

STUDENT WELFARE
FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION (REGULATION) FFH

Note: This policy addresses discrimination, harassment (including sexual harassment and sexual assault to include electronic communications), 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 will be used in conjunction with FFI (bullying) for certain prohibited conduct.

**Statement of
Nondiscrimination**

The District prohibits acts of any kind, including harassment, based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, national origin, disability, age, immigration status, or any other basis prohibited by law (e.g., cyberbullying via social network sites). Retaliation against anyone involved in the complaint process is a violation of District policy and is prohibited.

Discrimination

Discrimination against a student is defined as conduct directed at a student on the basis of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, national origin, disability, age, immigration status, 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 the student's race, color, sex, religion, gender, gender identity, gender expression, sexual orientation, national origin, disability, age, immigration status, 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.

Examples

Examples of prohibited harassment may include offensive or derogatory language directed at another person's religious beliefs or practices, accent, skin color, or need for accommodation; threatening, intimidating, or humiliating conduct; offensive jokes, name-

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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 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 including harassment carried out via electronic means 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 committed by another student or a third party, includes unwelcome sexual advances; requests for sexual favors; or sexually motivated physical, verbal, or nonverbal conduct including harassment carried out via electronic means 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 assault and harassment carried out via electronic communications of a student may include sexual advances; touching intimate body parts or coercing physical contact that is

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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.

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, including harassment carried out via electronic means. 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.

Examples

Examples of gender-based harassment directed against a student, regardless of the student's or the harasser's actual or perceived sexual orientation or gender identity, may include offensive jokes, name-calling, slurs, or rumors; physical aggression or assault; threatening or intimidating conduct; or other kinds of aggressive conduct such as theft or damage to property.

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;

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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 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 The District and Title IX prohibit retaliation by a student or District employee against a student alleged to have experienced discrimination or harassment, including dating violence, or another student who, in good faith, makes a report of harassment or discrimination, serves as a witness, or participates in an investigation.

Examples Examples of retaliation may include threats, rumor spreading, ostracism, assault, destruction of property, unjustified punishments, or unwarranted grade reductions. Unlawful retaliation does not include petty slights or annoyances.

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, including dating violence, will be subject to appropriate disciplinary action.

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
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 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 will immediately notify the appropriate District official listed in this policy and take any other steps required by this policy.

*Definition of
District Officials*

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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, 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: Ylise Janssen
Position: General Counsel and Title IX Coordinator
Address: 111 West 6th Street, Austin, TX 78703
Telephone: (512) 414-3974

*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: Leandra Treviño
Position: 504 Coordinator
Address: 111 West 6th Street, Austin, TX 78703
Telephone: (512) 414-6646

Superintendent

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

**Alternative
Reporting
Procedures**

A student will 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.

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.

Timely Reporting

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

Notice to Parents

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Investigation of the Report

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

The District may request, but will not require, a written report. 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, using the preponderance of the evidence standard, regardless of whether a criminal or regulatory investigation regarding the same or similar allegations is pending. If not, the District official will refer the complaint for consideration under FFI.

If an investigation is required in accordance with this policy, the District official will also determine whether the allegations, if proven, would constitute bullying, as defined by FFI.

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

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

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District Action	
Prohibited Conduct	If the results of an investigation indicate that prohibited conduct occurred, the District will promptly respond by taking appropriate disciplinary action in accordance with the Student Code of Conduct and may take corrective action reasonably calculated to address and prevent reoccurrence of the conduct.
<i>Corrective Action</i>	Examples of corrective action may include a training program for those involved in the complaint, a comprehensive education program for the school community, counseling to the victim and the student who engaged in prohibited conduct, follow-up inquiries to determine if any new incidents or any instances of retaliation have occurred, involving parents and students in efforts to identify problems and improve the school climate, increasing staff monitoring of areas where harassment has occurred, and reaffirming the District's policy against discrimination and harassment.
Bullying	If the results of an investigation indicate that bullying occurred, as defined by FFI, the District official will refer to FFI for appropriate notice to parents and District action. The District official will refer to FDB for transfer provisions.
Improper Conduct	If the investigation reveals improper conduct that did not rise to the level of prohibited conduct or bullying, the District may take disciplinary action in accordance with the Student Code of Conduct or other corrective action reasonably calculated to address the conduct.
Confidentiality	To the greatest extent possible, the District will 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.
Appeal	A student who is dissatisfied with the outcome of the investigation may appeal through FNG(LOCAL), beginning at the appropriate level. A student will 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 will be in accordance with FB(LOCAL) and CPC(LOCAL).
Access to Policy and Procedures	Information regarding this policy and any accompanying procedures will be distributed annually in the employee and student handbooks. Copies of the policy and procedures will be posted on the District's website, to the extent practicable, and readily available at each campus and the District's administrative offices.

