

SEXUAL HARASSMENT

Positive School Environment

The Ketchikan Gateway Borough School District is committed to providing a positive learning and working environment in which all students and employees can feel comfortable and productive, and in which all participants share responsibility for maintaining a positive school climate.

The District encourages attitudes and behaviors that promote mutual respect and harmonious relations. Sexual harassment is a form of misconduct which interferes with the working or learning effectiveness of its victims and their peers. For this reason, sexual harassment seriously impairs the District's ability to provide a positive school environment and undermines the integrity of the District's academic and employment relationships.

All employees and students must be allowed to learn and work in an environment free from unsolicited and unwelcome sexual overtures and all other forms of sexual harassment. To prevent sexual harassment, to provide a framework for dealing appropriately with any instances of sexual harassment which may be reported, and to help assure the positive school environment to which the District is committed, the District's Board of Education has adopted several provisions which constitute the District's sexual harassment policy. In fulfilling its commitment to maintain a positive and productive working and learning environment, the district will work diligently to prevent sexual harassment by educating all aspects of the school community about this policy and the importance of observing it.

The District encourages students or employees who may encounter sexual harassment to immediately process a complaint as detailed in this policy. An employee or Board member who feels that he/she is being harassed should immediately report the incident as detailed in this policy and accompanying administrative regulation. The District will act promptly and appropriately to investigate all complaints, either formal or informal, verbal or written, of sexual harassment directed toward any student, employee or Board member of the District.

The District's administration shall adopt appropriate Administrative Regulations to implement and effectuate this policy.

SEXUAL HARASSMENT (continued)**Prohibition of Sexual Harassment**

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.

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)

SEXUAL HARASSMENT

Sexual Harassment Defined

1. Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, sexually oriented physical conduct, communication or conduct of a sexual nature which is obscene or which denigrates others, or other conduct or communication of a sexual nature, when:
 - a. Submission to the above conduct is made either explicitly or implicitly a term or condition of an individual's employment, academic progress, participation in or completion of a school-related activity.
 - b. Submission to or rejection of the above such conduct is used as the basis for employment decisions affecting such individual, or in the case of a student, submission to or rejection of such conduct is used in evaluating the individual's performance within a course of study or other school-related activity; or,
 - c. The conduct or communication described above has the purpose or effect of unreasonably interfering with an employee's work performance or a student's educational performance, or creating an intimidating, hostile or offensive environment.
 - d. The fact that someone did not intend to sexually harass an individual is generally not a defense to a complaint of sexual harassment. In most instances, it is the conduct and behavior of the actor, viewed objectively, which determines if the acts constitute sexual harassment.
2. Sexual harassment may include but is not limited to:
 - a. Unwelcome sexual flirtations, advances or propositions, including subtle pressure toward sexual activity;
 - b. Requests or demands that another engage in sexual activity accompanied by implied or overt promises of preferential treatment concerning an individual's academic or employment status;

SEXUAL HARASSMENT (continued)

Sexual Harassment Defined

- c. Requests or demands that another engage in sexual activity accompanied by implied or overt threats concerning an individual's academic or employment status;
- d. Communications of a sexual content or connotation, in any medium or manner, which communications are abusive, offensive or degrading, for example, sexually oriented jokes, stories, remarks, or display in the school of inappropriately suggestive objects or pictures; and,
- e. Any sexually motivated, unwelcome touching of another person's body, for example, pinching or patting another in a context which has sexual connotation or intentionally brushing against a student's or an employee's body.

Sexual harassment refers to sexually oriented behavior or communication which is not welcome and which is personally offensive, shocking or degrading. Sexual harassment does not include personal compliments welcomed by the recipients, or social interactions or relations freely entered into among students or among employees or with prospective employees.

Sexual harassment includes misconduct in a sexual context or of a sexual nature which results in discrimination for or against an employee or student. Such practices would also include any job related or academic action that is based upon an individual's acceptance of, resistance to, or refusal of sexual overtures. This form of sexual harassment may be more difficult for employees or students to cope with when individuals offer or threaten to use the power of their position to control, influence or affect the career, salary or job of another employee or academic status of a student in exchange for sexual favors, but is nonetheless prohibited and should be reported.

It is possible for sexual harassment to occur at various levels: among peers or co-workers, between supervisors and subordinates, between employees and students or imposed by non-employees on employees and/or students.

The District's Policy Against Sexual Harassment also prohibits sexual misconduct and all other forms of sexual discrimination. Sexual misconduct is defined as any and all misconduct of a sexual nature, which misconduct is made subject to criminal liability under Alaska or federal law or local ordinance. Other forms of sexual discrimination include any other act or conduct which constitutes a prohibited act of discrimination under Alaska or federal law.

SEXUAL HARASSMENT (continued)

Scope of Prohibition

Sexual harassment of or by employees or students in the school environment will not be tolerated and is prohibited. In addition, sexual harassment of or by others who may come into the school environment is also prohibited. For purposes of this policy, the school environment includes all Ketchikan Gateway Borough School District facilities and premises, and non-school property if the employee or student is at any school sponsored or school related activity or function, such as field trips or athletic events where students are under the control of the School District or where the employee is engaged in school business.

