

4120 STUDENT DISCRIMINATION AND HARASSMENT POLICY

I. PURPOSE AND PHILOSOPHY

The purpose of this policy is to help create a safe and inclusive climate throughout Weber School District (“District”) wherein diversity/differences are embraced and celebrated, every student and employee is inspired to achieve, thrive and grow, and where each is empowered to act against any form of intolerance, bigotry (and/or) injustice. This policy is intended to address discrimination and harassment in the District’s schools under Title IV, Title VI, Title IX¹ or Section 504 of the Rehabilitation Act of 1973. The District seeks to ensure its schools are free from discriminatory and harassing behaviors by students, teachers, and other employees and that students, teachers, and employees feel safe and included in all aspects of the educational environment. Equity and inclusion are key components in the District’s mission as an educational institution and it is the expectation of the board that equity and inclusion are at the forefront of every educational program and activity within the District.

II. POLICY

The District prohibits discrimination and discriminatory harassment on the basis of race, color, national origin, sex, disability, or any other group as required by state and federal laws. The District prohibits discrimination and discriminatory harassment on school property, at school activities, or off campus if the conduct has a strong nexus to school. Students in the District shall not be subject to discrimination or discriminatory harassment, excluded from participation in, or denied the benefits of school programs or activities on the basis of race, color national origin, sex, or disability. The District will promptly investigate all allegations of discrimination and discriminatory harassment, according to the procedures outlined in this Policy, and a substantiated charge of discriminatory harassment will result in disciplinary action. The District is committed to working with students and parents to prevent all discrimination and discriminatory harassment and provide equal access to educational programs and a safe learning environment for all students.

III. DEFINITIONS AND EXAMPLES

A. Discrimination: the unjust or prejudicial treatment of different individuals on the grounds of race, age, or sex, including sexual orientation or gender identity. The following are examples of discrimination. This is not an exhaustive or comprehensive list and is not intended to cover all acts of discrimination.

1. Disproportionate discipline based on a student’s race, color, national origin, sex, including sexual orientation or gender status, or disability
2. Denying students with a disability access to FAPE

¹ Sexual harassment under Title IX is addressed in WSD Policy 4121. All other forms of discrimination under Title IX, other than sexual harassment, are addressed in this Policy.

3. Assigning students of a particular race, color, national origin, sex, sexual orientation, gender identity, or disability to an inadequate or less adequate building, facility, bus, program, class, project, teachers, activity, school, or grouping of any kind
4. Providing less adequate facilities for female athletes versus male athletes or for male athletes versus female athletes
5. Providing less options for sports for female athletes versus male athletes or for male athletes versus female athletes
6. Providing less funding for sports for female athletes versus male athletes or for male athletes versus female athletes
7. Denying access to facilities for individuals with disabilities, including access to written and spoken language
8. Denying privileges or opportunities to students based on a student's race, color, national origin, sex, including sexual orientation and gender status.

B. Discriminatory harassment: harassment based on a person's race, skin color, national origin, sex,² including sexual orientation or gender identity, or disability. Discriminatory harassment that denies a person access to education programs or activities may also constitute a civil rights violation. The following are examples of discriminatory harassment. This is not an exhaustive or comprehensive list and is not intended to cover all acts of discriminatory harassment.

1. Threatening or intimidating conduct directed at a student because of the student's race, color, religion, sex, national origin, physical or mental disability
2. Use of **discriminatory language**, when targeted at a student or group of students, including epithets, slurs, negative stereotype, name calling, verbal abuse, derogatory comments, degrading descriptions, and hostile acts which are based upon a student's race, color, religion, sex (including sexual orientation and gender identification) national origin, physical or mental disability
3. Verbal, written, or graphic material containing comments or stereotypes aimed at degrading students or members of protected classes
4. Aggressive conduct towards a student motivated by race, color, religion, sex, national origin, physical or mental disability, or other classification protected by law

² Discriminatory harassment based on sex that meets the definition of Sexual Harassment under Title IX is addressed in Policy 4121.

