

5751 SEXUAL HARASSMENT (M)

~~The Board of Education will not tolerate sexual harassment of pupils by school employees, other pupils, or third parties. Sexual harassment of pupils is a form of prohibited sex discrimination. School district staff will investigate and resolve allegations of sexual harassment of pupils engaged in by school employees, other pupils (peers), or third parties.~~

~~The Board shall establish a grievance procedure through which school district staff and/or pupils can report alleged sexual discrimination, including sexual harassment which may include quid pro quo harassment and hostile environment.~~

~~Definitions:~~

- ~~1. — Quid pro quo harassment occurs when a school employee explicitly or implicitly conditions a pupil's participation in an educational program or activity or bases an educational decision on the pupil's submission to unwelcomed sexual advances, requests for sexual favors, or other favors, or other verbal, nonverbal, or physical conduct of a sexual nature. Quid Pro Quo Harassment is equally unlawful whether the pupil resists and suffers the threatened harm or submits and thus avoids the threatened harm.~~
- ~~2. — Hostile environment sexual harassment is sexually harassing conduct (which can include unwelcomed sexual advances, requests for sexual favors, or other favors, or other verbal, nonverbal, or physical conduct of a sexual nature) by an employee, by another pupil, or by a third party that is sufficiently severe, persistent, or pervasive to limit a pupil's ability to participate in or benefit from an educational program or activity, or to create a hostile or abusive educational environment.~~

~~This Policy protects any "person" from sex discrimination; accordingly all students, regardless of their gender, gender identity, gender expression, transgender status, or sexual orientation are protected from sexual harassment engaged in by school district employees, other pupils, or third parties. Sexual harassment, regardless of the gender of the harasser, even if the harasser and the pupil being harassed are members of the same gender is prohibited. Nonsexual touching or other nonsexual conduct does not constitute sexual harassment.~~

~~The regulation and grievance procedure shall provide a mechanism for discovering sexual harassment as early as possible and for effectively correcting problems.~~



SEXUAL HARASSMENT OF STUDENTS (M)

~~The Superintendent, or designee, will take steps to avoid any further sexual harassment and to prevent any retaliation against the pupil who made the complaint, was the subject of the harassment, or against those who provided the information or were witnesses. The school district staff can learn of sexual harassment through notice and any other means such as from a witness to an incident, an anonymous letter or telephone call.~~

~~This policy and regulation on sexual harassment of pupils shall be published and distributed to pupils and employees to ensure all pupils and employees understand the nature of sexual harassment and that the Board will not tolerate it. The Board shall provide training for all staff and age appropriate classroom information for pupils to ensure the staff and the pupils understand what type of conduct can cause sexual harassment and that the staff know the school district policy and regulation on how to respond.~~

~~In cases of alleged harassment, the protections of the First Amendment must be considered if issues of speech or expression are involved. Free speech rights apply in the classroom and in all other programs in the public schools. The Superintendent, or designee, will formulate, interpret, and apply the policy so as to protect free speech rights of staff, pupils and third parties.~~

~~In addition, if the Board accepts federal funds, the Board shall be bound by Title IX of the Education Amendments of 1972 prohibiting sexual harassment of pupils. Title IX applies to all public school districts that receive federal funds and protects pupils in connection with all the academic, educational, extra-curricular, athletic, and other programs of the school district, whether they take place in the school facilities, on the school bus, at a class or training program sponsored by the school in a school building or at another location.~~

~~United States Department of Education – Office of Civil Rights Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties (1997)~~



[See POLICY ALERT No. 225]

5751 SEXUAL HARASSMENT OF STUDENTS

The Board of Education will not tolerate sexual harassment of students by school employees, other students, or third parties. Sexual harassment of students is a form of prohibited sex discrimination. In accordance with Title IX of the Education Amendments of 1972 and the Code of Federal Regulations (CFR), 34 CFR §106, the school district adopts this Policy and implement practices to investigate and resolve allegations of sexual harassment of students engaged in by school employees, other students, or third parties pursuant to 34 CFR §106.3(c). In addition, reports of sexual harassment shall also be investigated in accordance with the requirements of New Jersey's Anti-Bullying Bill of Rights Act and Policy 5512.

