



UNITED INDEPENDENT SCHOOL DISTRICT AGENDA ACTION ITEM

TOPIC Action regarding First and Final Reading of FFH (LOCAL) - Student Welfare - Freedom from Discrimination, Harassment, and Retaliation

SUBMITTED BY: Juan Cruz **OF:** School Attorney

APPROVED FOR TRANSMITTAL TO SCHOOL BOARD: _____

DATE ASSIGNED FOR BOARD CONSIDERATION: July 20, 2015

RECOMMENDATION:

It is recommended that the United ISD Board of Trustees take Action regarding First and Final Reading of FFH (LOCAL) - Student Welfare - Freedom from Discrimination, Harassment, and Retaliation

RATIONALE:

BUDGETARY INFORMATION

BOARD POLICY REFERENCE AND COMPLIANCE:

STUDENT WELFARE
FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

FFH
(LOCAL)

Note: This policy addresses discrimination, harassment, and retaliation involving District students. For provisions regarding discrimination, harassment, and retaliation involving District employees, see DIA. For reporting requirements related to child abuse and neglect, see FFG. Note that FFH shall be used in conjunction with FFI (bullying) for certain prohibited conduct.

STATEMENT OF
NONDISCRIMINATION

The District prohibits discrimination acts of any kind, including harassment, ~~against any student on the basis of~~ based on race, color, religion, gender, national origin, sexual orientation, gender identity and expression, disability, or any other basis prohibited by law. The District prohibits dating violence, as defined by this policy (e.g. cyber bullying via social network sites). Retaliation against anyone involved in the complaint process is a violation of District policy and is prohibited.

DISCRIMINATION

Discrimination against a student is defined as conduct directed at a student on the basis of race, color, religion, gender, national origin, sexual orientation, gender identity and expression, disability, or on any other basis prohibited by law, that adversely affects the student.

PROHIBITED
HARASSMENT

Prohibited harassment of a student is defined as physical, verbal, or nonverbal conduct based on the student's race, color, religion, gender, national origin, disability, or any other basis prohibited by law that is so severe, persistent, or pervasive that the conduct:

1. Affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
3. Otherwise adversely affects the student's educational opportunities.

Prohibited harassment includes dating violence as defined by this policy.

EXAMPLES

Examples of prohibited harassment may include offensive or derogatory language directed at another person's religious beliefs or practices, sexual orientation, gender identity and expression, accent, skin color, or need for accommodation; threatening, intimidating, or humiliating conduct; offensive jokes, name calling, slurs, or rumors; physical aggression or assault; display of graffiti or printed material promoting racial, ethnic, or other negative stereo-

STUDENT WELFARE
FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

FFH
(LOCAL)

types; or other kinds of aggressive conduct such as theft or damage to property.

SEXUAL HARASSMENT
BY AN EMPLOYEE

Sexual harassment of a student by a District employee includes both welcome and unwelcome sexual advances; requests for sexual favors; sexually motivated physical, verbal, or nonverbal conduct; or other conduct or communication of a sexual nature when:

1. A District employee causes the student to believe that the student must submit to the conduct in order to participate in a school program or activity, or that the employee will make an educational decision based on whether or not the student submits to the conduct; or
2. The conduct is so severe, persistent, or pervasive that it:
 - a. Affects the student's ability to participate in or benefit from an educational program or activity, or otherwise adversely affects the student's educational opportunities; or
 - b. Creates an intimidating, threatening, hostile, or abusive educational environment.

Romantic or inappropriate social relationships between students and District employees are prohibited. Any sexual relationship between a student and a District employee is always prohibited, even if consensual. [See DF]

BY OTHERS

Sexual harassment of a student, including harassment committed by another student, includes unwelcome sexual advances; requests for sexual favors; or sexually motivated physical, verbal, or nonverbal conduct when the conduct is so severe, persistent, or pervasive that it:

1. Affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
3. Otherwise adversely affects the student's educational opportunities.

EXAMPLES

Examples of sexual harassment of a student may include sexual advances; touching intimate body parts or coercing physical contact that is sexual in nature; jokes or conversations of a sexual nature; and other sexually motivated conduct, communications, or contact.

STUDENT WELFARE
FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

FFH
(LOCAL)

Necessary or permissible physical contact such as assisting a child by taking the child's hand, comforting a child with a hug, or other physical contact not reasonably construed as sexual in nature is not sexual harassment.

GENDER-BASED
HARASSMENT

Gender-based harassment includes **is defined as** physical, verbal, or nonverbal conduct based on the student's gender, the student's expression of characteristics perceived as stereotypical for the student's gender, or the student's failure to conform to stereotypical notions of masculinity or femininity, **including harassment carried out via electronic means**. For purposes of this policy, gender-based harassment is considered prohibited harassment if the conduct is so severe, persistent, or pervasive that the conduct:

1. Affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
3. Otherwise adversely affects the student's educational opportunities.

