Note: This policy addresses discrimination, harassment, and retaliation involving District students. For provisions regarding discrimination, harassment, and retaliation involving District employees, see DIA. For reporting requirements related to child abuse and neglect, see FFG. Note that FFH shall be used in conjunction with FFI (bullying) for certain prohibited conduct.

STATEMENT OF NONDISCRIMINATION

The District 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 District prohibits dating violence, as defined by this policy. Retaliation against anyone involved in the process set out in this policy is a violation of District 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.

PROHIBITED HARASSMENT

Prohibited harassment of a student is defined as physical, verbal, or nonverbal conduct based on a 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.

Prohibited harassment includes dating violence as defined by this policy.

SEXUAL HARASSMENT BY AN EMPLOYEE

Sexual harassment of a student by a District 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 District 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.

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

BY OTHERS

Sexual harassment of a student, including harassment 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.

Necessary or permissible physical contact by an employee or other student 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.

GENDER-BASED HARASSMENT

Gender-based harassment includes physical, verbal, or nonverbal conduct based on the student's gender, the student's expression of characteristics perceived as stereotypical for the student's gender, or the student's failure to conform to stereotypical notions of masculinity or femininity. For purposes of this policy, gender-based harassment 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.

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 who is 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.

RETALIATION

The District prohibits retaliation against a student who claims to have experienced discrimination or harassment, as defined in this policy, or another student who, in good faith, makes a report of discrimination or harassment experienced by another student, serves as a witness in any investigation under this policy, or otherwise participates in an investigation under this policy.

FALSE CLAIM

A student who intentionally makes a false claim, offers false statements, or refuses to cooperate with a District investigation regarding discrimination or harassment under this policy is subject to appropriate discipline.

PROHIBITED CONDUCT

In this policy, the term "prohibited conduct" includes discrimination, harassment, dating violence, and retaliation as defined by this policy even if the conduct does not rise to the level of "unlawful" conduct.

REPORTING PROCEDURES

STUDENT REPORT

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, other District professional employee, or the appropriate District official listed in this policy.

EMPLOYEE REPORT

Any District employee who suspects or receives notice that a student or group of students has or may have experienced prohibited conduct shall promptly notify the appropriate District official listed in this policy and take any other steps required by this policy.

DEFINITION OF DISTRICT OFFICIALS

For purposes of this policy, District officials are the Title IX coordinator, the ADA/Section 504 coordinator, the Superintendent, and the campus administrator.

TITLE IX COORDINATOR

Reports of discrimination or harassment based on sex or gender may be directed to the Title IX coordinator. The District designates the following person to coordinate its efforts to comply with Title IX of the Education Amendments of 1972, as amended:

Name: Gordon Grubbs

Position: Superintendent

Address: 505 Washington Street, Newcastle, TX 76372

Telephone: (940) 846-3551

ADA / SECTION 504 COORDINATOR

Reports of discrimination based on disability may be directed to the ADA/Section 504 coordinator. The District designates the following person to coordinate its efforts to comply with Title II of the Americans with Disabilities Act of 1990, as amended, which incorporates and expands upon the requirements of Section 504 of the Rehabilitation Act of 1973, as amended:

Name: Cathryn Creel

Position: Principal

Address: 505 Washington Street, Newcastle, TX 76372

Telephone: (940) 846-3531

SUPERINTENDENT

The Superintendent shall serve as coordinator for purposes of all other antidiscrimination laws.

ALTERNATIVE REPORTING PROCEDURES

No student is required to report prohibited conduct to the person alleged to have committed the conduct. Reports of alleged prohibited conduct, including reports against the Title IX or ADA/Section 504 coordinators, may be addressed to the Superintendent.

A report against the Superintendent may be made directly to the Board. If a report is made directly to the Board, the Board shall take action at a properly posted Board meeting that includes an agenda item related to a complaint against the Superintendent to appoint an appropriate person, who need not be a District employee, 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 may impair the District's ability to investigate.

NOTICE TO PARENTS

The District official or designee shall promptly notify the parents of any student alleged to have experienced prohibited conduct by a District employee or another adult.

NOTICE TO OTHER OFFICIALS

If the alleged perpetrator is not a District employee or other adult over whom the District can exercise any jurisdiction, the District official shall also promptly notify appropriate law enforcement or Child Protective Services if the official has reason to believe that the child has been or may be neglected or abused.

INVESTIGATION OF THE REPORT

The District may request but shall not require a written complaint or report of alleged prohibited conduct. If a report is made orally, the District official shall prepare a written report from the oral information.

Upon receipt or notice of the report, the District official shall determine whether the allegations, if proven, would constitute prohibited conduct, as defined by this policy. If so, the District official shall promptly authorize or undertake an investigation, regardless of whether a criminal or regulatory investigation of the same or similar allegations is pending, and shall also determine whether the reported conduct would, if proven, constitute bullying under policy FFI.

If no investigation is warranted under this policy, the District official shall make a determination under FFI, Freedom from Bullying, whether the alleged conduct would constitute bullying rather than discrimination, harassment, or retaliation. If so, the matter shall be referred to be handled under FFI.

If the District official determines that the alleged conduct, if proven, would not be a violation of this policy or of policy FFI, the District official shall so notify the complainant/reporter in writing and dismiss the complaint.

If appropriate, the District official shall promptly take interim action calculated to address prohibited conduct or bullying during the course of the investigation.

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

CONCLUDING THE INVESTIGATION

Absent extenuating circumstances, the investigation should be completed within ten District 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 include a determination of whether prohibited conduct or bullying occurred. The report shall be filed with the District official overseeing the investigation. That official shall communicate a summary of the report and its conclusions to the complainant.

DISTRICT ACTION

In no circumstance shall the District be required to inform the complainant of the specific disciplinary or corrective action taken.

PROHIBITED CONDUCT

If the results of an investigation indicate that prohibited conduct occurred, the District shall promptly respond by taking appropriate disciplinary action in accordance with the Student Code of Conduct and may take corrective action reasonably calculated to address the conduct.

BULLYING

If the results of the investigation indicate bullying occurred, the official shall refer to FFI for appropriate notice to parents and District action and to FDB for applicable transfer provisions.

IMPROPER CONDUCT

If the investigation reveals improper conduct that was neither “prohibited conduct” nor “bullying,” the District may nonetheless take appropriate disciplinary action consistent with the Student Code of Conduct or other corrective action to address the conduct.

CONFIDENTIALITY

To the extent possible, the District shall endeavor to protect the privacy of the complainant, persons against whom a complaint is filed, and witnesses. However, limited disclosures may be necessary in order to conduct a thorough investigation and comply with applicable law.

APPEAL

A student who is dissatisfied with the outcome of the investigation may appeal through FNG(LOCAL), beginning at the appropriate level, and also has the right to file a complaint with the United States Department of Education Office for Civil Rights.

RECORDS RETENTION

The District shall retain records of the complaint and investigation in accordance with FB(LOCAL) and CPC(LOCAL).

ACCESS TO POLICY

Information regarding this policy and any related procedures shall be included annually in the employee and student handbooks. The policy and procedures shall be posted on the District’s Web site; a copy may also be obtained at each campus and the District’s administrative offices.