

Sexual Harassment

Introduction

No individual shall be discriminated against or harassed on the basis of sex. Title IX protects students and staff, regardless of gender, in all academic, educational, extra-curricular, athletic, and other programs of the school, whether they take place in the facilities of the school, on a school bus, at a class or training program sponsored by the school at another location, or elsewhere.

Definitions

Sexual harassment against students or employees is a form of sex discrimination. It is discrimination that is related to, or that occurs because of, an individual's gender. Such discrimination includes unwelcome sexual advances, requests for sexual favors, sexual remarks, and other verbal or physical conduct. Conduct is unwelcome when the person being harassed did not solicit or incite the behavior and regards the conduct as undesirable or offensive.

Sexual harassment may exist when conduct of a sexual nature is sufficiently severe, persistent, or pervasive to limit the victim's ability to participate in or benefit from the education program, or to create a hostile or abusive educational or work environment. This may include student-to-student, student-to-staff, staff-to-student, and adult-to-adult harassment.

Sexual harassment as defined above should be reported to the superintendent. A formal written complaint should be made when:

1. A student or employee is required to submit to sexual harassment, either explicitly or implicitly, in order to participate in school programs and/or activities or in order to keep their job;
2. A student or employee submits to, or rejects, sexual harassment from another person and that behavior is used as the basis for making decisions about grades, promotion, employment, or advancement; or
3. Such conduct has the purpose or effect of unreasonably interfering with an employee's or student's performance by creating an intimidating, hostile, or offensive work or learning environment.

Sexual harassment may include, but is not limited to:

- Verbal harassment or abuse;
- Pressure for sexual activity;
- Repeated remarks with sexual or demeaning implications;
- Unwelcome touching;
- Sexual jokes, posters, etc.;
- Suggesting or demanding sexual involvement;
- Implied or explicit threats concerning one's grades, job, etc.

When younger children are involved, it may be necessary to determine the degree to which they are able to recognize that certain sexual conduct is conduct to which they can or should reasonably object and the degree to which they can articulate an objection. The age of the student, the nature of the conduct involved, and other relevant factors shall be considered in determining whether a younger student has been harassed.

District Responsibility

The district is responsible for prohibiting sexual harassment in the workplace for staff members and in the learning environment for students. It is also responsible for informing its agents, administrators, supervisors, employees, students, and parents of the procedures to follow if sexual harassment does occur.

By law, the district is responsible for the acts of its administrators and supervisory employees with respect to sexual harassment and discrimination regardless of whether:

- The specific acts complained of were authorized by the employer; or
- The specific acts complained of were forbidden by the employer; or
- The employer knew or should have known of the occurrence of the specific acts.

Constructive notice exists when the school should have known about the sexual harassment or when the school would have found out about the sexual harassment through a reasonably diligent inquiry. Such knowledge should lead to an investigation to determine if there have been additional incidents. The district will act immediately when receiving a complaint and conduct an investigation in a timely and efficient manner.

The district is responsible for the following:

1. Adopting and publishing a policy relating to sexual harassment and discrimination;
2. Creating and maintaining a proper employment and educational environment that is free from sexual harassment and discrimination;
3. Developing a grievance procedure and form for reporting allegations of sexual harassment and discrimination;
4. Educating students, staff, and parents about the policy and grievance procedures;
5. Reporting any written complaints to the superintendent;
6. Conducting a prompt and equitable investigation of the allegations;
7. Taking immediate and appropriate corrective action.

Student or Staff Responsibility

District staff and students are required to comply with the policy and laws relating to the prevention of sexual harassment and discrimination. If a staff member or student is subjected to sexual harassment or discrimination, such actions must be immediately reported to an administrator. Notice of such behaviors shall exist when the school or its agents receive a report or when the district would have found out about the sexual harassment through a reasonably diligent inquiry.

