

## **Sexual Harassment**

Sexual harassment is recognized as a form of sex discrimination and thus a violation of the laws, which prohibit sex discrimination.

A learning and working environment that is free from sexual harassment shall be maintained. It shall be a violation of policy for any member of the district to harass staff members or students through conduct or communications of a sexual nature.

Administrative personnel at all levels are responsible for taking reasonable and necessary action to prevent sexual harassment. All members of the school community, employees, and students are required to promptly report conduct that could be in violation of this policy.

The School District will (1) respond to every complaint of sexual harassment reported, (2) take action to provide remedies when sexual harassment is discovered, (3) impose appropriate sanctions on offenders in a case-by-case manner, and (4) protect the privacy of all those involved in sexual harassment complaints to the extent it is possible.

Unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature may constitute sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment or educational development.
2. Submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual.
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment.

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, or demeaning implications.
4. Unwelcome touching, such as patting, pinching, or constant brushing against another's body.

5. Suggesting or demanding sexual involvement, accompanied by implied or explicit threats concerning one's grades, employment status, or similar personal concerns.

Any individual who believes he/she may have experienced sexual harassment, or who believes that he/she has observed sexual harassment taking place, should report this information immediately through use of the accompanying complaint procedure. If the alleged harasser is the immediate supervisor or principal with whom a complaint routinely would be filed, the student or employee may file the complaint with the superintendent's designee. In addition reports of sexual harassment may be reported directly to the District's Equal Opportunity/Title IX compliance officer.

The good faith filing of a complaint or reporting or sexual harassment shall not reflect upon the individual's status nor affect future employment, work assignments, or grades. Retaliation against anyone who makes a complaint or participates in the complaint process will not be tolerated.

Notice of this policy shall be circulated to all district schools and departments and incorporated in employee and student handbooks.

Adopted: May 2, 1989

Revised: January 21, 1992

Revised: February 25, 1997

Revised: April 27, 1999

LEGAL REFS.: Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e *et seq.*  
Title IX of the Education Amendments of 1972, U.S.C. 1681 *et seq.*  
C.R.S. 24-34-401 *et seq.*

**SEXUAL HARASSMENT  
(Complaint and Investigation Procedure)**

**Reporting Suspected Sexual Harassment**

Any employee who believes he/she may have experienced sexual harassment, or who believes that he/she has observed sexual harassment taking place, should report this information immediately to one of the following "reporting officials":

1. Immediate supervisor;
2. If the immediate supervisor is the alleged harasser, then the complaint should be filed with:

The Superintendent's Designee  
Administration Building  
591 East 80<sup>th</sup> Avenue  
Denver, CO 80229  
303-853-1015

Reports/complaints, whether informal or formal, received by an immediate supervisor must, in turn, be immediately reported to the Superintendent's designee.

Unless otherwise provided herein, investigation of sexual harassment complaints shall be the responsibility of the Superintendent's designee.

**Procedures for Investigation and Resolution  
of Sexual Harassment Complaints**

The School District has adopted procedures to promptly and fairly address concerns and complaints about sexual harassment. Complaints may be submitted informally or formally. If a complaint implicates or involves both this policy and any other School District complaint or grievance policy or procedure, the School District may, in its discretion, suspend the procedures relating to other complaints or grievance policies pending completion of the sexual harassment complaint procedures.

**Investigation of Complaints**

Unless otherwise provided herein, responsibility for the investigation of both formal and informal sexual harassment complaints shall be with the Superintendent's Designee ("investigator"). The Superintendent has the authority to appoint an alternate investigator

as circumstances require and in his/her sole discretion. The procedures outlined herein shall control in the event an alternate investigator is appointed under any provision of this policy.

Complaints will be addressed as confidentially as possible, considering the specific circumstances of the allegations, to protect the rights of both the complainant and the person accused. The investigator may gather information from any sources deemed necessary in an effort to fully investigate and resolve the complaint.

**Investigator Conflict of Interest:** The complainant alleged offender and/or the investigator may allege that the investigator has a substantial conflict of interest. In that event, details supporting the alleged conflict of interest must be submitted in writing to the Superintendent within five (5) business days of the date the person alleging the conflict has notice of the investigator's identify. The Superintendent will determine whether a conflict may exist, and, if so, he/she shall appoint an alternate investigator in an expeditious manner. The Superintendent's decision is final. In the event a request for an alternate investigator is made and/or an alternate investigator must be appointed, the specific time lines provided in the policy shall be suspended pending that appointment.

