

STATE COLLEGE AREA SCHOOL DISTRICT

SECTION: 100 Programs
TITLE: Discrimination, Harassment, Sexual and/or Gender-Based Harassment, and Related Inappropriate Conduct - Employment Practices
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Current SCASD [policy 104](#)

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Policy

The State College Area School District is committed to providing to all persons equal access to all categories of employment, regardless of race, color, age, creed, religion, gender, sexual orientation, gender identity, ancestry, national origin, marital status, genetic information, pregnancy, or handicap/disability. The District shall make reasonable accommodations for identified physical and mental impairments that constitute disabilities, consistent with the requirements of federal and state laws and regulations. This policy has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated.

All members of the SCASD community are expected to conduct themselves in a manner that does not infringe upon the rights of others. Discriminatory conduct and harassment, including sexual misconduct and relationship violence, violates the dignity of individuals and will not be tolerated. These behaviors are inconsistent with the goals of the District and are prohibited on school grounds, at

school-sponsored activities and on any conveyance providing transportation to or from a school entity or school-sponsored activity.

Employees and third parties who believe they or others have been subject to discrimination and/or harassment are encouraged to promptly report such incidents as described below, even if some elements of the related incident took place or originated away from school grounds, school activities or school conveyances.

Complaints of discrimination and/or harassment shall be investigated promptly, and appropriate corrective or preventive action shall be taken when allegations are substantiated. Any complaint of discrimination and/or harassment brought pursuant to this policy shall also be reviewed for conduct which may not be proven under this policy but merits review and possible action under other policies.

Prohibited Conduct

Harassment consists of unwelcome conduct such as graphic, written, electronic, verbal or nonverbal acts including offensive jokes, slurs, epithets and name-calling, ridicule or mockery, insults or put-downs, offensive objects or pictures, physical assaults or threats, intimidation, or other conduct that may be harmful or humiliating or interfere with a person's work performance and which relates to an individual's or group's race, color, age, creed, religion, gender, sexual orientation, ancestry, national origin, marital status, genetic information, pregnancy or handicap/disability.

Whether the alleged conduct constitutes prohibited harassment depends on the totality of the particular circumstances, including the nature, frequency and duration of the conduct in question, the location and context in which it occurs and the status of the individuals involved. A reasonable person in the complainant's position would find that it creates an intimidating, threatening, hostile, or abusive environment such that it:

- a. deprives or adversely interferes with or limits an individual or group of the ability to participate in or benefit from the services, activities or opportunities offered by a school, or
- b. substantially disrupts school operations or activities.

Petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of illegality. To be unlawful, the conduct must create an environment that would be intimidating, hostile, or offensive to reasonable people.

Harassment does not mean the legitimate exercise of constitutional rights within the school setting. The District recognizes there is a right to express opinions,

ideas and beliefs so long as such expression is not lewd, or profane, discriminatory or materially disruptive of school operations or the rights of others.

Discriminatory Harassment includes the unwelcome conduct described above that occurs in response to an individual's participation in reports or investigations of alleged discrimination is a form of discrimination and is subject to this policy. A person who is not necessarily an intended victim or target of such harassment but is adversely affected by the offensive conduct may file a report of discrimination on her/his own behalf.

Gender-Based Harassment consists of physical or verbal conduct based on gender, sexual orientation, gender-stereotyping, perceived gender, or gender identity, but not involving conduct of a sexual nature. Gender-based harassment may include, but is not limited to, verbal or physical attacks, graphic or written statements, threats, or slurs. Whether the alleged conduct constitutes prohibited gender-based harassment depends on the totality of the particular circumstances, including the nature, frequency and duration of the conduct in question, the location and context in which it occurs, and the status of the individuals involved.

Sexual Harassment is unwelcome conduct on the basis of sex such as sexual advances; requests for sexual favors; and other inappropriate verbal, written, graphic, or physical conduct of a sexual nature when:

1. Submission to such conduct is made explicitly or implicitly a term or condition of an employee's status; or
2. Submission to or rejection of such conduct is used as the basis for employment-related decisions affecting an employee; or
3. Such conduct is sufficiently severe, persistent, pervasive, and offensive that a reasonable person in the complainant's position would find that it unreasonably interferes with performance at work or otherwise creates an intimidating, hostile, or offensive working environment such that it alters the complainant's working conditions.

The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the harassment is physical.

Sexual harassment may take different forms. Examples of conduct that may constitute sexual harassment are:

1. Verbal: Sexual innuendos, suggestive comments, jokes of a sexual nature, sexual propositions, lewd remarks, or threats. Requests for any type of sexual favor (this includes repeated, unwelcome requests for dates). Verbal

abuse or "kidding" that is oriented toward a prohibitive form of harassment, including that which is sex oriented and considered unwelcome.

2. Nonverbal: The distribution, display, or discussion of any written or graphic material, including calendars, posters and cartoons that are sexually suggestive or show hostility toward an individual or group because of sex; suggestive or insulting sounds; leering; staring; whistling; obscene gestures; content in letters and notes, facsimiles, email, photos, text messages, Internet postings, etc., that are sexual in nature.
3. Physical: Unwelcome, unwanted physical contact, including but not limited to touching, tickling, pinching, patting, brushing up against, hugging, cornering, kissing, fondling; forced sexual intercourse or assault.

Normal, courteous, mutually respectful, pleasant, non-coercive interactions that are acceptable to and welcomed by both parties, are not considered to be harassment, including sexual harassment.

