

7100 EMPLOYEE HARASSMENT AND DISCRIMINATION

I. PURPOSE AND PHILOSOPHY

The purpose of this policy is to provide a safe work environment that is free from harassment and discrimination for all employees within Weber School District (District). The District seeks to ensure its employees are free from discrimination and harassment and that they feel safe in their workspace. This policy is intended to address instances of discrimination and harassment in the District, per state and federal laws, listed here:

- Title IX of the Education Amendments of 1972 (Title IX) provides that “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance...” 20 U.S.C. § 1681(a). Sexual harassment under Title IX is governed by Weber District Policy 4121.
- Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973 (Section 504) provide that “No otherwise qualified individual with a disability . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” 29 U.S.C. § 794(a).
- Title VI of the Civil Rights Act of 1964 (Title VI) provides that “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” 42 U.S.C. § 2000d.
- Title VII of the Civil Rights Act of 1964 (Title VII) provides that “It shall be an unlawful employment practice for an employer- (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual’s race, color, religion, sex, or national origin; or (2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual’s race, color, religion, sex, or national origin.” 42 U.S.C. § 2000e-2.
- The Age Discrimination in Employment Act of 1967 (ADEA) prohibits employment discrimination based on age. It provides protections to individuals who are at least 40 years old and applies to hiring and firing decisions, adverse employment actions, and the provision of compensation and benefits. 29 U.S.C. § 621 et seq.
- The Older Worker’s Benefit Protection Act (OWBPA) was a 1990 amendment to the ADEA that clarified the protections given to older individuals in regard to employee benefit plans. 29 U.S.C. § 621 et seq.
- The Equal Pay Act, (EPA), is a 1963 amendment to the Fair Labor Standards Act (FLSA) that prohibits wage discrimination between employees on the basis of sex for substantially equal work. 29 U.S.C. § 206(d).

- The Pregnancy Discrimination Act is a 1978 amendment to Title VII to include pregnancy-based discrimination. The prohibition of discrimination extends to pregnancy, childbirth, and related medical conditions.
- The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) grants veterans certain rights because of their military service. 38 U.S.C. § 4301, et seq.
- The Utah Antidiscrimination Act of 1965 prohibits employment discrimination on the basis of race, color, religion, sex, age (over 40), national origin, disability, sexual orientation, gender identity, pregnancy, childbirth, or pregnancy-related conditions. The law also provides that employees may express religious and moral beliefs and commitments in the workplace in a reasonable manner and that employers may not discharge, demote, refuse to hire, retaliate, or discriminate against an individual based on expressions of religious, political, or personal convictions, including convictions about marriage, family, or sexuality, outside of the workplace. Utah Code Ann. § 34A-5-101 et seq.

II. POLICY

The District prohibits: discrimination and discriminatory harassment of its employees, as defined and outlined herein, by other employees, students, volunteers, or other persons at school or at school-related activities and events; system-wide Discrimination of employees, both through disparate treatment and disparate impact, in its programs, offerings, facilities, rules, policies, and Practices; and sexual harassment of employees as outlined in Weber School District Policy 4121.

The District shall not terminate, discharge, or demote, or refuse to hire or promote any individual, or retaliate against, harass, or otherwise discriminate against any qualified individual with respect to compensation, terms, conditions, or privileges of employment, because of that individual's race, color, religion, sex, sexual orientation, gender identity, national origin, age, disability, or other legally protected classification, including because the individual breastfeeds or expresses milk in the workplace.

The District shall not limit, segregate, or classify its employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect their status as employees because of the employees' race, color, religion, sex, national origin, age, disability, or other legally protected classification.

The District encourages all victims of Discrimination and Harassment, and all persons with knowledge of Discrimination and Harassment, to report it immediately according to the procedures outlined in this Policy. The District will promptly investigate all verbal and written complaints of Discrimination and Harassment and will take prompt corrective action to end behavior prohibited by this policy.

The District prohibits retaliatory behavior or action against persons who complain, testify,

assist, or otherwise participate in the complaint process established pursuant to this policy or by any administrative directive.

III. DEFINITIONS AND EXAMPLES

A. "Discrimination" means the unjust or prejudicial treatment, including adverse employment actions, of different individuals on the basis of a Protected Class. The following are examples of discrimination in the workplace and are prohibited. This is not an exhaustive or comprehensive list and is not intended to cover all acts of discrimination.