5. Graffiti containing offensive or derogatory language, symbols, or pictures in the context any of the legally protected classifications
 6. Any unwelcome communication (whether written, verbal, or sent by electronic or other means) that is offensive or degrading and motivated by a student's race, color, religion, sex, national origin, physical or mental disability, or other classification protected by law
 7. Jokes, notes, stories, drawings or pictures, gestures, or the display or distribution of offensive or degrading material based upon any of the legally protected classifications
 8. Displaying words, pictures, or symbols on clothing that are offensive or degrading based upon any of the legally protected classifications
 9. Engaging in any of the foregoing types of discriminatory or harassing behavior outside of school or outside of school-related activities and events, but which materially disrupt the educational environment at school
 10. Mocking someone's speech, clothes, hairstyle, customs on the basis of race, color, religion, national origin, sex, or disability or other classification protected by law.
- C. Discriminatory language: slurs, epithets, phrases, nicknames, expressions, labels, name-calling or any similar language that have a history of being discriminatory or are often used in a derogatory way, targeted at a protected class, regardless of whether the speaker intended the language to be discriminatory. The use of the "N" word will always be discriminatory language, no matter the context in which the word is used.
- D. Sexual harassment: the same meaning as found in WSD Policy 4121, and for purposes of this policy is restated as: "conduct on the basis of sex that satisfies one or more of the following:
1. An employee of the District conditioning the provision of an aid, benefit, or service of the District on the individual's participation in unwelcome sexual conduct (ie, "quid pro quo");
 2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to the District's education program or activity; or
 3. Sexual assault, dating violence, domestic violence, or stalking, as defined in the Clery Act and in Policy 4121.
- E. Sexual misconduct: conduct of a sexual nature that violates Policy 5200 because it is behavior or threatened behavior that poses an immediate and significant threat to the welfare, safety, or morals of other students or school personnel, but does not meet the definition of sexual harassment. Sexual misconduct could be discriminatory harassment

if the conduct is targeted at another person, but is not necessarily discriminatory harassment.

Examples: The following are examples of sexual conduct that, depending on the facts of the allegation, may be deemed sexual harassment or may be deemed sexual misconduct. Examples below that are, on their face, sexual harassment allegations will be so noted. This list is not exhaustive and is not intended to be a comprehensive list of all behaviors that are sexual harassment and/or sexual misconduct.

1. Adult-to-student:

- (1) Sexual flirtations or propositions, or any sexual invitations or requests for sexual activity
- (2) Sexual invitations or requests for sexual activity in exchange for grades, preferences, favors, selection for extracurricular activities, homework, etc. (sexual harassment)
- (3) Graphic verbal comments about an individual's body, overly personal conversations of a sexual nature, or any communication (whether written, verbal, or sent by electronic or other means) that is sexually suggestive, sexually degrading, or implies sexual motives or intentions
- (4) Telling sexual jokes, notes, stories, drawings or pictures, gestures, or the display or distribution of pornographic or sexually oriented material
- (5) Touching a student's buttocks, genitals, or a female's breasts (over or under clothing) at any time (If this meets the definition of "sexual assault" from the Clery Act, it is sexual harassment)
- (6) Touching a student's body parts (not named above) if done so in a sexual way, including, but not limited to, massaging, grabbing, fondling, stroking, or brushing the body in a sexual way (If this meets the definition of "sexual assault" from the Clery Act, it is sexual harassment)
- (7) Touching oneself or another individual's body or clothing in a sexual way
- (8) Purposefully cornering or blocking normal movements or stalking
- (9) Sexual activities of a criminal nature, including but not limited to: rape, attempted rape, sexual assault, attempted sexual assault, forcible sexual abuse and sexual exploitation of a minor. (These terms are defined in the Utah Criminal Code) (Sexual Harassment)
- (10) Engaging in the improper use of school computers and the internet, which could create a hostile environment, including, but not limited to, accessing, downloading, or uploading pornography; sharing internet pornography or emails with students; creating or maintaining websites with sexual content; participating in sexual discussions by means of email; internet chat rooms, instant messaging, or any other form of electronic communication