Sexual Violence is a form of sexual harassment and means physical or sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol. An individual may also be unable to give consent due to an intellectual or other disability. Sexual violence includes but is not limited to rape, sexual assault, sexual battery and sexual coercion.

Gender-based and sexual harassment, including sexual violence, are forms of gender discrimination in that they deny or limit an individual's ability to participate in or benefit from programs and activities.

Consensual Relationships

Consent must be informed, freely given, and mutual. If coercion, intimidation, threats, or physical force are used, there is no consent. If a person is mentally or physically incapacitated or impaired so that they cannot understand the situation, then there is no consent. This includes impairment or incapacitation due to alcohol or drug consumption, or being asleep or unconscious, where the respondent reasonably should have known that the person was incapacitated. Silence does not necessarily constitute consent. Previous consent does not imply consent to similar or related activity in the future. Consent, once given, can be withdrawn at any time.

Romantic and/or sexual relationships between employees and students are prohibited. Employees who develop a romantic and/or sexual relationship with a student will be reported as required by law and are subject to disciplinary action, up to and including immediate dismissal.

Title IX Coordinator

Reporting directly to the Superintendent, the District's Title IX Coordinator oversees compliance with all aspects of this policy. Questions about this policy and/or reports relating to sexual and/or gender-based harassment, discrimination, and misconduct should be directed to the Title IX Coordinator:

Linda E. Pierce
Human Resources Director and Title IX Coordinator
814-272-4685
lep16@scasd.org

In the event that an incident involves alleged misconduct by the Title IX Coordinator, reports should be made directly to the Superintendent (814-231-1016).

Individuals experiencing harassment or discrimination also always have the right to contact government authorities:

Office for Civil Rights - Philadelphia Office
U.S. Department of Education
The Wanamaker Building
100 Penn Square East, Suite 515
Philadelphia, PA 19107
Telephone: (215) 656-8541
Email: OCR.Philadelphia@ed.gov

Reporting Complaints

Anyone who is concerned about the possibility of assault is strongly encouraged to immediately report the concern to the local police department.

The District encourages anyone to report concerns and complaints about acts of discrimination, harassment, sexual harassment, or intolerance to the Human Resources Director/Title IX Coordinator, the employee's Supervisor, Assistant Superintendents, Security Officers, the Director of Student Services, or the Director of Equity and Inclusivity.

The District will make every reasonable effort to promptly investigate and resolve complaints of discrimination, harassment, or sexual harassment with due regard for fairness and the rights of both the complainant and alleged offender, and to conduct all proceedings in the most confidential manner possible.

Any person electing to utilize this complaint resolution procedure will be treated courteously and the problem will be handled swiftly and as confidentially as feasible in light of the need to take appropriate corrective action. The registering of a complaint will in no way be used against the employee, nor will it have an adverse impact on the individual's employment.

It is the responsibility of all administrators, supervisors, faculty, staff, and students to report any conduct that is in violation of this policy.

Mandatory Reporting

Any District employee who suspects or is notified that a student has been subject to conduct that constitutes a violation of this policy shall immediately report the incident to their Supervisor, Principal, Assistant Superintendent, or the Title IX Coordinator.

Confidentiality

During the complaint process, while the confidentiality of the information received, the privacy of the individuals involved, and the wishes of the complainant regarding action by the office cannot be guaranteed in every instance, they will be protected to as great a degree as is legally possible. The expressed wishes of the complainant for confidentiality will be considered in the context of the District's legal obligation to act upon the charge and the right of the charged party to obtain information.

Retaliation

The Board prohibits retaliation against any person for making a report of discrimination or participating in a related investigation or hearing, or for opposing practices the person reasonably believes to be discriminatory. A complaint of retaliation shall be handled in the same manner as a complaint of discrimination.

Delegation of Responsibility

In order to maintain a program of nondiscrimination practices that is in compliance with applicable laws and regulations, the Board designates the Human Resources Director as the District's Compliance Officer. All nondiscrimination notices or information shall include the name, position, and contact information of the Compliance Officer.

The Superintendent or designee shall develop procedures for outlining the means by which incidents of sexual harassment shall be reported, investigated, and resolved according to this policy.

Cross References

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Student Handbooks

Legal

1. 20 U.S.C. 1681 et seq

2. 22 PA Code 12.1

3. 22 PA Code 12.4

4. 22 PA Code 15.1 et seq

5. 22 PA Code 4.4

6. 24 P.S. 1301

7. 24 P.S. 1310

8. 24 P.S. 1601-C et seq

9. 24 P.S. 5004

10. 29 U.S.C. 794

11. 42 U.S.C. 12101 et seq

12. 42 U.S.C. 1981 et seq

13. 42 U.S.C. 2000d et seq

14. 43 P.S. 951 et seq

19. U.S. Const. Amend. XIV, Equal Protection Clause

20. 29 CFR 1604.11

21. 29 CFR 1606.8

22. Davis v. Monroe County Board of Education, 526 U.S. 629 (1999)

23. Franklin v. Gwinnett County Public Schools, 503 U.S. 60 (1992)

24. Office for Civil Rights - Guidance on Schools' Obligations to Protect Students from Student-on-Student Harassment on the Basis of Sex; Race, Color and National Origin; and Disability (Oct. 26, 2010)

25. Office for Civil Rights - Resources for Addressing Racial Harassment

26. Office for Civil Rights - Revised Harassment Guidance: Harassment of Students by School Employees, Other Students or Third Parties Title IX (January 2001)

Resources:

Pacer's National Bullying Prevention Center

<https://www.eeoc.gov/laws/types/harassment.cfm>