

	ABERDEEN SCHOOL DISTRICT	NEPN Code: GBAA-R
	POLICIES AND REGULATIONS	

HARASSMENT/SEXUAL HARASSMENT

A. Definitions

1. Harassment: Harassment consists of physical or verbal conduct related to a person's race, color, creed, religion, ancestry, gender, national origin, disability, age, or other basis prohibited by law when the conduct is so severe, pervasive, and objectively offensive that it:

- a. has the purpose of effecting or creating an intimidating, hostile or offensive working environment;
- b. has the purpose or effect of substantially or unreasonably interfering with an individual's work performance which deprives the staff member access to employment opportunities.

2. Sexual Harassment: Sexual harassment is any unwelcome sexual advance(s), request(s) for sexual favors and/or other verbal, physical, and/or visual contact(s) of a sexual nature, or communication of a sexual nature when:

- a. submission to such conduct or communication is made, either explicitly or implicitly, a term of a person's initial employment; or
- b. submission to or rejection of such conduct or communication by an individual is used as a factor in hiring, evaluation, retention, promotion, or any other aspect of employment; or
- c. such conduct or communication has the purpose or effect of interfering with an individual's ability to work, creating an intimidating, hostile, or offensive working environment; or
- d. such conduct is so severe, pervasive, and objectively offensive that such conduct or communication has the purpose or effect of depriving the employee access to employment opportunities or benefits provided by the District.

3. Sexual harassment may include but is not limited to:

- a. unwelcome verbal harassment or abuse based upon gender;
- b. unwelcome pressure for sexual activity;
- c. unwelcome, gender-motivated, or inappropriate patting, pinching, or physical contact, other than necessary restraint of students by teachers, administrators, or other school personnel to avoid physical harm to persons or property;
- d. unwelcome behavior or words, based upon gender, including demands for sexual favors, accompanied by implied or overt threats concerning the individual's employment;
- e. unwelcome behavior or words, based upon gender, including demands for sexual favors, accompanied by implied or overt promises of preferential treatment with regard to an individual's employment.
- f. Displaying pictures, posters, calendars, graffiti, objects, promotional materials, reading materials or other materials that are sexually suggestive, sexually demeaning, or pornographic, in the work environment.

B. Reporting Incidents of Harassment

Any person who believes he or she has been the victim of harassment as defined above by a student or school personnel of the District shall report the alleged acts immediately to the

building principal, the department director, or the Superintendent or his/her designee. The report shall be on a form available from the principal of each building, the Human Resources Office, or the District website at www.aberdeen.k12.sd.us.

1. **Designated Personnel.** The building principal is the person designated by the District for receiving written reports of harassment at each school building. All other written reports shall be directed to the applicable department director. Upon receipt of a report, the principal or director shall immediately notify the Superintendent or his/her designee and forward the written report form to his/her office. Failure to forward any harassment report or complaint as provided herein will result in disciplinary action. If the complaint involves the building principal or department director, the complaint shall be filed directly with the Superintendent or his/her designee.
2. **District wide.** The School Board hereby designates the Superintendent or his/her designee as the School District's Title IX Coordinator to receive reports or complaints of harassment from any individual, employee or victim of harassment and also from the building principal or department director as outlined above. If the complaint involves the Superintendent, the complaint shall be filed directly with the Board President.
3. **Submission of a complaint or report of harassment.** Submission of a complaint or report of harassment will not affect the individual's employment or work assignments.
4. **Confidentiality.** The School District will make attempts to respect the confidentiality of the complainant and the individual(s) against whom the complaint is filed as much as possible consistent with the School District's legal obligations and the necessity to investigate allegations of harassment and take disciplinary action when the conduct has occurred.
5. **Procedure.** The complainant will be asked to put the facts surrounding the conduct in writing on a form provided by the District that includes the following: complainant's name and address; time and date of the incident; type of harassment; description of the incident; name of or identifying information about the alleged perpetrator; name of any witnesses, evidence if available, what action, if any, has been taken; and signature of the complainant.
6. **Required Reporting.** If the accusations include possible criminal activity such as molestation, sexual battery, or similar contact, the Title IX Coordinator shall comply with all mandatory state reporting requirements including, but not limited to, contact with the Department of Social Services and/or law enforcement.