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**Process for Campus
Prevention: Positive
Behavior Support
System**

Principals are expected to implement schoolwide, classroom, and individual systems to teach and support positive student behaviors and to provide appropriate consequences for misbehaviors. All staff members will participate in the process of implementing a system for consistently teaching respectful behavior, preventing and stopping bullying and harassment, including sexual harassment, on their campus, and encouraging reporting of such behavior, including how to respond to complaints [see FFH(EXHIBIT)].

The following guidelines will apply:

1. Principals will be responsible for establishing and maintaining the following components of a schoolwide behavior support system:
 - a. **Statement of Purpose:** A brief and positive statement describing the school's purpose and approach to teaching and learning, behavior, and expected outcomes for all students and staff.
 - b. **Initial and Ongoing Assessment of Needs:** Ongoing data collection and analysis to assess campus behavior support needs. Data may include discipline records, school surveys, police reports, and office referrals. Counselors and administrators will communicate regularly about threats to students' safety including actions taken concerning complaints filed, students at risk for violence that have not been filed upon, and other safety concerns.
 - c. **Schoolwide Behavioral Rules or Expectations:** A brief and clearly stated list of expected behaviors based on the commonly occurring problem behaviors. Expectations for high standards of behavior and teaching of respectful behaviors will be reinforced continually throughout the year. To promote a safe and respectful school environment, students will be taught how and will be encouraged to speak up on behalf of other students who are targets of bullying, harassment, or otherwise harmful behavior by telling the bully/harasser to stop when it is safe to do so or by getting help from school personnel.
 - d. **Procedures for Teaching Expected Behavior:** Practices that inform students of expected behaviors, demonstrate what expected behaviors look like, and allow students to practice expected behavior skills including how to intervene safely on behalf of others and how to get help from school personnel.

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- e. Procedures for Encouraging Expected Behavior: System of social acknowledgment and interaction between the student and the school that provides incentives to encourage students to use pro-social skills in their own relationships and to help others in need.
 - f. Procedures for Discouraging Problem Behavior: A continuum of procedures for discouraging problem behavior, including clearly defined examples of each rule-violating behavior and specific decision rules for determining which consequence should be assigned to which problem behavior event. Campuses will strive to create a climate of respect and inclusion by reducing the social acceptance of hurtful teasing, bullying, and harassment among students.
2. Campus leadership, including the campus advisory council (CAC), student council, and PTA, will participate in the development of schoolwide prevention activities including awareness campaigns, curricula, student involvement, parent education, and other prevention strategies.
 3. A summary of the District's policy and regulations will be included in the Student Information Guide distributed at the beginning of each school year.
 4. Campuses are encouraged to access resources in the community that are available for teaching and supporting positive student behaviors and responding to the needs of students who have been hurt by violence or abuse or who have begun to use hurtful behaviors toward others.

Notification

The procedures below apply to complaints of sex discrimination, sexual harassment, bullying, and dating violence raised by employees, students, or third parties against a student, faculty or staff member, or third party [see DIA(REGULATION) for complaints against employees].

Process for Campus Intervention

All school personnel are expected to model respectful interaction with all students and staff at all times. School personnel are expected to respond to bullying, sexual harassment, and dating violence immediately and in a manner consistent with these guidelines. Staff members who witness or who are aware of incidents in which students are bullied or sexually harassed by school personnel should bring this to the attention of the principal or other appropriate District official immediately.

Staff Member

A staff member who witnesses or learns of an incident of bullying, sexual harassment, or dating violence between students occurring

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anywhere on campus should immediately take the following actions:

1. Separate the targeted student from the accused student.
2. Inform the principal or designee of the allegation of bullying, sexual harassment, or dating violence.
3. Speak with the targeted student and accused student(s) separately.
4. Take immediate interim action to protect the targeted student.
5. Advise the targeted and accused student of the opportunity to present witnesses and other evidence to assist in the investigation.
6. Speak with any witnesses or bystanders who may have been present or involved. Encourage them to speak up directly on behalf of the target if they should witness further incidents or to get help from school personnel.
7. Administer logical and reasonable consequences to the accused student when appropriate, including but not limited to, making a discipline referral.
8. Inform the targeted student of his or her right to file a complaint of bullying, sexual harassment, or dating violence with any school counselor or administrator.
9. Monitor the safety of the targeted student and increase supervision of the accused student as needed.

