

ALLENTOWN SCHOOL DISTRICT

SECTION: STUDENTS
TITLE: SEXUAL HARASSMENT
ADOPTED: 9/27/12
REVISED: 6/27/13

548. SEXUAL HARASSMENT

Section 1. Purpose

The purpose of this policy is to address and prevent sexual harassment, a form of sex-based discrimination, and ensure that the Allentown School District (ASD) is in compliance with Title IX, 20 U.S.C. §§ 1681 *et seq.*, its implementing regulations, 34 C.F.R. Part 106, and published guidance of the United States Department of Education, Office for Civil Rights which prohibits sex-based discrimination by school districts that receive federal funds.

Section 2. Guidelines

ASD is responsible for ensuring that its policies and guidelines comply with Title IX and its implementing regulations, as well as all other applicable federal, state, and local law.

Section 3. Notice of Nondiscrimination

As required by federal and state law, ASD does not discriminate on the basis of sex with regard to participation in any academic, extracurricular, research, occupational training or other education program or activity operated by ASD.

Questions about the applicability of Title IX to any ASD program or activity may be directed to the ASD District Equity Coordinator (DEC), located in the ASD offices at 31 S. Penn Street, Allentown, PA 18105.

Section 4. Policy

ASD is committed to maintaining a school environment free of discrimination based on sex, including sexual harassment. Sexual harassment of any kind at school or school-sponsored events, on school property, or on busses is unlawful and strictly prohibited. ASD requires all ASD personnel and students to conduct themselves in an appropriate manner, with respect for others in the ASD community.

ASD shall take reasonable and appropriate action to prevent, address, and eliminate sexual harassment in the education program and activities in every school, school sponsored activity, and on school property or on busses. This effort shall include monitoring and supervision to prevent, detect, and correct instances of sexual harassment; eliminating any hostile environment; conducting investigations of complaints, formal or informal, of sexual harassment; protecting victims of sexual harassment; instituting remedial measures; and educating ASD personnel, students, parents, and guardians about sexual harassment and this policy.

Section 5. Title IX Coordination

The District Equity Coordinator (DEC) is responsible for administering and ensuring ASD's compliance with Title IX, and has supervisory authority over all School Equity Coordinators (SECs). The DEC

548 SEXUAL HARASSMENT

shall oversee investigation and resolution of all complaints, whether made verbally or in writing. The DEC has primary responsibility to investigate and resolve complaints when the allegations of sexual harassment involve ASD personnel or other adults as well as employee-student and adult-student harassment. The DEC shall timely notify all ASD Personnel, students, and parents if revisions are made to this policy. Both the DEC and SEC will meet upon request with ASD students or parents/guardians about sexual harassment complaints, questions, or concerns.

The SEC is responsible for compliance with this policy and accompanying Administrative Regulation. The SEC has primary responsibility for and is authorized to conduct all investigations of complaints, whether made verbally or in writing, involving allegations of student-on-student sexual harassment in their school or at school sponsored activities. Alternatively, the SEC may appoint a designee in writing, a qualified Title IX investigator, to conduct such investigation. If the SEC makes such a designation, the SEC shall notify the parent of which Title IX investigator will conduct the investigation.

Each ASD school building shall have a School Equity Coordinator or SEC, who is the Principal. For a list of Principals, and their office and email addresses and telephone numbers, please refer to Administrative Regulation No. 548-AR-1 or the Allentown School District website, www.allentownsd.org.

The obligation and responsibility of the DEC and the SECs to fully conduct an investigation and resolve all complaints of sexual harassment exists regardless of whether or not a criminal investigation involving the same or similar allegations is also pending or has been concluded. The procedure for making a complaint, investigating a complaint, guidelines for resolution of a complaint, and appealing after a decision has been rendered is set forth in the Administrative Regulation that is attached to this policy and is incorporated herein by reference, No. 548-AR-1. A form for making a complaint also accompanies this policy, and is entitled No. 548 Sexual Harassment Report Form.

Section 6. Definitions

Complainant is the person who lodges or files a complaint, formal or informal, against another person.

ASD Personnel means all District central office and school administrators and employees, including but not limited to principals, assistant principals, counselors, psychologists, nurses, faculty, teachers, permanent and temporary staff, contractors (including police officers) who have regular interaction with ASD students, and substitute teachers.

Discrimination is the exclusion from participation, denial of benefits, or subjection of any student to disparate treatment or disparate impact in any academic, athletic, extracurricular, research, occupational training, or other education program or activity based upon sex. Examples of discrimination include, but are not limited to, the following:

- a. Treating one person differently from another in determining whether such person satisfies any requirement or condition for the provision of aid, benefit, or service;
- b. Providing different aid, benefits or services, or providing aid, benefits or services in a different manner;
- c. Denying any person such aid, benefit or services;
- d. Subjecting any person to separate or different rules of behavior, sanctions, or other treatment;

548 SEXUAL HARASSMENT

- e. Aiding or perpetuating discrimination against any person by providing significant assistance to any agency, organization, or person, which discriminates on the basis of a legally protected classification in providing any aid, benefit, or service to students or ASD personnel; or
- f. Otherwise limiting any person in the enjoyment of any right, privilege, advantage, or opportunity.

