

Board File: GBAA

SEXUAL HARASSMENT SEX DISCRIMINATION¹ UNDER TITLE IX AND OTHER PROHIBITED MISCONDUCT OF A SEXUAL NATURE

The District is committed to a learning and working environment that is free from sex discrimination, including sex-based ~~and~~ 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 the District's learning and working environment.

Sex Discrimination, Including Sex-Based ~~and~~ Harassment, Prohibited by Title IX

In accordance with Board File AC and its supporting regulation(s), the Board prohibits sex discrimination, including sex-based ~~and~~ harassment in violation of Title IX. Sexual harassment Under Title IX, sex-based harassment is a form of sex discrimination and includes sexual harassment and other harassment on the basis of sex that satisfies one or more of the following:

1. **Quid Pro Quo Harassment.** An employee or other person authorized by the District, explicitly or implicitly conditions the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct;
2. **Hostile Environment Harassment.** Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the District's education program or activities; or
3. **Specific Offenses.** Sexual assault, dating violence, domestic violence, or stalking.

(34 C.F.R. § 106.2)

~~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;~~

¹ Underlined text represents recommended additions made as noted in the First Reading of revisions to this policy. Double underlined text represents recommended additions to the text made after the First Reading was presented to the Board. Stricken text represents text recommended to be deleted from the policy.

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 sex discrimination ~~ual harassment~~ under Title IX but can nonetheless interfere with the District's learning and working environment. Therefore, in addition to prohibiting conduct in violation of Title IX, the District also prohibits other misconduct of a sexual nature which interferes with the learning and working environment of the District. Such conduct may include, but is not limited to, sex-oriented verbal kidding, remarks to a person with sexual implications, and unwelcome touching.

It shall be a violation of this Board File Policy GBAA ~~policy~~ for any member of the District staff to harass another staff member or student through conduct or communications of a sexual nature. Any conduct of a sexual nature directed toward students by teachers or others to whom this policy applies, shall be presumed to be unwelcome. It is also a violation of Board File Policy AC for any employee of the district to engage in any unwelcome physical or verbal conduct or any written, pictorial, or visual communications of a sexual nature that is directed at a student or employee or group of students or employees because of that student's or employee's or group's membership in, or perceived membership in, a protected class which constitutes harassment or discrimination as defined in Board File Policy AC. Sex discrimination, including sex-based ~~ual harassment~~, in violation of Title IX and other misconduct of a sexual nature prohibited by this policy and Board File Policy AC committed by an employee of the District in the course of employment shall be deemed a breach of duty, and as such, shall subject the offending employee to disciplinary action. This policy similarly applies to non-employee volunteers or any other persons who work subject to the control of school authorities.

Reporting, investigation and sanctions

Any employee who believes he or she has been a victim of sex discrimination, including sex-based ~~ual harassment~~, in violation of Title IX or misconduct of a sexual nature in violation of this policy, or who has witnessed such discrimination and/or harassment or misconduct, shall immediately report it to the employee's supervisor, the Human Resources Department, the District's Compliance Officer, or the District's Title IX Coordinator, as appropriate, and report the matter as set forth in the applicable regulation which accompany Board File AC. Consistent with this obligation, employees who feel that their superiors are conditioning promotions, increases in wages, continuation of employment, or other terms or conditions of employment upon agreement to unwelcome conduct of a sexual nature, should immediately report these conditions to the employee's supervisor, the Human Resources Department, the District's Compliance Officer, or the District's Title IX Coordinator.

All reports of sex discrimination, including sex-based ~~ual~~ harassment, received by any District employee shall be promptly forwarded to the Compliance Officer and to the District's Title IX Coordinator. The Compliance Officer and/or Title IX Coordinator shall ensure that every complaint is promptly investigated and responded to as set forth in the District's complaint and compliance process (AC-R-1), ~~and/or~~ the District's Title IX ~~Sexual Harassment Sex Discrimination~~ Grievance Procedures (AC-R-2), ~~or the District's complaint and grievance process in response to alleged discrimination or harassment directed at students (AC-R-3)~~, as applicable. No reprisals or retaliation shall be allowed to occur as a result of the good faith reporting of charges of sexual harassment or other misconduct of a sexual nature.

Any employee found to have engaged in sexual harassment in violation of Title IX or misconduct of a sexual nature in violation of this policy shall be subject to sanctions, including, but not limited to, warning or reprimand, suspension, or termination, subject to applicable procedural requirements. Sexual harassment in violation of Title IX and/or conduct of a sexual nature directed toward students shall, in appropriate circumstances, be reported as child abuse for investigation by appropriate authorities.

Retaliation prohibited

The District prohibits retaliation of any individual who has made a report or complaint in violation of this policy. Filing of a complaint or otherwise reporting sex discrimination, including sex-based ~~ual~~ harassment, shall not reflect upon the individual's status or affect future employment or work assignments. 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~~ procedures, unless otherwise required by law. To the extent possible, all reports of sex discrimination, including sex-based ~~ual~~ harassment, and/or misconduct of a sexual nature will be kept confidential.

Notice and training

Notice of this policy shall be circulated to all District schools and departments and incorporated in employee handbooks. All District employees shall receive periodic training related to this policy and recognizing and preventing sex discrimination, including sex-based ~~ual~~ harassment, in violation of Title IX. District employees shall receive additional periodic training related to handling reports of sex discrimination ~~ual 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.~~

Adopted by Board: November 12, 2019

Revised: August 18, 2020

Revised: _____

LEGAL REFS.:

20 U.S.C. §1681 et seq. (Title IX of the Education Amendments of 1972)
42 U.S.C. §2000e et seq. (Title VII of the Civil Rights Act of 1964)
C.R.S. 24-34-301 et seq. (Colorado Civil Rights Division procedures)
C.R.S. 24-34-401 *et seq.* (discrimination or unfair employment practices)
34 C.F.R. § 106 et seq. (Title IX Regulations)

CROSS REFS.:

AC, Nondiscrimination/Equal Opportunity
AC-R-1, Nondiscrimination/Equal Opportunity (Complaint and Compliance Process)
AC-R-2, Title IX Sexual Harassment Grievance Policy
AC-R-3, Complaint and Grievance Process in Response to Alleged Discrimination or Harassment Directed at Students [To Be Adopted]
JBA, Nondiscrimination/Non-harassment of Students
JBC, Sexual Harassment Under Title IX and Other Prohibited Conduct of a Sexual Nature
JLF, Reporting Child Abuse

Second Reading