For the purposes of Policy 5751 and in accordance with 34 CFR §106:

1. "Sexual harassment" (34 CFR §106.30(a)) means conduct on the basis of sex that satisfies one or more of the following:
 - a. An employee of the school district conditioning the provision of an aid, benefit, or service of the school district on a student's participation in unwelcome sexual conduct;
 - b. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a student equal access to the school district's education program or activity; or
 - c. "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)(30).

Sexual harassment may take place electronically or on an online platform used by the school, including, but not limited to, computer and internet networks; digital platforms; and computer hardware or software owned or operated by, or used in the operations of the school.

In accordance with 34 CFR §106.8(a), any person may report sex discrimination, including sexual harassment 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.

A school district with "actual knowledge" of sexual harassment in the educational program or activity of the school district against a student, must respond promptly in a manner that is not "deliberately indifferent".

Any school employee who receives a complaint of sexual harassment or is aware of behavior that could constitute sexual harassment is required to report that information to the Title IX Coordinator in accordance with the provisions of 34 CFR §106.8(a) and B.1. of Regulation 5751. The district must report any potential child abuse in accordance with N.J.S.A. 18A:36-24; N.J.S.A. 18A:36-25; N.J.A.C. 6A:16-11.1; and Policy and Regulation 8462.

The Title IX Coordinator shall notify persons entitled to a notification pursuant to 34 CFR §106.8(a)(1) that the school 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 and Policy and Regulation 5751 not to discriminate in such a manner in accordance with 34 CFR §106.8(b)(1).

The Title IX Coordinator shall prominently display the contact information required to be listed for the Title IX Coordinator pursuant to 34 CFR §106.8(b)(2)(i) on the school district's website and in each handbook or catalog the school district makes available to persons entitled to a notification in accordance with 34 CFR §106.8(a). Policy and Regulation 5751 shall be prominently displayed on the district's website and accessible to anyone.

Supportive measures shall be available to the Complainant, Respondent, and as appropriate, witnesses or other impacted individuals.

The school district shall use the grievance process outlined in 34 CFR §106.45 and Regulation 5751 to address formal complaints of sexual harassment. The school district shall offer both parties an appeal process as outlined in 34 CFR §106.45 and Regulation 5751 from a determination regarding responsibility for sexual harassment and from the Title IX Coordinator's dismissal of a formal complaint or any allegations of sexual harassment.



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The Title IX Coordinator shall be responsible for effective implementation of any remedies in accordance with 34 CFR §106.45(b)(7)(iv). The appropriate school official designated by the Superintendent, after consultation with the Title IX Coordinator, will determine sanctions imposed and remedies provided, if any.

Consistent with the laws of New Jersey a student's parent must be permitted to exercise the rights granted to their child under this Policy, whether such rights involve requesting supportive measures, filing a formal complaint, or participating in a grievance process.

The Superintendent or designee shall ensure that Title IX Coordinators, investigators, decision-makers, appeal officer, and any person who facilitates an informal resolution process, receive training in accordance with 34 CFR §106.45(b)(1)(iii).

The school district or any employee of the school district shall not intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or Policy 5751, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy, in accordance with 34 CFR §106.71(a).

For each school district response to sexual harassment required under 34 CFR §106.44, the school district shall create and maintain for a period of seven years, records in accordance with 34 CFR §106.45(b)(10).

The Superintendent or designee shall consult with the Board Attorney to ensure the school district's response to allegations of sexual harassment and the school district's grievance process are in accordance with 34 CFR §106.44 and 34 CFR §106.45.

Any time a report is made to the Title IX Coordinator or formal complaint is filed pursuant to this Policy and in accordance with 34 CFR §106, the Title IX Coordinator shall forward the report or complaint to the Principal of the school building attended by the alleged victim for the Principal to follow the requirements of New Jersey's Anti-Bullying Bill of Rights Act and Policy 5512.



34 CFR §106

**United States Department of Education, Office for Civil Rights – Questions
and**

Answers on the Title IX Regulations on Sexual Harassment (July 20, 2021)

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