BERMUDIAN SPRINGS SCHOOL DISTRICT

SECTION: PUPILS

TITLE: UNLAWFUL HARASSMENT

ADOPTED: March 14, 2006

REVISED:

248. UNLAWFUL HARASSMENT

1. Purpose

All students should enjoy a school environment free from all forms of discrimination, including sexual harassment. No student should be subjected to unsolicited and unwelcome sexual overtures or conduct, either verbal, written, or physical, from another student or district employee. The Board strives to provide a safe, positive learning climate for students in the schools. Therefore, it shall be the policy of the district to maintain an educational environment in which harassment in any form is not tolerated.

2. Authority
Title IX
42 U.S.C.
Sec. 1681
43 P.S.
Sec. 951 et seq
29 CFR
Sec. 1606.8 (a)

The Board prohibits all forms of unlawful harassment of students and third parties by all district students and staff members, contracted individuals, vendors, volunteers, and third parties in the schools. The Board encourages students and third parties who have been harassed to promptly report such incidents to the designated employees.

The Board directs that complaints of harassment shall be investigated promptly, and corrective action be taken when allegations are substantiated. Confidentiality of all parties shall be maintained, consistent with the district's legal and investigative obligations.

No reprisals nor retaliation shall occur as a result of good faith charges of harassment.

3. Definitions
29 CFR
Sec. 1606.8 (a)
62 Fed. Reg.
12033
(March 13, 1997)
66 Fed. Reg. 5512
(Jan. 19, 2001)

For purposes of this policy, **harassment** shall consist of verbal, written, graphic or physical conduct relating to an individual's race, color, national origin/ethnicity, gender, age, disability, sexual orientation or religion when such conduct:

1. Is sufficiently severe, persistent or pervasive that it affects an individual's ability to participate in or benefit from an educational program or activity or creates an intimidating, threatening or abusive educational environment.

2. Has the purpose or effect of substantially or unreasonably interfering with an individual's academic performance.

	3. Otherwise adversely affects an individual's learning opportunities.
29 CFR Sec. 1604.11 (a)	For purposes of this policy, **sexual harassment** shall consist of unwelcome sexual advances; requests for sexual favors; and other inappropriate verbal, written, graphic or physical conduct of a sexual nature when: 1. Submission to such conduct is made explicitly or implicitly a term or condition of a student's academic status. 2. Submission to or rejection of such conduct is used as the basis for academic or work decisions affecting the individual. 3. Such conduct deprives a student of educational aid, benefits, services or treatment. 4. Such conduct is sufficiently severe, persistent or pervasive that it has the purpose or effect of substantially interfering with the student's school performance or creating an intimidating, hostile or offensive educational environment. Examples of conduct that may constitute **sexual harassment** include but are not limited to sexual flirtations, advances, touching or propositions; verbal abuse of a sexual nature; graphic or suggestive comments about an individual's dress or body; sexually degrading words to describe an individual; jokes; pin-ups; calendars; objects; graffiti; vulgar statements; abusive language; innuendoes; references to sexual activities; overt sexual conduct; or any conduct that has the effect of unreasonably interfering with a student's ability to work or learn or creates an intimidating, hostile or offensive learning or working environment.
4. Delegation of Responsibility Pol. 103	In order to maintain an educational environment that discourages and prohibits unlawful harassment, the Board designates the Superintendent as the district's Compliance Officer. The Compliance Officer shall publish and disseminate this policy and the complaint procedure at least annually to students, parents/guardians, employees, independent contractors, vendors, and the public. The publication shall include the position, office address and telephone number of the Compliance Officer. The administration shall be responsible to provide training for students and employees regarding all aspects of unlawful harassment. Each staff member shall be responsible to maintain an educational environment free from all forms of unlawful harassment.

	Each student shall be responsible to respect the rights of their fellow students and district employees and to ensure an atmosphere free from all forms of unlawful harassment. The building principal or designee shall be responsible to complete the following duties when receiving a complaint of unlawful harassment: 1. Inform the student or third party of the right to file a complaint and the complaint procedure. 2. Inform the complainant that s/he may be accompanied by a parent/guardian during all steps of the complaint procedure. 3. Notify the complainant and the accused of the progress at appropriate stages of the procedure. 4. Refer the complainant to the Compliance Officer if the building principal is the subject of the complaint.
5. Guidelines	<u>Complaint Procedure – Student/Third Party</u> **Step 1 – Reporting** A student or third party who believes s/he has been subject to conduct that constitutes a violation of this policy is encouraged to immediately report the incident to a teacher, nurse, counselor or administrator. A school employee who suspects or is notified that a student has been subject to conduct that constitutes a violation of this policy shall immediately report the incident to the building principal. If the building principal is the subject of a complaint, the student, third party or employee shall report the incident directly to the Compliance Officer. The complainant or reporting employee is encouraged to use the report form available from the building principal, but oral complaints shall be acceptable. **Step 2 – Investigation** Upon receiving a complaint of unlawful harassment, the building principal shall immediately notify the Compliance Officer. The Compliance Officer shall authorize the building principal to investigate the complaint, unless the building principal is the subject of the complaint or is unable to conduct the investigation.

	The investigation may consist of individual interviews with the complainant, the accused, and others with knowledge relative to the incident. The investigator may also evaluate any other information and materials relevant to the investigation. The obligation to conduct this investigation shall not be negated by the fact that a criminal investigation of the incident is pending or has been concluded. **Step 3 – Investigative Report** The building principal shall prepare a written report within fifteen (15) days, unless additional time to complete the investigation is required. The report shall include a summary of the investigation, a determination of whether the complaint has been substantiated as factual and whether it is a violation of this policy, and a recommended disposition of the complaint. The findings of the investigation shall be provided to the complainant, the accused, and the Compliance Officer. **Step 4 – District Action** If the investigation results in a finding that the complaint is factual and constitutes a violation of this policy, the district shall take prompt, corrective action to ensure that such conduct ceases and will not recur.
Pol. 218	Disciplinary actions shall be consistent with the school's Discipline Code, Board policies and district procedures, applicable collective bargaining agreements, and state and federal laws. If it is concluded that a student has knowingly made a false complaint under this policy, such student shall be subject to disciplinary action. <u>Appeal Procedure</u> 1. If the complainant is not satisfied with a finding of no violation of the policy or with the corrective action recommended in the investigative report, s/he may submit a written appeal to the Compliance Officer within fifteen (15) days. 2. The Compliance Officer shall review the investigation and the investigative report and may also conduct a reasonable investigation. 3. The Compliance Officer shall prepare a written response to the appeal within fifteen (15) days. Copies of the response shall be provided to the complainant, the accused and the building principal who conducted the initial investigation.