

**EAST  
STROUDSBURG  
AREA  
SCHOOL DISTRICT**

SECTION: PUPILS  
TITLE: UNLAWFUL HARASSMENT  
ADOPTED: August 19, 2002  
REVISED: August 18, 2003  
**1<sup>st</sup> READ: March 18, 2014**

248. UNLAWFUL HARASSMENT	
1. Purpose	<p>The Board strives to provide a safe, positive learning climate for students in the schools of the school district. Therefore, it shall be the policy of the school district to maintain an educational environment in which harassment in any form is not tolerated.</p>
2. Authority Title VII 42 U.S.C. Sec. 2000e et seq Title IX <del>4220</del> U.S.C. Sec. 1681 43 P.S. Sec. 951 et seq 29 CFR Sec. 1606.8 (a)	<p>The Board prohibits all forms of unlawful harassment of students and third parties by all school district students and staff members, contracted individuals, vendors, volunteers, and third parties in the schools. The Board encourages students and third parties who have been harassed to promptly report such incidents to the designated employees.</p> <p>The Board directs that complaints of harassment shall be investigated promptly, and corrective action be taken when allegations are substantiated. Confidentiality of all parties shall be maintained, consistent with the school district's legal and investigative obligations.</p> <p>No reprisals <del>nor</del> retaliation shall occur as a result of good faith charges of harassment.</p>
3. Definitions 29 CFR Sec. 1606.8 (a) 62 Fed. Reg. 12033 (March 13, 1997) 66 Fed. Reg. 5512 (Jan. 19, 2001)	<p>For purposes of this policy, <b>harassment</b> shall consist of verbal, written, graphic or physical conduct relating to an individual's race, color, national origin/ethnicity, gender, age, disability, sexual orientation or religion when such conduct:</p> <ol style="list-style-type: none"><li>1. Is sufficiently severe, persistent or pervasive that it affects an individual's ability to participate in or benefit from an educational program or activity or creates an intimidating, threatening or abusive educational environment.</li><li>2. Has the purpose or effect of substantially or unreasonably interfering with an individual's academic performance.</li><li>3. Otherwise adversely affects an individual's learning opportunities.</li></ol>

