

SEXUAL HARASSMENT

The Board of Education recognizes that harassment on the basis of sex, gender, gender identity or expression, and/or sexual orientation is abusive and illegal behavior that harms individuals and negatively impacts the school culture by creating an environment of fear, distrust, intimidation and intolerance. The Board further recognizes that preventing and remedying such harassment in schools is essential to ensure a healthy, nondiscriminatory environment in which students can learn and employees can work productively.

Sexual harassment is a form of discrimination and is unlawful under this policy, federal and state law. This policy applies to students, employees, applicants for employment, paid or unpaid interns, volunteers, contractors, subcontractors, and persons doing business with the Rochester City School District.

The Board is committed to providing an educational and working environment that promotes respect, dignity and equality and that is free from all forms of sexual harassment. To this end, the Board condemns and strictly prohibits all forms of sexual harassment on school grounds, school buses and at all school-sponsored activities, programs and events, including those that take place at locations outside the district.

Definitions

Sex-based harassment can be comprised of two types of behavior: sexual harassment and/or gender-based harassment.

Sexual harassment is unwelcome conduct of a sexual nature, which can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature (see regulation 0110-R for examples).

Gender-based harassment includes verbal, nonverbal or physical aggression, intimidation or hostility that is based on actual or perceived gender and sexual stereotypes (see regulation 0110-R for examples). Sexual or gender-based harassment of a student can deny or limit the student's ability to participate in or to receive benefits, services, or opportunities from the school's program.

Prevention

Preventing sexual harassment or discrimination largely depends upon creating a climate of respect for the dignity of each person. The District will promote civility, respect, and understanding by providing training to raise awareness of:

- The specific behaviors that constitute sexual harassment in all of its forms;
- The short- and long-term impact of sexual harassment on the individual and the larger community;

- The importance of reporting incidents of sexual harassment to convey an intolerance for this behavior and to support individuals who have been the target of such harassment; and
- The process for reporting, investigating, and resolving incidents of sexual harassment.

Training regarding sexual harassment will be provided on a regular basis to students, employees, and newly hired employees. The training must cover all elements required by law, meet minimum state standards, and include interactive activities (e.g. question and answer session, quiz, feedback survey). Sexual harassment training may be provided by the District or by an approved contractor.

Paid and unpaid interns, applicants for employment, volunteers, contractors, subcontractors and persons doing business with the Rochester City School District will be instructed to review this policy, which will be posted on the District website with a complaint form (0100-R).

Reporting and Investigation in the Rochester City School District

In order for the Board to effectively enforce this policy and to take prompt corrective measures, it is essential that all targets of sexual harassment and persons with knowledge of sexual harassment report the harassment immediately. The District will promptly investigate all complaints of sexual harassment, either formal or informal, verbal or written. To the extent possible, all complaints will be treated in a confidential manner. Limited disclosure may be necessary to complete a thorough investigation. If the complainant reports that they feel unsafe at school due to the nature of the complaint, the District will determine if accommodations need to be made until the issue is resolved.

All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe sexually harassing behavior, or suspect that sexual harassment is occurring are required to file a report. Supervisors and managers will be subject to discipline for failing to report suspected sexual harassment or knowingly allowing sexual harassment to continue.

If, after appropriate investigation, the District finds that a student, an employee or a third party has violated this policy, prompt corrective action will be taken in accordance with the applicable collective bargaining agreement, District policy and state law.

All complainants and those who participate in the investigation of a complaint of sexual harassment have the right to be free from retaliation of any kind. Anyone who retaliates against an individual who has in good faith reported or assisted in an investigation of sexual harassment will be subjected to disciplinary action, up to and including termination of employment, internship, volunteering, or business with the Rochester City School District.

Additional Legal Protections and Remedies

In addition to reporting incidents of sexual harassment to authorities in the Rochester City School District, individuals can also file a report with any of the following government agencies:

The New York State Division of Human Rights: enforces New York State Human Rights Law, which protects employees, paid or unpaid interns, and non-employees when this law has been violated. Complaints can be filed within one year of the incident of harassment, or a suit can be filed in state court within three years of the incident. For more information, go to: www.dhr.ny.gov or contact 1-888-392-3644.

U.S. Equal Employment Opportunity Commission (EEOC): enforces federal anti-discrimination laws, allowing individuals to file a complaint any time within 300 days of the incident of harassment. For more information, go to: www.eeoc.gov or contact 1-800-669-4000.

If the sexual harassment involved physical touching, coerced physical confinement or coerced sexual acts, this may constitute a crime and should be reported to the local police department.

Implementation of Policy in the Rochester City School District

The Superintendent of Schools is directed to develop and implement regulations for reporting, investigating and remedying allegations of sexual harassment. These regulations are to be attached to this Policy. In addition, training programs shall be established to raise awareness of the issues surrounding sexual harassment and to implement preventative measures to help reduce incidents of sexual harassment.

This Policy shall be posted in a prominent place in each District facility, on the District's website, and shall also be published in student registration materials; student, parent and employee handbooks; information provided to contractors and vendors doing business with the District; and other appropriate publications.

A committee of administrators, teachers, parents, students and the General Counsel shall be convened annually to review this Policy's effectiveness and compliance with applicable state and federal law, and to recommend revisions to Board.

Ref: Education Amendments of 1972, Title IX, 20 U.S.C. §1681 *et seq.*

Title VII of Civil Rights Act (1964), 42 U.S.C. §2000-e; 34 CFR §100 *et seq.*

Davis v. Monroe County Board of Education, 526 U.S. 629, 652 (1999)

Gebser v. Lago Vista Independent School District, 524 U.S. 274 (1998)

Faragher v. City of Boca Raton, 524 U.S. 775 (1998)

Burlington Industries v. Ellerth, 524 U.S. 742 (1998)

Oncale v. Sundowner Offshore Services, Inc., 523 U.S. 75 (1998)

Franklin v. Gwinnett County Public Schools, 503 U.S. 60 (1992)

Meritor Savings Bank, FSB v. Vinson, 477 U.S. 57 (1986)

Office for Civil Rights *Revised Sexual Harassment Guidance (January 19, 2001)*

Office for Civil Rights, *Dear Colleague Letter: Sexual Harassment Issues (2006)*

Office for Civil Rights, *Dear Colleague Letter: Bullying (October 26, 2010)*

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