EXAMPLES

Examples of gender-based harassment directed against a student, regardless of the student's or the harasser's actual or perceived sexual orientation or gender identity **and expression**, may include offensive jokes, name-calling, slurs, or rumors; physical aggression or assault; threatening or intimidating conduct; or other kinds of aggressive conduct such as theft or damage to property.

DATING VIOLENCE

Dating violence occurs when a person in a current or past dating relationship uses physical, sexual, verbal, or emotional abuse to harm, threaten, intimidate, or control the other person in the relationship. Dating violence also occurs when a person commits these acts against a person in a marriage or dating relationship with the individual who is or was once in a marriage or dating relationship with the person committing the offense.

For purposes of this policy, dating violence is considered prohibited harassment if the conduct is so severe, persistent, or pervasive that the conduct:

1. Affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or

STUDENT WELFARE
FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

FFH
(LOCAL)

3. Otherwise adversely affects the student's educational opportunities.

EXAMPLES	Examples of dating violence against a student may include physical or sexual assaults; name-calling; put-downs; or threats directed at the student, the student's family members, or members of the student's household. Additional examples may include destroying property belonging to the student, threatening to commit suicide or homicide if the student ends the relationship, attempting to isolate the student from friends and family, stalking, threatening a student's spouse or current dating partner, or encouraging others to engage in these behaviors.
RETALIATION	The District prohibits retaliation by a student or District employee against a student alleged to have experienced discrimination or harassment, including dating violence, or another student who, in good faith, makes a report of harassment or discrimination, serves as a witness, or participates in an investigation.
EXAMPLES	Examples of retaliation may include threats, rumor spreading, ostracism, assault, destruction of property, unjustified punishments, or unwarranted grade reductions. Unlawful retaliation does not include petty slights or annoyances.
FALSE CLAIM	A student who intentionally makes a false claim, offers false statements, or refuses to cooperate with a District investigation regarding discrimination or harassment, including dating violence, shall be subject to appropriate disciplinary action.
PROHIBITED CONDUCT	In this policy, the term "prohibited conduct" includes discrimination, harassment, dating violence, and retaliation as defined by this policy, even if the behavior does not rise to the level of unlawful conduct.
REPORTING PROCEDURES	Any student who believes that he or she has experienced prohibited conduct or believes that another student has experienced prohibited conduct should immediately report the alleged acts to a teacher, counselor, principal, other District employee, or the appropriate District official listed in this policy.
STUDENT REPORT	
EMPLOYEE REPORT	Any District employee who suspects or receives notice that a student or group of students has or may have experienced prohibited conduct shall immediately notify the appropriate District official listed in this policy and take any other steps required by this policy.
DEFINITION OF DISTRICT OFFICIALS	For the purposes of this policy, District officials are the Title IX coordinator, the ADA/Section 504 coordinator, and the Superintendent.

STUDENT WELFARE
FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

FFH
(LOCAL)

TITLE IX COORDINATOR	<p>Reports of discrimination based on sex, including sexual harassment or gender-based harassment, may be directed to the Title IX coordinator. The District designates the following person to coordinate its efforts to comply with Title IX of the Education Amendments of 1972, as amended:</p> <p>Name: Rita Garner</p> <p>Position: Director of Employee Relations</p> <p>Address: 201 Lindenwood Dr., Laredo, TX 78045</p> <p>Telephone: (956) 473-6351</p>
ADA / SECTION 504 COORDINATOR	<p>Reports of discrimination based on disability may be directed to the ADA/Section 504 coordinator. The District designates the following person to coordinate its efforts to comply with Title II of the Americans with Disabilities Act of 1990, as amended, which incorporates and expands upon the requirements of Section 504 of the Rehabilitation Act of 1973, as amended:</p> <p>Name: Emma Leza</p> <p>Position: Executive Director of Instructional Accountability</p> <p>Address: 4410 State Hwy. 359, Laredo, TX 78043</p> <p>Telephone: (956) 473-5245</p>
SUPERINTENDENT	<p>The Superintendent shall serve as coordinator for purposes of District compliance with all other antidiscrimination laws.</p>
ALTERNATIVE REPORTING PROCEDURES	<p>A student shall not be required to report prohibited conduct to the person alleged to have committed the conduct. Reports concerning prohibited conduct, including reports against the Title IX coordinator or ADA/Section 504 coordinator, may be directed to the Superintendent.</p> <p>A report against the Superintendent may be made directly to the Board. If a report is made directly to the Board, the Board shall appoint an appropriate person to conduct an investigation.</p>
TIMELY REPORTING	<p>Reports of prohibited conduct shall be made as soon as possible after the alleged act or knowledge of the alleged act. A failure to immediately report may impair the District's ability to investigate and address the prohibited conduct.</p>
NOTICE TO PARENTS	<p>The District official or designee shall promptly notify the parents of any student alleged to have experienced prohibited conduct by a District employee or another adult.</p>