Education program includes, without limitation, all of ASD's operations; for example, academic, athletic, and extra-curricular activities and other programs sponsored or provided, whether directly or indirectly, by ASD at schools, facilities, property, on busses, and other programs.

Hostile environment exists when sex-based harassment is sufficiently severe, persistent, or pervasive to interfere with or limit one or more student's ability to participate in or benefit from the education program.

Respondent is the person who is alleged to have committed an act of sexual harassment.

Qualified Title IX investigator is a person who is knowledgeable in all aspects of Title IX, has been appointed as a designee of the SEC in writing, and has received training to investigate complaints of sexual harassment.

Sexual harassment, a form of sex-based harassment, is defined to include sexual harassment, sexual abuse, sexual assault, sexual violence, sexual deviancy, sexually inappropriate contact, and inappropriate touching and, as such, shall include unwelcome verbal, visual, or physical conduct of a sexual nature; rape; attempted rape; intimidation, bullying, or coercion of a sexual nature (conduct need not be physical); unwelcome or inappropriate sexual advances; non-consensual, forced physical sexual behavior; nonconsensual kissing and fondling; exposure of genitalia; voyeurism; exhibitionism; sexually suggestive statements or demands; the use of a position of trust to compel otherwise unwanted sexual activity with or without physical force; the forcing of undesired sexual behavior by one person upon another; assault of a sexual nature on another person; or any sexual act committed without consent. Examples of sexual harassment that would violate this policy include but are not limited to the following:

- a. Touching, patting, grabbing, or pinching another person's intimate parts, whether that person is of the same sex or the opposite sex;
- b. Coercing, forcing, or attempting to coerce or force the touching of anyone's intimate parts;
- c. Coercing, forcing, or attempting to coerce or force sexual intercourse or a sexual act on another;
- d. Touching oneself sexually or talking about one's sexual activity in front of others;
- e. Spreading rumors about or rating other students as to sexual activity or performance;
- f. Unwelcome, sexually motivated, or inappropriate patting, pinching, or physical contact;
- g. Other unwelcome sexual behavior or words, including demands for sexual favors, when accompanied by implied or overt threats or implied or overt promises of preferential treatment.

This definition does not preclude legitimate, non-sexual physical conduct, such as a teacher's consoling hug of a student or a demonstration of a sports move requiring contact with a student.

548 SEXUAL HARASSMENT

Sexual violence or sexual exploitation of students under the age of 18 also constitutes child abuse, which must be reported to law enforcement authorities and the Office of Children and Youth Services of Lehigh County as required in Board Policy No. 806, Child/Student Abuse.

Section 7. Closure of Complaint and Appeal

The DEC or the SEC shall provide written notice of the conclusions reached by the DEC (for example: founded, unfounded or indeterminate), the reasons therefore, and the actions taken as a result, within three (3) business days after the complaint is resolved to the complainant and respondent, and in the case of minor students to their parents/guardians, and shall advise them of their right to appeal an adverse decision to the Superintendent or the Superintendent's designee. If an appeal is requested, the appeal shall be submitted in writing to the DEC, who shall forward a copy of the appeal to the Superintendent or the Superintendent's designee, and the appropriate decision maker will consider all issues presented by the appealing complainant, respondent, or their guardian or representative.

Section 8. Prohibition Against Retaliation

Retaliation or reprisals by any student or ASD Personnel against complaining persons, witnesses or any other person who reports allegations of sexual harassment or provides information to assist a sexual harassment investigation are prohibited and subject to the same actions, remedies, and responses set forth in the incorporated Administrative Regulation, No. 548-AR-1, regarding when a determination is made that a complaint of sexual harassment is founded. ASD officials, administrators, and employees will take steps to prevent retaliation and will also take strong responsive action if retaliation occurs.

Section 9. Right to Additional Complaint Procedures

This policy is a good faith effort to prevent and address sexual harassment promptly and appropriately. The policy is not intended to be the exclusive remedy to sexual harassment. ASD community members, complainants, respondents, and their guardian or representative are entitled to pursue additional avenues of recourse, which may include reporting or filing charges with appropriate legal, state, and federal agencies, initiating civil action, or reporting perceived criminal conduct to the appropriate authorities, including but not limited to:

Pennsylvania Human Relations Commission
Harrisburg Regional Office
Riverfront Office Center, 5th Floor
1101-1125 S. Front Street
Harrisburg, PA 17104-2515
Tel. No. (717) 787-9784
TTY: (717) 787-7279

or U.S. Department of Education
Office for Civil Rights
The Wanamaker Building
100 Penn Square East, Suite 515
Philadelphia, PA 19107-3323
Tel No. (215) 656-8541
TDD: (877) 521-2172

Section 10. Miscellaneous

This policy shall be translated, language-accessible, and available for students and parents whose first language is not English, on the ASD website at www.allentownsd.org.

The DEC shall maintain a record of all complaints, reports, and allegations of sexual harassment consistent with the accompanying sexual harassment reporting regulation, No. 548-AR-1.

548 SEXUAL HARASSMENT

Section 11. This Policy Shall Supersede all Prior Policies and Statements

This policy shall supersede all policies, procedures, and other relevant language regarding sexual harassment developed prior to the date of adoption of this policy. This includes references in the School Board Policies, the Code of Conduct, and any other existing policies or statements that existed prior to the date of adoption of this Policy.