

# McMinnville School District #40

Code: JBA-AR(1)  
Revised/Reviewed: 3/10/08  
Orig. Code: JBA-AR

## Sexual Harassment - Students

### 1. Reporting

Any student or employee who believes a student is being sexually harassed shall immediately inform a teacher or administrator. If the person reported to is not an administrator, that person shall immediately notify the building principal or designee.

### 2. Filing the Complaint

Every school shall have district approved sexual harassment complaint forms available in the main office. The complaint form should be completed, signed and dated by the complainant, which may be a student or the student's parent, making the complaint on behalf of the student. The complainant must furnish sufficient background material concerning the sexual harassment so as to identify the person(s) and action(s) that led to the allegation in order for the school to take action to make the harassment stop. If the student or parent reports the matter but declines to complete a complaint form, the principal or designee shall complete the complaint form, noting that the student or parent has declined to complete the form.

### 3. Investigating

Once the principal has notice of an alleged harassment, he or she, or a designee, must immediately initiate an investigation and take appropriate action to make the harassment stop. The complainant and alleged harasser shall not be directed to resolve the matter themselves. If there is a risk the alleged harasser may interfere with the investigation, he or she may be suspended pending the completion of the investigation.

An investigation should include interviews with the complainant, witnesses, and the alleged harasser. Interviews should be documented, including statements by the complainant and witnesses describing each action which may constitute sexual harassment, and other information which will help determine the validity of the complaint.

- a. The investigator should maintain a compassionate, non-judgmental demeanor and ask open-ended questions to obtain as full and fair record of the alleged misconduct as possible.
- b. When an employee is the alleged sexual harasser, the Office of Human Resources should be notified before the investigation begins. If the alleged harassment would constitute child abuse, and there is reasonable suspicion that the allegations are true, a report must be made in accordance with ORS 419B.010.
- c. The investigation should begin with an interview of the complainant. In conducting the interview, the investigator should objectively ask about all instances of sexual harassment, if there are other individuals who may have complaints, and if there were any witnesses to any of the conduct. The investigator should not pre-judge either side, should not give the appearance of pre-judging, and should use whatever techniques are necessary to help the complainant tell

the story. In no event shall the complainant and alleged harasser be interviewed together. The investigator should remind the complainant that the district's policy prohibits ongoing sexual harassment and retaliation and encourage him/her to come forward if there is further sexual harassment or retaliatory conduct.

- d. In most cases, the second step of the investigation should be interviewing witnesses and gathering information to interview the alleged harasser. Witnesses may have seen the events and may be able to describe the conduct as well as the complainant's reaction or response. They may also have witnessed other events or incidents corroborating or disproving the versions of the complainant or the alleged harasser. Witnesses should be advised that the conduct under investigation is sensitive and confidential (except to the extent the witness may be called to testify if the matter goes to hearing or trial), and should not be discussed outside of the investigation.
- e. In interviewing the alleged harasser, the investigator should review the complainant's allegations and give the alleged harasser an opportunity to admit, deny, or explain the circumstances. The investigator should also ask the alleged harasser for names of witnesses that may substantiate his/her position. The alleged harasser should be reminded of the district's policy against sexual harassment and that retaliatory conduct is prohibited. The alleged harasser should also be told he or she is not to make any contact with the complainant pending the conclusion of the investigation.

#### 4. Determining if Sexual Harassment Has Occurred

- a. Once the investigation has been completed, if the investigator is not the principal, the information should be given to the principal, who shall review the facts and determine whether or not sexual harassment has occurred and the appropriate discipline if sexual harassment has occurred. The decision-making process, which factors were considered, and what significance they had in the determination should be documented.

Factors which may be considered include but are not limited to:

- (1) The nature of the conduct
  - (2) How often the conduct occurred
  - (3) How long the conduct continued
  - (4) The age, maturity and sex of the student
  - (5) Whether the complainant found the conduct unwelcome
  - (6) Impact of the conduct on the student's education or educational environment
  - (7) Whether the alleged harasser was in a position of power over the student subjected to the harassment
  - (8) Number of alleged harassers
  - (9) Age of the alleged harasser
  - (10) Where the harassment occurred
  - (11) Other incidents of sexual harassment at the school involving the same or other students
- b. The principal shall respond in writing to the complainant, the alleged harasser, and the parents of each within fourteen (14) days with one of the following three statements:
    - (1) that the district does not have adequate evidence to conclude that harassment occurred;

Even if the principal decides the alleged sexual harassment cannot be corroborated, action should be taken to avoid a subsequent similar behavior. The principal should

advise the complainant and the alleged harasser (separately) of the outcome of the investigation and how the conclusion was reached. Any meetings or discussion should be documented. If the complainant and alleged harasser must continue to interact, the situation should be monitored to minimize the potential for a retaliation claim and to avoid any adverse impact on the complainant's school performance.

- (2) that sexual harassment occurred, and delineating the corrective actions the district intends to take; or

If a determination is made that sexual harassment occurred, the school must take appropriate action to make the harassment stop. The severity of the conduct will be assessed, and the appropriate disciplinary action for the harasser will be determined, taking into account progressive disciplinary principles under E. below. The discipline should be documented, including the considerations which lead to the selection of the level of discipline. As a general rule, physical conduct merits stronger penalties than verbal conduct. Disciplinary action against a student will only be disclosed to other parties in accordance with the federal Family Educational Rights & Privacy Act (FERPA).

- (3) that the investigation is incomplete to date and will be continuing.

If the principal is still gathering information in the investigation, this should be explained (separately) to the complainant and the alleged harasser. The complainant and the alleged harasser should also be reminded of the district's commitment to enforcing the sexual harassment policy, and the complainant should be encouraged to come forward with any new or continuing concerns of sexual harassment. The investigator should periodically check with the complainant as the investigation continues to see if other concerns have arisen. Any meeting or discussion should be documented.

- c. Upon the completion of the investigation, a copy of the complaint form and the disposition of the complaint shall be forwarded to the Title IX Coordinator.

## 5. Sanctions for Sexual Harassment

The purpose of any sanction is to make the harassment stop and prevent future occurrences.

First Offense	All incidents will be documented, and the parents/guardians/ custodians of the complainant and harasser will be notified. For less severe offenses, appropriate discipline could be a conference with the student, counseling, or an educational activity to make the student aware of the impact and prohibition of sexual harassment in the school. In situations where the sexual harassment is severe, suspension or expulsion may be imposed.
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Second Offenses	All incidents will be documented, and the parents/guardians/ custodians of the complainant and harasser will be notified. Depending upon the seriousness of the offense, discipline could range from suspension to expulsion.
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Subsequent Offenses All incidents will be documented, and the parents/ guardians/custodians of the complainant and harasser will be notified. The alleged harasser is subject to suspension or expulsion.

When behavior constituting sexual harassment also may constitute criminal activity, law enforcement may be notified by the superintendent or designee. The district reserves the right to impose disciplinary sanctions for sexual assault independent of any criminal penalties that may be imposed.

For students in special education, disciplinary actions may be modified to conform to requirements of the Individuals with Disabilities Education Act.

6. Title IX Coordinator

The Superintendent shall appoint a Title IX Coordinator who duties shall include:

- a. Promoting student understanding of how to recognize and prevent sexual harassment through age appropriate education, and review of the district policy and regulation.
- b. Developing a district complaint form for reporting allegations of sexual harassment and making staff and students aware of the form and procedure for reporting.
- c. Receiving and compiling sexual harassment complaints, and making an annual report to the superintendent.
- d. Maintaining a record of sexual harassment training to district personnel.