#### Informal Complaint Process

An individual who feels he/she has been sexually harassed may desire to resolve his/her complaint informally (i.e., without formal disciplinary action being taken against the accused individual and without the formal investigatory process). Informal complaints are not required to be made in writing. An example of an informal complaint is one where the complainant requests only that an appropriate School District official counsel the accused individual to cease and desist the alleged conduct, and requests no other specific action(s) be taken against the accused.

Persons making informal complaints of sexual harassment agree and understand that no formal disciplinary action will be taken against the alleged offender based on an informal complaint. If the complainant chooses, he/she may at any time prior to resolution of the informal complaint amend the informal complaint to a formal complaint.

If the alleged offender elects not to participate in resolving an informal complaint, the nonparticipation will not be considered as damaging evidence but will not change or waive the School District's responsibility to investigate and to make decisions based on available information.

The investigator may, if the circumstances warrant, request that the alleged offender's immediate supervisor counsel him/her regarding the alleged conduct, and/or may recommend counseling, training, education, and/or other non-disciplinary actions be

implemented or undertaken. Attempts to resolve an informal complaint will be completed within thirty (30) days from the date of receipt of the complaint by the investigator. The complainant and the alleged offender will be informed in writing of the outcome of the informal process.

Note: The School District will attempt to balance the wishes of a complainant who does not want to file a formal complaint with the School District's responsibility to respond to serious allegations and take prompt, appropriate corrective action. A complainant who chooses not to proceed with a formal complaint may be asked to state that preference in writing.

### Formal Complaints of Sexual Harassment

#### A. Filing a Complaint:

Formal complaints must be delivered by the complainant to the reporting official. The formal complaint must be filed as soon as possible after the alleged incident occurred or after attempts to resolve the situation informally have been unsuccessful.

The formal complaint must be in writing, signed by the complainant, and shall include the following information:

1. Details concerning the incidents or conduct giving rise to the complaint;
- 2 . Dates and location of incidents;
3. Any witnesses to the alleged incidents or conduct;
4. Action requested to resolve the complaint and prevent future violations of the policy.

#### B. Notifying the Person Accused / Supervisor.

The alleged offender will be provided with a copy of the complaint by the investigator within five (5) business days of the investigator's receipt of said complaint. The investigator will notify the supervisor of the accused person regarding the complaint, in order that the supervisor may take appropriate temporary and/or remedial actions during the investigation. (Example: temporary assignment, investigate leave of absence.)

**C. Investigative Process:**

The alleged offender will be required to submit a written response to the complaint within five (5) business days of receipt of a complaint, a copy of which will be provided to the complainant by the investigator.

The investigator will interview the complainant and the alleged offender, may also interview witnesses, supervisors, and/or any other persons who may have information about the alleged incident, and may review personnel or other records relevant to the complaint. The complainant and the accused person shall be permitted to suggest witnesses and/or other evidence, which shall be considered by the investigator. All individual interviews will be audio taped and subsequently transcribed in written format. Any person interviewed shall have the right to request a review of his/her transcribed statement for accuracy.

**D. Investigative Findings:**

Within thirty (30) days of receiving the formal written complaint, the investigator will assess whether a violation of the policy has occurred and will submit findings in writing to the complainant and the person accused. If the investigator finds by a preponderance of the evidence (that it is more likely than not) that the alleged sexual harassment has occurred, the investigator shall notify the accused person, his/her immediate supervisor, and the Executive Director of Human Resources.

The supervisor of the alleged offender shall be responsible for acting on the findings of the investigator. In accordance with School District disciplinary policies/procedures, the supervisor shall consult with and/or notify the appropriate School District administrative official(s) regarding formal disciplinary actions to be taken against the person accused.

**E. Disciplinary Action:**

Within ten ( 10) business days of receiving the investigator's findings, the supervisor shall meet with the accused person to discuss the findings and recommendations and shall determine appropriate disciplinary action. In making a decision regarding discipline, the supervisor shall consider properly established records of previous conduct and the seriousness of the violation. Where a pattern or practice of sexual harassment exists or prior complaints of sexual harassment have been confirmed the supervisor shall consider the totality of information in determining appropriate discipline, and may also take formal disciplinary action. The supervisor may also review any part of the investigative records.

Appropriate discipline may range from an oral reprimand up to and including termination/dismissal or any other appropriate remedial action. The investigator and the Executive Director of Human Resources shall be consulted regarding disciplinary decisions.

Both the accused person and investigator will be notified in writing of the decision of the supervisor. The investigator will, in turn, notify the complainant regarding the resolution of the complaint, what corrective action, if any, will be taken, and/or, in general, whether any discipline will be imposed.

