FHAB Sexual Harassment

Board Policy—

It is the policy of the Board of Education of the Logan City School District to provide an educational environment free from sexual harassment and discrimination on the basis of sex. It shall be a violation of this policy for any student to sexually harass any other student. The District encourages all victims of sexual harassment and persons with knowledge of sexual harassment to make a written report of any harassment immediately. All complainants have the right to be free from retaliation of any kind. The District will promptly investigate all formal, informal, verbal, and written complaints of sexual harassment, and take prompt corrective action to end the harassment.

No Private Rights—

Nothing in this policy shall be construed to give any right, claim, or action beyond the specific process provided in this policy.

Definitions—

“Sexual Harassment” means unwelcome sexual advances, requests for sexual favors, other physical or verbal conduct or communications of a sexual nature, and any other gender-based harassment, when:

1. Submission to or rejection of the conduct affects the student’s academic performance, participation in school-sponsored activities, or any other aspect of the student’s education; or
2. The conduct has the purpose or effect of unreasonably interfering with a student’s academic performance or participation in school-sponsored activities, or creating an intimidating, hostile or offensive education environment.

Complaints received will be thoroughly investigated to determine whether the totality of the behavior and circumstances meet any of the elements of the definitions and should be treated as sexual harassment. Unacceptable conduct may or may not constitute sexual harassment. Normally, unacceptable behavior must be severe or pervasive to be considered sexual harassment.

School related conduct that the District considers unacceptable and often a part of sexual harassment includes, but is not limited to, the following:

1. Rape, attempted rape, sexual assault, attempted sexual assault, forcible sexual abuse, hazing, and other sexual and gender-based activity of a criminal nature as defined under the Utah Criminal Code.
2. Sexual invitations or requests for sexual activity in exchange for grades, preferences, favors, selection for extracurricular activities, homework, etc.;
3. Offensive public sexual display of affection, including groping, fondling, petting or inappropriate touching of oneself or others;
4. Any offensive communication that is sexually degrading or implies sexual motives or intentions, such as sexual remarks or innuendoes about an individual's clothing, appearance or activities; sexual gestures; public conversations about sexual activities or exploits; sexual rumors and "ratings list," howling, catcalls, and whistles; sexually graphic computer messages or games, etc.;
5. Offensive name calling or profanity that is sexually suggestive, sexually degrading, implies sexual intentions;
6. Unwelcome physical contact or closeness that is sexually suggestive, sexually degrading, or sexually intimidating such as the unwelcome touching of another's body parts, spanking, pinching, stalking, frontal-body hugs, etc.;
7. Offensive physical pranks or touching of an individual's clothing, such as hazing and initiation, "streaking," "mooning," "snuggies," or "wedgies," bra-snapping, skirt "flip-ups," "spiking" (pulling down someone's pants or swimming suit); pinching; placing hands inside an individual's pants, shirt, blouse, or dress, etc.;
8. Gestures that are sexually suggestive, sexually degrading or imply sexual motives or intentions;
9. Clothing with sexually obscene or sexually explicit slogans or messages;
10. Written or pictorial display or distribution of pornographic or other sexually explicit materials such as magazines, videos, films, etc.

Support of Students Subject to Sexual Harassment—

When it is determined that a student has been subject to sexual harassment, consideration should be given to what support, counseling, or other assistance the student may need to prevent such mistreatment from adversely affecting the student's ability to learn and function in the school setting.

Protection from Reprisals—

Students filing complaints shall be free from bias, collusion, intimidation, or reprisal.

Students subjected to sexual harassment are first encouraged to confront the harasser and tell the harasser to stop the conduct because it is unwelcome. Complainants should document the incident(s) of harassment, and any conversations they have with the harasser, noting such information as time, date, place, what was said or done, and other relevant circumstances surrounding the event(s).

If the complainant's concerns are not resolved satisfactorily through a discussion with the harasser, or if the complainant feels he/she cannot discuss the concerns with the harasser, the complainant should directly inform school staff of the complaint and should clearly indicate what action he/she wants taken to resolve the complaint. Whenever reasonable, the complainant should file a written complaint.