C. Investigation

Upon receipt of a written report alleging harassment, the Superintendent/Title IX Coordinator or his/her designee shall immediately authorize an investigation. This investigation may be conducted by District officials or by a third party designated by the School District. The investigating party shall provide a written report of the status of the investigation within ten (10) working days to the Superintendent/Title IX Coordinator.

In determining whether alleged conduct constitutes harassment, the District should consider the surrounding circumstances, the nature of the advances, relationships between the parties involved, and the context in which the alleged incidents occurred.

The investigation may consist of personal interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of any other methods and documents deemed pertinent by the investigating party.

In addition, the District may take immediate steps at its discretion to protect the complainant, students, and employees pending completion of an investigation of alleged harassment.

During the investigation, all parties directly involved in the complaint may have legal or other representation. If any party elects to be represented at any step of the complaint procedure, the name of the representative must be declared in writing to the Superintendent or his/her designee within two (2) days of the filing of the complaint, notification of any investigation, or the filing of any appeal.

D. School District Action

1. Upon receipt of the recommendation that the allegations of the complaint constitute a violation of District policy, the District will take such action as appropriate based upon the results of the investigation.
2. The results of the investigation of each complaint will be reported in writing and kept on file in the Human Resources Office. The report shall include findings of fact and will document the disciplinary action taken if any, as a result of the complaint.
3. The complainant will be advised of the District decision in writing on a form supplied by the District within ten (10) working days.
4. If either party is not satisfied with the written decision rendered by the School District, he or she may appeal the decision in writing to the Superintendent within ten (10) working days following receipt of the decision. The appeal must include the original complaint form, a copy of the written decision, and a written statement as to the reason for appeal.
5. The Superintendent will review the material submitted, investigate the circumstances, and respond in writing within fourteen (14) working days of the appeal with a determination to uphold, modify, or reverse the District decision. At the Superintendent's discretion, an additional investigation may be conducted, including interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The appeal may include any other methods or documents deemed pertinent by the Superintendent.
6. If either party is not satisfied with the decision rendered by the Superintendent, he or she may request a hearing in executive session with the School Board. The request for hearing must be submitted in writing through the Superintendent's Office within ten (10) working days following receipt of the Superintendent's response. The appeal must include the original complaint form, a copy of the written decision from the Superintendent, and a written statement as to the reasons for appeal. The hearing will be scheduled within thirty (30) working days of the request for hearing. The parties involved will be notified in writing of the time and date of the scheduled hearing.
7. The School Board will render a decision in writing within ten (10) working days of the hearing.

E. Prohibition against Retaliation

The School District will discipline any individual who retaliates against any person who reports alleged harassment or who retaliates against any person who testifies, assists, or participates in any investigation, proceeding, or hearing related to a harassment complaint.

Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment. Retaliation is itself a violation of federal and state laws prohibiting discrimination and may lead to separate disciplinary action against an individual.

If any school personnel or student who has filed a complaint or has testified, assisted, or participated in the investigation of harassment believes that he or she has been retaliated against because of his or her participation, he or she report the incident to the building principal,

the department director, or the Superintendent or his/her designee immediately.

F. False Charges

Charges found to have been intentionally dishonest or made maliciously without regard for truth may subject complainants to disciplinary action.

G. Uncomfortable Situations

The District recognizes that not every uncomfortable situation constitutes harassment. Whether a particular action or incident is a personal, social relationship without a discriminatory effect on employment requires a determination based on all the facts and surrounding circumstances. False accusations can have a serious detrimental effect on innocent parties.

H. Discipline

Any District action taken pursuant to this policy will be consistent with requirements of applicable collective bargaining agreements and School District policies. The District will take such disciplinary action it deems necessary and appropriate, including but not limited to, warning, suspension, or immediate discharge to end harassment and prevent its recurrence.

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