

SEXUAL HARASSMENT

- I. The Board of Education recognizes that harassment of students and staff on the basis of gender and/or sexual orientation is abusive and illegal behavior that harms victims and negatively impacts the school culture by creating an environment of fear, distrust, intimidation and intolerance. The Board further recognizes that preventing and remedying such harassment in schools is essential to ensure a healthy, nondiscriminatory environment in which students can learn and employees can work productively.
- II. The Board is committed to providing an educational and working environment that promotes respect, dignity and equality and that is free from all forms of harassment based on gender and sexual orientation. To this end, the Board condemns and strictly prohibits all forms of sexual harassment on school grounds, school buses and at all school-sponsored activities, programs and events including those that take place at locations outside the district.
- III. Because sexual harassment can occur staff to student, staff to staff, student to student, male to female, female to male, male to male or female to female it shall be a violation of this policy for any student, employee or third party (school visitor, vendor, etc.) to sexually harass any student or employee.
- IV. In order for the Board to effectively enforce this policy and to take prompt corrective measures, it is essential that all victims of sexual harassment and person with knowledge of sexual harassment report the harassment immediately. The district will promptly investigate all complaints of sexual harassment, formal or informal, verbal or written. To the extent possible, all complaints will be treated in a confidential manner. Limited disclosure may be necessary to complete a thorough investigation.
- V. If, after appropriate investigation, the district finds that a student, an employee, or a third party has violated this policy, prompt corrective action will be taken in accordance with the applicable collective bargaining agreement, district policy, and state law.
- VI. All complaints and those who participate in the investigation of a complaint of sexual harassment have the right to be free from retaliation of any kind.
- VII. The Superintendent of Schools is directed to develop and implement regulations for reporting, investigating and remedying allegations of sexual harassment. These regulations are to be attached to this policy. In addition, training programs shall be established for students and employees to raise awareness of the issues surrounding sexual harassment and to implement preventative measures to help reduce incidents of sexual harassment.
- VIII. This policy shall be posted in a prominent place in each district facility and shall be published in student registration materials, student, parent, and employee handbooks and

POLICY

GENERAL COMMITMENTS

0012

SEXUAL HARASSMENT

other appropriate school publications.

- IX. A committee of administrators, teachers, parents, students, and the school attorney shall be convened annually to review this policy's effectiveness and compliance with applicable state and federal law and to recommend revisions to the Board.

Watertown City School District

Legal Ref: Education Amendments of 1972, Title IX U.S.C. §1681 et seq., Title VII of Civil Rights Act (1964), 42 U.S.C. §2000-e; 34 CFR §100 et seq.;
Davis v. Monroe County Board of Education, U.S. 119 S.Ct. 1661 (1999)
Gebser v. Lago Vista Independent School District, 524 U.S., 274 (1998)
Faragher v. City of Boca Raton, 524 U.S. 775 (1998)
Burlington Industries v. Ellerth, 524 U.S. 742 (1998)
Oncale v. Sundowner Offshore Services, Inc. 523 U.S. 75 (1998)
Meritor Savings Bank, FSB v. Vinson, 477 U.S. 57 (1986)
Education Law §313(3), Executive law §290 et seq.

Adopted: 04/06/93, 08/21/12

Revised: 01/06/04

Regulation

GENERAL COMMITMENTS

0012.1

SEXUAL HARASSMENT

I. This regulation is intended to create and preserve an educational and working environment free from unlawful sexual harassment on the basis of gender and/or sexual orientation in furtherance of the district's commitment to provide a healthy and productive environment for all students and employees that promotes respect, dignity, and equality.

II. Sexual Harassment Defined:

Sexual harassment means unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct, or other verbal or physical conduct or communication of a sexual nature when:

- A. Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of an employee's employment or a student's education (including any aspect of the student's education); or
- B. Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting an employee's employment or a student's education; or
- C. the conduct or communication has the purpose or effect of substantially or unreasonably interfering with an employee's work performance or a student's academic performance or participation in school-sponsored activities, or creating an intimidating, hostile, or offensive working or educational environment.