<p>29 CFR Sec. 1604.11 (a)</p> <p><del>Section 504 of the Rehabilitation Act of 1973 (Section 504); Title II of the Americans with Disabilities Act of 1990 (Title II)</del></p>	<p>For purposes of this policy, <b>sexual harassment</b> shall consist of unwelcome sexual advances; requests for sexual favors; and other inappropriate verbal, written, graphic or physical conduct of a sexual nature when:</p> <ol style="list-style-type: none"><li>1. Submission to such conduct is made explicitly or implicitly a term or condition of a student's academic status.</li><li>2. Submission to or rejection of such conduct is used as the basis for academic or work decisions affecting the individual.</li><li>3. Such conduct deprives a student of educational aid, benefits, services or treatment.</li><li>4. Such conduct is sufficiently severe, persistent or pervasive that it has the purpose or effect of substantially interfering with the student's school performance or creating an intimidating, hostile or offensive educational environment.</li></ol> <p>Examples of conduct that may constitute <b>sexual harassment</b> include but are not limited to sexual flirtations, advances, touching or propositions; verbal abuse of a sexual nature; graphic or suggestive comments about an individual's dress or body; sexually degrading words to describe an individual; jokes; pin-ups; calendars; objects; graffiti; vulgar statements; abusive language; innuendoes; references to sexual activities; overt sexual conduct; or any conduct that has the effect of unreasonably interfering with a student's ability to work or learn or creates an intimidating, hostile or offensive learning or working environment.</p> <p><b>Disability harassment</b> consists of intimidation and/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 opportunities from district programming through such things as verbal acts and name calling, nonverbal behavior-such as graphic and written statements, or conduct that is physically threatening, harmful, or humiliating. A hostile environment may exist even if there are no tangible effects on the student where the harassment is serious enough to adversely affect the student's ability to participate in or benefit from school district programming.</p> <p>Examples of <b>disability harassment</b> include but are not limited to repeated remarks, negative in nature and made aloud in the school setting, regarding a student's disability and resulting in the harassed student having difficulty performing assigned educational tasks and/or causing a significant decline in his/her grades; physically impeding a disabled student's ability to function in</p>
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<p>4. Delegation of Responsibility Pol. 103</p>	<p>the classroom setting; subjecting a student to inappropriate physical restraint resulting from conduct related to his/her disability, with the result that the student tries to avoid attending school on a regular, punctual basis; repeatedly denying a disabled student with access to lunch, field trips, assemblies, and extracurricular activities as punishment for taking time off from school for required services related to the student's disability; repeatedly belittling and/or criticizing a student with a disability for using accommodations in the school setting, with the result that the student becomes discouraged and has difficulty performing in a manner commensurate with his/her ability; continual taunting and/or belittling of a disabled student in a manner that focuses upon his/her disability, resulting in limited participation in the educational process.</p> <p>In order to maintain an educational environment that discourages and prohibits unlawful harassment, the Board designates the Superintendent as the school district's Compliance Officer. (Superintendent, P.O. Box 298, East Stroudsburg, PA 18301, 570-424-8500).</p> <p>The Compliance Officer shall publish and disseminate this policy and the complaint procedure at least annually to students, parents, employees, independent contractors, vendors, and the public. The publication shall include the position, office address and telephone number of the Compliance Officer.</p> <p>The administration shall be responsible to provide training for students and employees regarding all aspects of unlawful harassment.</p> <p>Each staff member shall be responsible to maintain an educational environment free from all forms of unlawful harassment.</p> <p>Each student shall be responsible to respect the rights of their fellow students and school district employees and to ensure an atmosphere free from all forms of unlawful harassment.</p> <p>The school principal shall be responsible to complete the following duties when receiving a complaint of unlawful harassment:</p> <ol style="list-style-type: none"><li>1. Inform the student or third party of the right to file a complaint and the complaint procedure.</li><li>2. Inform the complainant that s/he may be accompanied by a parent/guardian during all steps of the complaint procedure.</li><li>3. Notify the complainant and the accused of the progress at appropriate stages of the procedure.</li></ol>
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<p>5. Guidelines</p>	<p>4. Refer the complainant to the Compliance Officer if the school principal is the subject of the complaint.</p> <p><u>Complaint Procedure – Student/Third Party</u></p> <p><b>Step 1 – Reporting</b></p> <p>A student or third party who believes s/he has been subject to conduct that constitutes a violation of this policy is encouraged to immediately report the incident to the school principal or a school district employee.</p> <p>A school employee who suspects or is notified that a student has been subject to conduct that constitutes a violation of this policy shall immediately report the incident to the school principal.</p> <p>If the school principal is the subject of a complaint, the student, third party or employee shall report the incident directly to the Compliance Officer.</p> <p>The complainant or reporting employee is encouraged to use the report form available from the school principal, but oral complaints shall be acceptable. Oral complaints will be transcribed and must be signed by the complainant.</p> <p><b>Step 2 – Investigation</b></p> <p>Upon receiving a complaint of unlawful harassment, the school principal shall immediately notify the Compliance Officer. The Compliance Officer shall authorize the school principal to investigate the complaint, unless the school principal is the subject of the complaint or is unable to conduct the investigation.</p> <p>The investigation may consist of individual interviews with the complainant, the accused, and others with knowledge relative to the incident. The investigator may also evaluate any other information and materials relevant to the investigation.</p> <p>The obligation to conduct this investigation shall not be negated by the fact that a criminal investigation of the incident is pending or has been concluded.</p> <p><b>Step 3 – Investigative Report</b></p> <p>The school principal shall prepare a written report within fifteen (15) days, unless additional time to complete the investigation is required. The report shall include a summary of the investigation, a determination of whether the</p>
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complaint has been substantiated as factual and whether it is a violation of this policy, and a recommended disposition of the complaint.

The findings of the investigation shall be provided to the complainant, the accused, and the Compliance Officer.

**Step 4 – District Action**

If the investigation results in a finding that the complaint is factual and constitutes a violation of this policy, the school district shall take prompt, corrective action to ensure that such conduct ceases and will not recur.

Disciplinary actions shall be consistent with the school code of conduct, Board policies and school district procedures, applicable collective bargaining agreements, and state and federal laws.

If it is concluded that a student has knowingly made a false complaint under this policy, such student shall be subject to disciplinary action.

Appeal Procedure

1. If the complainant is not satisfied with a finding of no violation of the policy or with the corrective action recommended in the investigative report, s/he may submit a written appeal to the Compliance Officer within fifteen (15) days.
2. The Compliance Officer shall review the investigation and the investigative report and may also conduct a reasonable investigation.
3. The Compliance Officer shall prepare a written response to the appeal within fifteen (15) days. Copies of the response shall be provided to the complainant, the accused and the school principal who conducted the initial investigation.

**References:**

- Federal Anti-Discrimination Law – 20 U.S.C. Sec. 1681 et seq (Title IX),  
42 U.S.C. Sec. 2000e et seq (Title VII)
- Pennsylvania Human Relations Act – 43 P.S. Sec. 951 et seq
- Code of Federal Regulations – 29 CFR Sec. 1604.11(a), 1606.8 (a)
- Federal Register – 62 Fed. Reg. 12033, 66 Fed. Reg. 5512
- Rehabilitation Act of 1973 (Section 504)
- Americans with Disabilities Act of 1990 (Title II)
- Board Policy – 103, 806

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