

Descriptor Term: 10 SEXUAL	Descriptor: GBAA	Issued: DRAFT 6-10-
	Rescinds:	Issued:

EMPLOYEE DISCRIMINATION AND HARASSMENT GBAA;GBA-E
7/28/2009;12/12/2000

BOARD POLICY

It is the policy of the Tupelo Public School District to maintain and ensure a learning and working environment that is free from ~~any form of sexual~~ **illegal** harassment, intimidation and other forms of illegal discrimination based on race, color, sex, pregnancy, childbirth or pregnancy-related conditions, religion, national origin, age (if the individual is 40 years of age or older) and disability. ~~toward school personnel and students. Therefore, unwelcome sexual advances, requests for sexual favors, and other all forms of verbal or physical conduct of a sexual nature~~ amounting to or constituting **illegal discrimination or** harassment are prohibited.

It shall be a violation of this policy for any student, teacher, administrator or other school personnel to harass **or intimidate** a student or school personnel through conduct or communication. ~~of a sexual nature~~. It shall also be a violation of this policy for any teacher, administrator or other school personnel to tolerate **sexual illegal discrimination or** harassment by a student, teacher, administrator or other school personnel.

The Tupelo Public School District does not tolerate **illegal discrimination or** sexual harassment in any form and will take all necessary and appropriate action to eliminate it, up to and including, disciplinary action.

ADMINISTRATIVE PROCEDURE

1. Definitions:

1.1. **Discrimination:** Unlawful conduct, including words or gestures and other actions, which adversely affects an employee's working environment or results in disparate treatment based upon race, color, sex, pregnancy, childbirth or pregnancy-related conditions, religion, national origin, age (if the individual is 40 years of age or older) and disability.

1.2. ~~Sexual~~ **Harassment:** A form of discrimination that includes unlawful conduct of an offensive nature that is demeaning or derisive or occurs substantially because of one's race, color, ethnic background, national origin, religion, sex, creed, age, citizenship or disability and which creates a hostile work environment. Harassment may include but is not limited to any of the three categories listed below:

1.2.1. **Generalized Harassment:** Includes intentional behavior directed at an entire group which is based on demeaning or derisive stereotypes, and is severe enough that it creates a hostile working environment. Examples include comments or jokes, physical gestures or visual displays such as posters, etc.

1.2.2. **Individually Targeted Harassment:** Includes intentional, non-criminal behavior which is targeted at an individual or particular members of a group, which can be verbal, physical or visual that is severe enough or pervasive enough that it adversely

affects the working environment. Examples include negative or offensive comments, jokes, suggestions or gestures directed to an individual's or group's race, ethnicity or national origin.

1.2.3. Criminal Harassment: Harassing behavior that violates state or federal criminal statutes. Examples include criminal assault, sexual assault, rape, criminal mischief, stalking, arson or trespass.

~~Generally defined as any repeated or unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when (1) submission to such conduct is made, either implicitly or explicitly, a term or condition of employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with the individual's work performance or creating an intimidating, hostile, or offensive working environment.~~

1.3 Respondent: An individual against whom a report or complaint of illegal discrimination or harassment has been filed.

1.4. School personnel: Board members, school employees, agents, volunteers, contractors, or persons subject to the supervision and control of the District.

1.5. Sexual Harassment: A form of sex discrimination.

1.5.1 Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, and/or other verbal or physical conduct of a sexual nature that is based on one or more of the following conditions.

* Submission to such conduct is made either explicitly or implicitly as a term or condition to work benefit.

* Submission to or rejection of such conduct by a co-worker is used as the basis for decisions affecting the work environment.

* Such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile, or offensive working environment.

1.5.2. There are two types of sexual harassment:

* Hostile Environment: The three levels of hostile environment are the same as those listed for other harassment; e.g., generalized harassment, individually targeted harassment, and criminal harassment.

* Harassment that culminates in a tangible action which alters the conditions of the working environment (previously called quid pro quo).

~~Harassment on the basis of sex is a violation of Federal regulations under Title IX, Section 106.31 for students and Title IX, Section 703 for employees.~~

2. Reporting

2.1. Any employee who feels that he/she has been subjected to illegal discrimination or sexual harassment or intimidation, or any employee, student or parent who has knowledge of any type of illegal discrimination or harassment occurring at school or at school events must contact his/her building administrator, immediate supervisor, principal or the Title IX coordinator.

2.2. Additionally, the District recognizes the sensitive nature of a ~~sexual harassment incident~~ **these matters** and the need for confidentiality. Every effort will be made to consider the sensitivities of the parties involved and protect them from retaliation.

2.3. Submission of a good faith complaint or report of **illegal discrimination or sexual harassment** will not affect the complainant's or reporter's future employment, working environment or work assignments. There shall be no reprisal for participation in any way in this procedure.

SEXUAL HARASSMENT COMPLAINT:

3. Complaint

3.1. The District will act **(a)** to promptly investigate all complaints of **illegal discrimination or harassment**, either formal or informal, verbal or written; **(b)** to promptly take appropriate action to protect individuals from further **illegal discrimination or harassment**; and, **(c)** if it determines that unlawful ~~harassment activity~~ occurred, to promptly and appropriately discipline any student, teacher, administrator or other school personnel who is found to have violated this policy, and/or to take other appropriate action reasonably calculated to end the **illegal discrimination or harassment**.