1. Publishing a job advertisement that shows a preference for or discourages someone from applying for a job because of the person's membership in a Protected Class.
2. Recruiting new employees in a way that discourages or does not give equal opportunity to applicants because of their membership in a Protected Class.
3. Denying a job to an applicant because of the applicant's membership in a Protected Class.
4. Denying a particular job assignment or promotion based on the employee's membership in a Protected Class.
5. Basing salary, stipends, and/or other employment benefits on an employee's membership in a Protected Class.
6. Disciplining an employee based on the employee's membership in a Protected Class.
7. Terminating an employee based on the employee's membership in a Protected Class.
8. Taking any adverse employment action against an employee based on the employee's membership in a Protected Class.
9. Providing a negative or false reference of an employee or former employee based on membership in a Protected Class.
10. Denying a reasonable accommodation to an employee or job applicant with a disability, unless doing so would cause significant difficulty or expense for the employer, or would change the nature of the job.
11. Denying an employee reasonable accommodations to practice the employee's religious beliefs or practices, unless doing so would cause difficulty or expense for the employer.
12. Denying benefits such as breaks, leave, preferred workstations, or any other benefit based on the employee's membership in a Protected Class.

- B. "Discriminatory harassment" means harassment based on an employee's membership in a Protected Class. 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 an employee because of the employee's membership in a protected class.
 2. Use of **discriminatory language**, when targeted at an employee or group of employees, including epithets, slurs, negative stereotypes, name-calling, verbal abuse, derogatory comments, degrading descriptions, and hostile acts which are based upon an employee's race, color, religion, sex (including sexual orientation and gender identification), national origin, and physical or mental disability.
 3. Verbal, written, or graphic material in the workplace containing comments or stereotypes aimed at degrading employees or members of Protected Classes, including displaying offensive or suggestive posters, pictures, or objects stereotyping or degrading Protected Classes.
 4. Aggressive conduct towards an employee motivated by race, color, religion, sex, national origin, physical or mental disability, or other classification protected by law
 5. Offensive verbal comments including remarks, questions, teasing, or innuendo intended to target members of a Protected Class.
 6. Any unwelcome communication (whether written, verbal, or sent by electronic or other means) that is offensive or degrading and motivated by an employee's membership in a Protected Class.
 7. Jokes, notes, stories, drawings or pictures, gestures, or the display or distribution of offensive or degrading material based upon a Protected Class.
 8. Displaying words, pictures, or symbols on clothing that are offensive or degrading based upon a Protected Class.
 9. Mocking someone's speech, clothes, hairstyle, and customs based on membership in a Protected Class.
 10. Any unwanted conduct based on the employee's sex, as outlined in Sections III.D. and III.E.
- C. "Discriminatory language" means use of 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" as defined 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. Allegations of conduct that, on their face, meet this definition of sexual harassment will be investigated and addressed under the procedures outlined in Policy 4121. All other allegations of conduct of a sexual nature will be considered sexual misconduct and will be investigated and addressed under this Policy.
- E. "Sexual misconduct" means conduct of a sexual nature that is behavior or threatened behavior that poses an immediate and significant threat to the welfare, safety, or morals of other students, employees, or school personnel, but does not meet the definition of sexual harassment.

The following are examples of misconduct 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:
 - i. Sexual flirtations or propositions, or any sexual invitations or requests for sexual activity.
 - ii. Sexual invitations or requests for sexual activity in exchange for, preferences, favors, selection for extracurricular activities, homework, etc. (sexual harassment)
 - iii. 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.
 - iv. Telling sexual jokes, notes, stories, drawings or pictures, gestures, or the display or distribution of pornographic or sexually-oriented material

- v. Touching a student's buttocks, genitals, or breasts (over or under clothing) at any time. If this meets the definition of "sexual assault" from the Clery Act, it is sexual harassment.
- vi. 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.
- vii. Touching oneself or another individual's body or clothing in a sexual way.
- viii. Purposefully cornering or blocking normal movements or stalking.
- ix. 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).
- x. 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. Employee-to-Employee

- i. Repeated leering, sexual flirtations or propositions, or any sexual invitations or requests for sexual activity after being told the behavior is unwelcome.
- ii. Calling a person names using sexual slurs, epithets, threats, verbal abuse, derogatory comments, sexually degrading descriptions, or howling, catcalls, and whistling
- iii. Spreading rumors about a person's sexual proclivities or activities or "ratings list" where employees rate the physical attractiveness or sexiness of other employees
- iv. Teasing a person for not conforming to gender stereotypes, or actual or perceived sexual orientation, or gender identity
- v. 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.)
- vi. 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

