

*Board File: JBC*

## **Sexual Harassment Under Title IX and Other Prohibited Misconduct of a Sexual Nature**

*Proposed Revisions by Board of Education August 4, 2020*

**The District is committed to maintaining a learning environment that is free from sexual harassment consistent with Board Policy AC and prohibited by Title IX. The District also prohibits misconduct of a sexual nature which may not constitute a violation of Title IX, but which nevertheless interferes with a student's participation in District programs or activities.**

### **Sexual Harassment Prohibited by Title IX**

**In accordance with Board File AC and its supporting regulation(s), the Board prohibits sexual harassment of students in violation of Title IX. Sexual harassment prohibited by Title IX and addressed in Board File AC means conduct on the basis of sex that satisfies one or more of the following:**

1. **An employee of the District conditions the provision of an aid, benefit, or service of the District 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 District's education program or activity;**
3. **"Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).**

### **Other Prohibited Misconduct of a Sexual Nature**

**The Board recognizes that misconduct of a sexual nature may not always constitute sexual harassment under Title IX but can nonetheless interfere with a student's participation in a District program or activity.** The Board recognizes that sexual harassment can interfere with a student's academic performance and emotional and physical well-being and that preventing and remedying sexual harassment in schools is essential to ensure a nondiscriminatory, safe environment in which students can learn. In addition, sexual harassment is recognized as a form of sex discrimination and thus is a violation of the laws that prohibit sex discrimination, as addressed in the Board's policy concerning unlawful discrimination and harassment.

### **District's commitment**

The district is committed to maintaining a learning environment that is free from sexual harassment. It shall be a violation of policy for any staff member to harass students or for

students to harass other students through conduct or communications of a sexual nature or to retaliate against anyone that reports sexual harassment or participates in a harassment investigation.

The district shall investigate all indications, informal reports and formal grievances of sexual harassment by students, staff or third parties and appropriate corrective action shall be taken. Corrective action includes taking all reasonable steps to end the harassment, to make the harassed student whole by restoring lost educational opportunities, to prevent harassment from recurring and to prevent retaliation against anyone who reports sexual harassment or participates in a harassment investigation.

**Therefore, in addition to prohibiting conduct in violation of Title IX, the District also prohibits other misconduct of a sexual nature which interferes with a student's participation in a District program or activity. Such conduct may include, but is not limited to, sex-oriented verbal kidding, remarks to a person with sexual implications, and unwelcome touching.**

### **Sexual harassment prohibited**

Unwelcome sexual advances, requests for sexual favors, or other verbal, non-verbal or physical conduct of a sexual nature may constitute sexual harassment, even if the harasser and the student being harassed are the same sex and whether or not the student resists or submits to the harasser, when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of a student's participation in an education program or activity.
2. Submission to or rejection of such conduct by a student is used as the basis for education decisions affecting the student.
3. Such conduct is sufficiently severe, persistent or pervasive such that it limits a student's ability to participate in or benefit from an education program or activity or it creates a hostile or abusive educational environment. For a one-time incident to rise to the level of harassment, it must be severe.

Any conduct of a sexual nature directed by a student toward a staff member or by a staff member to a student is presumed to be unwelcome and shall constitute sexual harassment.

Acts of verbal or physical aggression, intimidation or hostility based on sex, but not involving conduct of a sexual nature may also constitute sexual harassment.

Sexual harassment as defined above may include, but is not limited to:

1. sex-oriented verbal "kidding," abuse or harassment,
2. pressure for sexual activity,

3. ~~repeated remarks to a person with sexual implications,~~
4. ~~unwelcome touching, such as patting, pinching or constant brushing against the body of another,~~
5. ~~suggesting or demanding sexual involvement, accompanied by implied or explicit threats concerning one's grades or similar personal concerns,~~
6. ~~sexual violence.~~

### **Reporting, investigation and ~~sanctions~~ discipline**

**Any student who believes he or she has been a victim of sexual harassment in violation of Title IX or misconduct of a sexual nature in violation of this policy, or who has witnessed such harassment or misconduct, shall immediately report it to an administrator, counselor, teacher or the District's Compliance Officer, or Title IX Coordinator, as appropriate, and file a complaint as set forth in the applicable regulation which accompany Board File AC.**

**The District shall take appropriate action to promptly and impartially investigate allegations of such sexual harassment and/or misconduct, to end unlawful behavior, to prevent the recurrence of such behavior and to prevent retaliation against the individual(s) who files the complaint and/or any person who participates in the investigation. When appropriate, the District shall take interim measures during the investigation to protect against further harassment, misconduct, or retaliation.**

**To the extent possible, all reports of sexual harassment and/or misconduct of a sexual nature will be kept confidential. Students who knowingly file false complaints or give false statements in an investigation shall be subject to discipline, up to and including suspension/expulsion. No student shall be subject to adverse treatment in retaliation for any good faith report of sexual harassment as defined by Title IX or other misconduct of a sexual nature addressed under this policy.**

**Any student who engages in sexual harassment in violation of Title IX or misconduct of a sexual nature in violation of this policy shall be disciplined according to applicable Board policies.**

**In cases involving potential criminal conduct, the District's Compliance Officer or the District's Title IX Coordinator, as applicable, shall determine whether appropriate law enforcement officials should be notified.**

Students are encouraged to report all incidences of sexual harassment to either a teacher, counselor or principal in their school building and file a complaint, through the district's complaint and compliance process. All reports and indications from students, district employees and third parties shall be forwarded to the compliance officer.

All matters involving sexual harassment reports shall remain confidential to the extent possible as long as doing so does not preclude the district from responding effectively to the harassment or preventing future harassment. Filing of a complaint or otherwise reporting sexual harassment shall not reflect upon the individual's status or affect grades.

In determining whether alleged conduct constitutes sexual harassment, the totality of the circumstances, the nature of the conduct, and the context in which the alleged conduct occurred shall be investigated.

Any student found to have engaged in sexual harassment shall be subject to discipline, including, but not limited to, being placed under a remedial discipline plan, suspension or expulsion, subject to applicable procedural requirements and in accordance with applicable law. Conduct of a sexual nature directed toward students shall, in appropriate circumstances, be reported as child abuse for investigation by appropriate authorities in conformity with applicable law and Board policy.

### Notice and training

Notice of this policy shall be circulated to all ~~d~~District schools and departments and incorporated in all student handbooks.

All students and ~~d~~District employees shall receive periodic training related to this policy and recognizing and preventing sexual harassment **in violation of Title IX**. District employees shall receive additional periodic training related to handling reports of sexual harassment **in violation of Title IX**.

**Training materials regarding sexual harassment under Title IX shall be available to the public on the District's website.**

### **Retaliation prohibited**

**The District prohibits retaliation of any individual who has made a report or complaint in violation of this policy. Further, it is a violation of this policy to intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in any investigation, proceeding, or hearing held in furtherance of this policy, Board File AC, and/or the Superintendent policies and regulations in support of Board File AC, including Superintendent policy addressing the District's Title IX sexual harassment grievance process.**

Adopted by Board: November 12, 2019

Revised: \_\_\_\_\_

LEGAL REF.: 20 U.S.C. § 1681 et seq. (Title IX of the Education Amendments of 1972)

CROSS REF.: AC - Nondiscrimination/Equal Opportunity

AC-R-1 - Nondiscrimination/Equal Opportunity (Complaint and Compliance Process)

AC-R-2 –Title IX Sexual Harassment Grievance Process

JB – Equal Educational Opportunities

JBA – Nondiscrimination/Non-harassment of Students

JLF, Reporting Child Abuse

Revised