

Superintendent Procedure 3208SP

Sexual Harassment

Approved by: *Larry Nyland* Date: 12/07/15

Dr. Larry Nyland, Superintendent



A. INTRODUCTION

The School Board has established Policy No. 3208, committing the Seattle School District to maintaining a positive and productive environment, free from discrimination, including sexual harassment and sexual violence, for adults and students. This procedure (1) addresses the requirements of chapter 28A.640 RCW, prohibiting discrimination on the basis of sex, (2) implements the requirements of WAC 392-190-056 through 392-190-075, and (3) incorporates the requirements of Title IX of the Educational Amendments of 1972 to the Civil Rights Act of 1964.

This procedure applies to all school district students, employees, volunteers, parents/guardians, and third parties involved in school activities. This procedure specifically applies, but is not limited, to allegations by or on behalf of students or employees that have been sexually harassed or sexually assaulted in or related to the school environment, whether by other adults or students.

This procedure does not apply to complaints alleging violations of Title IX for equal access to athletic opportunities, nor other forms of sex discrimination, such as different treatment based on sex. Such complaints are covered under the district's nondiscrimination policies and procedures, specifically, Board Policies No. 3210 (for students) and No. 5010 (for employees) and by Superintendent Procedure 3210SP.B/5010SP.

B. DEFINITIONS OF SEXUAL HARASSMENT

There are two forms of sexual harassment: quid pro quo and hostile environment.

1. "Quid Pro Quo" Sexual Harassment

Quid pro quo harassment occurs when a school employee, such as a teacher, causes a student to believe that he or she must submit to sexual conduct, sexual advances, or grant sexual favors *or* that accepting or rejecting of such conduct or communications will be used as a factor in decisions affecting the student's education. For example, when a teacher threatens to fail a student unless the student agrees to date the teacher, it is quid pro quo harassment.

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Similarly, quid pro quo harassment can occur when an employee's supervisor makes unwelcome sexual advances or requests sexual favors and the employee reasonably believes that submitting to that conduct or communication is a condition of obtaining employment *or* that accepting or rejecting that conduct or communication will be used as a factor in employment decisions.

2. "Hostile Environment" Sexual Harassment

Hostile environment sexual harassment is conduct of a sexual nature that is sufficiently serious that it interferes with, limits, or denies a person the ability to participate in or benefit from a program, education, or environment.

For students, hostile environment sexual harassment means unwelcome conduct of a sexual nature that is sufficiently serious that it interferes with, limits, or denies a student the opportunity to participate in or benefit from an education program or activity.

For employees, a hostile work environment is created when unwelcome conduct of a sexual nature is sufficiently serious that it interferes with, denies, or limits the employee's work performance or work environment.

(a) The term "conduct" includes, but is not limited to:

- verbal comments, including unwelcome sexual advances, requests for sexual favors, and derogatory remarks;
- nonverbal conduct, such as graffiti, text messages, or notes; and/or
- physical conduct such as sexual touching, fondling, sexual assault, rape, and other forms of sexual violence.

(b) The term "of a sexual nature" is a broad term that includes conduct or comments about sex (the physical act), based on sex (persons being male or female), or based on sex or gender-based stereotyping.

(c) In determining whether conduct is "sufficiently serious" as to interfere with, deny, or limit education or employment so as to rise to the level of sexual harassment, the district will examine all the circumstances, including: the type of harassment (e.g., whether it was verbal or physical); the frequency and severity of the conduct; the age, sex and relationship of the parties; the setting and context in which the harassment occurred; whether other incidents have occurred at the school; and other relevant factors. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment. For instance, a single instance of rape is sufficiently severe to create a hostile environment.

C. RESPONSIBILITIES

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1. Title IX Coordinator

The Title IX Coordinator is the person designated by the Superintendent to coordinate compliance with Title IX. The Title IX Coordinator's core responsibilities under this procedure include tracking the District's response to formal complaints of sexual harassment, determining the appropriate response and remedial actions, and identifying and addressing any patterns or systemic problems revealed by such complaints. Accordingly, the Title IX Coordinator shall have knowledge of all Title IX requirements, of the District's own policies and procedures on sex discrimination, and of all formal complaints throughout the District that raise Title IX issues. The Title IX Coordinator shall monitor and coordinate the District's compliance with the requirements of Title IX, chapter 28A.640 RCW, and this procedure.

