

MEMORANDUM

TO: NWABSD Board of Education
Members

DATE: June 6, 2023

NUMBER: 23-118

FR: Office of the Superintendent

SUBJECT: Approval of Proposed
Revisions to BP
4119.11/4219.11/4319.1,
Personnel, All Personnel -
Sexual Harassment; First
Reading

STRATEGIC PLAN/BOARD GOAL:

Improve Stakeholder Communication.

ABSTRACT:

Board policy revisions require Board approval.

ISSUE:

At issue is to approve the first reading of the proposed revisions to BP 4119.11/4219.11/4319.1, Personnel, All Personnel - Sexual Harassment and open for public comments.

BACKGROUND AND/OR PERTINENT INFORMATION:

The Superintendent/designee presents drafts or suggestions for board policy revisions when changes in law occur or when specific need occurs. Policy revisions shall normally be given two readings prior to adoption by the Board. This is the first reading of the proposed revisions to BP 4119.11/4219.11/4319.1, Personnel, All Personnel - Sexual Harassment.

The Board Policy Committee reviewed the proposed changes, recommends approval and to open for public comments.

ALTERNATIVES:

1. Approve the first reading to the proposed revisions to BP 4119.11/4219.11/4319.1, Personnel, All Personnel - Sexual Harassment as presented and open for public comments;
2. Do not approve first reading to the proposed revisions to BP 4119.11/4219.11/4319.1 as presented;
3. Take no final action.

ADMINISTRATION'S RECOMMENDATION:

The administration recommends the Board approve the first reading to the proposed revisions to BP 4119.11/4219.11/4319.1, Personnel, All Personnel - Sexual Harassment as presented and open for public comments.

BP 4119.11/4219.11/4319.11 - ALL PERSONNEL - SEXUAL HARASSMENT
All Personnel - Sexual Harassment

Note: The United States Supreme Court in Meritor Savings Bank, FSB v. Vinson et al., found that an employer could be held liable in a sexual harassment lawsuit. ~~The bank's~~ complaint procedure ~~required~~ require the employee first to report the complaint to his/her supervisor who, in this case, was the accused party. We suggest that districts adopt a sexual harassment policy requiring the immediate supervisor of the offending employee and or personnel officer to receive the complaint.

The School Board is committed to the elimination of sexual harassment in district schools and activities. Sexual harassment is strictly prohibited and will not be tolerated. This policy prohibits sexual harassment of students or staff by other students, staff, School Board members or third parties. "Third parties" include, but are not limited to, school volunteers, parents, school visitors, service contractors or others engaged in district business.

(cf. 4119.21 - Code of Ethics)

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4117.4 - Dismissal)

(cf. 9020 - Standards)

(cf. 9271 - Code of Ethics)

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

1. Submission to the conduct is made either an explicit or implicit condition of employment, status or promotion.
2. Submission to or rejection of the conduct is used as the basis for an employment decision affecting the harassed employee.
3. The harassment substantially interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment.
4. Submission to, or rejection of, the conduct is the basis for any decision affecting benefits, services, honors, programs or other available activities.

An employee or School Board member who feels that he/she is being harassed should immediately report the incident to the immediate supervisor of the accused employee or the appropriate ~~personnel~~ Human Resources department official, without fear of reprisal. All complaints about behavior that may violate this policy shall be promptly investigated. The personnel department shall be informed of all such complaints and will

assist in the investigation and resolution of complaints. An employee making a complaint of sexual harassment shall not be required to resolve the complaint directly with the offending person.

Note: - Ellison v. Brady provides directives to employers responding to sexual harassment claims in order to shield themselves from liability, including taking immediate and appropriate action to address the harassment which entails investigation and discipline calculated to reflect the severity of the conduct, stop the harassment, and deter others from acting in the same manner. -

The initiation of a complaint in good faith about behavior that may violate this policy shall not adversely affect the terms or conditions of employment or the work environment of the complainant ~~complaint~~. There shall be no retaliation by the district against any person who, in good faith, reports, files a complaint or otherwise participates in an investigation or inquiry of sexual harassment.

It is the intent of the School Board that appropriate corrective action will be taken by the district to stop the sexual harassment, prevent its recurrence and address negative consequences. Employees in violation of this policy shall be subject to discipline, up to and including dismissal and an/or additional sexual harassment awareness training, as appropriate. Other individuals whose behavior is found to be in violation of this policy shall be subject to appropriate sanctions as determined and imposed by the Superintendent or designee or School Board.

The Superintendent ~~superintendent~~ or designee shall ensure prompt and strict enforcement of School Board policy.

(cf. 1312.3 - Public Complaints~~4031—Complaint~~ Concerning Discrimination)

(cf. 1312.1 - Complaints Concerning School Personnel)

Legal Reference:

U.S. SUPREME COURT

Meritor Savings Bank, FSB v. Vinson et al.,

-477 U.S. 57 (1986)

Ellison v. Brady, 924 F.2d 872 (9th Cir. 1991)

Revised: January 29, 2008

Adopted: June 09, 2004