Appeal of Formal Complaint Resolution / Disciplinary Action

A. Filing an appeal:

Either the complainant or person accused may file an appeal of any decision concerning the resolution of the complaint. An appeal by either party must be made in writing, delivered to the Office of the Superintendent within five (5) business days of receipt of the notice of resolution/disciplinary decision.

The written appeal must state in detail the reason(s) for the appeal and shall address one or more of the following:

1. If the appeal alleges the findings of the investigator included relevant factual errors or omitted relevant facts, the appeal shall specify each and every alleged factual error, and/or details of each, and every relevant fact that was omitted from the investigation;
2. If the appeal alleges substantive procedural errors, the person appealing shall identify each and every instance of said substantive procedural error;
3. If the appeal alleges relevant and substantive issues or questions concerning interpretation of School District policy, the person appealing shall state, in detail, the issues/questions supporting this allegation;
4. If the appeal alleges new information or evidence, the person appealing shall specify the reasons why said information was not available or provided to the investigator during the investigation, including specific reasons why said information could not have been provided on a timely basis;
5. If the appeal alleges either that the action(s) or inaction(s) of the supervisor in response to the findings of the investigator will not prevent future violation(s) of

this policy, the person appealing shall specify, in detail, the reasons and basis for this belief/allegation.

No disciplinary or other action based on the complaint shall be taken against the alleged offender during the appeal process, although temporary, interim measures may remain in place. As indicated herein, the School District in its discretion, may at any point in the complaint process elect to place the alleged offender on administrative leave, with pay, or implement a temporary reassignment.

**B. Sexual Harassment Appeal Committee:**

Appeals shall be submitted to a Sexual Harassment Appeal Committee whose members shall be selected and appointed by the Superintendent. The Committee will include at least one male and one female.

**Member Appointments:** Both the complainant and the alleged offender shall be provided with an opportunity to submit written objections within a specific time period to the appointment of any Committee member(s) on the basis of that member's inability to act impartially. If the Superintendent determines that a Committee member cannot act impartially, then an alternate appointment shall be made. The Committee shall be appointed in a timely manner, considering all relevant circumstances. The Superintendent's decision regarding Committee appointments is final.

**Hearing / Committee Recommendation:** The Committee will conduct a formal hearing and will allow the complainant and the accused person ("the parties") to present information which, in the Committee's discretion, is relevant to the allegations. If the appeal involves allegations described in item 5, above, the Committee will likewise consider the statement(s) of the supervisor. The Committee shall have sole discretion regarding the personal appearance of any witness, whether to consider only the parties' statements and review only the written record, or any other matter regarding the conduct of the hearing. The hearing will not be considered a judicial hearing but rather an internal hearing at which the complainant and the alleged offender are present. The formal hearing shall be audio taped and transcribed. The Committee's deliberations shall be closed to all persons other than the Committee members and shall not be audio taped. Its recommendation will be determined by a majority vote, shall be in writing, and delivered to the Superintendent. It may be accompanied by a minority opinion. The appeal will be conducted and completed in an expeditious manner, considering all the circumstances.

**Superintendent's Review and Recommendation:** The Superintendent shall review the recommendation and may either affirm, amend, or return the recommendation for further deliberation and recommendation by the Committee. The Superintendent's review and decision will be conducted in an expeditious manner, considering all the circumstances, shall be a final decision, and will be reported in writing to the complainant, person accused, the supervisor, and the investigator.

Written Record of Complaints Investigations. and Resolutions/Decisions

Written records of complaints will be marked "CONFIDENTIAL" and will be retained in a separate and secure (locked) file in the Administration Building. Records shall be retained as required by state law.

Written records relating to a finding that sexual harassment has occurred may be placed in an accused employee's official personnel file and may include, but are not limited to: (1) any document that has been mutually agreed to by the School District and the person accused of harassment; (2) a letter issued by the responsible administrator to the accused person at the conclusion of a formal investigation, which notifies the accused of actions, decisions and/or other recommendations concerning the complaint; (3) a settlement agreement between the parties.

Dissemination of Procedure

The procedure about the School District's Policy Against Sexual Harassment will be made available to all employees. Information about the complaint procedure and how to refer individuals to designated offices/officials will be made available through the following:

Classified Employees' Handbook  
Building Certified Handbook  
Administrative Handbook  
Student Behavior Handbooks

**REPORTING OFFICIALS:**

Superintendent's Designee  
591 East 80<sup>th</sup> Avenue  
303-853-1015

Office of Human Resources  
Chief Administrative Officer  
591 East 80<sup>th</sup> Avenue  
303-853-1010

Copies of the complete Sexual Harassment Policy are available in the above offices and at each building's Board Policy Book.