

EMPLOYEE SEXUAL AND RACIAL HARASSMENT/DISCRIMINATION POLICY

The Board is committed to a general policy of nondiscrimination on the basis of race, creed, color, national origin, ancestry, sex, religion, age, sexual orientation and disability. (File: AC) Therein, the Board has stated that respect for the dignity and worth of each individual shall be a consideration in the establishment of policies by the Board and in the implementation of those policies by the Administration. This policy (File: GBAA) specifically addresses sexual and racial harassment of employees.

This policy applies to individuals and activities on, 1) all district property, including but not limited to electronic communication and access resources; and, 2) any non-District property on which a district- or school-sponsored activity or event occurs. Among other things, it is designed to generally advise district employees of behavior that may constitute sexual or racial harassment, and to encourage them to report any such behavior to an appropriate district representative. This policy is also designed to generally alert district employees to their responsibilities with respect to the sexual and racial harassment of other adults (non-students), and to consequences that may apply for policy violations.

Importantly, the district expects each of its employees to avoid any behavior that constitutes unlawful sexual or racial harassment. The district also expects its employees to avoid any behavior that constitutes retaliation against any person for reporting alleged sexual or racial harassment, or for otherwise assisting, participating, or providing testimony relating to alleged sexual or racial harassment. Such behavior is itself a violation of this policy, and may also be a violation of applicable federal and state law.

What is sexual harassment? Whether or not conduct constitutes sexual harassment will be determined on a case by case basis, depending on the totality of the circumstances. Sexual harassment may not only include behavior that is overtly sexual, but also behavior that would not have occurred but for the employee's gender, regardless of whether or not it is sexual in nature. Under some circumstances, one incident may be sufficiently severe to constitute sexual harassment. The harasser may be the same gender as the employee who has been harassed.

Sexual harassment is generally defined as involving behavior that falls into at least one of the two following categories:

1. (Quid pro quo sexual harassment) A district employee's employment, pay, fringe benefits, promotion, transfer, or other employment related provision being explicitly or implicitly conditioned on the employee's submission to unwelcome sexual advances, requests for sexual favors, or other verbal-nonverbal, or physical conduct of a sexual nature;

2. (Hostile environment sexual harassment) A district employee being subjected to sexually harassing conduct (which may, but does not have to, include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature) that is sufficiently severe, persistent, or pervasive to unreasonably interfere with an employee's work performance, or to create a sexually hostile, abusive, or offensive working environment.

The following are examples of conduct and communication that, regardless of the manner or means by which they occur, may constitute sexual harassment:

1. Sexually oriented "kidding" or inappropriate references to sexual matters;
2. Continued or repeated offensive sexual flirtations, advances or proposals;
3. Continued or repeated verbal remarks about a person's body;
4. Making sexual or lewd gestures;
5. Displaying sexual material, such as cartoons, photos of nudes or pornography, or placing such material in someone's desk or work area;
6. Pressure to engage in sexual activity;
7. Unwelcome sexual touching, such as offensive brushing against a person, patting or pinching in a sexual manner;
8. "Rating" persons on the basis of physical characteristics;
9. Conduct or communications, which, while not overtly sexual, would not have occurred except for the employee's gender (e.g., vandalizing the property of a female employee);
10. Verbal abuse of a sexual nature or using sexually degrading words to describe a person; and,
11. Sending sexual material, such as cartoons, photos of nudes or pornography, using the D-11 Net (File: EHC).

What is racial harassment? As with sexual harassment, whether or not conduct constitutes racial harassment will be determined on a case by case basis, depending on the totality of the circumstances. Racial harassment generally includes behavior that would not have occurred but for the employee's race. One incident may, under some circumstances, be sufficiently severe to constitute racial harassment. The harasser may be the same race as the employee who has been harassed.

Racial harassment is generally defined as verbal, written, graphic or physical conduct relating to the race, color, or national origin of another, that is sufficiently severe, persistent, or pervasive to unreasonably interfere with an employee's work performance, or to create a racially hostile, abusive, or offensive working environment.

The following are examples of conduct and communication that, regardless of the manner or means by which they occur, may constitute racial harassment:

1. Racially derogatory written or pictorial communications (e.g., letters, notes, jokes, posters, photos, cartoons);
2. Racially derogatory verbal comments (epithets, jokes or slurs);
3. Sending racially derogatory written or pictorial communications (e.g., letters, notes, jokes, posters, photos, cartoons) using the D-11 Net (File: EHC);
4. Threats of force or violence against a person's body, possessions or residence on account of that person's race, color, or national origin; and,
5. Physical conduct (provocative gestures, restricting freedom of action or movement, violence, defacing or destruction of property) on account of an individual's race, color or national origin.

How and to whom should an employee report sexual or racial harassment? An employee may file a report or a formal complaint of sexual or racial harassment through the use of procedures outlined in the supporting district regulation [File: AC-R].

What are employees' responsibilities with respect to this policy? First and foremost, employees are expected to avoid engaging in sexually or racially harassing behavior directed to other person, including, but not limited to, students, other employees, and visitors to the district, and to avoid engaging in behavior that constitutes retaliation for having reported, assisted, participated, testified, or otherwise provided information about possible sexual or racial harassment. Further, any employee who believes she or he has been harassed as defined in this policy is expected to report such information promptly in a truthful manner in accordance with the procedure of AC-R. All employees

are required to cooperate fully and truthfully in any district investigation of sexual or racial harassment.

What may happen if sexual or racial harassment is found to have occurred? In the event it is determined that an employee has been sexually or racially harassed, the district will address the situation as it deems appropriate under the circumstances. This may include corrective measures, including but not limited to disciplinary action or other consequences.

What are the consequences for employees who violate this policy? Any employee who violates any provision contained in this policy may be disciplined, including immediate referral for termination from employment. In addition, any employee who is found, during the course of an investigation pursuant to this policy, to have violated another Board policy, or District procedure, practice, rule, or expectation, may be disciplined for such violation, including immediate referral for termination from employment, regardless of whether or not the employee is found to have violated any provision of this policy.

Any third party, including but not limited to, a volunteer, a solicitor, an independent contractor, a parent, or other visitor, who violates this policy, may be dealt with as the district deems appropriate. Consequences to a volunteer, solicitor, independent

contractor, parent, or other visitor for any such violation may include, but are not limited to, cancellation of a contract, ejection from District property, and other appropriate measures.

Notice of this policy and its accompanying reporting procedure (File: AC-R) shall be provided to all district employees, and shall be circulated to all District schools and other work sites.

Revised June 1999

Revised January 2008

LEGAL REFS: 20 U.S.C. § 1681 (Title IX of the Education Amendments of 1972)
34 C.F.R. Part 106
Title VII of the Civil Rights Act of 1964, as amended 42 U.S.C.
§ 2000e
C.R.S. 18-9-121
C.R.S. 22-32-110(1)(k)
C.R.S. 22-61-101
C.R.S. 24-34-301 through 24-34-308
C.R.S. 24-34-401
C.R.S. 24-34-402

CROSS REFS: AC, Nondiscrimination/Equal Opportunity
EHC, Electronic Communication and Access Policy
GBA, Open Hiring/Equal Employment Opportunity and Affirmative
Action
GCQF, Discipline, Suspension and Dismissal of Professional Staff
GDQD, Discipline, Suspension and Dismissal of Support Staff
JB, Equal Educational Opportunities
JBB*, Student Sexual and Racial Harassment
KF, Community Use of School Facilities
KFA, Public Conduct on School Property
KHA, Public Solicitations in Schools
KI, Visitors to Schools