

SEXUAL VIOLENCE AND SEXUAL HARASSMENT TOWARDS STUDENTS PROHIBITED Policy 3205

The _____ School District strives to create a culture of care where all individuals feel safe, valued, and respected. Violence of any kind is a violation of human rights and an obstacle to learning. Sexual violence and sexual harassment are specific types of conduct that are not tolerated under this policy because they limit potential, thrive in silence, and exist for many reasons. Among the root causes are: limiting ideas about gender roles and power; privilege, oppression, and objectification based on sex, gender, race, and class; and cultural norms related to violence. It is the policy of the district to provide safe learning environments and trauma-informed support to students impacted by sexual violence and harassment. This commitment extends to all students involved in academic, educational, extracurricular, athletic, and other programs or activities of the school, whether that program or activity is in a school facility, on school transportation or at a class or school training held elsewhere.

Definitions

For purposes of this policy, sexual violence and sexual harassment can include sexual gestures, communication, or contact that creates a hostile or unsafe environment. Sexual violence and harassment can occur adult to student, student to student, or can be carried out by a group of students or adults. The District prohibits sexual violence and harassment of students by other students, employees or third parties involved in school district activities. Incidents of sexual violence, including sexual harassment, will be investigated by the District even if the accused person is not a part of the school staff or student body (in such cases, the District's authority over those individuals outside of the District is limited).

The District acknowledges that sexual harassment is one type of sexual violence that it addresses in schools. Although the term "sexual violence" includes sexual harassment, it is important to specifically name sexual harassment in our policies. This is because it is the most frequent type of sexual violence that occurs in schools and because the response is slightly different than for other types of sexual violence, like sexual assault. For these reasons, we refer in this policy and in its related procedure (3205P) to "sexual violence and sexual harassment" rather than just "sexual violence."

"Sexual violence" is an umbrella term that includes any type of sexual contact that lacks consent. According to Washington State law (RCW 9A.44.010(7)), "consent" means that "at the time of the act of...sexual contact there are actual words or conduct indicating freely given agreement."

Section 9A.44 of the RCW describes these laws in more detail. Under state law, sexual violence is also known as a "sexual offense" and may include:

- nonconsensual sexual touching or kissing
- showing sexual pictures or movies without a person's consent
- sexual penetration or rape

- viewing or taking nonconsensual photos or videos of a person who is naked, exposed, or having sexual contact (also known as “voyeurism”)
- sexual misconduct or intimidation
- exposing private body parts
- forcing someone to touch their own body parts in a sexual way
- forcing someone to touch the body parts of another person in a sexual way

➔ **Sexual Harassment** is one type of sexual violence that negatively impacts learning, professional, and social environments. Any unwelcome conduct or communication of a sexual nature is an act of sexual harassment.

Under federal and state law, the term **“sexual harassment” involves behaviors that interfere with an individual’s educational performance and or create and intimidating, hostile or offensive environment** and may include:

- sexual or gender-directed gestures or communication
- showing a person sexual photos or videos without their consent;
- requesting that a person send or share sexual photos;
- unwelcome sexual advances;
- requests for sexual favors;
- sexual coercion or demands when submission is a stated or implied condition of obtaining an educational benefit;
- sexual coercion or demands, where submission or rejection is a factor in an academic, or other school-related decision affecting an individual;
- sexual jokes;
- sharing details publicly about sexual experiences between dating partners to expose or embarrass them;
- repeated, unwanted attention (stalking): following, monitoring, or pursuing unwanted contact, in person or through technology;
- videotaping someone without their consent;
- any other behaviors of a sexual nature that makes the targeted person uncomfortable.

All incidents of sexual violence, including sexual harassment, are unacceptable and antithetical to creating a safe learning environment for all students. A “hostile environment” has been created when the student is limited or unable to participate in or benefit from the school’s program because of the harassment or violence. The more severe the conduct, the less need there is to demonstrate a repetitive series of incidents. In fact, a single or isolated incident may create a hostile environment if the targeted person feels threatened, intimidated, powerless, or silenced.

Investigation, Interventions, and Response

If a district employee becomes aware that a student may have been impacted by sexual violence, they should follow the Relationship and Sexual Violence Protocol. This response

protocol is available on the District website and offers trauma-informed ways to talk with and listen to students who have been impacted by relationship abuse or sexual violence.

Non-administrative staff members should not investigate reported incidents. They should, instead, focus on listening to, understanding, and supporting students, and connecting students with appropriate support services.

If the district knows, or reasonably should know, that sexual violence or harassment has created a hostile environment, it will promptly investigate to determine what occurred and take appropriate steps to resolve the situation. If an investigation reveals that sexual violence or harassment has created a hostile environment, the district will take prompt and effective steps to end the sexual violence or harassment, eliminate the hostile environment, prevent its recurrence, and remedy its effects. The district will take prompt, trauma-informed, equitable and remedial action within its authority on reports, complaints and grievances related to sexual violence or harassment, either formally or informally. The district will take these steps every time a sexual violence or harassment complaint comes to the attention of the district, either formally or informally.

Allegations of criminal misconduct will be reported to law enforcement and suspected child abuse will be reported to law enforcement or Child Protective Services. Regardless of whether the misconduct is reported to law enforcement, school administrators will promptly investigate to determine what occurred and take appropriate steps to resolve the situation, to the extent that such investigation does not interfere with an ongoing criminal investigation. A criminal investigation or a lack of a criminal conviction does not relieve the district of its independent obligation to create a safe learning environment for all students under Title IX.

