

SEXUAL HARASSMENT

Positive School Environment

Sexual harassment is a form of sex discrimination which violates Section 703 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e et seq., and Alaska Statute 18.80.010 et seq., which establish and provide for the Alaska State Commission For Human Rights. In addition, in certain circumstances sexual misconduct also constitutes criminal conduct. It is the policy of the District to maintain a learning and working environment that is free from sexual harassment, sexual misconduct and all other forms of sexual discrimination.

Note: The United States Supreme Court in Meritor Savings Bank, FSB v. Vinson et al., found that an employer could be held liable for sexual harassment if the complaint procedure required the employee first to report the complaint to his/her supervisor who, in this case, was the harasser. The court found that the employer's harassment policy requiring the immediate supervisor of the offending employee and or personnel officer to receive the complaint was a defense.

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 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 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. 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/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 or designee shall ensure prompt and strict enforcement of School Board policy.

cf. 1312.3 - Public Complaints Concerning Discrimination

cf. 1312.1 - Complaints Concerning School Personnel

The District's administration shall adopt appropriate Administrative Regulations which delineate the conduct which is prohibited and which otherwise implements and effectuates these prohibitions.

Prohibition of Sexual Harassment

As detailed in the District's Policy Against Sexual Harassment (including Administrative Regulations implementing that policy), it shall be a violation of these prohibitions for any student or employee of the District, or for another person in the school environment, to engage or participate in sexual harassment, sexual misconduct or any other form of sexual discrimination in the school environment. Any student who is found to have engaged in such prohibited conduct shall be subject to disciplinary action as provided for in District policy and Alaska law, the possible consequences of which can be up to and including suspension or expulsion from school. Any employee who is found to have engaged in such prohibited conduct will be subject to disciplinary action, pursuant to District policy and applicable law, the possible consequences of which can be up to and including suspension, demotion or discharge from

employment. Other individuals whose behavior is found to be in violation of this policy will be subject to appropriate sanctions as determined and imposed by the Superintendent or Board of Education.

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. 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.

The District's administration shall adopt appropriate Administrative Regulations which delineate the conduct which is prohibited and which otherwise implements and effectuates these prohibitions.

Legal Reference:

Meritor Savings Bank, FSB v. Vinson et al.

477 U.S. 57 (1986)

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

KETCHIKAN GATEWAY BOROUGH SCHOOL DISTRICT

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