2. Student-to-Student

- (1) Repeated leering, sexual flirtations or propositions, or any sexual invitations or requests for sexual activity after being told the behavior is unwelcome.
- (2) Calling a person names using sexual slurs, epithets, threats, verbal abuse, derogatory comments, or sexually degrading descriptions, or howling, catcalls, and whistling
- (3) Spreading rumors about a person's sexual proclivities or activities or "ratings list" where students rate the physical attractiveness or sexiness of other students
- (4) Teasing a person enrolled in a predominantly single-gender subject/classroom
- (5) Teasing a person for not conforming to gender stereotypes, or actual or perceived sexual orientation or gender identity
- (6) Unwanted and unwelcome touching another person's buttocks, genitals, or a female's breasts (over or under clothing) at any time, including the use of objects to touch another person's buttocks, genitals, or a female's breasts (If this allegation meets the definition of "sexual assault" from the Clery Act, it is Sexual Harassment.)
- (7) Unwanted and unwelcome touching of another person's body parts (not named above) if done so in a sexual way, including, but not limited to, massaging, grabbing, fondling, stroking, or brushing the body in a sexual way
- (8) Touching oneself or another individual's body or clothing in a sexual way
- (9) Physical pranks that are sexual in nature, including but not limited to pranks for hazing and/or initiation when it involves touching another individual's clothing or body parts: pulling undergarments up at the waist so it goes in between the buttocks (snuggies or wedgies), snapping a student's bra, flipping up a student's skirt, pulling down someone's pants or swimming suit (pantsing or spiking), grabbing or touching male genitalia over the pants in a joking manner (squirrel tapping), and/or slapping or grabbing buttocks or breasts (male or female).
- (10) Purposefully cornering or blocking normal movements or stalking
- (11) Sexual activities of a criminal nature, including but not limited to: rape, attempted rape, sexual assault, attempted sexual assault, forcible sexual abuse and sexual exploitation of a minor. (These terms are defined in the Utah Criminal Code and where they also meet the definitions of sexual assault, dating violence, domestic violence, or stalking in the Clery Act, they are Sexual Harassment.)
- (12) Sharing internet pornography or emails with other students or unwelcome sexual discussions by email or other electronic means (chat rooms, instant messaging etc.)
- (13) The solicitation of nude, semi-nude, or sexually explicit images of a student when the solicitation is accompanied by threats or blackmail
- (14) The dissemination of nude, semi-nude or sexually explicit images of a student without that student's consent

3. Educational Climate

- (1) Generalized use of sexual slurs, epithets, derogatory comments, or sexually degrading descriptions, or howling, catcalls, and whistling
 - (2) Sexually graphic electronic messages or games
 - (3) Telling sexual jokes, notes, stories, drawings or pictures, or gestures
 - (4) The display or distribution of pornographic or sexually oriented material
 - (5) Displaying words, pictures, or symbols on clothing that are sexually explicit or have an underlying sexual connotation
 - (6) Widespread “games” students play that involve touching another person’s clothing or body parts, such as: , pulling undergarments up at the waist so it goes in between the buttocks (snuggies or wedgies), bra-snapping, skirt flip-ups, pulling down someone’s pants or swimming suit (pantsing or spiking), grabbing or touching male genitalia over the pants in a joking manner (squirrel tapping), and/or slapping or grabbing buttocks or breasts (male or female).
 - (7) Intentionally exposing or causing the exposure or accentuation of undergarments, genitalia, or other body parts of oneself, included but not limited to: mooning, streaking, flashing, skirt-flipping, or other sexually suggestive exposure in person or in photos or videos.
 - (8) Displaying sexually suggestive objects or performing/showing unwelcome and offensive skits, assemblies, and sexually suggestive productions, or skits, assemblies and productions that make fun of students based on sexual stereotype and/or sexual orientation and/or gender identity
 - (9) Unwelcome and offensive sexual public display of affection including making out, groping, folding, petting and sexually suggestive dancing
 - (10) Engaging in the improper use of school computers and the internet, which could create a hostile environment, including, but not limited to, accessing, downloading, or uploading pornography; sharing internet pornography or emails with students; creating or maintaining websites with sexual content; participating in sexual discussions by means of email; internet chat rooms, instant messaging, or any other form of electronic communication
 - (11) Written sexual messages, notes or graffiti on bathroom walls or locker rooms
- F. At school: on school property (including WSD busses), at a school-related event, in route to a school related event, or at a WSD-designated bus stop.
- G. Nexus: connection to school. The closer the connection in both time and space, the stronger the nexus is. For example, an incident occurring on a family trip out of the country over the summer has a weak nexus to school. On the other hand, an incident occurring right after school at a park across the street involving students from the school has a strong nexus to school. Also, a nexus to school may be created when students bring the incident to school by talking about it to the point of causing an educational disruption,