Students who have been harmed by sexual violence or harassment will be informed of local support resources and offered the opportunity to meet with a community-based advocate at school. Advocacy counseling may be accessed confidentially and, for any students over the age of 13, does not require the permission of a parent or guardian under state law. Domestic Violence and Sexual Assault Services (DVSAS) can be contacted 24 hours a day at (360) 715-1563. For culturally specific services, Native survivors and their friends and families can call Lummi Victims of Crime 24 hours a day at (360) 312-2015. If a student elects to do so, they may have an advocate present with them at any part of the response process.

Perpetrating sexual violence or harassment will result in appropriate discipline or other action/sanctions against offending students, staff or other third parties involved in school district activities at the time of the offense. Anyone else who commits sexual violence or harassment on school property or at school activities will have their access to school property and activities restricted.

Retaliation and False Allegations

Retaliation against any person who makes or is a witness in a sexual violence or harassment complaint is prohibited under Title IX and will result in appropriate discipline. The district will take action to protect involved persons from retaliation.

It is a violation of this policy to knowingly report false allegations of sexual violence or harassment. In these rare cases, the district will determine appropriate actions to address any persons found to knowingly report or corroborate false allegations, including referring them to counseling or other support services.

Staff Responsibilities

The superintendent will develop and implement formal and informal procedures for receiving, investigating and resolving complaints or reports of sexual violence or harassment. The procedures will include reasonable and prompt timelines and delineate staff responsibilities under this policy.

Any school employee who witnesses sexual violence of any kind, including sexual harassment, or receives a report, informal complaint, or written complaint is responsible for informing the district Title IX or Civil Rights Compliance Coordinator. All staff are also responsible for directing complainants to the formal complaint process.

Reports of discrimination and discriminatory harassment will be referred to the district's Title IX/Civil Rights Compliance Coordinator. Reports of disability discrimination or harassment will be referred to the district's Section 504 Coordinator.

Notice and Training

This policy and the procedure, which includes the complaint process, will be posted in each district building in a place that is clearly visible to staff, students, parents, volunteers and visitors. Information about the policy and procedure will be clearly stated and posted throughout each school building, provided to each employee and reproduced in each student, staff, volunteer and parent handbook. Such notices will identify the District's Title IX Coordinator (who is also the Human Resources Supervisor) and provide contact information, including the coordinator's email address.

The district will implement a range of prevention and training strategies that include individual, classroom, school, and district-level approaches. The district will implement evidence-based prevention programs with students that are designed to: increase social competency, including empathy; support healthy communication and consent; improve school climate; promote healthy relationships and respect for personal boundaries; and eliminate sexual violence and sexual harassment in schools. All students will receive age-appropriate dating and sexual violence prevention training at least once in their middle school and at least once in their high school educational experiences. Prevention education with students will include information about this policy, the definition of sexual violence and sexual harassment, as well as information about power, coercion, healthy relationships, and consent. Prevention education will be delivered by local organizations that specialize in sexual violence, sexual harassment, and dating violence, whenever possible.

Annually, families will be informed of resources related to talking with children about power, coercion, healthy relationships, and consent, in an effort to support parents and guardians in participating in the prevention of these issues.

Policy Review

The superintendent will make an annual report to the board reviewing the use and efficacy of this policy and related procedures. Recommendations for changes to this policy, if applicable, will be included in the report. The superintendent is encouraged to involve staff, students, volunteers, community partners, and parents in the review process.

Cross References:

- Relationship Abuse and Sexual Violence Response Protocol
- Policy 3207 - Prohibition of Harassment, Intimidation and Bullying
- Policy 3210 - Nondiscrimination
- Policy 3240 - Student Conduct Expectations and Reasonable Sanctions
- Policy 3241 - Classroom Management, Discipline and Corrective Action
- Policy 5010 - Nondiscrimination and Affirmative Action
- Policy 5011 - Sexual Harassment of District Staff Prohibited

Legal References:

- RCW 5.60.060 Privileged communications
- RCW 9A.44 Sexual Offenses
- RCW 9A.44.010(7) Consent
- RCW 28A.640.020 Regulations, guidelines to eliminate discrimination — Scope — Sexual harassment policies
- WAC 392-190-058 Sexual harassment
- WAC 478-121-150 Sexual assault
- WAC 478-121-153 Sexual exploitation
- 20 U.S.C. 1681-1688 Equal Opportunity in Education Act

Management Resources:

- Department of Education's National Center on Safe, Supportive Learning Environments: <https://safesupportivelearning.ed.gov/safe-place-to-learn-k12>
- *Policy Alert*, July 2015
- *Policy & Legal News*, December 2014
- *Policy News*, October 2011
- *Policy News*, October 2010

Local Services:

- Domestic Violence and Sexual Assault Services of Whatcom County (DVSAS) - *Services and support for those impacted by relationship abuse and sexual violence* - 360.715.1563 - www.dvsas.org

- Lummi Victims of Crime - *Culturally specific services for Native survivors and their friends/family* - 360.312.2015
- Northwest Youth Services- Queer Youth Project - *Services and support for youth who identify as LGBTQ+* - 360.734.9862

Regional and National Services:

- Love Is Respect - *An online resource for youth and their parents about teen dating violence and sexual assault* - www.loveisrespect.org
- The Northwest Network of Bi, Trans, Lesbian, and Gay Survivors of Abuse - *Services for Survivors who identify as LGBTQ+* - 206.568.7777 www.nwnetwork.org

Board Review and Projected Adoption Date:

_____ School District

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