Any person who has been subjected to sexual harassment or believes that he/she may have been a victim of sexual harassment or discrimination can give notice in several different ways:

- By filing a grievance on the district form;
- By complaining verbally to a teacher;
- By contacting other district personnel, such as a principal, campus security, affirmative action officer, or staff member;
- By having a witness report the incident;
- By having a parent or other person report the allegations; or
- By any other means available to bring the incident to the attention of school personnel.

Investigation

When a report of sexual harassment or discrimination has been received by the district, or when there is reason to believe that sexual harassment or discrimination has occurred, the district will conduct an immediate investigation. This investigation shall include the following steps:

1. Interviews shall be conducted with the alleged offender and victim as well as any witnesses or other persons identified as offenders or victims;
2. The superintendent shall be notified of any written sexual harassment or discrimination complaint and shall work with the administrator or supervisor to conduct the investigation;
3. The victim shall be accorded confidentiality, if requested, and the investigation shall be conducted with respect to all parties;
4. The individual who is accused of sexual harassment or discrimination shall be accorded due process rights;
5. The type, frequency and duration of the conduct will be investigated to determine if there is a pattern or practice of sexual harassment or if the incident is an isolated one;
6. The investigator shall determine if the charges are substantiated and determine the appropriate disciplinary or corrective actions to be taken;
7. The outcomes of the investigation shall be documented in a written report and the parties shall be notified of the disposition of the complaint;
8. Steps shall be taken to prevent recurrence of inappropriate behaviors and to correct its effects on the victim and others.

Corrective Action

The district must determine appropriate steps to resolve the situation. If it is determined that sexual harassment or discrimination has occurred, the district will take reasonable, timely and effective corrective action appropriate for the specific situation. The steps may include the following:

- Appropriate steps will be taken to end the sexual harassment;
- It may be appropriate to separate the harassed person and the harasser;
- The harasser shall be directed to refrain from any further behavior that constitutes sexual harassment;
- Counseling for the victim and the harasser may be appropriate.

Students in violation of this policy shall be subject to discipline up to and including expulsion and/or counseling or sexual harassment awareness training, as appropriate. The age and maturity of the student(s) involved and other relevant factors will be considered in determining appropriate action. Employees in violation of this policy shall be subject to discipline, up to and including dismissal and/or additional sexual harassment awareness training, as appropriate. Other individuals whose behavior is found to be in violation of this policy shall be subject to appropriate sanctions as determined and imposed by the superintendent or Board.

Additionally, the district may report individuals in violation of this policy to law enforcement officials. Licensed staff, staff registered with the Teacher Standards and Practices Commission (TSPC) and those participating in practicum programs, as specified by Oregon Administrative Rules, shall be reported to the TSPC.

The superintendent shall ensure appropriate periodic sexual harassment awareness training or information is provided to all supervisors, staff and students and that annually, the name and position of district officials responsible for accepting and managing sexual harassment complaints, business phone numbers, addresses or other necessary contact information is readily available. This policy as well as the complaint procedure will be made available to all students, parents of students and staff in student/parent and staff handbooks. The district's policy shall be posted in all grade 6 through 12 schools. Such posting shall be by a sign of at least 8 1/2" by 11".

Prevention

The district will take steps to prevent further sexual harassment or discrimination through the following activities:

- By publicizing a policy that specifically prohibits sexual harassment and discrimination and developing a form and procedures for filing a complaint;
- By providing inservice programs and training for the administrators, supervisors, and staff to prevent any future incidents and ensure that they can recognize sexual harassment or discrimination when it does occur;
- By providing age-appropriate classroom information to students to ensure that they understand what types of conduct can be construed as sexual harassment and to ensure that they know how to respond appropriately;

- By making sure that all students, staff, and parents know how to report any sexual harassment or discrimination problems;
- By making follow-up inquiries to see if there have been any further incidents or any retaliation after a complaint has been investigated;
- By providing information in student and staff handbooks informing them of how to file a complaint and how to respond if a complaint is received.

