
Note: This policy addresses discrimination, harassment, and retaliation involving Department students. For provisions regarding discrimination, harassment, and retaliation of Department employees, see DIA. For reporting requirements related to child abuse and neglect, see FFG. For provisions regarding bullying, see FFI.

Statement of
Nondiscrimination

The Department prohibits discrimination, including harassment, against any student on the basis of race, color, religion, gender, national origin, disability, or any other basis prohibited by law. The Department prohibits dating violence, as defined by this policy. Retaliation against anyone involved in the complaint process is a violation of Department policy.

Discrimination

Discrimination against a student is defined as conduct directed at a student on the basis of race, color, religion, gender, national origin, disability, or any other basis prohibited by law, that adversely affects the student.

Employees shall not tolerate harassment of students and shall make reports as required at REPORTING PROCEDURES, below.

Prohibited
Harassment

Prohibited harassment of a student is defined as physical, verbal, or nonverbal conduct based on the student's race, color, religion, gender, national origin, disability, or any other basis prohibited by law that is so severe, persistent, or pervasive that the conduct:

1. Affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
3. Otherwise adversely affects the student's educational opportunities.

Examples

Prohibited harassment includes dating violence as defined by this policy.

Examples of prohibited harassment may include, but are not limited to, offensive or derogatory language directed at another person's religious beliefs or practices, accent, skin color, or need for accommodation; threatening or intimidating conduct; offensive jokes, name calling, slurs, or rumors; physical aggression or assault; display of graffiti or printed material promoting racial, ethnic, or other negative stereotypes; or other kinds of aggressive conduct such as theft or damage to property.

Sexual Harassment

By an Employee

Sexual harassment of a student by a Department employee includes both welcome and unwelcome sexual advances; requests for sexual favors; sexually motivated physical, verbal, or nonverbal conduct; or other conduct or communication of a sexual nature when:

1. A Department employee causes the student to believe that the student must submit to the conduct in order to participate in a school program or activity, or that the employee will make an educational decision based on whether or not the student submits to the conduct; or
2. The conduct is so severe, persistent, or pervasive that it:
 - a. Affects the student's ability to participate in or benefit from an educational program or activity, or otherwise adversely affects the student's educational opportunities; or
 - b. Creates an intimidating, threatening, hostile, or abusive educational environment. [See DF]

Romantic or inappropriate social relationships between students and Department employees are prohibited. Any sexual relationship between a student and a Department employee is always prohibited, even if consensual.

By Others

Sexual harassment of a student, including harassment committed by another student, includes unwelcome sexual advances; requests for sexual favors; or sexually motivated physical, verbal, or nonverbal conduct when the conduct is so severe, persistent, or pervasive that it:

1. Affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
3. Otherwise adversely affects the student's educational opportunities.

Examples

Examples of sexual harassment of a student may include, but are not limited to, sexual advances; touching intimate body parts or coercing physical contact that is sexual in nature; jokes or conversations of a sexual nature; and other sexually motivated conduct, communications, or contact.

Necessary or permissible physical contact such as assisting a child by taking the child's hand, comforting a child with a hug, or other

physical contact not reasonably construed as sexual in nature is not sexual harassment.

Dating Violence

Dating violence occurs when a person in a current or past dating relationship uses physical, sexual, verbal, or emotional abuse to harm, threaten, intimidate, or control the other person in the relationship. Dating violence also occurs when a person commits these acts against a person in a marriage or dating relationship with the individual who is or was once in a marriage or dating relationship with the person committing the offense.

For purposes of this policy, dating violence is considered prohibited harassment if the conduct is so severe, persistent, or pervasive that the conduct:

1. Affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
3. Otherwise adversely affects the student's educational opportunities.

Examples

Examples of dating violence against a student may include physical or sexual assaults; name-calling; put-downs; or threats directed at the student, the student's family members, or members of the student's household. Additional examples may include destroying property belonging to the student, threatening to commit suicide or homicide if the student ends of the relationship, attempting to isolate the student from friends and family, stalking, threatening a student's spouse or current dating partner, or encouraging others to engage in these behaviors.

**Retaliation
Prohibited**

Retaliation against a student alleged to have experienced discrimination or harassment, including dating violence, is strictly prohibited. The Department prohibits retaliation against a student who makes a report, serves as a witness, or otherwise participates in an investigation. A person who makes a good faith report of prohibited discrimination or harassment shall not suffer retaliation for making the report.

A person or student who intentionally makes a false claim, offers false statements, or refuses to cooperate with a Department investigation regarding prohibited discrimination or harassment is subject to appropriate discipline.