by sharing videos or pictures of the incident, or when the incident is shared on social media through the school's network while at school, during the school day, with other students at the school.

IV. DISCRIMINATION

- A. Prohibited Conduct. Discrimination as defined in this policy is strictly prohibited. Students and/or parents who feel they have been subjected to discrimination should follow the reporting procedures set forth below.
- B. Procedures for Reporting and Investigating
1. Parents or students and students who feel they have been subject to discrimination as defined here may submit a complaint in writing to the principal of the school.
 - (1) If the discrimination is based on sex, the parent or student may, in the alternative, file a complaint directly with the District's Title IX Coordinators over discrimination, whose contact information is listed at the end of the policy.
 - (2) If a complaint is filed with a Title IX Coordinator, the Title IX Coordinator will work with the building principal to investigate and will follow the same process outlined in steps 2-7.
 - (3) An appeal from a written determination by the District's Title IX Coordinators will be heard by the Superintendent.
 2. A complaint does not have to be in writing in order to begin an investigation, but parents/students are encouraged to submit written complaints to ensure the principal is adequately informed of all details relevant to the complaint.
 3. A principal who receives a verbal complaint will document the complaint and obtain all relevant information to allow for a thorough investigation.
 4. The principal or his/her delegates, will conduct an impartial investigation into the complaint.
 5. The principal will notify the appropriate District coordinator immediately after an impartial investigation.
 6. The investigation will be conducted in a timely manner. If the investigation takes longer than five school days to gather all relevant data, the principal will notify the complainant of the status of the investigation and when he/she can expect a resolution.
 7. At the conclusion of the investigation the principal will respond in writing to the written complaint with the outcome of the investigation.

8. The parent may appeal the principal's response (or failure to respond) in writing to the appropriate District level coordinator.
9. At any time, a student and/or parent is entitled to file a complaint with the Office for Civil Rights, which contact information is found at the end of this policy.

C. Remediation

1. Following a determination to discrimination, WSD will take prompt and effective steps to remedy the discriminatory conduct and eliminate it from WSD's programs and activities.

V. **DISCRIMINATORY HARASSMENT**

A. Prohibited Conduct.

1. Discriminatory harassment is strictly prohibited in WSD schools, on WSD property, and at any school event.
2. Discriminatory harassment that occurs off school grounds or outside a school event is also strictly prohibited if the harassment has a nexus to the school.

B. Procedures for reporting and investigating

1. Administrators who receive a report of discriminatory harassment that meets the definition of Bullying in Policy 5201 will follow the investigative procedures outlined in section 5 of WSD's Bullying Policy 5201. Discriminatory harassment will meet the definition of Bullying if there is an identifiable target or targets.
2. Administrators who receive a report of discriminatory harassment that does not meet the definition of Bullying in Policy 5201 will document the harassment and take prompt and effective steps to investigate and stop the discriminatory harassment.