3.2. Facts elicited during investigation are confidential and do not become a part of an employee's official personnel file. A copy of documents, communications and records dealing with the processing of a complaint will be filed in a separate file in the Human Resources office. A complaint may be withdrawn at any time without prejudice. However, a complainant will not be permitted to re-file ~~that~~ **the** same complaint once withdrawn.

4. Complaint Procedure

4.1. **Filing a complaint.** Any individual who believes she/he has been the victim of ~~sexual~~ **illegal discrimination or harassment** by a student, teacher, administrator, or other school personnel, or any person with knowledge of conduct which may constitute ~~sexual~~ **illegal discrimination or harassment** in the school setting should contact her/his immediate supervisor, the appropriate administrative official, the principal or the Title IX Coordinator. **The complaint shall describe the time, place and nature of, and the participants in the alleged illegal acts. Complaints must be made within 45 calendar days after the date of the alleged act of discrimination.**

4.2. **Investigation.** ~~Within five days,~~ **An investigation shall be completed as quickly as practicable, but within fifteen days of receipt of the complaint, unless extenuating circumstances require a longer period.** ~~the principal, Title IX Coordinator or appropriate TPSD official shall conduct or cause to be conducted a thorough investigation including questioning of all parties involved in the sexual harassment complaint.~~ A written record of the statements made by all parties involved shall be made. When the complaint can be resolved informally, no disciplinary action will be taken. ~~If the alleged harasser denies the allegation, the investigator must do additional fact finding before making a determination.~~ **Upon** **Within ten days of the completion of the investigation, the superintendent's designee shall provide all parties a written disposition of the complaint.** ~~a determination shall be made.~~

4.3. **Response; Request for hearing.** Within five days of the receipt of the ~~determination~~ **written disposition, made by the Title IX Coordinator, any party involved complainant**

may provide a written response to the disposition to be considered by the superintendent or designee. The response may include a request for a hearing before an unbiased panel of District employees. If such a request for a hearing is made, it shall be the responsibility of the Title IX Coordinator to convene a panel of three to five District employees. If no such request is made, the matter will be deemed concluded.

4.4. **Hearing.** A panel of three to five District employees shall be convened within five to ten days of the written request, ~~who~~ and shall review the facts presented and question all parties involved before making a determination. The complainant and ~~alleged harasser~~ respondent will be informed by registered mail of the date and time to appear before the panel. The proceedings of the hearing will be taped and kept on file in the Human Resources office. The panel will prepare (1) an objective written summary of all relevant facts, ~~then express~~ and (2) its findings and conclusions. The summary of facts, findings and conclusions will then provide the basis for subsequent review in the event of further appeal by the complainant or respondent.

4.5. **Request for review.** Within five days of the receipt of ~~either the determination made by (a) the Title IX Coordinator or (b) the conclusions made by the panel of District employees,~~ the complainant and/or ~~alleged harasser~~ respondent may appeal the decision by requesting, in writing, a review of the decision by the superintendent. The superintendent will review the summary, findings ~~determination~~ and conclusions of the panel and shall, within ten days, render a written decision.

4.6. **Appeal.** Within five days of the receipt of the ~~response~~ superintendent's decision, the complainant and/or ~~alleged harasser~~ respondent may appeal this decision by requesting, in writing, a review of the decision by the Board. The Board shall review the written summary of the panel and the written decision of the superintendent within thirty days of receipt of request for appeal. The Board's decision shall be rendered no later than the conclusion of its next regularly scheduled Board meeting.

5. Retaliation

It is a separate and distinct violation of this policy for any member of the school community to retaliate against any person who reports alleged illegal discrimination or harassment or against any person who testifies, assists or participates in an investigation, proceeding or hearing relating thereto. ~~to such harassment.~~ It is possible that a respondent ~~an alleged harasser~~ may be found to have violated this anti-retaliation provision even if the underlying complaint of harassment is not found to be a violation of this policy. Retaliation includes, but is not limited to any form of intimidation, reprisal or harassment and may be redressed through application of the same reporting, investigation and enforcement procedures outlined above. ~~as for harassment.~~

6. Consequences

Any school employee or student that is found to have violated this policy may ~~may~~ shall be subject to action including, but not limited to, warning, remedial training, education or counseling, suspension, exclusion, expulsion, transfer, termination or discharge. Further, if any employee is accused of having any type of sexual involvement with a student, the principal and/or superintendent shall notify the district attorney of such accusation, provided that such accusation is reported to the principal and to the

school superintendent and that there is a reasonable basis to believe that such accusation is true.

7. Dissemination of policy and training

This policy shall be conspicuously posted throughout each school building in areas accessible to students and staff members. This policy shall appear in the student handbook and employee guidebook. The District will develop a method of discussing this policy with students and employees. Training on the requirements of non-discrimination and the appropriate responses to issues of harassment will be provided to all school personnel on an annual basis, and at such other times as the Board in consultation with the Title IX Coordinator determines is necessary or appropriate. This policy shall be reviewed at least annually for compliance with state and federal law.

The Title IX Coordinator for the Tupelo Public School District is:

Director of Human Resources
TPSD Administrative Office
Post Office Box 557
Tupelo, Mississippi 38802
662-841-8850

EXHIBITS

None

REFERENCES

MCA § 97-5-24 (1972)
§§501, 504, 505 of the Rehabilitation Act of 1973
Title IX, §106.31(students) and §703 (employees)
Title VII of the Civil Rights Act of 1964
Equal Pay Act of 1963
Age Discrimination in Employment Act
Americans with Disabilities Act

FORMS

(Complaint form?) Form GBAA 1.0710 ?