The Title IX Coordinator's contact information is:

Title IX Coordinator
John Stanford Center for Educational Excellence
2445 3rd Ave. S.
PO Box 34165
Mail Stop 32-149
Seattle, WA 98134
title.ix@seattleschools.org
(206) 252-0367

The name and contact information for the Title IX Coordinator shall be available on the District's Title IX webpage and shall be posted in other locations as described in this procedure.

2. School Compliance Officials

The Principal of each school shall be the School Compliance Official for that school, unless the Principal delegates those responsibilities in writing to a named staff member. The Title IX Coordinator shall be notified of any such delegation, and the delegation shall not be effective unless and until it has been acknowledged by the Title IX Coordinator.

School Compliance Officials shall be responsible for posting required notices at schools, accepting informal reports and formal complaints, conducting appropriate informal investigations, converting informal reports into formal complaints when appropriate, reporting formal complaints to the Title IX Coordinator, and implementing any school-based safety plans and remedies.

3. Staff

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District staff members are responsible for reporting all alleged, reported, or observed instances of sexual harassment to either a School Compliance Official or the Title IX Coordinator.

The internal reporting responsibilities contained in this procedure do not relieve District staff members of their mandatory legal obligations to report immediately suspected child abuse or neglect to Child Protective Services or local law enforcement under chapter 26.44 RCW.

All bus drivers, campus security personnel, principals, office of student affairs personnel, staff, and teachers are responsible for reporting any instances of sexual harassment that they personally witness or that are reported to them by any person, including students.

District employees who provide or support the provision of confidential counseling, advocacy, health, mental health, or sexual-assault related services to students are not, in all circumstances, required to report instances of sexual harassment that they learn about in the course of their duties providing such services. However, if they have a mandatory duty to report suspected child abuse or neglect under chapter 26.44 RCW, they are not relieved of that responsibility by this paragraph.

4. No Conflict of Interest

The Title IX Coordinator and School Compliance Officials should not have other job responsibilities that may create a conflict of interest or the appearance of a conflict with their duties under this procedure. If a specific report or complaint could present such a conflict, the matter shall be referred to the district's Ethics Officer who shall consult with the Legal Department as appropriate.

D. COMPLAINT PROCEDURES

All allegations, reports, and complaints of sexual harassment shall be addressed in accordance with Superintendent Procedure 3210SP.B/5010SP applicable to discrimination complaints generally. When a complaint involves alleged sexual harassment, all references to "District Compliance Coordinator" appearing in Superintendent Procedure 3210SP.B/5010SP related to the complaint process shall be considered to mean the Title IX Coordinator.

Please review Superintendent Procedure 3210SP.B/5010SP for specific details on reporting and handling complaints of sexual harassment, including those provisions related to confidentiality.

Nothing in this procedure or Procedure 3210SP.B/5010SP shall be construed to limit the district's ability to investigate allegations of sexual harassment, sexual misconduct,

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sexual violence, or criminal activity without regard to whether or not an informal or formal complaint has been filed under any of these procedures.

E. REMEDIES

The Title IX Coordinator and applicable School Compliance Official shall take steps to protect the complainant from sexual harassment, retaliation, and ensure his or her safety as necessary during school- or employment-related activities, including taking interim steps before the final outcome of an investigation. Depending on the circumstances, this may include facilitating separation of the complainant and the subject of the complaint or allowing students to change academic situations as appropriate. If it is determined that sexual harassment occurred, the District shall also take action to eliminate the conduct, prevent recurrence, and address the effects.

Nothing within this procedure prohibits or restricts a complainant or the district from reporting a crime to local law enforcement.

F. REPRISAL, RETALIATION, AND FALSE ACCUSATIONS

No one's status with the District shall be adversely affected because of his or her use of this procedure.