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Examples	Examples of retaliation include threats, unjustified punishments, or unwarranted grade reductions. Unlawful retaliation does not include petty slights or annoyances, such as negative comments that are justified by a student's performance in the classroom.
Prohibited Conduct	In this policy, the term "prohibited conduct" includes discrimination, harassment, dating violence and retaliation as defined by this policy, even if the behavior does not rise to the level of unlawful conduct.
Reporting Procedures	<p>Any student who believes that he or she has experienced prohibited conduct or believes that another student has experienced prohibited conduct should immediately report the alleged acts to a teacher, counselor, principal, or other Department employee.</p> <p>Alternatively, a student may report prohibited conduct directly to one of the Department officials below.</p> <p>Any Department employee who receives notice that a student has or may have experienced prohibited conduct is required to immediately report the alleged acts to an appropriate person designated below.</p> <p>Any other person who knows or believes that a student has experienced prohibited conduct should immediately report the alleged acts to the appropriate person designated below.</p> <p>Reports of known or suspected child abuse or neglect shall be made as required by law. [See FFG]</p>
Definition of Department Officials	For the purpose of this policy, Department officials are the Title IX coordinator, the ADA/Section 504 coordinator, and the Superintendent.
Title IX Coordinator	Reports of discrimination based on sex, including sexual harassment, may be directed to the Title IX coordinator. [See FFH(EXHIBIT)]
ADA / Section 504 Coordinator	Reports of discrimination based on disability may be directed to the ADA/Section 504 coordinator. [See FFH(EXHIBIT)]
Superintendent	The Superintendent shall serve as coordinator for purposes of Department compliance with all other antidiscrimination laws.
Alternative Reporting Procedures	A student shall not be required to report prohibited conduct to the person alleged to have committed the conduct. Reports concerning prohibited conduct, including reports against the Title IX coordinator or ADA/Section 504 coordinator, may be directed to the Superintendent.

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A report against the Superintendent may be made directly to the Board. If a report is made directly to the Board, the Board shall appoint an appropriate person to conduct an investigation.

Timely Reporting

Reports of prohibited conduct shall be made as soon as possible after the alleged act or knowledge of the alleged act. A failure to promptly report alleged harassment may impair the Department's ability to investigate and address the harassment.

Oral or written reports of prohibited harassment shall normally be made to the campus principal. A person shall not be required to report harassment to the alleged harasser; nothing in this policy prevents a person from reporting harassment directly to one of the Department officials listed above.

Notification of Report

Any Department employee who receives notice that a student has or may have experienced prohibited conduct shall immediately notify the appropriate Department official listed above and take any other steps required by this policy. .

Notice to Parents

The principal or Department official shall promptly notify the parents of any student alleged to have experienced prohibited conduct by a Department employee or another adult associated with the Department. In cases of student-to-student prohibited conduct, the Department shall promptly notify the parents of any student alleged to have experienced prohibited conduct when the allegations presented, if proven, would constitute sexual harassment or other prohibited harassment as defined by Department policy.

Confidentiality

To the greatest extent possible, the Department shall respect the privacy of the complainant, persons against whom a report is filed, and witnesses. Limited disclosures may be necessary in order to conduct a thorough investigation and comply with applicable law.

Investigation of the Report

The Department may request, but shall not insist upon, a written report. If a report is made orally, the Department official shall reduce the report to written form.

Upon receipt or notification of a report, the Department official shall determine whether the allegations, if proven, would constitute sexual harassment or other prohibited conduct as defined by Department policy. If so, the Department official shall immediately authorize or undertake an investigation, regardless of whether a criminal or regulatory investigation regarding the same or similar allegations is pending.

If appropriate, the Department shall promptly take interim action calculated to prevent prohibited conduct during the course of an investigation.

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The investigation may be conducted by the Department official or a designee, such as the campus principal, or by a third party designated by the Department, such as an attorney. When appropriate, the campus principal shall be involved in or informed of the investigation.

The investigation may consist of personal interviews with the person making the report, the person against whom the report is filed, and others with knowledge of the circumstances surrounding the allegations. The investigation may also include analysis of other information or documents related to the allegations.

The Department's obligation to conduct an investigation is not satisfied by the fact that a criminal or regulatory investigation regarding the same or similar allegations is pending.

Concluding the Investigation

Absent extenuating circumstances, the investigation should be completed within ten Department business days from the date of the report; however, the investigator shall take additional time if necessary to complete a thorough investigation.

The investigator shall prepare a written report of the investigation. The report shall be filed with the Department official overseeing the investigation.

Department Action

If the results of an investigation indicate that prohibited conduct occurred, the Department shall promptly respond by taking appropriate disciplinary or corrective action reasonably calculated to address the harassment.

The Department may take disciplinary action based on the results of an investigation, even if the Department concludes that the conduct did not rise to the level of prohibited or unlawful conduct.

Appeal

A student, including a complainant, may appeal through FNG(LOCAL), beginning at the appropriate level. A complainant shall be informed of his or her right to file a complaint with the United States Department of Education Office for Civil Rights.

Records Retention

Retention of records shall be in accordance with FB(LOCAL) and CPC(LOCAL).

Access to Policy

Information regarding this policy shall be distributed annually to Department employees, maintained on the HCDE website and included in the student handbook. Copies of the policy shall be readily available at each campus and the Department's administrative offices.

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