This prohibition of sexual harassment extends to all persons at all levels of the school environment, from members of the District's Board of Education, administrators and employees to parents, students and others coming into the school environment. The prohibition also extends, to the fullest extent of the District's jurisdiction over them, to vendors and others doing business with the District.

Reporting Procedures

Any person who believes she or he has been the victim of sexual harassment in the school environment, by a student, employee or other person in the school environment, should immediately report the alleged acts to an appropriate person, as designated by this policy. In addition, any third person with knowledge or belief of conduct which may constitute sexual harassment should also report such information to a designated person. Persons to whom such complaints should be directed are designated below.

For complaints arising in each building, the building principal is the person to whom oral or written complaints of sexual harassment should initially be directed. Promptly upon receipt of a report, the principal must notify the Central Office Contact as designated below. If circumstances permit, such notification should occur prior to screening or investigating the report. If the report was initially given verbally, the principal should endeavor to summarize the verbal complaint in writing. Appropriate effort should be made to forward the written report from the complainant or the principal's summary of a verbal report to the Central Office Contact within one working day of receiving the complaint. Failure to report a sexual harassment complaint to the Central Office Contact as provided for herein, will result in disciplinary action. If a complaint involves a building principal, the complaint shall be filed directly with the Central Office Contact.

SEXUAL HARASSMENT (continued)

For complaints that do not arise in a particular building, or if for any other reason a complainant is not comfortable directing a complaint to a building principal, complaints of sexual harassment can and should be directed to the designated Central Office Contact. The designated Central Office Contact in the first instance is the Superintendent of Schools. If for any reason the Superintendent is not available or is regarded as not an appropriate person to receive and act upon the complaint, the Assistant Superintendent for the District would be the Central Office Contact.

At the sole discretion of the complainant, he or she is to be given the option of pursuing the matter using informal procedures. These informal procedures are primarily aimed at preventing or stopping offending behavior, and are less concerned with determining guilt or innocence and imposing sanctions. For this reason, disciplinary action cannot be taken using informal procedures; undertaking disciplinary action requires a formal complaint. The complainant has the option to pursue a formal complaint at any time, but the fact that informal procedure has been pursued will not constitute evidence as to the merits of any formal procedure that may subsequently be received.

Sexual Harassment Investigation Procedures

Upon being informed that a formal complaint alleging sexual harassment has been received, the Central Office Contact shall direct an appropriate person to investigate the complaint. The appointment shall be reasonable in light of the allegations of the complaint, the persons involved or alleged to be involved, and other relevant circumstances. In many instances, the principal of the building where the harassment allegedly occurred will be the appropriate person to investigate, but this is not necessarily so. In other instances, the Central Office Contact or someone else from the Central Office would be an appropriate person to conduct the investigation. At the discretion of the Superintendent, the person to investigate may also be a person from outside the District.

Upon receiving a complaint, the investigator shall interview the complainant and fairly determine the relevant facts and circumstances which the complainant alleges. It shall be the responsibility of the investigator to promptly and reasonably undertake such steps as are necessary to investigate claims of harassment and to report the findings to the Superintendent. The Superintendent shall complete further investigation as necessary and, pursuant to applicable law, District policy and other applicable authority, pursue such dispositive action as deemed appropriate in light of all relevant facts and circumstances, including but not limited to the District's commitment to effectuate this policy. Information regarding an investigation of harassment shall be confidential to the extent possible, and those individuals

SEXUAL HARASSMENT (continued)

who are involved in the investigation shall not discuss or release information regarding the complaint outside the District's investigation process. It is prohibited conduct to retaliate against an employee or student because they have filed a harassment complaint, assisted or participated in an investigation, hearing or other procedure regarding a harassment charge or because are thought to have done so. It is also a prohibited act of retaliation to have opposed conduct or communications that violate this policy. Any form of such retaliation will constitute a violation of this policy, independent of whether a charge or complaint is otherwise substantiated, and is subject to discipline as otherwise provided. Submission of a complaint or report of sexual harassment will not affect the complainant's future employment, grades or work assignments.

It shall be the responsibility of the Board members, administrators, certified and classified employees, students and others having business or other contact with the School District to act appropriately under this policy. It shall be the responsibility of all of the District's administration and staff to inform and educate employees or students and others involved with the School District about sexual harassment and the School District's policy prohibiting such harassment. It shall be the responsibility of the Superintendent, to the extent that from time to time it appears necessary and appropriate, to develop administrative policy or guidelines to further effect the implementation of this sexual harassment policy.

Points to remember in the investigation:

- Evidence uncovered in the investigation is confidential
- Complaints must be taken seriously and investigated
- No retaliation will be taken or permitted against individuals involved in the investigation process
- Retaliators will be disciplined up to and including discharge
- The investigation should be aimed at fairly determining all facts relevant to whether a violation of this policy occurred, and if so, the nature and extent of the violation