

4.27—STUDENT SEXUAL HARASSMENT

The Benton School District is committed to providing an academic environment that treats all students with respect and dignity. Student achievement is best attained in an atmosphere of equal educational opportunity that is free of discrimination. Sexual harassment is a form of discrimination that undermines the integrity of the educational environment and will not be tolerated.

The District believes the best policy to create an educational environment free from sexual harassment is prevention; therefore, the District shall provide informational materials and training to students, parents/legal guardians/other responsible adults, and employees on sexual harassment. The informational materials and training on sexual harassment shall be age appropriate and, when necessary, provided in a language other than English or in an accessible format. The informational materials and training shall include, but are not limited to: the nature of sexual harassment; the District's written grievance procedures for complaints of sexual harassment; that the district does not tolerate sexual harassment; that students can report inappropriate behavior of a sexual nature without fear of adverse consequences; the redress that is available to the victim of sexual harassment; and the potential discipline for perpetrating sexual harassment.

“Sexual harassment” means conduct that is:

1. Of a sexual nature, including, but not limited to:
 - a. Sexual advances;
 - b. Requests for sexual favors;
 - c. Sexual violence; or
 - d. Other personally offensive verbal, visual, or physical conduct of a sexual nature;
2. Unwelcome; and
3. denies or limits a student's ability to participate in or benefit from any of the District's educational programs or activities through any or all of the following methods:
 - a. Submission to the conduct is made, either explicitly or implicitly, a term or condition of an individual's education;
 - b. Submission to, or rejection of, such conduct by an individual is used as the basis for academic decisions affecting that individual; and/or
 - c. Such conduct has the purpose or effect of substantially interfering with an individual's academic performance or creates an intimidating, hostile, or offensive academic environment.

The terms “intimidating,” “hostile,” and “offensive” include conduct of a sexual nature that has the effect of humiliation or embarrassment and is sufficiently severe, persistent, or pervasive that it limits the student's ability to participate in, or benefit from, an educational program or activity.

Within the educational environment, sexual harassment is prohibited between any of the following: students; employees and students; and non-employees and students.

Actionable sexual harassment is generally established when an individual is exposed to a pattern of objectionable behaviors or when a single, serious act is committed. What is, or is not, sexual harassment will depend upon all of the surrounding circumstances and may occur regardless of

the sex(es) of the individuals involved. Depending upon such circumstances, examples of sexual harassment include, but are not limited to:

- Making sexual propositions or pressuring for sexual activities;
- Unwelcome touching;
- Writing graffiti of a sexual nature;
- Displaying or distributing sexually explicit drawings, pictures, or written materials;
- Performing sexual gestures or touching oneself sexually in front of others;
- Telling sexual or crude jokes;
- Spreading rumors related to a person's alleged sexual activities;
- Discussions of sexual experiences;
- Rating other students as to sexual activity or performance;
- Circulating or showing e-mails or Web sites of a sexual nature;
- Intimidation by words, actions, insults, or name calling; and
- Teasing or name-calling related to sexual characteristics or the belief or perception that an individual is not conforming to expected gender roles or conduct or is homosexual, regardless of whether or not the student self-identifies as homosexual or transgender.

Students who believe they have been subjected to sexual harassment, or the parent/legal guardian/other responsible adult of a student who believes their student has been subjected to sexual harassment, are encouraged to file a complaint by contacting a counselor, teacher, Title IX coordinator, or administrator who will provide assistance on the complaint process. Under no circumstances shall a student be required to first report allegations of sexual harassment to a school contact person if that person is the individual who is accused of the harassment.

Complaints will be treated in a confidential manner to the extent possible. Limited disclosure may be provided to: individuals who are responsible for handling the District's investigation to the extent necessary to complete a thorough investigation; the extent necessary to submit a report to the child maltreatment hotline; the Professional Licensure Standards Board for complaints alleging sexual harassment by an employee towards a student; or the extent necessary to provide the individual accused in the complaint due process during the investigation and disciplinary processes. Individuals who file a complaint have the right to request that the individual accused of sexual harassment not be informed of the name of the accuser; however, individuals should be aware that making such a request may substantially limit the District's ability to investigate the complaint and may make it impossible for the District to discipline the accused.

Students, or the parents/legal guardians/ other responsible adult of a student, who file a complaint of sexual harassment shall not be subjected to retaliation or reprisal in any form, including threats, intimidation, coercion, or discrimination. The District shall take steps to prevent retaliation and shall take immediate action if any form of retaliation occurs regardless of whether the retaliatory acts are by District officials, students, or third parties.

Following the completion of an investigation of a complaint, the District will inform the parents/legal guardian/other responsible adult of the student, or the student if over the age of eighteen (18), who filed the complaint:

- The final determination of the investigation;
- Remedies the District will make available to the student; and

- The sanctions, if any, imposed on the alleged harasser relevant to the student.

Following the completion of an investigation of a complaint, the District will inform the parents/legal guardian/other responsible adult of the student, or the student if over the age of eighteen (18), who was accused of sexual harassment in the complaint:

- The final determination of the investigation; and
- The sanctions, if any, the District intends to impose on the student.

It shall be a violation of this policy for any student to be subjected to, or to subject another person to, sexual harassment. Following an investigation, any student who is found by the evidence to more likely than not have engaged in sexual harassment will be subject to disciplinary action up to, and including, expulsion.

Students who knowingly fabricate allegations of sexual harassment shall be subject to disciplinary action up to and including expulsion.

Individuals who withhold information, purposely provide inaccurate facts, or otherwise hinder an investigation of sexual harassment shall be subject to disciplinary action up to and including expulsion.

Legal References: Title IX of the Education Amendments of 1972, 20 USC 1681, et seq.
34 CFR part 106
A.C.A. § 6-15-1005 (b) (1)

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