circumstances, sexual harassment may include, but is not limited to:

- Suggestive or obscene letters, notes, or invitations or display of sexually suggestive objects, pictures, or cartoons.
- Sexually derogatory comments, slurs, or jokes.
- Sexual name calling or spreading of rumors of a sexual nature.
- Sexual touching, impeding or blocking movement, or leering gestures.
- Continuing to express sexual interest after being informed that the interest is unwelcome.
- Withholding earned or deserved grades or credits because the student reports the sexual harassment behavior or fails to comply with the sexual request, or implying or threatening that earned or deserved grades or credits will be withheld if the student reports the sexual harassment behavior or fails to comply with the sexual requests.
- Suggesting that a scholarship or college application will be denied if the student reports the sexual harassment behavior or fails to comply with sexual

requests, or actually taking action to see that a scholarship recommendation or college application will be denied if the student reports the sexual harassment behavior or fails to comply with the sexual requests.

- Any coercive sexual behavior used to control, influence, or affect educational opportunities, grades, and/or the learning environment of a student, including a request for a sexual favor from a person of authority.

Gender Based Harassment. Gender based harassment is a form of prohibited sexual harassment that occurs because a student does not conform to gender stereotypes.

Student Reports. Any student who believes he or she has been subject to sexual harassment or is aware that another student has been subjected to sexual harassment should report the situation to the school principal, assistant principal (if one is assigned to the school) or another school administrator as soon as possible. Students are strongly encouraged to make such reports no later than thirty (30) school days after the alleged sexual harassment has occurred. If the student requires assistance in completing a written report, the school administrator or the student's parent or guardian may provide that assistance.

In the event that school principal is the alleged cause of a complaint of sexual harassment, the student should report the behavior to the District's Assistant Superintendent for Human Resources.

In all cases in which a student or non-employee is alleged to have engaged in sexual harassment of a student, the school principal shall notify the appropriate Assistant Superintendent as soon as possible and no later than two (2) school days of receiving the report.

Initial reports may be provided verbally. A detailed written description of the incident and any other relevant information must thereafter be provided.

Employee reports. Any employee who personally observes or receives a complaint of sexual harassment against a student shall report the behavior or complaint to the school principal or assistant principal (if one is assigned to the school) as soon as possible, and no later than two (2) school days.

In all cases in which an employee is alleged to have engaged in sexual harassment of a student, the school principal shall notify the District's Assistant Superintendent for Human Resources as soon as possible, and no later than two (2) school days of receiving the report.

In the event that school principal is the alleged cause of a complaint of sexual harassment, the employee shall report the behavior to the District's Assistant Superintendent for Human Resources as soon as possible, and no later than two (2) school days.

Initial reports may be provided verbally. A detailed written description of the incident and any other relevant information must thereafter be provided on form ACAB-E, which will be provided to the employee.

Notification to Parent(s) of Complaint. Within five (5) school days of receiving a report of alleged sexual harassment, the school principal or other designated administrator shall contact the parent(s) or guardian(s) of the alleged victim of sexual harassment to notify the parent(s) or guardian(s) of the complaint or incident.

Informal Resolution. Upon written request of the individual making a complaint of sexual harassment to informally resolve the complaint without a full investigation, the District may agree to do so after careful consideration of the matter and a determination that the complainant has not been pressured to make such a request and that the District can do so without compromising its responsibilities under federal or state non-discrimination requirements or compromising the health, safety or welfare of the complainant or others. The District shall maintain documentation of complainant's request for informal resolution, the District's consideration of the request, the informal resolution that occurred and any other relevant information.

It is improper for the individual making a complaint of sexual harassment to be required to work out the problem directly with the alleged perpetrator.

The individual making the complaint has the right to end the informal resolution process at any time and to begin the formal stage of the complaint process. The District shall maintain a written record of the information resolution.

In cases involving allegations of sexual assault, mediation is not appropriate, even on a voluntary basis.

Prompt and Thorough Investigation. If sexual harassment is reported or if it is widespread or well known to students and staff, the District shall investigate the incident(s) in a prompt and thorough manner and document its investigation.

Assignment of Investigator. Typically, the school principal or another school administrator shall be responsible for conducting the investigation but in some circumstances, the District may assign another individual to conduct the investigation.

Within five (5) school days of receipt of a complaint or a report of alleged sexual harassment, a referral will be made to the appropriate individual for investigation and response or other appropriate action.

Investigative Process.

The investigative process should include the following:

- An interview with the individual who made the report.
- An interview with the alleged victim(s), if different than the individual who made the report.
- An interview with relevant witnesses.

- An interview with the alleged harasser(s).
- Provide the opportunity for the parties to present relevant witnesses and other evidence.
- Follow up interviews as needed.
- Review of relevant records or documents.
- Site visit(s) if deemed appropriate.

