

414 — Sexual Harassment. This is an update to the existing sexual harassment policy. It also clarifies who is responsible for imposing disciplinary action and when such action might occur.

It is the policy of this district to maintain an environment that is free from sexual harassment. Every employee has the right to work in an atmosphere that promotes equal opportunities, free from all forms of discrimination and conduct that could be harassing, coercive, or disruptive. Likewise, every student has the right to attend school and access educational opportunities and benefits, free from all forms of discrimination and conduct that could be harassing, coercive, or disruptive.

District employees are:

- 1. Prohibited from sexually harassing other employees, students, or visitors of the district;*
- 2. Required to report to his/her supervisor or the superintendent, sexual harassment of which the employee becomes aware; and*
- 3. Required to take immediate action to discipline and/or report students who engage in conduct which may be reasonably considered constituting harassment of another student.*

This policy applies to all conduct on the district's premises and to conduct off the district's premises that has an effect upon an employee's work environment or a student's educational environment.

DEFINITION OF SEXUAL HARASSMENT

Sexual harassment is a form of misconduct that includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct, or other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or participation in the educational process;
2. Submission to or rejection of such conduct by an individual is used as a basis for employment or educational decisions affecting the individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or education, or creating an intimidating, hostile, or offensive work or educational environment.

Examples of sexual harassment include, but are not limited to, the following:

1. *Unwelcome verbal statements of a sexual or abusive nature, including requests or demands for sexual activity, sexual jokes, and obscene comments, etc.;*
2. *Unwelcome, sexually motivated or inappropriate touching, pinching, or other physical contact;*
3. *Unwelcome sexual behavior or communications, accompanied by implied or overt threats concerning an individual's employment or education;*
4. *Unwelcome behavior or communications directed at an individual because of his or her gender; and*
5. *Stalking or unwelcome sexually motivated attention.*

REPORTING A COMPLAINT

Individuals who believe they are being sexually harassed should firmly and promptly notify the offender that his or her behavior is unwelcome. Additionally, the complainant has the right to file a written complaint. The following steps should be followed when reporting a sexual harassment complaint:

1. The individual may report the complaint to his or her supervisor or building principal. If the supervisor successfully resolves the complaint in an informal manner, a confidential report will be made to the superintendent about the complaint and resolution so that the district may determine if any pattern of sexual harassment by any particular individual exists. If the supervisor is unable to resolve the complaint, the complaint will be referred to the superintendent.
2. If the individual chooses not to report the complaint to his or her supervisor, the individual may report the incident directly to the superintendent. If the complaint in any manner involves the superintendent, the individual should report the complaint to the discrimination compliance officer for this district. The discrimination compliance officer will be designated by the superintendent.

An employee, at any time, may file a sexual discrimination or harassment claim with the Idaho Human Rights Commission (IHRC) and/or the Equal Employment Opportunity Commission (EEOC). The addresses of these organizations are set forth in the policy entitled Civil Rights Grievance Procedure.

DISCIPLINARY ACTIONS

If the investigator determines that an employee has sexually harassed another employee or a student, filed false allegations of harassment, or retaliated against a complainant or other individual participating in the investigation of a sexual harassment complaint, the superintendent will inform and recommend disciplinary action to the board. The board will impose disciplinary action consistent with the requirements of applicable state law, district policies and/or collective

bargaining agreements. Such disciplinary action may include, but is not limited to, dismissal from employment, suspension, and reassignment.

If deemed appropriate, the superintendent or board will refer the complaint to local law enforcement at any time prior to, during, or after the investigation.

RECORDKEEPING

1. Documentation of disciplinary action related to any violation of this policy, including false allegations and retaliatory actions, will be placed in the employee's personnel file.
2. If there is insufficient evidence to support the allegations, the complaint and investigation report will not be placed in the employee's personnel file.
3. This district will keep and maintain a confidential, written record of all written sexual harassment complaints, including, but not limited to, witness statements, investigative reports, and correspondence, from the date any allegation of harassment is reported to district personnel. The information in the written record will also include the action taken by the district in response to each allegation. The written record will be kept in the district's administrative offices and will not, at any time, be purged by district personnel.

PROTECTION AGAINST RETALIATION

This district will not retaliate in any way against an individual who makes a report of sexual harassment, in good faith, nor will it permit any district employee to do so. Any person found to have retaliated against another individual for reporting an incident of harassment, in good faith, may be subject to the same disciplinary action provided for sexual harassment offenders. Individuals who are not complainants but who assist individuals who believe they have been subjected to sexual harassment or who assist or participate in an harassment investigation are also protected from retaliation.

PREVENTATIVE ACTIONS

The superintendent or designee shall ensure that appropriate periodic sexual harassment awareness training or information is provided to all staff members and students. Copies of this policy and the names and contact information of those individuals to whom an employee or student may file a complaint shall be posted at all district buildings.



LEGAL REFERENCE:

Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e-2(a)

Gebser v. Lago Vista Independent School District, 188 S. Ct. 1989 (1998)

Mentor Savings Bank v. Winson, 477 U.S. 57 (1986)

Elison v. Brandy, 924 F.2d 872 (9th Cir. 1991)

Davis v. Monroe County Board of Education, 119 S. Ct. 1661 (1999)

ADOPTED:

AMENDED: