

**STUDENT WELFARE:
FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION**

STATEMENT OF NONDISCRIMINATION The School prohibits discrimination, including harassment, against any student on the basis of race, color, religion, gender, gender identity, gender expression, sexual orientation, national origin, disability, age, immigration status or any other basis prohibited by law. The School prohibits dating violence, as defined by this policy. Retaliation against anyone involved in the complaint process is a violation of School policy and prohibited.

DISCRIMINATION Discrimination against a student is defined as conduct directed at a student on the basis of race, color, religion, gender, gender identity, gender expression, sexual orientation, national origin, disability, age, immigration status or on any other basis prohibited by law, that adversely affects the student.

DESIGNATION OF TITLE IX COORDINATOR The School must designate and authorize at least one employee to coordinate its efforts to comply with its responsibilities under Title IX, which employee must be referred to as the "Title IX Coordinator."

The School must notify applicants for admission and employment, students, parents or legal guardians, employees, and all professional organizations holding professional agreements with the School of the name or title, office address, electronic mail address, and telephone number of the employee or employees designates as the Title IX Coordinator.

34 C.F.R. 106.8(a).

NOTIFICATION OF POLICY A district must notify the Parties Entitled to Notice, above, that the district does not discriminate on the basis of sex in the education program or activity that it operates, and that it is required by Title IX not to discriminate in such a manner. The notification must state that the requirement not to discriminate in the education program or activity extends to admission and employment, and that inquiries about the application of Title IX to such district may be referred to the district's Title IX Coordinator, to the assistant secretary for civil rights of the Department of Education, or both.

34 C.F.R. 106.2(d), .8(b)(1).

PUBLICATION REQUIREMENTS A district must prominently display the contact information required to be listed for the Title IX Coordinator and the nondiscrimination policy described at Notification of Policy, above, on its website, if any, and in each handbook that it makes available to the Parties Entitled to Notice, above.

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A district must not use or distribute a publication stating that the district treats applicants, students, or employees differently on the basis of sex except as such treatment is permitted by Title IX. *34 C.F.R. 106.8(b)(2).*

**COMPLAINT
PROCEDURES**

Prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by Title IX and a Title IX formal complaint process that complies with 34 C.F.R. 106.45 for formal complaints as defined below.

A district must provide notice to the Parties Entitled to Notice, above, of the district's procedures and Title IX formal complaint process, including how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how the district will respond.

The requirements of this provision apply only to sex discrimination occurring against a person in the United States.

34 C.F.R. 106.8(c)–(d)

**RESPONSE TO
SEXUAL
HARASSMENT
DEFINITIONS**

“Actual knowledge” means notice of sexual harassment or allegations of sexual harassment to a district's Title IX Coordinator or any official of the district who has authority to institute corrective measures on behalf of the district, or to any employee of an elementary and secondary school. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of the School with actual knowledge is the respondent. The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the district. Notice” as used in this paragraph includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator.

“Complainant” means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

“Consent” is not defined by the Title IX regulations, nor do the regulations require districts to adopt a particular definition of consent with respect to sexual assault.

“Formal complaint” means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the district investigate the

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allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the district with which the formal complaint is filed. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator, and by any additional method designated by the district. As used in this paragraph, the phrase “document filed by a complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the district) that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party to a Title IX formal complaint, and must comply with the requirements of the Title IX formal complaint process, including the informal resolution process.

“Respondent” means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

**PROHIBITED
HARASSMENT**

Prohibited harassment of a student is defined as physical, verbal, or nonverbal conduct based on the student’s race, color, religion, gender, gender identity, gender expression, sexual orientation, national origin, disability, age, immigration status or any other basis prohibited by law that is so severe, persistent, or pervasive that the conduct: 1. Affects a student’s ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment; 2. Has the purpose or effect of substantially or unreasonably interfering with the student’s academic performance; or 3. Otherwise adversely affects the student’s educational opportunities. Prohibited harassment includes dating violence as defined by this policy.

EXAMPLES

Examples of prohibited harassment may include offensive or derogatory language directed at another person’s religious beliefs or practices, accent, skin color, gender identity or need for accommodation; threatening or intimidating conduct; offensive jokes, name calling, slurs, or rumors; physical aggression or assault; display of graffiti or printed material promoting racial, ethnic, or other negative stereotypes; or other kinds of aggressive conduct such as theft or damage to property.

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**DEFINITION OF
SEXUAL
HARASSMENT
STUDENT-STUDENT**

1. An employee of the School conditioning the provision of an aid, benefit, or service of the School on an individual's participation in unwelcome sexual conduct;
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 School's Educational program or activity; or
3. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(3).

Special procedures apply to reports and formal complaints of sexual harassment in accordance with Title IX regulations. See 34 C.F.R. Part 106.

Romantic or inappropriate social relationships between students and School employees are prohibited. Any sexual relationship between a student and a School employee is always prohibited, even if consensual.

BY OTHERS

Sexual harassment of a student, including harassment committed by another student, includes unwelcome sexual advances; requests for sexual favors; or sexually motivated physical, verbal, or nonverbal conduct when the conduct is so severe, persistent, or pervasive that it:

1. Affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
3. Otherwise adversely affects the student's educational opportunities.

EXAMPLES

Examples of sexual harassment of a student may include, but are not limited to, sexual advances; touching intimate body parts or coercing physical contact that is sexual in nature; jokes or conversations of a sexual nature; and other sexually motivated conduct, communications, or contact.

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Necessary or permissible physical contact such as assisting a child by taking the child's hand, comforting a child with a hug, or other physical contact not reasonably construed as sexual in nature is not sexual harassment.

**GENDER-BASED
HARASSMENT**

Gender-based harassment includes physical, verbal, or nonverbal conduct based on the student's gender, the student's expression of characteristics perceived as stereotypical for the student's gender or the student's failure to conform to stereotypical notions of masculinity or femininity, including harassment carried out via electronic means. For the purposes of this policy, gender-based harassment is considered prohibited harassment if the conduct is so severe, persistent, or pervasive that the conduct:

1. Affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
3. Otherwise adversely affects the student's educational opportunities.

EXAMPLES

Examples of gender-based harassment directed against a student, regardless of the student's or the harasser's actual or perceived sexual orientation or gender identity, may include offensive jokes, name-calling, slurs, or rumors; physical aggression or assault; threatening or intimidating conduct; or other kinds of aggressive conduct such as theft or damage to property.

DATING VIOLENCE

Dating violence occurs when one partner in a dating relationship, either past or current, intentionally uses physical, sexual, verbal, or emotional abuse to harm, threaten, intimidate, or control the other person in the relationship. Dating violence also occurs when a person commits these acts against a person in a marriage or dating relationship with the individual who is or was once in a marriage or dating relationship with the person committing the offense.

For purposes of this policy, dating violence is considered prohibited harassment if the conduct is so severe, persistent, or pervasive that the conduct:

1. Affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;

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2. Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
3. Otherwise adversely affects the student's educational opportunities.

EXAMPLES

Examples of patterns of behavior intended to hurt or control a partner in a dating relationship include physical or sexual assaults, name-calling, putdowns, threats to hurt the student or the student's family members or members of the student's household, destroying property belonging to the student, threats to commit suicide or homicide if the victim ends the relationship, attempts to isolate the student from friends and family, extreme jealousy and possessive behavior, stalking, or having others to engage in these behaviors.

RETALIATION

The School prohibits retaliation by a student or employee against a student alleged to have experienced discrimination or harassment, including dating violence, or another student who, in good faith, makes a report, serves as a witness, or otherwise participates in an investigation.

A student who intentionally makes a false claim, offers false statements, or refuses to cooperate with a School investigation regarding discrimination or harassment, including dating violence, is subject to appropriate discipline.

EXAMPLES

Examples of retaliation include threats, unjustified punishments, or unwarranted grade reductions. Unlawful retaliation does not include petty slights or annoyances, such as negative comments that are justified by a student's performance in the classroom.

FALSE CLAIM

A student who intentionally makes a false claim, offers false statements or refuses to cooperate with a School investigation regarding discrimination or harassment, including dating violence, shall be subject to appropriate disciplinary action.

**PROHIBITED
CONDUCT**

In this policy, the term "prohibited conduct" includes discrimination, harassment, dating violence, and retaliation as defined by this policy, even if the behavior does not rise to the level of unlawful conduct.

**REPORTING
PROCEDURES**

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at

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any time (including during nonbusiness hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator.

- STUDENT REPORT** Any student who believes that he or she has experienced prohibited conduct or believes that another student has experienced prohibited conduct should immediately report alleged acts to a teacher, School counselor, principal or other appropriate School official listed in this policy. Students may also report any kind of prohibited conduct through the Anonymous Alert reporting system.
- EMPLOYEE REPORT** Any School employee who suspects or receives notice that a student or group of students has or may have experienced prohibited conduct shall promptly notify the School's social workers, the principal, the Title IX Coordinator, ADA /Section 504 Coordinator, or Superintendent and take any other steps required by this policy. Employees may also report suspicions about prohibited conducted of students through the Anonymous Alert system.
- DEFINITION OF SCHOOL OFFICIALS** For purposes of this policy, School officials are the School's social workers, principals, Title IX coordinator, the ADA/Section 504 coordinator, and the Superintendent.
- TITLE IX COORDINATOR** Reports of discrimination based on sex, including sexual harassment, must be directed to the Title IX coordinator. The School designates the Human Resources Director to comply with Title IX of the Education Amendments of 1972, as amended.
- ADA/SECTION 504 COORDINATOR** Reports of discrimination based on disability may be directed to the ADA Section 504 Coordinator. The School designates the Director of Special Education to comply with Title II of the Americans with Disabilities Act of 1990, as amended, which incorporates and expands upon the requirements of Section 504 of the Rehabilitation Act of 1973, as amended. In the absence of a Special Education Director, the School designates the School's General Counsel, to comply with Title II of the Americans with Disabilities Act of 1990, as amended, which incorporates and expands upon the requirements of Section 504 of the Rehabilitation Act of 1973, as amended.
- SCHOOL'S SOCIAL WORKERS** Reports of abuse, neglect, harassment, and dating violence, as defined by this policy, and by Chapter 261 of the Texas Family Code, even if the behavior does not rise to the level of unlawful conduct, shall be reported to TSD's social workers, collectively and singularly, or the Superintendent, or her designee, in the first instance.

