



Document Number: A-36
 Document Name: Sexual Harassment Policy
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1.0 Purpose

To create and preserve an educational environment free from sexual harassment and discrimination on the basis of sex. The Executive Director will be responsible for ensuring compliance with this policy.

2.0 Definition

3.0 Policy Content

3.1. It is the Waldorf Charter School’s policy to provide an educational environment free from sexual harassment and discrimination on the basis of sex. Under both Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972, the School considers sexual harassment to be unlawful discrimination on the basis of sex. In addition, discrimination on the basis of sex is prohibited by the Utah Constitution. Finally, sexual harassment/assault by any individual may constitute a sexual crime under Chapter 76 of the Utah Criminal Code.

3.2. It shall be a violation of this policy for any student or employee to sexually harass any other student or employee.

Last Modified By: Enter Text

Last Modified On: Select Date

Page: 1

Document Owner: Enter Text

Original Date: Select Date



3.3. The School encourages all victims of sexual harassment and persons with knowledge of sexual harassment to report the harassment immediately as per the reporting process established by the Executive Director.

3.4. All complainants have the right to be free from retaliation of any kind.

3.5. The School will promptly investigate all formal, informal, verbal and written complaints of sexual harassment, and take prompt corrective action reasonably calculated to end the harassment.

4. DEFINITIONS

"Sexual harassment" means unwelcome sexual advances, requests for sexual favors, other physical or verbal conduct or communications including electronic communications of a sexual nature, and any other gender-based harassment, whether initiated by students, school employees, or visitors when:

4.1. Submission to the conduct is made explicitly or implicitly a term or condition of a student's education (including any aspect of the student's participation in school sponsored activities, or any other aspect of the student's education;

4.2. Submission to or rejection of the conduct is used as the basis for decisions affecting the student's academic performance, participation in school-sponsored activities, or any other aspect of the student's education;

4.3. The conduct has the purpose or effect of unreasonably interfering with a student's academic performance or participation in school-sponsored activities, or creating an intimidating, hostile or offensive education environment.

5. UNACCEPTABLE CONDUCT

5.1. Complaints received will be thoroughly investigated to determine whether the totality of the behavior and circumstances meet any of the elements of the definitions in section 4 and should be treated as sexual harassment.

Last Modified By: Enter Text

Last Modified On: Select Date

Page: 2

Document Owner: Enter Text

Original Date: Select Date



Unacceptable conduct may or may not constitute sexual harassment. Normally, unacceptable behavior must be severe or pervasive to be considered sexual harassment.

5.2. EXAMPLES: School-related conduct that the School considers unacceptable and often a part of sexual harassment includes, but is not limited to, the following:

5.2.1. rape, attempted rape, sexual assault, attempted sexual assault, forcible sexual abuse, hazing, and other sexual and gender-based activity of a criminal nature as defined under the Utah Criminal Code;

5.2.2. unwelcome sexual invitations or requests for sexual activity in exchange for grades, preferences, favors, selection for extracurricular activities, homework, etc.;

5.2.3. unwelcome and offensive public sexual display of affection, including kissing, making out, groping, fondling, petting, inappropriate touching of oneself or others, sexually suggestive dancing, and massages;

5.2.4. any unwelcome communication that is sexually suggestive, sexually degrading or implies sexual motives or intentions, such as sexual remarks or innuendoes about an individual's clothing, appearance or activities; sexual gestures; public conversations about sexual activities or exploits; sexual rumors and "ratings lists;" howling, catcalls, and whistles; sexually graphic electronic messages or games, etc.;

5.2.5. unwelcome and offensive name calling or profanity that is sexually suggestive, sexually degrading, implies sexual intentions, or that is based on sexual stereotypes or actual or perceived sexual orientation;

5.2.6. unwelcome physical contact or closeness that is sexually suggestive, sexually degrading, or sexually intimidating such as the unwelcome touching of another's body parts, cornering or blocking an individual, standing too close, spanking, pinching, following, stalking, frontal-body hugs, etc.;

5.2.7. unwelcome and offensive physical pranks or touching of an individual's clothing, such as hazing and initiation, "streaking," "mooning," "snuggies" or "wedgies" (pulling underwear up at the waist so

Last Modified By: Enter Text

Last Modified On: Select Date

Page: 3

Document Owner: Enter Text

Original Date: Select Date



it goes in between the buttocks), bra snapping, skirt “flip-ups,” spiking” (pulling down someone’s pants or swimming suit); pinching; placing hands inside an individual’s pants, shirt, blouse, or dress, etc.;