Gervais School District is committed to fairness and equity for all staff members and students and strives to ensure that problems of sexual harassment and discrimination are appropriately handled.

Sexual Harassment Complaint Procedure

Building principals, the compliance officer and the superintendent have responsibility for investigations concerning sexual harassment. The investigator(s) shall be a neutral party having had no involvement in the complaint presented.

- Step 1 Any sexual harassment information (complaints, rumors, etc.) shall be presented to the building principal, compliance officer or superintendent. All such information shall be reduced to writing and will include the specific nature of the sexual harassment and corresponding dates.
- Step 2 The district official receiving the information or complaint shall promptly initiate an investigation. He/She will arrange such meetings as may be necessary to discuss the issue with all concerned parties within five working days after receipt of the information or complaint. All findings of the investigation, including the response of the alleged harasser, shall be reduced to writing. The district official(s) conducting the investigation shall notify the complainant in writing when the investigation is concluded. The parties will have an opportunity to submit evidence and a list of witnesses.

A copy of the notification letter, together with any other documentation related to the sexual harassment incident, including disciplinary action taken or recommended, shall be forwarded to the superintendent.

- Step 3 If a complainant is not satisfied with the decision at Step II, he/she may submit a written appeal to the superintendent or designee. Such appeal must be filed within 10 working days after receipt of the Step II decision. The superintendent or designee will arrange such meetings with the complainant and other affected parties as deemed necessary to discuss the appeal. The superintendent or designee shall provide a written decision to the complainant within 10 working days.
- Step 4 If a complainant is not satisfied with the decision at Step III, he/she may submit a written appeal to the Board. Such appeal must be filed within 10 working days after receipt of the Step III decision. The Board shall, within 20 working days, conduct a hearing at which time the complainant shall be given an opportunity to present the appeal. The Board shall provide a written decision to the complainant within 10 working days following completion of the hearing.

Direct complaints related to employment may be filed with the U.S. Department of Labor, Equal Employment Opportunity Commission or Oregon Bureau of Labor and Industries. Direct complaints related to educational programs and services may be made to the Regional Civil Rights Director, U.S. Department of Education, Office for Civil Rights, Region X, 915 2nd Ave., Room 3310, Seattle, WA 98174-1099. Additional information regarding filing of a complaint may be obtained through the building principal, compliance officer or superintendent.

All documentation related to sexual harassment complaints may become part of the student's education record or employee's personnel file, as appropriate. Additionally, a copy of all sexual harassment complaints and documentation will be maintained as a confidential file and stored in the district office.

The superintendent shall report the name of any person holding a teaching license or registered with Teacher Standards and Practices Commission (TSPC) or participating in a practicum under OAR Chapter 584, Division 17, when, after appropriate investigation, there is reasonable cause to believe the person may have committed an act of sexual harassment. Reports shall be made to TSPC within 30 days of such a finding. Reports of sexual contact with a student shall be given to a representative from law enforcement or Oregon Department of Human Services, Community Human Services, as possible child abuse. In the event the superintendent is the subject of the investigation, reports, when required, shall be made by the Board chair.

SEXUAL HARASSMENT COMPLAINT FORM

Name of complainant: _____

Position of complainant: _____

Date of complaint: _____

Name of alleged harasser: _____

Date and place of incident or incidents: _____

Description of misconduct: _____

Name of witnesses (if any): _____

Evidence of sexual harassment, i.e., letters, photos, etc. (attach evidence if possible): _____

Any other information: _____

I agree that all of the information on this form is accurate and true to the best of my knowledge.

Signature: _____ Date: _____

WITNESS DISCLOSURE FORM

Name of Witness: _____

Position of Witness: _____

Date of Testimony/Interview: _____

Description of Instance Witnessed: _____

Any Other Information: _____

I agree that all the information on this form is accurate and true to the best of my knowledge.

Signature: _____ Date: _____