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SUPERINTENDENT The Superintendent, or her designee(s), shall serve as coordinator for purposes of School compliance with all other antidiscrimination laws.

ALTERNATIVE REPORTING PROCEDURES A student shall not be required to report prohibited conduct to the person alleged to have committed the conduct. Reports concerning prohibited conduct, including reports against the Title IX coordinator or ADA/Section 504 coordinator, may be directed to the Superintendent. A report against the Superintendent may be made directly to the Board. If a report is made directly to the Board, the Board shall appoint an appropriate person to conduct an investigation.

TIMELY REPORTING Reports of prohibited conduct shall be made as soon as possible after the alleged act or knowledge of the alleged act. A failure to promptly report may impair the School's ability to investigate and address the prohibited conduct.

NOTICE OF REPORT Any School employee who receives notice that a student has or may have experienced prohibited conduct shall promptly notify the appropriate School official listed above and take any other steps required by this policy.

NOTICE TO PARENTS The School official or designee shall promptly notify the parents of any student alleged to have experienced prohibited conduct by a School employee or another adult associated with the School.

INVESTIGATION OF THE REPORT The School may request, but shall not insist upon, a written report. If a report is made orally, the School official shall reduce the report to written form.

Upon receipt or notice of a report, the School official shall determine whether the allegations, if proven, would constitute prohibited conduct as defined by this policy. If so, the School official, if not a School social worker, shall consult with a School social worker to determine if the complaint or report should be investigated or handled by the office of the School's social workers. If the School's social worker, in his, her or their sole and absolute discretion, authorizes the other School official to maintain jurisdiction of the complaint or report, such official shall immediately undertake an investigation, regardless of whether a criminal or regulatory investigation regarding the same or similar allegations is pending. If TSD's social worker(s) take jurisdiction of the report or complaint, he, she or they shall immediately undertake an investigation, regardless of whether a criminal or regulatory investigation regarding the same or similar allegations is pending.

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If appropriate, the School shall promptly take interim action calculated to prevent prohibited conduct during the course of an investigation.

The investigation may be conducted by the School official or a designee, such as the campus principal, or by a third party designated by the School, such as an attorney, when authorized by the office of the School's social workers. When appropriate, the campus principal shall be involved in or informed of the investigation. The investigation may consist of personal interviews with the person making the report, the person against whom the report is filed, and others with knowledge of the circumstances surrounding the allegations. The investigation may also include analysis of other information or documents related to the allegations.

CONCLUDING THE INVESTIGATION

Absent extenuating circumstances, the investigation should be completed within ten School business days from the date of the report; however, the investigator shall take additional time if necessary to complete a thorough investigation.

The investigator shall prepare a written report of the investigation. The report shall be filed with the School's social workers.

SCHOOL ACTION

If the results of an investigation indicate that prohibited conduct occurred, the School shall promptly respond by taking appropriate disciplinary or corrective action reasonably calculated to address the conduct.

The School may take action based on the results of an investigation, even if the conduct did not rise to the level of prohibited or unlawful conduct.

CONFIDENTIALITY

To the greatest extent possible, the School shall respect the privacy of the complainant, persons against whom a report is filed, and witnesses. Limited disclosures may be necessary in order to conduct a thorough investigation and comply with applicable law.

APPEAL

A student who is dissatisfied with the outcome of the investigation may appeal through FNG, beginning at the appropriate level. A student shall be informed of his or her right to file a complaint with the United States Department of Education Office for Civil Rights.

**RECORDS
RETENTION**

Retention of records shall be in accordance with Board policy.

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ACCESS POLICY Information regarding this policy shall be distributed annually to School employees and included in the student handbook. Copies of the policy shall be available at the Principal's offices.

**PROCEDURE AND
ADDITIONAL RULES
AND REGULATIONS** The Superintendent may develop any procedures to implement this policy which she deems necessary or proper to deal with prohibited conduct and to attempt to prevent prohibited conduct, to the extent possible, from occurring upon TSD's campus or to the students in its care. The Superintendent is authorized to develop, adopt and implement further rules, regulations and procedures consistent with this policy to ensure that TSD is a safe and secure campus; and to protect employees, students, guests and volunteers from abuse, neglect, exploitation, harassment, bullying, cyberbullying, discrimination and other prohibited conduct of like nature and substance. Bullying and cyberbullying are the subject of, and dealt with in, Policy FFI, Student Welfare: Freedom from Bullying.

Adopted: 04.02.07

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