(1) Examples of discriminatory harassment that do not meet the definition of Bullying include:

- (a) use of **discriminatory language** with one another without intent to intimidate or harass
- (b) clothing (t-shirts or hats) with messages that may be offensive to others based on race, color, national origin or disability
- (c) display of Confederate or Nazi flag, or other emblems that have a history or association with prejudicial discrimination and/or racism
- (d) social media posts of pictures, poems, songs, or quotes that have **discriminatory language** when the post has a nexus to school or is posted in violation of an extracurricular contract
- (e) telling of jokes targeting a particular group based on race, gender, color, national origin, or disability

- (f) any other display (pictures, videos, recordings of any kind) of conduct that is disparaging, threatening, or demeaning to a particular group based on race, color, national origin, or disability.
- (2) Administrators will immediately address the discriminatory harassment with all students engaging in discriminatory harassment, and will teach students why the conduct is prohibited.
- (3) Administrators will document reports of discriminatory harassment in MyStudent and check the “Discriminatory Harassment” indicator.
- (4) Administrators will take prompt and effective steps to eliminate the discriminatory harassment, including, but not limited to:
 - (a) Disciplining students who demonstrate knowledge of the offensiveness of the conduct
 - (b) Restorative justice practices
 - (c) Professional Development for teachers to incorporate lessons on equity, justice, and inclusion into the classroom
 - (d) School-wide assemblies addressing equity, justice, and inclusion

VI. SEXUAL HARASSMENT AND SEXUAL MISCONDUCT

A. Prohibited Conduct.

1. Sexual harassment and sexual misconduct are strictly prohibited in WSD schools, on WSD property, and at any school event.
2. Sexual misconduct that occurs off school grounds or outside a school event is also strictly prohibited if the misconduct has a nexus to the school. Sexual harassment that occurs off school grounds and outside the jurisdiction of Policy 4121 will be addressed as sexual misconduct and investigated in accordance with the procedures of this policy if the harassment has a nexus to the school.

B. Procedures for Investigating and Reporting.

1. Sexual harassment v. sexual misconduct

- (1) All formal complaints of sexual harassment will be addressed in accordance with the procedures outlined in Policy 4121.
- (2) A complaint of sexual harassment that is dismissed under Policy 4121 for failure to meet the definition of sexual harassment either on its face or following an investigation may be treated as sexual misconduct and addressed in accordance with this Policy.
- (3) A report of conduct that meets the definition of sexual harassment in Policy 4121 but is not accompanied by a formal complaint will be addressed in accordance with Section V.D.4 of Policy 4121.

- (4) Conduct that meets the definition of sexual harassment may not be considered sexual misconduct for the sole purpose of avoiding the procedures set forth in Policy 4121.
- (5) A pattern of sexual misconduct may meet the definition of sexual harassment under Policy 4121 if the pattern, taken as a whole, the pattern of behavior is unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District's education program or activity

2. *Sexual misconduct*

- (1) Administrators who receive a report of sexual misconduct that meets the definition of Bullying in Policy 5201 will follow the investigative procedures outlined in section 5 of WSD's Bullying Policy 5201. Sexual misconduct will meet the definition of Bullying if there is an identifiable target or targets.
- (2) Administrators who receive a report of sexual misconduct that does not meet the definition of Bullying in Policy 5201 will document the misconduct and take prompt and effective steps to investigate and stop the discriminatory harassment.
- (3) Examples of sexual misconduct that do not meet the definition of Bullying include the examples outlined in Section III.E.3. of this policy describing a climate of sexual misconduct.
- (4) Administrators will immediately address the sexual misconduct with all students engaging in the conduct, and will teach students why the conduct is prohibited.
- (5) Administrators will document reports of sexual misconduct in MyStudent and check the "Sexual Misconduct" box.
- (6) Administrators will take prompt and effective steps to eliminate the sexual misconduct, including, but not limited to:
 - (a) Disciplining students who demonstrate knowledge of the offensiveness of the conduct
 - (b) Restorative justice practices
 - (c) Professional Development for teachers to incorporate lessons on respect and inclusion into the classroom
 - (d) School-wide assemblies addressing respect and inclusion