5.2.8. unwelcome leers, stares, gestures, or slang that are sexually suggestive, sexually degrading or imply sexual motives or intentions;

5.2.9. unwelcome and offensive skits, assemblies, and productions that are sexually suggestive, sexually degrading, or implies sexual motives or intentions or are based on sexual stereotypes;

5.2.10. unwelcome written or pictorial display or distribution of pornographic or other sexually explicit materials such as magazines, videos, films, email, text, web pages, etc.;

5.2.11. any other unwelcome gender-based behavior that is offensive, degrading, intimidating, demeaning, or that is based on sexual stereotypes and attitudes.

6. SITE-LEVEL COMPLAINT PROCEDURES

6.1. Students and staff affected by sexual harassment shall be afforded avenues for filing complaints which are free from bias, collusion, intimidation, or reprisal.

6.2. Students and staff subjected to sexual harassment are first encouraged to confront the harasser and tell the harasser to stop the conduct because it is unwelcome.

Complainants should document the incident(s) of harassment, and any conversations they have with the harasser, noting such information as time, date, place, what was said or done, and other relevant circumstances surrounding the event(s).

6.3. If the complainant's concerns are not resolved satisfactorily through a discussion with the harasser, or if the complainant feels he/she cannot discuss the concerns with the harasser, the complainant should directly inform school staff of the complaint and should clearly indicate what action he/she wants taken to resolve the complaint.

Last Modified By: Enter Text

Last Modified On: Select Date

Page: 4

Document Owner: Enter Text

Original Date: Select Date



6.4. Any school employee who receives a complaint of sexual harassment from a student shall inform the student of the employee's obligation to report the complaint to the Executive Director, and then shall immediately notify the Executive Director.

6.5. Complainants who contact school staff with a complaint are encouraged to submit the complaint in writing. However, complaints may be filed verbally.

Alternate methods of filing complaints shall be made available to individuals with disabilities who need accommodation.

7. CONFIDENTIALITY

7.1. It is School policy to respect the privacy and anonymity of all parties and witnesses to complaints brought under this policy. However, because an individual's right to confidentiality must be balanced with the School's obligations to cooperate with police investigations or legal proceedings, or to investigate and take necessary action to resolve a complaint, the School retains the right to disclose the identity of parties and witnesses to complaints in appropriate circumstances.

7.2. Where a complaint involves allegations of child abuse, the complaint shall be immediately reported to appropriate law enforcement authorities and the anonymity of both the complainant and school officials involved in the investigation will be strictly protected as required by Utah Code Ann. §62A-4a-412.

8. SITE-LEVEL INVESTIGATION PROCEDURES

8.1. The school administrator has the responsibility to conduct a preliminary review when he/she receives a verbal or written complaint of sexual harassment, or if he/she observes sexual harassment. The administrator should take the following steps:

8.1.1. Interview the complainant and document the conversation. Instruct the complainant to have no contact or communication regarding the complaint with the alleged harasser. Ask the complainant

Last Modified By: Enter Text

Last Modified On: Select Date

Page: 5

Document Owner: Enter Text

Original Date: Select Date



specifically what action he/she wants taken in order to resolve the complaint. Notify the complainant of his/her right to have someone of the same gender conduct or be present during the interview.

8.1.2. Interview the alleged harasser regarding the complaint and inform the alleged harasser that if the objectionable conduct has occurred, it must cease immediately. Document the conversation.

8.1.3. Instruct the alleged harasser to have no contact or communication regarding the complaint with the complainant and to not take any retaliatory action against the complainant.

8.1.4. If the alleged harasser admits all or part of the allegations, the administrator shall implement appropriate disciplinary action. At a minimum, a written warning/reprimand shall be issued to the harasser and a copy placed in the student's discipline record/file. If the harasser is an employee, submit a copy of the written warning/reprimand to the Executive Director for inclusion in the harasser's personnel file.

8.1.5. If the alleged harasser denies the allegations, promptly conduct a further investigation including interviewing witnesses, if any.

8.1.6. Report back to the complainant:

[a] that the investigation has been completed;

[b] whether or not the evidence supported the claim;

[c] that appropriate actions will be taken; and

[d] instruct the complainant to report immediately if the objectionable behavior occurs again or if the alleged harasser retaliates against him/her.

