

EAST STROUDSBURG AREA SCHOOL DISTRICT

SECTION: PROFESSIONAL EMPLOYEES

TITLE: UNLAWFUL HARASSMENT

ADOPTED: August 19, 2002

REVISED: September 19, 2016
November 20, 2017

<p>1. Purpose</p> <p>2. Authority Title VII 42 U.S.C. Sec. 2000e et seq Title IX 20 U.S.C. Sec. 1681</p> <p>3. Definitions 29 CFR Sec. 1606.8 (a) 62 Fed. Reg. 12033 (March 13, 1997) 66 Fed. Reg. 5512 (Jan. 19, 2001)</p>	<p style="text-align: center;">448. UNLAWFUL HARASSMENT</p> <p>The Board strives to provide a safe, positive working climate for its employees. Therefore, it shall be the policy of the school district to maintain an employment environment in which harassment in any form is not tolerated.</p> <p>The Board prohibits all forms of unlawful harassment of employees and third parties by all school district students and staff members, contracted individuals, vendors, volunteers, and third parties in the schools. The Board encourages employees and third parties who have been harassed to promptly report such incidents to the designated administrators.</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 nor retaliation shall occur as a result of good faith charges of harassment.</p> <p>For purposes of this policy, harassment 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"> 1. Is sufficiently severe, persistent or pervasive that it affects an individual's ability to perform job functions or creates an intimidating, threatening or abusive work environment. 2. Has the purpose or effect of substantially or unreasonably interfering with an individual's work performance. 3. Otherwise adversely affects an individual's employment opportunities.
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<p>29 CFR Sec. 1604.11 (a)</p>	<p>For purposes of this policy, sexual harassment 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"> 1. Acceptance of such conduct is made, explicitly or implicitly, a term or condition of an individual's continued employment. 2. Submission to or rejection of such conduct is the basis for employment decisions affecting the individual. 3. Such conduct is sufficiently severe, persistent or pervasive that it has the purpose or effect of substantially interfering with the employee's job performance or creating an intimidating, hostile or offensive working environment. <p>Examples of conduct that may constitute sexual harassment 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 employee's ability to work or creates an intimidating, hostile or offensive working environment.</p>
<p>Section 504 of the Rehabilitation Act of 1973 (Section 504); Title II of the Americans with Disabilities Act of 1990 (Title II)</p>	<p>Disability harassment consists of intimidation and/or abusive behavior based on disability, including verbal acts and name calling, nonverbal behavior such as graphic and written statements, or conduct that is physically threatening, harmful, or humiliating.</p> <p>Examples of disability harassment include but are not limited to repeated remarks, negative in nature and made aloud in the school setting, regarding an employee's disability; physically impeding a disabled employee's ability to perform his/her assigned tasks; repeatedly belittling and/or criticizing an employee with a disability for using accommodations in the school setting; continual taunting and/or belittling of a disabled employee in a manner that focuses upon his/her disability.</p>
<p>4. Delegation of Responsibility Pol. 103</p>	<p>In order to maintain a work environment that discourages and prohibits unlawful harassment, the Board designates the Director of Administrative Services as the school district's Compliance Officer.</p>

<p>5. Guidelines</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. Information relative to special accommodation and or grievance procedure may be obtained by contacting the Compliance Officer, in writing, at the Administration Office, East Stroudsburg Area School District, 50 Vine Street, East Stroudsburg, Pennsylvania 18301 or call (570) 424-8500.</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 a working environment free from all forms of unlawful harassment.</p> <p>Each employee shall be responsible to respect the rights of others and to ensure an atmosphere free from 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">1. Inform the employee or third party of the right to file a complaint and the complaint procedure.2. Notify the complainant and the accused of the progress at appropriate stages of the procedure.3. Refer the complainant to the Compliance Officer if the school principal is the subject of the complaint. <p><u>Complaint Procedure – Employee/Third Party</u></p> <p>Step 1 – Reporting</p> <p>An employee 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.</p> <p>If the school principal is the subject of a complaint, the employee or third party shall report the incident directly to the Compliance Officer.</p> <p>The complainant is encouraged to use the report form available from the school principal, but oral complaints shall be acceptable.</p>
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<p>Pol. 317, 417, 517</p>	<p>Step 2 – Investigation</p> <p>Upon receiving a complaint of unlawful harassment, the school principal shall immediately notify the Compliance Officer. The Compliance Officer shall authorize the building 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>Step 3 – Investigative Report</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 complaint has been substantiated as factual and whether it is a violation of this policy, and a recommended disposition of the complaint.</p> <p>The findings of the investigation shall be provided to the complainant, the accused, and the Compliance Officer.</p> <p>Step 4 – District Action</p> <p>If the investigation results in a finding that the complaint is factual and constitutes a violation of this policy, the district shall take prompt, corrective action to ensure that such conduct ceases and will not recur.</p> <p>Disciplinary actions shall be consistent with Board policies and school district procedures, applicable collective bargaining agreements, and state and federal laws.</p> <p>If it is concluded that an employee has knowingly made a false complaint under this policy, such employee shall be subject to disciplinary action, including termination.</p> <p><u>Appeal Procedure</u></p> <ol style="list-style-type: none">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.
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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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REPEAL