

BOARD AGENDA ITEM
April 18, 2017

SUBJECT:

Changes to Policy GBAA and Administrative Rule GBAA-R Sexual Discrimination and Harassment

BACKGROUND:

This policy and administrative rule set expectations for a working environment free of sexual harassment. They also define sexual harassment and establish procedures for the redress of grievances based on sexual harassment.

ADMINISTRATIVE CONSIDERATION:

The revised policy and administrative rule update definitions and bring procedures in line with the district's current administrative structure. The revision provides specific guidance in filing a complaint for individuals who believe they have been harassed and clarifies the ongoing training process for all employees.

RECOMMENDATION:

Adopt the proposed policy on final reading

ATTACHMENT:

Policy GBAA Sexual Discrimination and Harassment
Administrative Rule GBAA-R Sexual Discrimination and Harassment

PREPARED BY:

King Laurence

SEXUAL DISCRIMINATION AND HARASSMENT

Code **GBAA** Issued **4/17**

Purpose: To establish the board's vision for a working environment free of sexual harassment.

Statement of policy and rationale

Sexual harassment is a form of sex discrimination prohibited by federal and state laws. Consistent with these laws, it is the policy of the Aiken County Public Schools that sexual harassment of employees is prohibited.

Definition

Sexual harassment of employees in the Aiken County Public Schools is defined as unwelcome sexual advances, requests for sexual favors, verbal or otherwise expressive behaviors, or physical conduct commonly understood to be of a sexual nature, by a person of either sex against a person of the opposite or same sex, when:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment (Quid Pro Quo).

OR

- submission to or rejection of such conduct is used as a basis for employment actions, decisions, or assessments that favor or adversely affect the individual's welfare as an employee (Quid Pro Quo).

OR

- such conduct unreasonably and substantially interferes with an individual's welfare and professional performance and creates an intimidating, hostile, offensive and demeaning work environment (hostile work environment).

OR

- the individual's submission to, or rejection of, the conduct is the basis for any decision affecting benefits, services, honors, educational programming, or other available activities. (Quid Pro Quo).

Sexual harassment as defined above may include, but is not limited to, the following:

- sexually-oriented teasing, name-calling, abuse, or harassment
- unwelcome comments or conduct based on an individual's gender identity or nonconformity with gender stereotypes
- graphic or written statements including, but not limited to, text messages, typed or hand-written notes, derogatory cartoons, drawings, posters, or graffiti
- inquiries into one's sexual experiences or activities
- unwelcome touching including, but not limited to, pinching, patting, constant brushing against another's body, or physical interference with movement or work
- remarks with sexual or demeaning implications

C-3 Attachment

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Not all behavior with sexual connotations constitutes sexual harassment under federal law. In order to qualify as a complaint under Title VII or IX, sexual harassment must be sufficiently severe, persistent, or pervasive.

Responsibility

Each administrator, supervisor, faculty member and staff member will strive to provide a work environment free from sexual harassment.

Policy of non-reprisal

No employee, applicant for employment or member of the public may be subject to restraint, interference, coercion or reprisal for seeking information about sexual harassment, filing a sexual harassment complaint or serving as a witness.

Filing a complaint

Any person who feels that he/she has been directly the victim of sexual harassment by a district employee or student may file a complaint. An employee complainant should begin the complaint procedure by initiating the informal consultation, after which a formal complaint for investigation may be filed according to administrative rule GBAA-R. Any student who feels he/she has been subjected to sexual harassment is encouraged to file a complaint in accordance with administrative rule JI-R (Student Rights and Responsibilities). The investigation will be conducted in a confidential manner and concluded within a reasonable period of time. Nothing in district policy requires the complainant to present the complaint to the person who is the subject of the complaint. A formal complaint must be filed within one calendar year of the alleged occurrence. However, no one should be precluded from filing an informal complaint at any time; or from pursuing a claim of sexual harassment with the Equal Employment Opportunity Commission <https://www.eeoc.gov/> or the South Carolina Human Affairs Commission <http://www.schac.sc.gov>.

Disciplinary action

Employees who violate this policy, including willful false accusation of sexual harassment, will be subject to disciplinary action which may include, but is not limited to, oral or written warnings, demotion, transfer, suspension or dismissal for cause.

Education of the school district community

The district has an obligation to make all of its employees aware of this sexual harassment policy and its various provisions. It will be the responsibility of the ~~assistant superintendent for~~ chief officer of administration to make every effort to ensure that all members of the district community are informed and that new employees receive this information near the beginning of their period of association with the district.

Adopted 8/17/93; Revised 11/27/01

SEXUAL DISCRIMINATION AND HARASSMENT

Code **GBAA-R** Issued **4/17**

Sexual harassment

The Aiken County Board of Education recognizes that in order to maintain an environment in which the dignity and worth of all members of the district are respected, sexual harassment must be prohibited. The board has adopted Policy GBAA to provide direction to this process. The following procedures have been developed and approved by the board of education to implement this policy.

Definition

Sexual harassment is defined in Policy GBAA.

Examples of prohibited behavior

Prohibited acts of sexual harassment may take a variety of forms ranging from subtle pressure for sexual activity to physical assault. Examples of the kinds of conduct included in the definition of sexual harassment include but are not limited to the following.

- Threats or intimidation of sexual relations or sexual contact which is not freely or mutually agreeable to both parties (hostile work environment).
- Continual or repeated verbal abuses including graphic commentaries, innuendos, comments, jokes, or propositions of a sexual nature; unwelcome touching or interference with movement; the visual display of derogatory cartoons, drawings, or posters; or suggestive or insulting sounds, leering, whistling, or obscene gestures (hostile work environment).
- Threats or insinuations that the person's employment, wages, promotional opportunities, work assignments or other conditions of employment may be adversely affected by not submitting to sexual advances (Quid Pro Quo).
- The individual's submission to, or rejection of, the conduct is the basis for any decision affecting benefits, services, honors, educational programming, or other available activities. (Quid Pro Quo).

