

SEXUAL HARASSMENT AND OTHER FORMS OF PROHIBITED WORKPLACE CONDUCT

The Jefferson Parish School Board desires to maintain an academic and work environment in which all employees, volunteers, and visitors are treated with respect and dignity. In furtherance of this goal, the School Board hereby expressly prohibits **Sexual Harassment** and any other form of unlawful **Discrimination** or **Harassment** based on an individual's membership in a protected class. Discrimination against any individual based on his or her race, color, religion, sex, gender, national origin, age, marital status, citizenship, sexual orientation, disability, genetic background or veteran status is strictly prohibited under state and federal law, and under this policy.

Bullying, as it is defined herein, is another form of prohibited workplace conduct. Complaints of bullying in the workplace, whether or not such conduct is based on the victim's membership in a protected class, is strictly prohibited. Complaints of workplace bullying shall be addressed in accordance with the procedures set forth herein.

Retaliation against any person for filing a claim or making a complaint of prohibited harassment or discrimination, participating in the investigation of a complaint or engaging in any other protected conduct, is also a violation of this policy and applicable law.

This policy applies equally to employees, volunteers, vendors, service providers, visitors and members of the School Board with respect both to its protections and prohibitions.¹ Complaints of sexual harassment, discrimination or bullying must be reported, and will be addressed, in accordance with the procedures set forth herein.

DEFINITION OF SEXUAL HARASSMENT

Sexual harassment is a type of discrimination based on sex. Prohibited sexual harassment includes, but is not limited to, requests for sexual favors and other verbal, visual, or physical conduct of a sexual nature when:

1. Submission to the conduct is explicitly or implicitly made a term or condition of an individual's employment.
2. Submission to or rejection of the conduct by an individual is used as the basis for employment decisions affecting the individual.
3. The conduct has the purpose or effect of having a negative impact on the individual's employment, unreasonably interfering with the individual's employment, or creating an intimidating, hostile, or offensive workplace environment.
4. The submission to or rejection of the conduct by the individual is used as

¹ Complaints related to sexual harassment to, or by, students, should be reported in accordance with Board Policy JCEA. Complaints related to bullying of, or by, students should be reported in accordance with Board Policy JCDAF.

the basis for any decision affecting the individual regarding any term or condition of employment or employment benefits.

Types of conduct that are prohibited and that may constitute sexual harassment include, but are not limited to:

1. Graphic verbal comments about an individual's body or appearance.
2. Sexual jokes, notes, stories, drawings, pictures, emails or gestures.
3. Sexual slurs, leering, threats, abusive words, derogatory comments, or sexually degrading descriptions.
4. Unwelcome sexual flirtations or propositions for sexual activity or unwelcome demands for sexual favors, including, but not limited to, repeated unwelcome requests for dates.
5. Spreading sexual rumors.
6. Touching an individual's body or clothes (including one's own) in a sexual way, including, but not limited to, grabbing, brushing against, patting, pinching, bumping, rubbing, kissing, and fondling.
7. Cornering or blocking normal movements.
8. Displaying sexually suggestive drawings, pictures, written materials, and objects in the workplace or on district-owned equipment or property including computers.

DEFINITIONS OF OTHER FORMS OF PROHIBITED HARASSMENT

Unlawful harassment on the basis of any other characteristic protected by state or federal law is strictly prohibited. This includes verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his or her race, color, religion, sex, gender, national origin, age, disability, genetics, marital status, citizenship, or sexual orientation any other characteristic or activity protected by law and that:

1. Has the purpose or effect of, creating an intimidating, hostile, or offensive work or academic environment.
2. Has the purpose or effect of interfering with an individual's work or academic performance.
3. Otherwise adversely affects an individual's employment or academic performance.

Examples of prohibited actions that may constitute harassment include the following:

1. Epithets, slurs, or negative stereotyping
2. Threatening, intimidating, or hostile acts, such as stalking
3. Written or graphic material that denigrates or shows hostility or aversion toward an individual or group and that is placed on walls, equipment or computers, or elsewhere on the school or district office premises or circulated in the workplace.

BULLYING/ABUSIVE WORK ENVIRONMENT

Bullying is strictly prohibited under this policy. ***The victim of workplace bullying need not be a member of a protected class.*** Like other forms of harassment, workplace bullying is conduct that:

1. Has the purpose or effect of, creating an intimidating, hostile, or offensive work or academic environment.
2. Has the purpose or effect of interfering with an individual's work performance.
3. Otherwise adversely affects an individual's employment work performance.