III. Unacceptable Conduct

School related conduct that the district considers unacceptable and which may constitute sexual harassment includes, but is not limited to, the following:

- A. rape, attempted rape, sexual assault, attempted sexual assault, forcible sexual abuse, hazing, and other sexual and gender-based activity of a criminal nature as defined under the State Penal Law;
- B. unwelcome sexual invitations or requests for sexual activity in exchange for grades, promotions, preferences, favors, selection for extracurricular activities or job assignments, homework, etc.;
- C. unwelcome and offensive public sexual display of affection, including kissing, making out, groping, fondling, petting, inappropriate touching of one's self or others, sexually suggestive dancing, and massages;

REGULATION

GENERAL COMMITMENTS

0012.1

SEXUAL HARASSMENT

- D. any unwelcome communication that is sexually suggestive, sexually degrading, or implies sexual motives or intentions, such as sexual remarks or innuendoes about an individuals' clothing, appearance, or activities; sexual jokes; sexual gestures; public conversations about sexual activities or exploits; sexual rumors or rating lists, howling, catcalls, and whistles, sexually graphic computer files, messages or games, etc.;
- E. unwelcome and offensive name calling or profanity that is sexually suggestive, sexually degrading, implies sexual intentions, or that is based on sexual stereotypes or sexual preference;
- F. unwelcome physical contact or closeness that is sexually suggestive, sexually degrading or sexually intimidating such as the unwelcome touching of another's body parts, concerning, or blocking an individual, standing too close, spanking, pinching, following, stalking, frontal body hugs, etc.
- G. unwelcome and sexually offensive physical pranks or touching of an individual's clothing, such as hazing and initiation, "streaking," "mooning," "snuggies," or "wedgies" (pulling underwear up at the waist so it goes in between the buttocks), bra-snapping, skirt "flip-ups" "spiking" (pulling down someone's pants or swimming suit); pinching, placing hands inside an individual pants, shirt, blouse, or dress, etc.;
- H. unwelcome leers, stares, gestures, or slang that are sexually suggestive; sexually degrading, or imply sexual motives or intentions;
- I. clothing with sexually obscene or sexually explicit slogans or messages;
- J. unwelcome and offensive skits, assemblies, and productions that are sexually suggestive; sexually degrading, or that imply sexual motives or intentions, or that are based on sexual stereotypes;
- K. unwelcome written or pictorial display or distribution of pornographic or other sexually explicit materials such as magazines, videos, films, internet material, etc.;
- L. any other unwelcome gender-or sexually orientated-based behavior that is offensive, degrading, intimidating, demeaning, or that is based on sexual stereotypes and attitudes.

For the purposes of this regulation, action or conduct shall be considered "unwelcome: if the student or employee did not request or invite it and regarded the conduct as undesirable or offensive.

SEXUAL HARASSMENT

IV. Determining if Prohibited Conduct is Sexual Harassment

- A. Complaints of harassment based on gender and/or sexual orientation will be thoroughly investigated to determine whether the totality of the behavior and circumstances meet any of the elements of the above definition of sexual harassment and should therefore be treated as sexual harassment. Not all unacceptable conduct with sexual connotations may constitute sexual harassment. In many cases (other than quid pro quo situations where the alleged harasser offers academic or employment rewards or threatens punishment as an inducement for sexual favors), unacceptable behavior must be sufficiently severe, pervasive, and objectively offensive to be considered sexual harassment. Prohibitive conduct not found to be sexual harassment will be dealt with accordingly.
- B. In evaluating the totality of the circumstances and making a determination of whether conduct constitutes sexual harassment, the individual investigating the complaint should consider:
1. the degree to which the conduct affected the ability of the student to participate in or benefit from his or her education, or altered the conditions of the student's learning environment, or altered the conditions of the employee's working environment;
 2. the type, frequency, and duration of the conduct;
 3. the identity of and relationship between the alleged harasser and the subject of the harassment (e.g. sexually based conduct by an authority figure is more likely to create a hostile environment than similar conduct by another student or co-worker);
 4. the number of individuals involved;
 5. the age and sex of the alleged harasser and the subject of the harassment;
 6. the location of the incidents and context in which they occurred;
 7. other incidents at the school; and
 8. incidents of gender-based, but non-sexual harassment.

Watertown City School District

Adopted: 04/06/93

Revised: 01/06/04, 08/21/12