8.1.7. Notify the complainant that if he/she is unsatisfied with the outcome of the site level investigation he/she may file a complaint according to the provisions of

School Nondiscrimination Policy and Complaint Procedure.

Last Modified By: Enter Text

Last Modified On: Select Date

Page: 6

Document Owner: Enter Text

Original Date: Select Date



8.2. The School Administrator must consider the severity or pervasiveness of the conduct and exercise discretion in determining whether a School level investigation is necessary regardless of the complainant's desires. If a blatant violation occurs involving criminal touching, quid pro quo (e.g., offering an academic reward or punishment as an inducement for sexual favors), or acts which shock the conscience of a reasonable person, the complaint should be referred promptly to the appropriate School Director, Case Management, or Compliance Officer/Title IX Coordinator. In addition, where the Executive Director has reasonable suspicion that the alleged harassment involves criminal activity, he/she should immediately contact appropriate law enforcement authorities.

8.3. Whenever a sexual harassment complaint is made, the Executive Director must take action to investigate the complaint or to refer the complaint for investigation even if the complainant does not request any action or withdraws the complaint.

8.4. Investigations should commence as soon as possible but not later than five (5) working days following receipt of the complaint.

9. RETALIATION PROHIBITION

Any act of reprisal against any person who opposes sexually harassing behavior, or who has filed a complaint, is prohibited and therefore subject to disciplinary action. Likewise, reprisal against any person who has testified, assisted, or participated in any manner in an investigation, proceeding, or hearing of a sexual harassment complaint is prohibited and therefore subject to disciplinary action.

10. DISCIPLINE

10.1. Any individual who violates this policy will be subject to appropriate disciplinary action under applicable school discipline policies, School Human Resource policies, and the School Safe Schools Policy.

10.2. Depending on the severity or persistence of the harassment, an individual who violates this policy may be subject to suspension, exclusion, probation, termination, or alternate placement. In

Last Modified By: Enter Text

Last Modified On: Select Date

Page: 7

Document Owner: Enter Text

Original Date: Select Date



addition, students who violate this policy may lose the privilege of participating in extra-curricular activities.

10.3. If the accused is a student with a disability whose education involves services under the Individuals with Disabilities Education Act (IDEA) or accommodations under Section 504 of the Rehabilitation Act or the Americans with Disabilities Act (ADA), procedures outlined in the Utah State Board of Education Special Education Rules shall be followed, including prior written notice to parents or guardians regarding their procedural due process rights, before any long-term disciplinary action or change of placement takes place.

11. FALSE COMPLAINTS

False, malicious or frivolous complaints of sexual harassment shall result in corrective or disciplinary action taken against the complainant.

12. TRAINING

12.1. All new employees shall receive information about this policy at new employee orientation. All other employees shall be provided information on a regular basis regarding this policy and the School's commitment to a harassment-free learning and working environment.

12.2. Administrative employees who have specific responsibilities for investigating and resolving complaints of sexual harassment shall receive training on a regular basis on this policy and related legal developments.

12.3. School administrators shall be responsible for informing students and staff of the terms of this policy, including the procedures established for investigation and resolution of complaints.

13. RECORDS

Last Modified By: Enter Text

Last Modified On: Select Date

Page: 8

Document Owner: Enter Text

Original Date: Select Date



Separate confidential records of all sexual harassment complaints and initial investigations shall be maintained in the Executive Director's office. Records of school level investigations shall be maintained in the office of the Executive Director.

13.1. Records of initial complaints and investigations shall be retained for at least one (1) year.

13.2. Records of school level investigations shall be retained for at least three (3) years.

13.3. Records of complaints and investigations of blatant violations involving criminal touching, quid pro quo, other criminal acts, or acts which shock the conscience of a reasonable person shall be retained permanently.

4.0 Relevant Procedures, Guidelines & Restrictions

14. DISSEMINATION OF POLICY

A summary of this policy and related materials shall be posted in a prominent place. The policy shall also be published in student registration materials, student and employee handbooks, and other appropriate school publications as directed by the Executive Director.

5.0 Policy Owner

Last Modified By: Enter Text

Last Modified On: Select Date

Page: 9

Document Owner: Enter Text

Original Date: Select Date



6.0 Exhibits / Appendices / Forms

7.0 Supporting Information

8.0 Document History

Last Modified By: Enter Text

Last Modified On: Select Date

Page: 10

Document Owner: Enter Text

Original Date: Select Date