

Kimberly School District

STUDENTS 3225

Sexual Harassment/Intimidation of Students

It is the policy of Kimberly School District to maintain a learning environment that is free from harassment. Each student has the right to attend school in an atmosphere that promotes equal opportunities and that is free from all forms of discrimination and conduct that can be considered harassing, coercive or disruptive. Students attending any Kimberly School are:

1. Prohibited from engaging in any conduct which could reasonably be construed as constituting harassment on the basis of sex, race, color, national origin, age, religious beliefs, ethnic background or disability;
2. Prohibited from sexually harassing other students; and
3. Strongly encouraged to report, to the school principal or designee, any harassment of which the student becomes aware. The Board encourages students to report any harassment, and if the reporting student(s) asks, every attempt will be made to make the reporting confidential. This policy applies to all conduct on the district's premises and at school sponsored events, conduct during transportation to and from school and school sponsored events, and to conduct off the district's premises that has an effect upon a student's educational environment.

DEFINITION OF HARASSMENT

Harassment is defined to include ethnic slurs, racial jokes, verbal/physical abuse or other offensive or persistently annoying conduct directed at someone's sex, race, color, national origin, age, religious beliefs, ethnic background or disability which:

1. Has the purpose or effect of creating an intimidating or hostile environment.
2. Unreasonably interferes with an individual's educational performance.
3. Otherwise adversely affects an individual's educational opportunities.

Harassment includes, but is not limited to:

1. Physical acts of aggression or assault, damage to property, or intimidation and implied or overt threats of violence motivated by victim's sex, race, color, national origin, age, religious beliefs, ethnic background or disability;
2. Demeaning jokes, taunting, slurs, and derogatory "nicknames", innuendos, or other negative remarks relating to the victim's sex, race, color, national origin, age, religious beliefs, ethnic background, or disability.
3. Graffiti and/or slogans or visual displays such as cartoons or posters depicting slurs or derogatory sentiments related to the victim's sex, race, color, national origin, age, religious beliefs, ethnic background, or disability.
4. Criminal offenses directed at persons because of their sex, race, color, national origin, age, religious beliefs, ethnic background, or disability.

Harassment also includes an act of retaliation taken against (1) any person bringing a complaint of harassment, (2) any person assisting another person in bringing a complaint of harassment, or (3) any person participating in an investigation of an act of harassment.

SEXUAL HARASSMENT

Sexual harassment is a form of misconduct that undermines the student's relationship with educators and with other students. No student, male or female, should be subject to unasked for and unwelcome sexual overtures or conduct, either verbal or physical.

Sexual harassment does not refer to occasional compliments of a socially acceptable nature. Sexual harassment refers to sexual overtures or conduct that are not welcome, that are personally offensive, that effect morale, that may create a hostile environment, and that, therefore, interfere with the student's ability to study or participate in school activities.

Sexual harassment is a form of misconduct that includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's participation in the educational process;
2. Submission to or rejection of such conduct by an individual is used as a factor for educational decisions affecting the individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's education, or creating an intimidating, hostile, or offensive-educational environment.

DISABILITY HARASSMENT

Disability harassment involves intimidation or abusive behavior toward a student based on disability that creates a hostile environment by interfering with or denying a student's participation in or receipt of benefits, services, or educational opportunities. Examples of disability harassment may include, but are not limited to, the following:

1. Conduct directed at the characteristics of a student's disabling condition, such as jokes and derogatory remarks, taunting or belittling, or imitating a student's manner of speech or movement.
2. Impeding the mobility, or interfering with the necessary equipment of a student with a physical disability.
3. Seeking to involve a student with a disability in antisocial, dangerous, or criminal activities where the student, because of their disability, is unable to comprehend fully or consent to the activities.

REPORTING PROCEDURES

Any student, and/or parents or advocate of a student who believe they are being harassed should report the situation to school personnel.

1. Any employee of the school district receiving a report of harassment from a student; becomes aware that a student is being subjected to harassment; or in good faith, believes that a student is being subject to harassment; is required to report the matter to the building principal immediately. In the event the complaint involves the principal, the matter shall be reported to the superintendent of schools.
2. Any district employee who witnesses harassment of a student must take immediate, appropriate action to intervene to stop the harassment.
3. Any student who becomes aware that a fellow student is being subjected to harassment should immediately report the incident to a counselor, teacher, or the principal.

INVESTIGATION

When a report of harassment is received by the principal or the superintendent, immediate steps shall be made to do the following:

1. Obtain a written statement from the complainant regarding the allegations;
2. Obtain a written statement from the accused;
3. Obtain written statements from witnesses, if any; and
4. Prepare a written report detailing the investigation.

An investigator may be appointed to conduct the investigation, or the principal/superintendent may conduct the investigation. The investigation should normally be completed within ten (10) working days.

DISCIPLINARY ACTION

If the allegation of harassment involves a teacher or other school employee, the principal shall submit the report of the investigation to the superintendent. If there is sufficient evidence to support the allegations, disciplinary action, up to and including dismissal, may be taken against the offender. If the allegation of harassment is against a student and there is sufficient evidence to support the allegations, disciplinary action, up to and including expulsion, may be taken against the offender.

If there is insufficient evidence to support the allegations, no record will be made of the allegations in the complaining student's permanent record. No record of the allegations will be placed in the accused employee's personnel record or in an accused student's permanent record if insufficient evidence supports the allegations.

In the event the investigation discloses that the complaining student has falsely accused another individual of harassment knowingly, or in a malicious manner, the complaining student may be subject to disciplinary action, up to and including expulsion.

In the event the harassment involves violent or other conduct which could be reasonably considered to be criminal in nature, the principal/superintendent will refer the matter to the Kimberly Police Department.

PROTECTION AGAINST RETALIATION

No retaliation shall be taken by this district, or by any of its employees or students against a student who reports harassment in good faith. Any person found to have retaliated against another individual for reporting an incident of harassment may be subject to the same disciplinary action provided for harassment offenders. Those persons who assist or participate in an investigation of harassment are also protected from retaliation under this policy.

CONFIDENTIALITY

Any investigation WILL be conducted, to the maximum extent possible, in a manner that protects the privacy of both the complainant and the accused. However, if it is suspected that child abuse has occurred, such abuse shall be reported to the proper authorities as required by Idaho Code.

RECORD OF ALLEGATIONS

This district shall keep and maintain a written record, including, but not limited to, witness statements, investigative reports and correspondence, from the date any allegation of sexual harassment is reported to district personnel. The information in the written record shall also include the action taken by the district in response to each allegation. The written record will be kept in the district's administrative offices and will not, at any time, be purged by district personnel.

LEGAL REFERENCE:

Idaho Code Section 16-1619

Title IX of the Education Amendments of 1972

Franklin v. Gwinnett Co. Public Schools, 112 S. Ct. 1028 (1992)

Gebserv. Lago Vista Independent School District, 118 S. Ct 1989 (1998)

Davis v. Monroe County Board of Education, 119 S. Ct. 1661 (1999)

Policy History:

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