It is unlawful for any District student or employee to intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with his or her right to file a report or complaint under this procedure and Superintendent Procedure 3210SP.B/5010SP. It is also unlawful for any District student or employee to harass, demote, discipline, or otherwise retaliate against anyone because they filed a report or complaint or because they participated in an investigation. The District shall take reasonable steps to protect complainants and witnesses against interference or retaliation by students, employees, or others.

No one shall knowingly or with reckless disregard for the truth make false accusations of sexual harassment. However, withdrawal of or failure to prove a claim of sexual harassment is not equivalent to a false allegation. Appropriate discipline or other sanctions may be imposed on individuals who knowingly or with reckless disregard for the truth make false accusations of sexual harassment.

G. DISSEMINATION

The Title IX Coordinator is responsible for ensuring that the following information is prepared and disseminated as described in this procedure.

1. General Information

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In each school building, on each school's website, and in District administration buildings, the District shall prominently post (1) a copy of Policy No. 3208, (2) age-appropriate information on reporting sexual harassment; (3) information about where detailed procedures may be found; (4) the name and contact information for making a report to the applicable School Compliance Official; and (5) the name and contact information for the Title IX Coordinator.

Reference to the District's sexual harassment policy and procedures shall be included in any District or school publication specific to students, parents/guardians, staff members, volunteers, or applicants for employment, like a Student Handbook or a Staff Handbook, that sets forth the rules, regulations, procedures, and standards of conduct for the school or the District.

At least once each year, the District shall publish notice in a manner that is reasonably calculated to inform all students, parents/guardians, and employees about the name, office address, and telephone number of the Title IX Coordinator and about the District's sexual harassment complaint procedures.

2. District Policy No. 3208, Superintendent Procedure 3208SP, and Superintendent Procedure 3210SP.B/5010SP

On the District's website, the District shall post a copy of Policy No. 3208, Superintendent Procedure 3208SP, and Superintendent Procedure 3210SP.B/5010SP in multiple languages. Copies of these documents can be printed and obtained at any school or at the District office upon request.

H. EDUCATION AND PREVENTION

As a proactive measure to prevent sexual harassment and violence, the Title IX Coordinator shall develop and implement preventive education programs aimed at encouraging students and employees to report incidents of sexual harassment to the appropriate school and law enforcement authorities. The Title IX Coordinator shall ensure that students and employees are provided with age-appropriate information, including curriculum, on the recognition of, response to, and prevention of sexual harassment and on their rights and responsibilities under this and other District policies and rules. This information shall be provided at student and staff orientation sessions and may be provided on other appropriate occasions.

The Title IX Coordinator, School Compliance Officials, and other staff involved in the investigation of and response to allegations of sexual harassment shall be provided with detailed information regarding recommended practices for investigating and responding to instances of sexual harassment.

I. ANNUAL REPORT

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The Title IX Coordinator is responsible for ensuring that the District complies with any data or information reporting requirements of Title IX, chapter 28A.640 RCW, and this procedure.

The Title IX Coordinator shall prepare an annual report to the Superintendent at the conclusion of each school year. The annual report shall include a discussion of all instances of sexual harassment in which students were alleged to have been subjected to sexual harassment:

1. when, where, and how the District disseminated information required by this procedure;
2. any relevant training and curriculum given to staff or students; and
3. a summary of formal complaints made in the previous year. This summary shall indicate, at a minimum, the number of formal complaints, the most common types of harassment experienced, the number of incidents of sexual violence, the most common types of remedies applied, and the number of appeals.

The Assistant Superintendent of Human Resources shall prepare an analogous report to the Superintendent at the conclusion of each school year regarding all instances in which employees were alleged to have been subjected to sexual harassment.

J. PERIODIC REVIEW

In every odd numbered year, the Title IX Coordinator shall convene an *ad hoc* committee composed of representatives of certificated and classified staff, volunteers, students, and parents/guardians to review the use and efficacy of Policy No. 3208 and this procedure. Superintendent Procedure 4110SP shall be followed in the development and operations of the ad hoc committee. Based on the review of the committee, the Title IX Coordinator shall prepare a report to the Superintendent including, if appropriate, any recommended policy or procedure changes.

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