Notification

If the incident involved physical or sexual assault or threats, the principal or designee and the school resource officer (SRO) should be notified immediately. This notification should be documented by submitting a complaint form to the principal or designee on behalf of the targeted student on the same day [see FFH(EXHIBIT)].

Counselor or Administrator

A school counselor or administrator who learns of an incident of bullying, sexual harassment, or dating violence, or who receives a complaint from a student or staff member will meet with the targeted student privately and will assist the student in documenting the incident on a complaint form in order for the incident to be investigated by the principal or designee.

Assistance to Student

Any student may request a complaint form at any time through any counselor or administrator. The counselor or administrator will assist the student in filling out the form. Complaint forms will not be removed from the office.

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Investigation by the
Principal or
Designee

Upon oral or written notification of bullying, sexual harassment, or dating violence, the principal or designee is expected to immediately take the following actions:

1. Separate the targeted student from the accused student and take necessary interim action.
2. Notify the parents of all parties involved, advising them of the allegations, interim action, and pending investigation.
3. Meet separately with the targeted student.
4. Review the student's complaint form or assist the student in documenting the incident on a complaint form during the meeting. Advise the student of the opportunity to provide witness statements, potential witness names, and other evidence that would assist in the investigation.
5. Further investigate the complaint by speaking with the accused student and any witnesses or bystanders separately.
6. Advise all individuals involved in the investigation that retaliation is prohibited and advise staff should instances of retaliation occur.
7. If the assessment by the principal or designee determines that the incident involved physical or sexual assault or threats, notify the SRO immediately and take the actions stated below.
8. Prepare final, written report utilizing the preponderance of the evidence standard in reaching a final determination of whether prohibited conduct occurred.
9. Contact parents to share the written results of the investigation within the guidelines of the Family Educational Rights and Privacy Act (FERPA).

Interventions

Intervention by the principal or designee with the targeted student will include the following:

1. Conference with the targeted student and parent.
2. Identify actions that can be taken to increase the targeted student's safety and ability to participate in school without fear or intimidation, including positive behavior support interventions.
3. Inform the student and parent of school and community resources as needed, including their right to file charges or seek legal protection.
4. Encourage the student to report further incidences.

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5. Inform the targeted student of his or her right to request a "Stay Away Agreement" [see FFH(EXHIBIT)]. If the student declines, document on the complaint form.
6. For situations also involving sexual harassment, inform the targeted student of his or her right to file a complaint alleging sexual harassment directly with the Title IX coordinator, Office of General Counsel. A complaint may also be filed with the Office for Civil Rights [see FFH(EXHIBIT)].
7. Monitor the targeted student's safety as needed.
8. Document the meeting and any action plans on the complaint form.
9. Store all complaint forms in a separate, confidential file and document subsequent follow-up actions and complaints in the space provided on the complaint form.

Intervention by the principal or designee with the accused student will include the following:

1. Conference with the accused student and parent.
2. Emphasize expectations for positive behavior.
3. Identify disciplinary and other actions and consequences that will be taken to prevent further incidents.
4. Inform the student and parent of help and support available at school or in the community as needed.
5. Address the seriousness of retaliation against the targeted student for reporting the incident or cooperating with the investigation.
6. Increase supervision of the accused student as needed.
7. Document the meeting and action plans in the space provided on the complaint form.

Additional intervention options as deemed necessary by the principal or designee may include the following:

1. Administer a "Stay Away Agreement" [see FFH(EXHIBIT)] during the conference with the accused student and parent. Attach a "Stay Away Agreement" to the complaint form in the file.
2. Refer to detention, Saturday school, or community service.
3. Refer the accused student to the Child Study Team for appropriate intervention.

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For any serious incident, a discretionary removal hearing may be scheduled. Steps taken will be documented on the Intervention Checklist [see FOC(EXHIBIT)]. Discretionary removals are for 120 days or successful completion of the ACES or ALC Program, unless the family is offered, accepts, and successfully completes Positive Families, which allows for a shortened removal period (secondary students) [see FOC(REGULATION) and FOC(EXHIBIT)].

Depending upon the nature of the offense, state law and the Student Code of Conduct may require a mandatory removal or expulsion.

**Principal's
Responsibilities:
Bullying, Sexual
Harassment, and
Dating Violence**

The principal must inform students, parents, and school personnel of a student's right to make a complaint for incidents of bullying, sexual harassment, or dating violence. Students must understand how to file a complaint. School personnel must understand how to respond to incidents and reports. Complaint forms will be available from any school counselor or administrator. Completed complaint forms must be filed in a secure location in the campus administrative office. These files must be made available to the Legal Services Department upon request.