

## Sexual Harassment

### General Statement of Policy—

Sexual harassment is a form of sex discrimination which violates Section 703 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq. and § 34A-5-101 et seq. of the Utah Antidiscrimination Act.

It is the policy of the District to maintain learning and working environment that is free from sexual harassment. The District prohibits any form of sexual harassment.

It shall be a violation of this policy for any student or employee of the District to harass a student or an employee through conduct or communication of a sexual nature as defined by this policy.

The District will act to investigate all complaints, formal or informal, verbal or written, of sexual harassment and to discipline any student or employee who sexually harasses a student or employee of the District.

*42 U.S.C. § 2000e et seq.*

*Utah Code Ann. § 34A-5-101 et seq.*

### Sexual Harassment Defined—

Sexual Harassment consists of unwelcome sexual advances, requests for sexual favors, physical or verbal conduct or communications of a sexual nature, and any other gender-based harassment, whether initiated by students, school employees, or visitors when:

1. Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment, or of obtaining an education; or
2. Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment or education; or
3. That conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment or education, or creating an intimidating, hostile or offensive employment or education environment.
4. Any sexual harassment as defined when perpetrated on any student or employee by any employee will be treated as sexual harassment under this policy.
5. Sexual harassment may include but is not limited to:
  - a. Verbal harassment or abuse, including any offensive communication that is sexually degrading or implies sexual

motives or intentions, such as sexual remarks or innuendoes about an individual's clothing, appearance or activities; sexual gestures;

- b. Subtle pressure for sexual activity including sexual invitations or requests for sexual activity in exchange for grades, preferences, favors, selection for extracurricular activities, homework, etc.;
- c. Physical contact or closeness that is sexually suggestive, sexually degrading, or sexually intimidating such as the unwelcome touching of another's body parts, spanking, pinching, stalking, frontal-body hugs, intentional brushing against a student's or an employee's body; etc.
- d. Demanding sexual favors accompanied by implied or overt threats concerning an individual's employment or educational status;
- e. Demanding sexual favors accompanied by implied or overt promises of preferential treatment with regard to an individual's employment or educational status; or any unwelcome sexually motivated touching;
- f. Unwelcome gestures that are sexually suggestive, sexually degrading or imply sexual motives or intentions;
- g. Written or pictorial display or distribution of pornographic or other sexually explicit materials such as magazines, videos, films, etc.

*Mentor Savings Bank v. Vinson*, 477 U.S. 57 (1986)  
*Baker v. Weyerhaeuser Co.*, 903 F.2d 1342 (10th Cir. 1990)

### **Reporting Procedures—**

Any person who believes he or she has been the victim of sexual harassment by a student or an employee of the District, or any third person with knowledge or belief of conduct which may constitute sexual harassment should submit a written report of the alleged acts immediately to an appropriate District official as designated by this policy. The District encourages the reporting party or complainant to use the report form available from the principal of each building or available from the District office.

1. In Each School Building. The building principal is the person responsible for receiving oral or written reports of sexual harassment at the building level. Upon receipt of a report, the principal must notify the District Human Rights Officer immediately without screening or investigating the report. A written report will be forwarded simultaneously to the Human Rights Officer. If the report was given verbally, the principal shall reduce it to written form within 24 hours and forward it to the Human Rights Officer. Failure to forward any sexual

harassment report or complaint as provided herein will result in disciplinary action. If the complaint involves the building principal, the complaint shall be filed directly with the District Human Rights Officer.

2. District-Wide. The School Board hereby designates \_\_\_\_\_ as the District Human Rights Officer to receive reports or complaints of sexual harassment from any individual, employee or victim of sexual harassment and also from the building principals as outlined above. If the complaint involves the Human Rights Officer, the complaint shall be filed directly with the Superintendent. The District shall conspicuously post the name of the Human Rights Officer, including a mailing address and telephone number.
3. Submission of a complaint or report of sexual harassment will not affect the individual's future employment, grades or work assignments.
4. Use of formal reporting forms is not mandatory.

#### **Confidentiality—**

It is District policy to respect the privacy and anonymity of all parties and witnesses to complaints brought under this policy. However, because an individual's right to confidentiality must be balanced with the District's obligations to cooperate with police investigations or legal proceedings, or to investigate and take necessary action to resolve a complaint, the District retains the right to disclose the identity of parties and witnesses to complaints in appropriate circumstances.

Where a complaint involves allegations of child abuse, the complaint shall be immediately reported to appropriate law enforcement authorities and the anonymity of both the complainant and school officials involved in the investigation will be strictly protected as required by Utah Code Ann. § 62A-4a-412.

#### **Investigation and Recommendation—**

By authority of the District, the Human Rights Officer, upon receipt of a report or complaint alleging sexual harassment, shall immediately authorize an investigation. This investigation may be conducted by District officials or by a third party designated by the District. The investigating party shall provide a written report of the status of the investigation within ten (10) working days to the Superintendent of Schools and the Human Rights Officer.

In determining whether alleged conduct constitutes sexual harassment, the District should consider the surrounding circumstances, the nature of the sexual advances, relationships between the parties involved and the context in which the alleged incidents occurred.

The investigation may consist of personal interviews with the complainant, the individuals against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint.

The investigation may also consist of any other methods and documents deemed pertinent by the investigator.

In addition, the District may take immediate steps, at its discretion, to protect the complainant, students and employees pending completion of an investigation of alleged sexual harassment.

The District Human Rights Officer shall make a report to the Superintendent upon completion of the investigation.

#### **District Action—**

Upon receipt of a recommendation that the complaint is valid, the District will take such action as appropriate based on the results of the investigation.

The result of the investigation of each complaint filed under these procedures will be reported in writing to the complainant by the District. The report will document any disciplinary action taken as a result of the complaint.

#### **Reprisal—**

The District will discipline any individual who retaliates against any person who reports alleged sexual harassment or who retaliates against any person who testifies, assists, or participates in an investigation, proceeding, or hearing relating to a sexual harassment complaint. Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment.

#### **Non-Harassment—**

The District recognizes that not every advance or consent of a sexual nature constitutes harassment. Whether a particular action or incident is a personal, social relationship without a discriminatory employment effect requires a determination based on all the facts and surrounding circumstances. False accusations of sexual harassment can have a serious detrimental effect on innocent parties.

#### **Right to Alternative Complaint Procedures—**

These procedures do not deny the right of any individual to pursue other avenues of recourse which may include filing charges with the Division of Antidiscrimination and Labor, initiating civil action or seeking redress under state criminal statutes and/or federal law.

#### **Sexual Harassment as Sexual Abuse—**

Under certain circumstances, sexual harassment may constitute sexual abuse and require reporting to appropriate authorities. In such cases, the provisions of Policy DG governing reporting of abuse should be followed.

**Discipline—**

Any District action taken pursuant to this policy will be consistent with requirements of applicable Utah statutes and District policies. The District will take such disciplinary action it deems necessary and appropriate, including warning, suspension or immediate termination to end sexual harassment and prevent its recurrence.

**Notice—**

Notice of the District's sexual harassment policy shall be communicated to all employees and students.

**Report of Sexual Harassment—**

This form shall be maintained as confidential by the District within the limitations outlined in policy. [see Policy Exhibit #1]