

disciplinary action will be taken in accordance with Board policies and regulations. If the offender is not an employee of the PSS, the PSS will take appropriate action within the scope of its authority to eliminate and redress the harassment.

12. If the investigation is indeterminate, the matter will still be designated as unresolved, and the investigation file will be maintained by the PSS EEO Officer in a file separate and apart from any student or personnel file.
13. There will be no retaliation against or adverse treatment of any student who uses this procedure to resolve a concern when such complaint has been brought in the good faith belief that the complainant has been subjected to sexual harassment.
14. The responsible administrator shall follow up regularly with the complaining student to ensure that the harassment has stopped and that no retaliation has occurred.

(e) Enforcement

Each building administrator is responsible for maintaining an educational and work environment free from sexual harassment. Principals shall take appropriate action to ensure that the students are aware of and knowledgeable about these policies and that discipline action is taken whenever warranted. In accordance with their responsibilities, each building administrator, or his/her designee, shall take appropriate actions to enforce the PSS's sexual harassment policy, including but not limited to following:

1. All vulgar or sexually offensive graffiti shall be removed from the premises.
2. The building administrator shall provide an in-service regarding sexual harassment (including sexual harassment involving students) to all staff by the end of the first four calendar weeks of school.
3. Student instruction regarding sexual harassment shall be provided annually by the end of September to all students in grades six through twelve. Age appropriate instruction will also be presented to pre-kindergarten through fifth grade students.
4. Designated teachers shall discuss this policy with their students within one month after its adoption by the Board and during the first week of the school year thereafter. Written copies of the policy shall be given to each student in grades six through twelve (and in lower grades as may be appropriate) as part of these discussions. Discussion shall be conducted in age appropriate manner and should assure students they need not tolerate any form of sexual harassment.
5. All teacher, counselors, and administrators shall instruct students on the procedures for reporting sexual harassment within the educational setting on an as-needed basis.
6. The building administrator shall take prompt action to investigate all complaints of sexual harassment.
7. The building administrator shall take appropriate disciplinary action, as necessary.

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Sexual Harassment of Students

CNMI STATE BOARD OF EDUCATION



Sexual Harassment of Students

The Board of Education is committed to maintaining a learning environment for its students that is free from sexual harassment. Furthermore, the Board of Education strongly believes that no person in the PSS shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity.

(a) Definition of Sexual Harassment

1. Title IX forbids discrimination on the basis of sex in any educational program or activity that receives federal funds. This includes a prohibition on sexual harassment. The Office for Civil Rights of the U.S. Department of Education defines sexual harassment under title IX as follows: "Verbal or physical conduct of a sexual nature, imposed on the basis of sex, by an employee or agent of a recipient that denies, limits, provides different, or conditions the provisions of aid, benefits, services or treatment protected under title IX."
2. Sexual harassment under title IX includes, but is not limited to, unwelcome¹ sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:
 - i. Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's academic status or progress, or employment.
 - ii. Submission to or rejection of such conduct by an individual is the basis for educational or employment decisions affecting that individual.
 - iii. Such conduct creates an intimidating, hostile, or offensive educational or work environment.
 - iv. Qualified students are denied educational or employment opportunities or benefits because the opportunities or benefits are given to another student or employee who submitted to sexual advances or requests for sexual favors.

¹Sexual harassment of students by adults who otherwise come within this policy is absolutely prohibited regardless of whether the conduct is "welcome."

(b) Examples of Sexual Harassment

1. Unwelcome Sexual Advances whether the advance is "unwelcome" is determined on a case-by-case basis. Unwelcome advances may include, but are not limited to, the following:
 - i. Any invitation (even subtle) intended to result in a sexual liaison.
 - ii. Invitations to dinner or social events, when refusal results in the loss of academic status or in other adverse educational decisions.
 - iii. Propositioning a student.
2. Unwelcome Verbal Conduct of a Sexual Nature This may include, but is not limited to, the following:
 - i. Sexually provocative or explicit speech.
 - ii. Publicly expressed sexual fantasies.
 - iii. Jokes of a sexual or crude nature.
 - iv. Derogatory comments directed to males or females as a class (language directed toward a specific student is more likely to be viewed as sexual harassment).

