

OLDHAM COUNTY BOARD OF EDUCATION POLICY

SEXUAL HARASSMENT AND DISCRIMINATION OF STUDENTS

9050

Relates to: Policy 4097; 9050.01F

9050.01 PURPOSE

The purpose of this procedure is to secure, at the lowest possible administrative level, prompt and equitable solutions to complaints alleging discrimination on the basis of sex in educational programs and activities in the Oldham County School District that do not arise to the level of a Title IX Complaint (see Policy 9051).

9050.02 DEFINITIONS

- a. "Complaint" shall mean an oral or written claim by a student or a parent of a student on behalf of a student, that the student has been unfairly or inequitably treated as a victim of sexual discrimination or harassment.
- b. "Student" shall mean any individual legally enrolled in the public schools of Oldham County.
- c. "Parent" means any natural parent or legal guardian or custodian of a student legally enrolled in the Public Schools of Oldham County.
- d. "Complainant" means any student or parent of a student, making a complaint in writing alleging discrimination or harassment on the basis of sex.
- e. "Hearing Committee" means the group of three administrators who were not involved in the investigation or initial decision designated by the Superintendent to hear complaints that have not been satisfactorily resolved at a lower level.
- f. "Sexual harassment" means verbal or physical conduct of a sexual nature, that includes but is not limited to, unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature.

A non-exhaustive list of examples of conduct that constitutes sexual harassment includes: unwelcome advances: conduct which the recipient neither asks for nor invites and which he or she regards as undesirable or offensive, including threats or intimation of sexual relations or sexual contact; verbal conduct: oral or written derogatory or vulgar comments regarding a person's sex; graphic comments about a person's anatomy; sexually suggestive objects or pictures painted, drawn or placed on school property that may embarrass or offend the person; sexually degrading works, whether spoken or written, to describe a person or propositions of a sexual nature; physical conduct: touching another person in a sexually suggestive way, including kissing, pinching or rubbing up against, or otherwise intentional touching of any part of a person's body; physical conduct, such as pushing, hitting or threats to take such action in connection with any sexual advances; hostile environment: spreading sexual gossip, including remarks of sexual prowess or activity; staring or leering with sexual connotations; pressure for sexual activity; obscene gestures.

9050.03 SEXUAL HARASSMENT OF STUDENTS PROHIBITED

Sexual harassment, as defined in Board Policy 9050.02 or by law, by students, school employees, or third parties against other students is strictly prohibited in the Oldham County Schools and at all times in connection with school sponsored activities and will not be tolerated. Any complaints should be lodged in accordance with Board Policy 9050.04. Each incident will be investigated in a timely manner and information concerning the incident, including the identity of the alleged victim, will be kept confidential to the extent permitted by law, but will be used in the course of the investigation and shared with those persons with a need to know. In the event that sexual harassment is determined to exist, following investigation and due process, the offending student(s) will be disciplined in accordance with Board Policy, including, without limitation, referral to local officials for legal action where appropriate. Additionally, the school involved shall consider the appropriateness of a variety of intervention strategies and then implement appropriate intervention strategies for the offending student(s) in an attempt to prevent future sexually harassing conduct. The school shall also consider the appropriateness of and necessity for a variety of counseling options for the victim.

The present state of the law suggests that sexual harassment is based upon the views and reaction of the person to whom or about whom the conduct is directed, not those of the person who is accused of sexual harassment. That the offending party did not intend to commit sexual harassment or did not believe that he or she was harassing the other person may be no excuse for offensive or illegal conduct.

9050.04 COMPLAINT PROCEDURE

A Hearing Committee, building principals, the Superintendent of Schools, and the Board are designated to hear and resolve complaints from students and/or their parents.

The principal of each of the schools of the district shall serve as a hearing officer for students attending that school, their parents, and others assigned to that building who have complaints alleging action prohibited by this policy. The Hearing Committee for the district shall be composed of three administrators who were not involved in the

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investigation or school level decision. Minutes of all meetings shall be taken and responses shall be in writing.

Complaint Procedure:

- Level 1 A student who feels aggrieved shall make a written complaint to the building principal or other office administrator with whom the student feels comfortable sharing the information. The principal or administrator shall conduct a full investigation, interviewing all available witnesses. The principal shall make a decision and arrive at a resolution of the issues, after consultation with any other administrator involved in the investigation, within five (5) school days of receiving the complaint. The principal shall provide the parent of the student complainant via hand-delivery or certified mail, the written decision. These timelines may be extended for extenuating circumstances, which shall be noted in the decision.
- Level 2 If the student is not satisfied by the resolution and decision the principal reached, the student may file a written appeal, within five (5) school days, with the Superintendent at the address listed in this subsection, specifying the reasons why the principal's decision should be overturned. The Superintendent will promptly assign a Hearing Committee and Chairman. The Hearing Committee Chairman will gather all information pertaining to the complaint from the school level and may seek additional information from the principal, complainant/student or witnesses. The Hearing Committee shall issue a decision within five (5) school days, stating his decision on the appeal and the reasons for the decisions, and shall notify the principal and the complainant via hand-delivery or certified mail. This timeline may be extended for extenuating circumstances, which shall be noted in the decision.
- Level 3 Within five (5) school days of receiving the Hearing Committee's decision, the complainant or the principal may appeal the decision to the Board of Education. The Board shall schedule a hearing at the next regularly scheduled board meeting if the next board meeting is at least one week away, or the following board meeting if the upcoming board meeting is less than one week away. The hearing shall be held in closed session. The interested parties may present evidence, call witnesses, cross-examine witnesses, and be represented by counsel. Formal rules of evidence shall not apply. The Board will issue a decision according to the vote of a quorum of the Board.
- Level 4 The decision of the Board shall be final unless one or more of the aggrieved parties, within three (3) days of the service of the decision upon them, shall file with the School Board a notice advising the Board that it is the intention of such aggrieved party to appeal to the Circuit.

9050.05 RETALIATION

Retaliation against any person for filing a complaint for sex discrimination or sexual harassment is prohibited.