Any school employee who receives a complaint of sexual harassment from a student shall inform the student of the employee's obligation to report the complaint to the principal, and then shall immediately notify the principal.

Complainants who contact school staff with a complaint are encouraged to submit the complaint in writing. However, complaints may be filed verbally. Alternate methods of filing complaints shall be made available to individuals with disabilities who need accommodation.

Confidentiality—

It is District policy to respect the privacy and anonymity of all parties and witnesses to complaints brought under this policy. However, because an individual's right to confidentiality must be balanced with the District's obligations to cooperate with police investigations or legal proceedings, or to investigate and take necessary action to resolve a complaint, the District retains the right to disclose the identity of parties and witnesses to complaints in appropriate circumstances.

Where a complaint involves allegations of child abuse, the complaint shall be immediately reported to appropriate law enforcement authorities and the anonymity of both the complainant and school officials involved in the investigation will be strictly protected as required by Utah Code § 62A-4a-412.

1. Initial Investigative Procedures.
    a. The school administrator has the responsibility to conduct a preliminary review when he/she receives a verbal or written complaint of sexual harassment, or if he/she observes sexual harassment. The site administrator should take the following steps:
        i. Interview the complainant and document the conversation. Instruct the complainant to have no contact

or communication regarding the complaint with the alleged harasser. Ask the complainant specifically what action he/she wants taken in order to resolve the complaint. Notify the complainant of his/her right to have someone of the same gender conduct or be present during the investigation. The Complainant should be urged to make a written statement where feasible under the circumstances.

ii. Interview the alleged harasser regarding the complaint and inform the alleged harasser that if the objectionable conduct has occurred, it must cease immediately. Document the conversation.

- Instruct the alleged harasser to have no contact or communication regarding the complaint with the complainant and to not take any retaliatory action against the complainant.
  - If the alleged harasser admits all or part of the allegations, issue a written warning/reprimand to the harasser and place a copy in the student's cumulative education record/file. If the harasser is an employee, submit a copy of the written warning/ reprimand to the District Human Resources Department for inclusion in the harasser's personnel file. In certain cases expulsion may be warranted for a first offense if the conduct is egregious. Repeated offenses may warrant suspension and expulsion. In addition, promptly contact the Human Resources Department, Area Director, or Title IX Coordinator in situations involving repeated violations or severe infractions such as criminal touching, quid pro quo (e.g., offering educational rewards or punishments as an inducement for sexual favors), or acts which shock the conscience of a reasonable person.
  - If the alleged harasser denies the allegations, promptly conduct a further investigation including interviewing witnesses, if any.
- Submit a copy of all investigation and interview documentation to the District Compliance Officer/Title IX Coordinator, and to the Human Resources Department if the complaint involves a School District employee.
- Report back to the complainant, notifying him/her in person and in writing regarding the action taken to resolve the complaint. Instruct the complainant to report immediately if the objectionable behavior occurs again or if the alleged harasser retaliates against him/her.
- Notify the complainant that if he/she desires further investigation and action, the complaint will be forwarded for a District level investigation.

Principal's Recommendation—

The principal must consider the severity or pervasiveness of the conduct and exercise discretion in determining whether a District level investigation is necessary regardless of the complainant's desires. If a blatant violation occurs involving criminal touching, quid pro quo (e.g., offering an academic reward or punishment as an inducement for sexual favors), or acts which shock the conscience of a reasonable person, the complaint should be referred promptly to the Compliance Officer/Title IX Coordinator and/or Human Resources Director. In addition, where the principal has reasonable suspicion that the alleged harassment involves criminal activity, he/she should immediately contact appropriate law enforcement authorities.

Whenever a sexual harassment complaint is made, the principal must take action to investigate the complaint or to refer the complaint for investigation even if the student does not request any action or withdraws the complaint.

Investigations should commence as soon as possible.