- v. Demeaning comments.
 - vi. Threats for not agreeing to submit to sexual advances.
 - vii. Writing sexually explicit memos.
3. Unwelcome Physical Conduct of a Sexual Nature This may include, but is not limited to, the following:
 - i. Grabbing or twisting an individual's arm.
 - ii. Any unwarranted touching.
 - iii. Sexually offensive pranks.
 - iv. Drawing sexually explicit cartoons, other drawings, or graffiti.
 - v. Gestures indicating sexual behavior.
 - vi. Suggestive winks.
 - vii. Kissing.
 4. Student Specific In addition to the foregoing examples, students may experience harassment that is unique to their situation, some of which may not be immediately recognized as sexual harassment. Such harassment may include, but is not limited to, the following:
 - i. Unwanted² sexual behavior, such as touching, oral comments, sexual name calling, spreading sexual rumors, jokes, pictures, leers, overly personal conversation, cornering or blocking a student's movement, pulling at clothes, students "making out" on school premises.
 - ii. A student in a predominately single-gender class who is subjected to sexual remarks by a teacher or students who regard the comments as joking and part of the usual class environment.
 - iii. Interfering with a student's achievement in a predominantly or historically single-gender class by hiding tools or equipment, questioning the student's ability to handle the work, or suggesting that the student is "abnormal" for enrolling in the class.
 - iv. Purposefully limiting or denying students access to educational resources because of their gender.
 - v. Teasing a student about the student's enrollment in a predominantly or historically single-gender class.

²Sexual harassment of students by adults who otherwise come within this policy is absolutely prohibited regardless of whether the conduct is "welcome."

(c) Nature of Sexual Harassment

Sexual harassment is not limited to conduct by males toward females. Sexual harassment may occur between any or all of the following:

1. Student to student.
2. Staff to student
3. Student to staff.
4. Male to male.
5. Female to female.
6. Male to female.
7. Female to male.

(d) Investigation of Sexual Harassment Complaints

1. If a student believes he/she is being sexually harassed, the student should bring the concern to the attention of the

- building principal.
2. If the student feels that such contact with the building principal would be inappropriate or if the student simply feels more comfortable speaking to someone other than the building principal, the student may inform any teacher, counselor or the PSS EEO Officer for the PSS. If the situation is not satisfactorily resolved by the building principal, the student should contact the PSS EEO Officer.
3. If neither the student's building principal nor the PSS EEO Officer is of the same sex as the student, or the student for any other reason would prefer to report the student's concern to another administrator within the PSS, the student may do so. However, it is essential that the report be made to someone with the authority and obligation to act upon the concern.
4. Any teacher, counselor, or administrator who receives a report, orally or in writing, from any student regarding sexual harassment of that student or another student by a student or adult in the educational setting must forward that report to the building principal and the PSS EEO Officer within twenty-four hours, or within a reasonable extension of time thereafter, for good cause shown.
5. Oral complaints of sexual harassment will be put in writing by the complainant or by the person who receives the complaint, and should be signed by the complainant. However, the complainant's refusal to sign a complaint does not relieve the PSS of the obligation to investigate the complaint
6. A student who believes that he/she has been subjected to sexual harassment shall not be required to confront the alleged harasser prior to making the report.
7. Following receipt of the report, PSS personnel will promptly and fully investigate the complaint and will notify the student and the alleged harasser of the results of the investigation. Investigations will be conducted with full recognition of the rights of all parties involved.
8. Upon receipt of the report, the principal and/or the PSS EEO Officer will appoint an investigator to investigate the complaint. Such investigation shall commence within forty-eight hours after such appointment.
9. The PSS will maintain the confidentiality of the complaint and the details of the investigation to the fullest extent possible.
10. The investigator will put his/her findings in writing and will forward a copy to the principal and the PSS EEO Officer within two weeks after concluding the investigation, or within a reasonable extension of time thereafter, for good cause shown.
11. If the investigation substantiates the complaint, the PSS will take appropriate disciplinary action against the offender(s), commensurate to the severity of the harassment (up to and including termination of employment). If the offender is another student,

(f) Notifications

A copy of the PSS sexual harassment policy shall:

1. Be included in the notifications that are sent to parents/guardians at the beginning of each school year.
2. Be displayed in a prominent location near each school principal's office.
3. Be included in any orientation program conducted for new students in grades six through twelve.
4. Appear in any PSS or Board of Education publication that sets forth the PSS or building's comprehensive rules, regulations, procedures, and standards of conduct for students.