Complaint procedures

An aggrieved individual is encouraged to inform the person engaging in sexually harassing conduct that such conduct is offensive and must stop. If the aggrieved person is not comfortable with direct communication, or if direct communication is unsuccessful, the aggrieved person should initiate the complaint procedures described below.

Informal consultation

The purpose of informal consultation is to clarify what constitutes sexual harassment, to provide guidance and information on administrative procedures, and to resolve inadvertent cases of harassment. A request for informal consultation should be directed to either the immediate supervisor, the building level principal, the executive director responsible for the complainant's location, or the director of human resources. The individual who receives the request for informal consultation must inform the complainant about the options available under this policy. Anyone

else receiving a complaint should encourage the complainant(s) to request an informal consultation or should notify one of the designated individuals directly.

Contact with any of the designated individuals may conclude in one or more of the following options.

- Complainant decides that no sexual harassment has occurred. In this case, no further action will be taken, and the consultation will remain entirely confidential.
- Complainant decides that sexual harassment has occurred but chooses not to pursue further action. The consultation will remain entirely confidential.
- Complainant decides that sexual harassment has occurred and requests that an informal resolution be pursued. At this point the complainant must be advised that, depending upon the circumstances of the complaint, it may be impossible to protect the complainant's identity from the accused.
- Complainant decides that sexual harassment has occurred and chooses to file a formal complaint for investigation.

Documentation that the informal consultation has taken place should be kept and should include a written statement from the complainant and/or notes taken by the individual facilitating the consultation. If such notes are kept, the complainant should be so advised and the notes should be reviewed by the complainant for accuracy. If the name of an accused is revealed during the informal consultation, the accused should be advised of the allegations.

Formal complaint

- Filing a complaint

After completing the informal consultation step, a complainant who wishes to file a formal complaint for investigation and possible action should do so with the individual who conducted the informal consultation, who will complete a sexual harassment complaint form and refer the matter to the chief officer of administration who will begin conducting an investigation within 24 hours. Once a formal complaint has been filed, it must proceed through all the steps in the administrative procedures for sexual harassment complaints.

- Investigation

The purpose of the investigation is to establish whether there is a reasonable basis for believing that the alleged violation of this policy has occurred. In conducting the investigation, the chief officer of administration will interview the complainant and the accused and will normally interview other persons believed to have pertinent factual knowledge. While it may be necessary at times to reveal the name of the accused or the complainants, confidentiality will be maintained by all persons involved. Failure to maintain the confidentiality of the investigation could result in disciplinary action. The investigation will afford the accused a full opportunity to respond to the allegations. Within a reasonable period of time (normally 40 calendar days from the time the complaint was filed), the investigator will provide both the complainant and the accused with written notification that the investigation has been completed, that a written report has been sent to the immediate supervisor of the accused, and that they will be notified as to what further action, if any, will be taken.

- Process of formal action

After receiving a written report of the findings of the investigation from the chief officer of administration, the immediate supervisor will initiate a consultation with the chief officer of administration. Based upon the report and the consultation, the supervisor will decide upon one of three possible courses of action.

- a judgment that the allegations are not warranted
- informal resolution as agreed upon by the parties
- corrective and disciplinary action as described below

- Protection of complainant, witnesses and others

At the time that the formal complaint is filed, the complainant will be informed fully by the individual who conducted the informal consultation and/or the chief officer of administration of steps which the investigation will follow, including the projected timetable for completion of the process.

All reasonable action will be taken to assure that the complainant and those testifying on behalf of the complainant, or supporting the complainant in other ways, will suffer no retaliation as a result of their activities in regard to the process. Steps to avoid retaliation may include the following.

- lateral transfers of one or more of the parties in an employment setting
- arrangements that employment evaluations concerning the complainant or other witnesses be made by an appropriate individual other than the accused

If in the judgment of the superintendent it is in the best interest of the district, the accused may be relieved of his/her duties during the investigation.

- Protection of the accused

At the time the investigation commences, the accused will be informed in writing of the allegations, the identity of the complainant, and the facts surrounding the allegations.

In the event the allegations are not substantiated, all reasonable steps will be taken to so advise those involved in the investigation who had knowledge of the allegations and generally to restore the reputation of the accused if damaged by the proceedings.

A complainant found to have been intentionally dishonest in making the allegations or to have made them maliciously is subject to disciplinary action, including suspension and/or dismissal.

Disciplinary action

Any administrator, supervisor or employee who is found to have engaged in sexual harassment will be notified of the outcome of the investigation and will be subject to appropriate disciplinary action, which may include, but is not limited to, oral or written warnings, demotion, transfer, suspension or dismissal for cause.

Remedial action

The complainant will be notified of the outcome of the investigation. If applicable, the complainant will also be notified of the specific remedy available to him/her and the general category of disciplinary action taken against the accused. Every reasonable effort will be made to insure that the complainant is free from any further harassment. The individual who conducted the informal consultation will be responsible for counseling the complainant to insure that he/she

is comfortable with the resolution and for following up with the complainant at least once within three months of the resolution to insure that the complainant has not been subjected to any further harassment.

Education of the school district community

Policy GBAA as well as this administrative rule will be easily accessible to all employees on the school district website, in each school media center, and in the district human resources department. Each employee will participate annually in the school district's orientation or review on the nature of sexual harassment, how to identify it, and the appropriate actions to follow should they encounter sexual harassment.

Issued 8/17/93; Revised 11/27/01