STUDENT WELFARE
FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

FFH
(LOCAL)

INVESTIGATION OF THE REPORT	The District may request, but shall not require, a written report. If a report is made orally, the District official shall reduce the report to written form.
INITIAL ASSESSMENT	<p>Upon receipt or notice of a report, the District official shall determine whether the allegations, if proven, would constitute prohibited conduct as defined by this policy. If so, the District shall immediately undertake an investigation, except as provided below at CRIMINAL INVESTIGATION.</p> <p>If the District official determines that the allegations, if proven, would not constitute prohibited conduct as defined by this policy, the District official shall refer the complaint for consideration under FFI.</p>
INTERIM ACTION	If appropriate and regardless of whether a criminal or regulatory investigation regarding the alleged conduct is pending, the District shall promptly take interim action calculated to address prohibited conduct or bullying prior to the completion of the District's investigation.
DISTRICT INVESTIGATION	<p>The investigation may be conducted by the District official or a designee, such as the principal, or by a third party designated by the District, such as an attorney. When appropriate, the principal shall be involved in or informed of the investigation.</p> <p>The investigation may consist of personal interviews with the person making the report, the person against whom the report is filed, and others with knowledge of the circumstances surrounding the allegations. The investigation may also include analysis of other information or documents related to the allegations.</p>
CRIMINAL INVESTIGATION	If a law enforcement or regulatory agency notifies the District that a criminal or regulatory investigation has been initiated, the District shall confer with the agency to determine if the District investigation would impede the criminal or regulatory investigation. The District shall proceed with its investigation only to the extent that it does not impede the ongoing criminal or regulatory investigation. After the law enforcement or regulatory agency has finished gathering its evidence, the District shall promptly resume its investigation.
CONCLUDING THE INVESTIGATION	Absent extenuating circumstances, such as a request by a law enforcement or regulatory agency for the District to delay its investigation, the investigation should be completed within ten District business days from the date of the report; however, the investigator shall take additional time if necessary to complete a thorough investigation.

STUDENT WELFARE
FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

FFH
(LOCAL)

	<p>The investigator shall prepare a written report of the investigation. The report shall include a determination of whether prohibited conduct or bullying occurred. The report shall be filed with the District official overseeing the investigation.</p>
NOTIFICATION OF OUTCOME	<p>Notification of the outcome of the investigation shall be provided to both parties in compliance with FERPA.</p>
DISTRICT ACTION PROHIBITED CONDUCT	<p>If the results of an investigation indicate that prohibited conduct occurred, the District shall promptly respond by taking appropriate disciplinary action in accordance with the Student Code of Conduct and may take corrective action reasonably calculated to address the conduct.</p>
CORRECTIVE ACTION	<p>Examples of corrective action may include a training program for those involved in the complaint, a comprehensive education program for the school community, counseling to the victim and the student who engaged in prohibited conduct, follow-up inquiries to determine if any new incidents or any instances of retaliation have occurred, involving parents and students in efforts to identify problems and improve the school climate, increasing staff monitoring of areas where prohibited conduct has occurred, and reaffirming the District's policy against discrimination and harassment.</p>
BULLYING	<p>If the results of an investigation indicate that bullying occurred, as defined by FFI, the District official shall refer to FFI for appropriate notice to parents and District action. The District official shall refer to FDB for transfer provisions.</p>
IMPROPER CONDUCT	<p>If the investigation reveals improper conduct that did not rise to the level of prohibited conduct or bullying, the District may take disciplinary action in accordance with the Student Code of Conduct or other corrective action reasonably calculated to address the conduct.</p>
CONFIDENTIALITY	<p>To the greatest extent possible, the District shall respect the privacy of the complainant, persons against whom a report is filed, and witnesses. Limited disclosures may be necessary in order to conduct a thorough investigation and comply with applicable law.</p>
APPEAL	<p>A student or parent who is dissatisfied with the outcome of the investigation may appeal through FNG(LOCAL), beginning at the appropriate level. A student or parent shall be informed of his or her right to file a complaint with the United States Department of Education Office for Civil Rights.</p>
RECORDS RETENTION	<p>Retention of records shall be in accordance with FB(LOCAL) and CPC(LOCAL).</p>

STUDENT WELFARE
FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

FFH
(LOCAL)

ACCESS TO POLICY
AND PROCEDURES

Information regarding this policy and any accompanying procedures shall be distributed annually in the employee and student handbooks. Copies of the policy and procedures shall be posted on the District's website, to the extent practicable, and readily available at each campus and the District's administrative offices.