- vii. Touching oneself or another individual's body or clothing in a sexual way
 - viii. 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 an employee's bra, flipping up an employee's skirt, pulling down someone's pants or swimming suit (panting or spiking), grabbing or touching male genitalia over the pants in a joking manner (squirrel tapping), and/or slapping or grabbing buttocks or breasts.
 - ix. Purposefully cornering or blocking normal movements or stalking.
 - x. 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.)
 - xi. Sharing internet pornography or emails with other employees or unwelcome sexual discussions by email or other electronic means (chat rooms, instant messaging, etc.)
 - xii. The solicitation of nude, semi-nude, or sexually explicit images of an employee when the solicitation is accompanied by threats or blackmail.
 - xiii. The dissemination of nude, semi-nude, or sexually explicit images of an employee without that employee's consent.
3. Workplace Climate:
- i. Generalized use of sexual slurs, epithets, derogatory comments, sexually degrading descriptions, or howling, catcalls, and whistling.
 - ii. Sexually graphic electronic messages or games.
 - iii. Telling sexual jokes, notes, stories, drawings or pictures, or gestures.
 - iv. The display or distribution of pornographic or sexually oriented material.
 - v. Displaying words, pictures, or symbols on clothing that are sexually explicit or have an underlying sexual connotation.
 - vi. Engaging in the improper use of district-owned computers and/or district networks, which may create a hostile environment, including, but not limited to, accessing, downloading, or uploading pornography; sharing internet pornography or emails with students and/or employees; 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.
- F. "At work" means on work property, at a work-related event, or en route to a work-related event.

- G. "Protected Class" includes sex, sexual orientation, gender identity, disability, race, color, national origin, religion, age, pregnancy or pregnancy-related conditions, and veteran status.

IV. PROHIBITED CONDUCT

- A. The District is prohibited from engaging in discrimination toward any employee, applicant for employment, volunteer, or agent of the District.
- B. District employees, volunteers, and agents are prohibited from engaging in discriminatory harassment towards other employees, students, volunteers, parents, or any other person affiliated with the District.
- C. District employees are prohibited from engaging in sexual harassment and sexual misconduct towards other employees, students, volunteers, parents, or any other person affiliated with the District.
 - 1. Allegations of conduct that meet the definition of sexual harassment will be addressed following the district's sexual harassment policy, Policy 4121, in accordance with Title IX of the Education Amendment Act of 1979 and the associated 2020 regulations found in 34 CFR ...
 - 2. Allegations of sexual misconduct that, on their face, do not meet the definition of sexual harassment, will be addressed as a potential violation of Title VII of the Civil Rights Act of 1964 and will be investigated in accordance with the procedures outlined in this policy.
 - 3. The following apply to allegations of sexual misconduct and sexual harassment:
 - a. The harasser can be the victim's supervisor, an agent of the District, a supervisor in another area, a co-worker, or a non-employee.
 - b. The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.
 - c. Unlawful sexual harassment may occur without economic injury to or discharge of the victim.
 - d. The harasser's conduct must be unwelcome.
 - e. If the allegation on its face could be criminal in nature, the district will report to law enforcement.
 - 4. Additional Prohibited Conduct For Supervisors: District employees that are responsible for supervising other employees are prohibited from having any kind of romantic and or sexual interaction with an employee they supervise.

VI. PROCEDURES FOR REPORTING DISCRIMINATION, DISCRIMINATORY HARASSMENT, SEXUAL HARASSMENT AND SEXUAL MISCONDUCT

- A. An employee who believe they have been subject to sexual harassment by an employee of the District should report to the Title IX Coordinator, whose contact information is listed under Section X of this Policy or may file a complaint through the [District's Title IX Sexual Harassment Form](#).

1. If the employee reports to anyone other than the Title IX Coordinator that the employee has been subjected to sexual harassment, that person must report immediately to the Title IX Coordinator.
 2. The Title IX Coordinator will review the complaint and determine whether the allegations, if true, constitute sexual harassment under Policy 4121 and federal regulations.
 3. If the Title IX Coordinator determines that conduct does not constitute sexual harassment under Policy 4121 and federal regulations, the Title IX Coordinator will refer the matter to the Title VII Coordinator to investigate and address in accordance with procedures in this policy.
- B. With the exception of sexual harassment, an employee who believes they have been the target of discrimination or discriminatory harassment in violation of this policy may contact the District Title VII Coordinators (HR Director over Certified Employees and HR Director over Classified Employees), whose contact information is listed under section X of this Policy. An employee may also choose to file a discrimination claim with either the state administrative agency, the Utah Antidiscrimination and Labor Division (UALD) of the Utah Labor Commissioner's Office, or the federal administrative agency, the Equal Employment Opportunity Commission (EEOC). Filing a claim with both agencies is unnecessary, as long as you indicate to one of the agencies that you want it to "cross-file" the claim with the other agency. Contact information for these two offices are listed under section X of this Policy.