(g) Discipline/Consequences

1. Any student who engages in sexual harassment while on school property or while participating in school activities will be subject to disciplinary action, up to and including expulsion.
2. Any employee who permits or engages in the sexual harassment of students will be subject to disciplinary action, up to and including dismissal.
3. Any employee who receives a complaint of sexual harassment from a student and who does not act promptly to forward that complaint to the principal and PSS EEO Officer shall be disciplined appropriately.
4. Any student who brings a false charge of sexual harassment shall receive appropriate discipline. The term "false charge" mean charges brought in bad faith, that is, without the good faith belief that one has been subjected to sexual harassment. The term "false charge" does not include a charge that was brought in good faith but which the PSS was unable to substantiate.
5. The PSS EEO Officer will be available to answer all questions regarding this regulation or its implementation.

(h) Title IX Grievance Procedure (Sexual Harassment)

1. Level 1: Principal or Immediate Supervisor (informal and optional -- may be bypassed by grievant)
2. An informal meeting with the parties and the principal or the PSS EEO Officer can solve many problems. A student who believes that he/she has been subjected to sexual harassment is encouraged to first discuss it with the teacher, counselor, or building administrator involved with the objective of resolving the matter promptly and informally. If the individual's teacher/supervisor is the person alleged to have engaged in sexual harassment then the grievant should skip level 1 and go directly to level 3.
3. Level 2: The Investigation
 - i. If the complaint or issue is not resolved at level 1 or if the grievant chooses to skip level 1, the grievant may file a signed, written grievance stating:
 - A. The nature of the grievance;
 - B. The remedy requested; and
 - C. The date the grievance was submitted.

The level 2 written grievance should be filed with the PSS EEO Officer within fifteen days of the event or incident, or from the date the grievant could reasonably become aware of such occurrence.

- ii. The PSS EEO Officer may appoint an investigator to investigate a written grievance. If possible, the investigator will resolve the grievance. If the parties cannot agree on a resolution, the PSS EEO Office or appointed investigator will prepare a written report of the investigation that shall include:
 - A. A clear statement of the allegations of the grievance and remedy sought by the grievant.
 - B. A statement of the facts as contended by each of the parties.
 - C. A statement of the facts as found by the appointed investigator and identification of evidence to support each fact.
 - D. A list of all witnesses interviewed and documents reviewed during the investigation.
 - E. A narrative describing attempts to resolve the grievance.
 - F. The appointed investigator's conclusion as to whether the allegations in the grievance are meritorious.
 - iii. The investigator shall consult with the EEO Officer during the investigation and attempted resolution of the grievance.
 - iv. The appointed investigator will complete the investigation and file the report within thirty days after receipt of the written grievance. The investigator shall file the report with the EEO Officer and the EEO officer will make any necessary recommendations and forward the report to the Commissioner's office.
 - v. If the Commissioner/designee agrees with the recommendations of PSS EEO Officer, the recommendations will be implemented. The Commissioner/designee will inform the grievant in writing of his or her decision and any action that will be taken.
4. Level 3: The Board of Education
If the Commissioner rejects the recommendations of the EEO Officer, and/or either party is not satisfied with the recommendations from level 2, either party may make a written appeal within ten days of receiving the report of the Commissioner to the Board of Education. On receipt of the written appeal, the matter shall be placed on the agenda of the Board of Education for consideration within thirty days. A decision shall be made and reported in writing to all parties within thirty days of that meeting. The decision of the Board of Education will be final.
5. Other Options for Grievant
At any time during this process, a grievant may file a complaint with the U.S. Department of Education, Office for Civil Rights, the Equal Employment Opportunity Commission and/or the Federal Omnibusman to the Commonwealth.

