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| Policy GAEB: Sex-Based Harassment of Employees | | Status: UNDER REVIEW |
| Original Adopted Date: 7/11/2017 | Last Revised Date: 2/10/2020 | Last Reviewed Date: TBD |

It is the policy of the Board to maintain an environment that is free from all forms of discrimination and, harassment on the basis of sex. The Henry County School System to prohibit any act of harassment of employees by other employees based upon race, color, national origin, sex, religion, age or disability at all times and during all occasions while at school, Board of Education (the "Board") does not discriminate on the basis of sex in the workplace or at any school event, education program or activity. Any that it operates. The Board is required by Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681, et seq.) and its regulations (34 C.F.R. § 106.8), together referred to as "Title IX", not to discriminate in such act shall result in prompt and appropriate discipline, including the possible termination of a manner. The requirement not to discriminate in the education program or activity extends to admission and employment.

Sexual Inquiries about the application of Title IX may be referred to the Board's Title IX Coordinators, the Office for Civil Rights, or both. Retaliation against individuals who file complaints of alleged sex-based harassment may include conduct or speech which entails (formerly referred to as "sexual harassment") or those who assist in the investigation of complaints of alleged sex-based harassment is expressly prohibited. It shall be a violation of this Policy GAEB for any student or employee of the Board to engage in sex-based harassment. This policy also prohibits any sex-based harassment or sexual harassment under Title VII of the Civil Rights Act, 42 U.S.C. § 2000e, et seq.

A. DEFINITIONS

Sex-based harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex that is:

(1) Quid pro quo harassment. An employee, agent, or other person authorized by the Board to provide an aid, benefit, or service under the Board's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual advances, requests for sexual favors, taunts, threats, comments of a vulgar or demeaning nature, demands or physical contact which conduct;

(2) Hostile environment harassment. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the Board's education program or activity (i.e., creates a hostile environment. There may be other speech or conduct which employees experience as inappropriate or illegal harassment which should also be reported; harassment can take many forms and it is not possible to itemize every aspect of the harassment forbidden _____ by _____ this _____ policy.

). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

(i) The degree to which the conduct affected the complainant's ability to access the Board's education program or activity;

- (ii) The type, frequency, and duration of the conduct;
- (iii) The parties' ages, roles within the Board's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
- (iv) The location of the conduct and the context in which the conduct occurred; and
- (v) Other sex-based harassment in the Board's education program or activity; or

(3) Specific offenses.

(i) Sexual assault meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;

(ii) Dating violence meaning violence committed by a person:

(A) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(1) The length of the relationship;

(2) The type of relationship; and

(3) The frequency of interaction between the persons involved in the relationship;

(iii) Domestic violence meaning felony or misdemeanor crimes committed by a person who:

(A) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the Board, or a person similarly situated to a spouse of the victim;

(B) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;

(C) Shares a child in common with the victim; or

(D) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or

(iv) Stalking meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(A) Fear for the person's safety or the safety of others; or

(B) Suffer substantial emotional distress.

B. HOW TO REPORT SEX-BASED HARASSMENT (INCLUDING RETALIATION)

Any employee who believes that he or she has been subjected to ~~harassment or discrimination as prohibited by this policy~~ should promptly conduct that could constitute sex-based discrimination under Title IX, or any other person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex-based harassment under Title IX and who was participating or attempting to participate in the recipient's education program or activity at the time of the alleged sex-based harassment, should immediately report the same harassment to one of the principal or supervisor. Board's Title IX Coordinators.

Employees must notify one of the Board’s Title IX Coordinators when the employee has information about conduct that reasonably may constitute sex-based harassment under Title IX. The Title IX Coordinators’ contact information shall be published annually.

Any applicant who believes they have been subjected to harassment or discrimination as prohibited by this policy should promptly report the same to the appropriate coordinator designated in ~~policy~~Policy GAAA, who will implement the board’s discriminatory complaints procedures as specified in that policy. ~~Employees will not be subjected to~~

C. REGULATION

The Board directs that the Superintendent shall develop and adopt a regulation to this policy. The regulation shall include all elements of the sex-based harassment grievance procedures, on behalf of the Board, that provide for the prompt and equitable resolution of complaints alleging any action that would be prohibited by Title IX. That grievance process shall:

(1) Treat complainants and respondents equitably;

(2) Require that any person designated as a Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. The decisionmaker may be the same person as the Title IX Coordinator or investigator;

(3) Include a presumption that the respondent is not responsible for the alleged sex-based harassment until a determination is made at the conclusion of the Board’s grievance procedures for complaints of sex-based harassment;

(4) Establish reasonably prompt timeframes for the major stages of the grievance procedures, including a process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay. Major stages include, for example, evaluation (i.e., the Board’s decision whether to dismiss or investigate a complaint of sex-based harassment); investigation; determination; and appeal, if any;

(5) Require the Board to take reasonable steps to protect the privacy of the parties and witnesses during the pendency of the Board’s grievance procedures, provided that the steps do not restrict the ability of the parties to:

(i) obtain and present evidence, including by speaking to witnesses, subject to prohibitions on retaliation for reporting such harassment or discrimination.

~~It is the duty of all employees to promptly report harassment forbidden by this policy. All supervisors will instruct;~~

(ii) consult with their ~~staff~~ family members as to confidential resources, or advisors; or

(iii) otherwise prepare for or participate in the ~~content~~ grievance procedures;

(6) Require an objective evaluation of this ~~policy~~ all evidence that is relevant and, not otherwise impermissible—including both inculpatory and exculpatory evidence—and provide that credibility determinations must not be based on a person’s status as a complainant, respondent, or witness; and

(7) Exclude the following types of evidence, and questions seeking that evidence, as impermissible (i.e., must not be accessed or considered, except by the Board to determine whether an exception in paragraphs (i) through ~~appropriate~~(iii) applies; must not be disclosed; and must not otherwise be used), regardless of whether they are relevant:

(i) Evidence that is protected under a privilege as recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;

(ii) A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional learning activities, inform employees as to the varied forms or expression of prohibited harassment. Principals and supervisors shall ensure that employees are informed through handbooks, training materials and verbally that such harassment is strictly forbidden, how it is to be reported and the consequences for violating this policy, or paraprofessional in connection with the provision of treatment to the party or witness, unless the Board obtains that party's or witness's voluntary, written consent for use in the Board's grievance procedures; and

(iii) Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.