C. District Responsibilities

1. If a building principal receives an allegation of discrimination or discriminatory harassment against an employee in their building, or if the principal has reason to believe discrimination or discriminatory harassment is occurring, the principal will direct the employee to the online Employee Discrimination Complaint Form and will notify the District Title VII Coordinator (Director of Human Services) immediately.
2. When a District Title VII Coordinator receives a complaint of discrimination or discriminatory harassment or sexual misconduct, or has reason to believe conduct that is a violation of this policy is occurring, the Coordinator will take the necessary steps to ensure that the matter is promptly investigated and addressed.
3. The investigation will include meeting with the employee who has submitted the complaint, interviewing witnesses, interviewing the person alleged to have engaged in the discrimination, discriminatory harassment, or sexual misconduct, and gathering documentary evidence.
4. The Title VII Coordinator may request the Director of Policy and Compliance to conduct the investigation or may conduct the investigation themselves.
5. If the allegation is determined to be credible, the District will take immediate and effective measures to end the unwelcome behavior.
6. Supervisors and other responsible administrators who observe, are informed of, or reasonably suspect incidents of possible discrimination, discriminatory harassment,

or sexual misconduct must immediately take the necessary steps to ensure that the matter is promptly investigated and addressed.

7. The District will take the necessary steps to protect from retaliation those employees who in good faith report incidents under this policy.
8. Employees who have been found by the District to have subjected another employee to discrimination, discriminatory harassment or sexual misconduct, may be subject to discipline.

D. Employee's rights

1. Any employee who believes they have been subject to discrimination or is the target of discriminatory harassment is encouraged to inform the offending person orally or in writing that such conduct is unwelcome and offensive and must stop.
2. If the employee does not wish to communicate directly with the offending person, or if such communication has been ineffective, the employee should report the conduct in writing to their immediate supervisor, unless the immediate supervisor is the person alleged to have engaged in discrimination, discriminatory harassment, or sexual misconduct, in which case the employee should report to the Title VII representative at the District.
3. Employees may be asked to transfer their written report to the Employee Discrimination Complaint Form so all the information necessary to conduct a thorough investigation is included in the report, or the employee's written report may be transferred by the person taking the report, and should be sent back to employee to verify accuracy before submitting it to the Title VII Coordinator on behalf of the employee.
4. An employee may also choose to file a grievance through the appropriate grievance process laid out in employee contracts.
5. An employee may also choose to file a discrimination claim with either the state administrative agency, the Utah Antidiscrimination, and Labor Division (UALD) of the Utah Labor Commissioner's Office, or the federal administrative agency, the Equal Employment Opportunity Commission (EEOC). Filing a claim with both agencies is unnecessary, as long as you indicate to one of the agencies that you want it to "cross-file" the claim with the other agency. Contact information for these two offices are listed under section IX of this policy.

C. Employee Responsibilities

1. If an employee is aware of a violation of this Policy by another employee supervised by a building principal (an educator, custodian, student, etc.), the employee will report immediately to the principal.
2. If an employee is aware of a violation of this Policy by another employee not supervised by a building principal (a District office employee, building principal, etc.), the employee will report immediately to the Title VII Coordinator, listed below. If the person alleged to be discriminating or engaging in discriminatory harassment on the basis of a protected class is the Title VII Coordinator, the employee may report to the Director of Policy and Compliance.

3. If an employee is aware of a violation of this Policy by a third party (a visiting speaker, team member, vendor, parent, patron, etc.), the employee will report immediately to the affected building principal or to the Title VII Coordinator.

VII. RETALIATION PROHIBITED

- A. The District prohibits retaliation against any person who reports violations of this Policy or participates in processes under this Policy. Retaliation includes, but is not limited to, intimidation, reprisal, and harassment.

VIII. WHO TO CONTACT

A. Title VII

1. For allegations of discrimination, discriminatory harassment, and sexual misconduct that does not constitute sexual harassment under Policy 4121 and federal regulations, contact the appropriate the Title VII Coordinator:
 - a. For Classified Employees, Human Resources Director of Classified and Benefits
 - i. Title VIIClassified@wsd.net
 - b. For Certified Employees, Human Resources Director of Certified and Licensure
 - i. Title VIICertfied@wsd.net

Also, see the [District's website](#) for most current contact information or

B. Title IX

1. For allegations of Title IX sexual harassment, contact the Title IX Coordinator, who is the Director of Compliance and Policy or submit a complaint by completing the [form](#).
 - a. TitleIX@wsd.net

C. Contact Information for the Utah Antidiscrimination and Labor Division:

Utah Antidiscrimination and Labor Division
160 East 300 South, 3rd Floor
Salt Lake City, UT 84111
Mailing Address: P.O. Box 146630
Salt Lake City, UT 84114-6630
Phone: (801) 530-6801
Toll-Free: (800) 222-1238
TDD: (801) 530-7685
Fax: (801) 530-7609

- D. To file a claim with the EEOC, contact your EEOC office below. More information about filing a claim with the EEOC can be found at <http://www.eeoc.gov/facts/howtofil.html>.

EEOC's Phoenix District Office

3300 N. Central Avenue Suite 690
Phoenix, AZ 85012-1848
Phone: (602) 640-5000
TTY: (602) 640-5072