Timing of Investigation. The investigator will endeavor to complete the investigation within thirty (30) school days of the date the written complaint was received. If the investigation will require additional time, the investigator shall so notify the complainant(s) and/or alleged victim(s).

Written Investigation Report. The investigator shall prepare written findings and conclusions within fifteen (15) school days after the investigation has been completed. The report should reflect one of the following outcomes:

- A determination that there is sufficient evidence to indicate a violation of Policy ACAB;
- A determination that there is insufficient evidence to indicate a violation of Policy ACAB;
- A determination that inappropriate behavior or another policy violation has occurred; or
- A determination that there is sufficient evidence that an allegation is false (meaning that the person making the report knew it was untrue at the time the report was made).

Upon completion of the investigation report, the investigator shall meet with the alleged victim(s) to review the investigation results and with the alleged harasser(s) to review the investigation results and to inform the alleged harasser(s) of any remedial or disciplinary action that will be taken against the alleged harasser(s) as a result of the investigation.

Retention of Investigation Report. The District shall retain a record of the investigation report in accordance with Arizona's records retention statutes.

Remedial or Disciplinary Action. If the investigation results in a finding that the alleged conduct occurred and that it constituted sexual harassment, the District will take prompt and appropriate remedial action reasonably calculated to stop the harassment. The District will maintain documentation of the action taken.

An individual who is determined to have engaged in prohibited sexual harassment will be subjected to appropriate remedial or disciplinary consequences, in accordance with applicable Governing Board Policies and Administrative Regulations. The District will maintain documentation of the action taken.

Meeting with Parties to Review Investigation Outcome. Within ten (10) school days after the investigation report has been completed, the investigator shall meet with the alleged

victim(s) to review the investigation results. The alleged victim(s) should be told what action, if any, is being taken to prevent further incidents of harassment and should also be told to report any further incidents or harassment or possible retaliation.

Within ten (10) school days after the investigation report has been completed, the investigator shall also meet with the alleged harasser(s) to review the investigation results and be informed of any remedial or disciplinary action that will be taken against the alleged harasser as a result of the investigation. The alleged harasser shall also be reminded that it is a violation of law and District policy to retaliate against an individual for reporting sexual harassment or participating in an investigation.

Reports of Possible Crimes. When the alleged sexual harassment may constitute a violation of the law, the incident shall be reported promptly to the appropriate law enforcement agency. The District shall not wait for the conclusion of a criminal investigation or a criminal proceeding to begin its own Title IX investigation. If necessary, the District must take interim preventative measures to ensure the safety of the alleged victims and of the larger school community during the criminal investigation or criminal proceeding.

Child Abuse Reporting. A school employee who reasonably believes that a minor has been the victim of physical injury, abuse, child abuse or neglect that appears to have been inflicted by other than accidental means or that is not explained by the available medical history as being accidental shall make a mandatory report in accordance with District regulation [JLF-RB](#). The requirement to report suspected abuse is applicable whether the alleged abuser is a student or an adult.

Confidentiality. All matters involving complaints of sexual harassment will remain confidential to the extent possible.

Non-retaliation. Retaliation in any form for filing a report of sexual harassment or participating in an investigation relating to sexual harassment is prohibited.

FERPA. The District shall comply with the requirements set forth in the Family Educational Rights and Privacy Act (FERPA) in the investigation and handling of a sexual harassment complaint.

Submission of Appeal. If a party to a sexual harassment complaint is not satisfied with the outcome of the investigation, he/she may submit a written appeal to the office of the Superintendent. The written appeal should be submitted within ten (10) school days of the date the party met with the investigator to review the investigation report.

The written appeal should provide: (a) The party's specific objections to the investigator's findings and/or conclusions; and (b) Any new information or documentation that was not available at the time of the initial investigation.

The Superintendent shall designate an appropriate Assistant Superintendent to process the appeal. The appeal process shall consist of the following: (a) A review of all

documentation created in conjunction with the initial investigation; (b) Consideration of any new information or documentation submitted with the written appeal; (c) If the new information or documentation warrants further investigation, additional investigation shall be conducted.

Upon appropriate review of the written appeal, the parties shall be notified of the results of the appeal process.

Time Frames. The District will endeavor to honor all time frames described above. However, there may be circumstances in which the time frames described above are not met, for good cause reasons. In such circumstances, the District will take the required action in as timely a fashion as possible under the circumstances.

Adopted:

LEGAL REF:

[20 U.S.C. 1681](#), Education Amendments of 1972, Title IX

[20 U.S.C. 1703](#), Equal Employment Opportunity Act of 1972

CROSS REF.: [JB](#) - Equal Educational Opportunities

[JI](#) - Student Rights and Responsibilities

[JIC](#) - Student Conduct

[JICD](#) - Student Conduct in School

[JICFA](#) - Hazing