

BOARD POLICY

JCED

STUDENTS

DISCRIMINATORY HARASSMENT OF STUDENTS

DECEMBER 3, 2001

Discriminatory harassment of students by School District employees, Board members, vendors, contractors or others doing business with the School District, fellow students, parents, invitees, guests, volunteers, etc., will not be tolerated. "Discriminatory harassment" means unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct relating to an individual's race, color, national origin, age, religion, height, weight, marital status, handicap, disability, **sexual orientation, sexual identity, or transgender status** when (a) submission to the conduct is made a condition of utilizing or benefiting from the services, activities or programs of the School District; (b) submission to, or rejection of, the conduct is used as the basis for a decision to exclude, expel or limit the student in terms, conditions, or privileges of the School District; or (c) the conduct has the purpose or effect of substantially interfering with the student's education, creates an intimidating, hostile or offensive educational environment.

"Discriminatory harassment" on the basis of sex includes any of the following types of misconduct based upon sex: (a) an employee's conditioning the provision of an aid, benefit or service on an individual's participation in unwelcome sexual conduct (i.e., quid pro quo); (b) unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to an education program or activity; or (3) sexual assault, dating violence, domestic violence, or stalking. Any student who believes that he or she has suffered discriminatory harassment shall report the incident(s) to his or her counselor or building principal. In the event that the student is charging the building principal with such discriminatory harassment, he or she shall report the incident(s) to the Superintendent. In the event that the student is charging the Superintendent or a Board member with such discriminatory harassment, he or she shall report the incident(s) to the Board President. In the event that the student is charging the Board President with such discriminatory harassment, he or she shall report the incident to the Vice President of the Board.

The School District guarantees that any student reporting incident(s) of discriminatory harassment will not suffer any form of reprisal.

Upon receipt of any student reporting that he or she suffered discriminatory harassment, the School District shall first determine whether the report concerns allegations of (a) discrimination on the basis of sex in the educational programs and activities which it operates, including employment, admissions, recruitment, referrals, and collective bargaining, or (b) sexual harassment. If the allegations concern either of these matters, then the Title IX Coordinator must be immediately notified and the incident shall be resolved in accordance with the Title IX grievance procedures of Administrative Procedure JAA. If the Title IX grievance procedures are not applicable based upon the conduct alleged, then the incident will be investigated in accordance with the procedures set forth in this policy. In determining whether

the alleged conduct constitutes discriminatory harassment, the totality of the circumstances, the nature of the conduct and the context in which the alleged incident(s) occurred will be investigated. The School District has the responsibility of investigating and resolving complaints of discriminatory harassment. In cases where the alleged discriminatory harassment was committed by the Superintendent or a member of the Board of Education, the School District will appoint outside legal counsel to investigate the alleged incident(s). The results of an investigation and any action taken thereon will be communicated to the complaining person.

The School District considers discriminatory harassment to be a major offense which will result in corrective action, regardless of the offender's position with the School District. Corrective action of a School District employee may include disciplinary action, up to and including, termination of employment. Corrective action of a student may include disciplinary action, up to and including, expulsion.

CROSS REF.: GAAA, GAEA, GAEAA

LEGAL REF.: *Gebser v. Lago Vista Independent School District*, 524 US 274, 118 SCt 1989, 141 LEd2d 277 (1998); *Davis v. Monroe County Board of Education*, 526 US 629, 119 Sct 1661, 143 LEd2d 839 (1999)