C. Reporting to Law Enforcement:

1. The following conduct must be reported to law enforcement or the Division of Child and Family Services (DCFS) without delay, when a school employee has reason to believe that it has occurred:
 - (1) Any of the adult-to-student behavior
 - (2) Unwanted and unwelcome touching another person's buttocks, genitals, or a female's breasts (over or under clothing) at any time, including the use of objects to touch another person's buttocks, genitals, or a female's breasts

- (3) Unwanted and unwelcome touching of another person's body parts (not named above) if done so in a sexual way, including, but not limited to, massaging, grabbing, fondling, stroking, or brushing the body in a sexual way
 - (4) Sexual activities of a criminal nature, including but not limited to: rape, attempted rape, sexual assault, attempted sexual assault, forcible sexual abuse and sexual exploitation of a minor. (These terms are defined in the Utah Criminal Code)
 - (5) The solicitation of nude, semi-nude, or sexually explicit images of a student when the solicitation is accompanied by threats or blackmail;
 - (6) The dissemination of nude, semi-nude or sexually explicit images of a student without that student's consent;
 - (7) Written sexual messages, notes or graffiti on bathroom walls or locker rooms (where the graffiti or notes are sufficient enough to cause monetary damage and may constitute vandalism)
2. When a report of sexual harassment that occurred at school or a school-sponsored event has been referred to law enforcement, the school administrator will work with law enforcement to ensure the obligations under this policy and Policy 4121 are met.
 3. If a school investigation is delayed at the request of law enforcement during a criminal investigation, administrators will ensure supportive measures are in place to keep all parties involved in allegations of sexual harassment or sexual misconduct safe.
 4. When a report of sexual harassment that occurred off school grounds and not at a school-sponsored event has been referred to law enforcement, the school administrator will work to ensure the students involved feel safe and have continued access to educational programs and or opportunities.
 5. Regardless of the outcome of the criminal investigation, the school administrator will pursue an investigation of the allegations, either under this policy or Policy 4121.

VII. DISCIPLINE

- A. Students found in violation of this policy are subject to discipline in accordance with Policy 5200 and the Administrator Student Discipline Handbook.
- B. A student participating in extracurricular activities who is found to be in violation of the policy may be suspended from participation in the activity or removed from the activity altogether. A student removed from participation in an extracurricular activity is not entitled to due process.
- C. Throughout all investigations of allegations under this policy, the standard of proof shall be a preponderance of the evidence.

- D. Students who are subject to discipline under this policy may appeal the discipline in accordance with Policy 5200.

VIII. WHO TO CONTACT

A. Title IX

1. For allegations of Title IX sexual harassment, the Assistant Superintendent is the District Title IX Coordinator and may be contacted at:

Email: ahansen@wsd.net

Phone: (801) 476-7826

2. For allegations of Title IX discrimination on the basis of sex, the Supervisors over Elementary and Secondary Education are the District level Title IX Coordinators for elementary and secondary schools respectively. They may be contacted at the contact information below for complaints of discrimination on the basis of sex.

Elementary Title IX Coordinator:

Email: dhales@wsd.net

Phone: (801) 476-7877

Secondary Title IX Coordinator:

Email: clmoore@wsd.net

Phone: (801) 476-7878

B. Title VI

1. The Director of Equity, Justice, and Inclusion at the District may be contacted for complaints of discrimination or discriminatory harassment on the basis of race, color, or national origin.

Email: jaellis@wsd.net

Phone: (801) 476-7869

C. Disability

1. The building principal in each school of Weber School District is the school level 504 Coordinator.
2. The District 504 Coordinator, within the Equity, Justice, and Inclusion Department is the contact person at the district level for complaints of discrimination or discriminatory harassment on the basis of a disability.

Email: klmiller@wsd.net

Phone: (801) 476-7865

CONTACT INFORMATION FOR THE OFFICE FOR CIVIL RIGHTS

Office for Civil Rights,

Denver Office

U.S. Department of Education

Cesar E. Chavez Memorial Building

1244 Speer Boulevard, Suite 310

Denver, CO 80204-3582

Telephone: (303) 844-5695

Facsimile: (303) 844-4303

Email: OCR.Denver@ed.gov