If the initial investigation results in a determination that sexual harassment did occur, and the harasser repeats the wrongful behavior or retaliates against the complainant, the principal will take prompt disciplinary action and will notify the District Compliance Officer/Title IX Coordinator.

District Level Investigation—

Complainants who are not satisfied with the outcome of the initial investigation may request a District level investigation by submitting the written complaint to the Compliance Officer/Title IX Coordinator or Director of Human Resources.

The District level investigation should commence as soon as possible.

In conducting the District level investigation, the District may choose to use an investigative team that has received training in sexual harassment investigation or that has previous experience investigating sexual harassment complaints.

If this investigation results in a determination that sexual harassment did occur, prompt corrective action may be taken including suspension, expulsion, change of placement, or loss of extracurricular activities.

Following the District investigation and determination, the District will notify the complainant in writing of the action taken.

The District level review exhausts all process and remedies provided under this policy.

Retaliation Prohibited—

Any act of reprisal against any person who opposes sexually harassing behavior, or who has filed a complaint, is prohibited and therefore subject to disciplinary action. Likewise,

reprisal against any person who has testified, assisted, or participated in any manner in an investigation, proceeding, or hearing of a sexual harassment complaint is prohibited and therefore subject to disciplinary action.

Discipline—

Any individual who violates this policy will be subject to appropriate disciplinary action under applicable school discipline policies, District Human Resource policies, and the District Safe Schools Policy.

Depending on the severity or persistence of the harassment, an individual who violates this policy may be subject to suspension, exclusion, probation, termination, or alternate placement. In addition, students who violate this policy may lose the privilege of participating in extracurricular activities.

If school administrators have reasonable suspicion that the harassment involves sexual assault, rape, or any other activity of a criminal nature, the District shall notify appropriate law enforcement authorities and immediately initiate proceedings to remove the accused party from the situation.

If the accused is a student with a disability whose education involves services under the Individuals with Disabilities Education Act (IDEA) or accommodations under Section 504 of the Rehabilitation Act or the Americans with Disabilities Act, school personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement is appropriate for the student with a disability.

School personnel may remove a student with a disability from his/her current placement to an appropriate interim alternative placement, another setting, or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied to students without disabilities), and for additional removals of no more than ten consecutive school days in the same school year for separate incidents of misconduct, as long as those removals do not constitute a change of placement. Concurrent with such a removal, a **multi-disciplinary team must be convened to determine the extent to which the harassing behavior may be a manifestation of the student's disability.**

After a student with a disability has been removed from his/her current placement for ten school days in the same school year, during any subsequent days of removal the LEA must provide services to the extent required.

For disciplinary changes in placement that would exceed ten consecutive school days, if the behavior that lead to the accusation of sexual harassment is determined not to be a manifestation of the student's disability, school personnel may apply the relevant disciplinary procedures to students with disabilities in the same manner and for the same duration as the procedures would be applied to students without disabilities. If it is

determined that the behavior is a manifestation of the student's disability, the IEP team will be convened to determine appropriate placement.

After the tenth day of removal that constitutes a change in placement, the District must provide services to the student.

False Complaints—

False, malicious or frivolous complaints of sexual harassment shall result in corrective or disciplinary action taken against the complainant.

Records—

Separate confidential records of all sexual harassment complaints and initial investigations shall be maintained in the principal's office. Records of district level investigations shall be maintained in the office of the Compliance Officer/Title IX Coordinator, as follows:

1. Records of initial complaints and investigations shall be retained for at least one (1) year.
2. Records of district level investigations shall be retained for at least three (3) years.
3. Records of complaints and investigations of blatant violations involving criminal touching, quid pro quo, other criminal acts, or acts which shock the conscience of a reasonable person shall be retained permanently.

Dissemination of Policy—

A summary of this policy and related materials shall be posted in a prominent place in each District facility. The policy shall also be published in student registration materials, student and employee handbooks, and other appropriate school publications as directed by the District Compliance officer/Title IX Coordinator.