Note: This regulation addresses discrimination, harassment (to include sexual harassment, and sexual assault including those carried out via electronic communications), and retaliation raised by employees, students, or third parties against a faculty or staff member, employee, student, or third party. In this regulation, the term “employees” includes former employees and applicants for employment. For discrimination, harassment, and retaliation involving students, see FFH. For reporting requirements related to child abuse and neglect, see FFG.

Statement of Nondiscrimination

The District prohibits discrimination, including harassment, against any employee on the basis of race, color, religion, gender, sexual orientation, national origin, age, disability, or any other basis prohibited by law. Retaliation against anyone involved in the complaint process is a violation of District policy.

Harassment

Prohibited harassment of an employee is defined as physical, verbal, or nonverbal conduct based on an employee’s race, color, religion, gender, sexual orientation, national origin, age, disability, or any other basis prohibited by law, when the conduct is so severe, persistent, or pervasive that the conduct:

1. Has the purpose or effect of unreasonably interfering with the employee’s work performance;
2. Creates an intimidating, threatening, hostile, or offensive work environment; or
3. Otherwise adversely affects the employee’s performance, environment, or employment opportunities.

Examples

Examples of prohibited harassment may include offensive or derogatory language directed at another person’s religious beliefs or practices, accent, skin color, gender identity, or need for workplace 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 stereotypes; or other types of aggressive conduct such as theft or damage to property.

Sexual Harassment

Sexual harassment is a form of sex discrimination defined as 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. Submission to the conduct is either explicitly or implicitly a condition of an employee’s employment, or when submission
to or rejection of the conduct is the basis for an employment action affecting the employee; or

2. The conduct is so severe, persistent, or pervasive that it has the purpose or effect of unreasonably interfering with the employee’s work performance or creates an intimidating, threatening, hostile, or offensive work environment.

Examples of sexual harassment may include sexual advances; touching intimate body parts; coercing or forcing a sexual act on another; a series or pattern of jokes or conversations of a sexual nature; or other sexually motivated conduct, communication, or contact that creates a hostile work environment.

Retaliation

The District prohibits retaliation against an employee who makes a claim alleging to have experienced discrimination or harassment, or another employee who, in good faith, makes a report, serves as a witness, or otherwise participates in an investigation.

An employee who intentionally makes a false claim, offers false statements, or refuses to cooperate with a District investigation regarding harassment or discrimination is subject to appropriate discipline.

Examples of retaliation may include termination, refusal to hire, demotion, and denial of promotion. Retaliation may also include threats, unjustified negative evaluations, unjustified negative references, or increased surveillance.

Prohibited Conduct

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

Reporting Procedures

An employee who believes that he or she has experienced prohibited conduct or believes that another employee has experienced prohibited conduct should immediately report the alleged acts. The employee may report the alleged acts to his or her supervisor or campus principal.

Alternatively, the employee may report the alleged acts to one of the District officials below.

Definition of District Officials

For the purposes of this policy, District 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 and sexual assault, 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: Stuart Bowen
Position: General Counsel and Title IX Coordinator
Address: 4000 South IH 35 Frontage Rd., Austin, TX  78704
Email: Title IX coordinator (title9@austinisd.org)
Telephone: (512) 414-3974

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: Bridget Remish
Position: Director, Employee Relations and ADA Coordinator
Address: 4000 South IH 35 Frontage Rd., Austin, TX  78704
Email: ADA/504 Coordinator (adaaccommodations@austinisd.org)
Telephone: (512) 414-0078

The Superintendent will serve as coordinator for purposes of District compliance with all other antidiscrimination laws.

An employee will not be required to report prohibited conduct to the person alleged to have committed it. Reports concerning prohibited conduct, including reports against the Title IX coordinator or ADA/Section 504 coordinator, may be directed 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 will appoint an appropriate person to conduct an investigation.

Reports of prohibited conduct will 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 and address the prohibited conduct.

Any District supervisor who receives a report of prohibited conduct will immediately notify the appropriate District official listed above and take any other steps required by this policy.
Investigation of the Report

The District may request, but will not insist upon, a written report from the complainant. If a report is made orally, the District official will reduce the report to written form.

Upon receipt or notice of a report, the District official will determine whether the allegations, if proven, would constitute prohibited conduct as defined by this policy. If so, the District official will 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 District will promptly take interim action calculated to prevent prohibited conduct during the course of an investigation.

The investigation may be conducted by the 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 or supervisor will 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 complainant and individual against whom the report is filed may each provide witness statements or potential witness names for consideration or other evidence as appropriate. The investigation may also include analysis of other information or documents related to the allegations. The evidence compiled during the investigation will be reviewed using a preponderance of the evidence standard in making a determination of whether prohibited conduct occurred.

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 will take additional time if necessary to complete a thorough investigation.

The investigator will prepare a written report of the investigation. The report will include a determination of whether prohibited conduct or bullying occurred. The report will be filed with the District official overseeing the investigation. Written notification of the findings will be provided to the complainant and the person against whom the report was filed.

District Action

If the results of an investigation indicate that prohibited conduct occurred, the District will promptly respond by taking appropriate disciplinary or corrective action reasonably calculated to address the conduct.
The District may take action based on the results of an investigation, even if the conduct did not rise to the level of prohibited or unlawful conduct. Should any employment action be taken, the range could include everything from a verbal warning up to and including termination.

Confidentiality

The District may take action based on the results of an investigation, even if the conduct did not rise to the level of prohibited or unlawful conduct. Should any employment action be taken, the range could include everything from a verbal warning up to and including termination.

Appeal

A complainant who is dissatisfied with the outcome of the investigation may appeal through DGBA(LOCAL), beginning at the appropriate level.

The complainant may have a right to file a complaint with appropriate state or federal agencies.

Access to Policy

In addition to trainings, e-mails, website links, and employee or departmental handbooks, copies of the policy will be readily available at each campus and the District administrative offices.