Examples of prohibited actions that constitute workplace bullying include, but are not necessarily limited to, the following:

1. Yelling, badgering, threatening – verbally or physically.
2. Demeaning or denigrating an employee or his/her work product.
3. Making unreasonable demands on an employee's personal time.
4. Giving unreasonably onerous work assignments.
5. Isolating an employee from colleagues physically or psychologically.
6. Excluding from workplace activities or programs.

In determining whether a complainant has been subjected to workplace harassment or bullying, as defined herein, the investigation shall consider all of the circumstances to determine whether there is both objective and subjective evidence that the victim has been subjected to conduct severe and pervasive enough to create a work environment that a reasonable person would find hostile or abusive and which altered the conditions of the complainant's employment. Subjective evidence is evidence that the complainant considered the conduct abusive, and includes such factors as the complainant's reaction to the conduct, whether he or she reported the conduct, and the effect the conduct had on the complainant's well-being. In making the determination of whether a reasonable person would consider the conduct abusive (objective evidence), the investigation shall take into consideration all relevant factors, including, but not limited to:

- a. the frequency of the conduct;
- b. the severity of the conduct;
- c. whether the conduct was physically threatening or humiliating;
- d. whether the conduct was merely and offensive utterance; and
- e. whether the conduct unreasonably interfered with the complainant's work performance.

The prohibited conduct described herein does not include the legitimate exercise of employee management, including evaluation of performance, assignment of tasks, employee mentoring, placement on Performance Improvement Plans and other accountability measures intended to improve employee performance, nor does it include work or performance-related discipline.

RETALIATION PROHIBITED

Retaliation against an individual for filing a complaint of workplace harassment, discrimination or bullying is strictly prohibited. Retaliation for participating in an investigation or engaging in any other protected activity is also prohibited. Retaliation may include, but is not limited to, any form of intimidation, reprisal, or harassment based upon participation in the investigation or filing of a complaint of harassment, bullying or discrimination.

PROCEDURE FOR FILING A COMPLAINT

1. Filing Complaints

- a. Any person who believes that he or she has been the victim of workplace harassment or bullying, whether or not such bullying or harassment is based on the individual's membership in a protected class, should immediately notify the school district and file a complaint, preferably in writing. The complaint should set forth a description of the alleged bullying or harassment, the time frame in which the alleged conduct occurred, the person or persons involved in the alleged prohibited conduct, and any witnesses or other evidence relevant to the allegations in the complaint.
- b. The complaint should be filed with the school principal or building administrator. Complaints filed with the principal or building administrator shall be forwarded to the Human Resource Department within seven (7) calendar days of the filing of the complaint. If the complaint is against the principal or building administrator, the complaint may be filed directly with the Human Resource Department.
- c. If the complaint is against the Superintendent or a member of the School Board, the complaint may be filed with the School Board attorney.

2. Processing Complaints

- a. Complaints filed against persons other than the Superintendent or member of the School Board shall be processed as follows:
 - i. Upon receipt of the written complaint, the Human Resource Department shall conduct an investigation of the allegations in the complaint. The investigator shall interview the complainant and the accused; interview any witnesses identified by the complainant, accused, or by other sources; take statements from all witnesses; and review any relevant documents or other evidence. Upon completing a review of all evidence relevant to the complaint, the

investigator shall prepare a written summary of the investigation and make a recommendation to the Superintendent or his/her designee as to whether or not there is reasonable cause to believe a violation of this policy has occurred. Copies of documents, evidence, and witness statements that were considered in the investigation shall be included with the summary and recommendation.

- ii. The investigation, summary, relevant documents, witness statements, and recommendation should be completed and forwarded to the Superintendent or his/her designee within thirty (30) days. The Superintendent or designee shall review the investigation summary, evidence and recommendation, and determine whether there is reasonable cause to believe a violation of this policy has occurred.
 - iii. If the Superintendent or designee determines there is reasonable cause to believe a violation has occurred, he or she shall cause a special conference to be held notifying the accused of the allegations against him or her, at which time the accused may respond to the accusations. At the conference, the Superintendent or his/her designee may direct further investigation if necessary, based on the response of the accused, or may make a decision on whether or not personnel action is necessary.
- b. The decision of the Superintendent or his designee shall be final. The accused shall have the right to appeal the final decision as provided by law.
- c. Complaints filed against School Board members or against the Superintendent:
- i. Complaints against School Board members or the Superintendent shall be filed with the School Board attorney. The School Board attorney shall appoint an outside, independent investigator to conduct an investigation and make a recommendation as to whether a violation of this policy has occurred. It is recommended, but not mandatory, that the investigator be an attorney familiar with state and federal employment law.
 - ii. The complainant and accused shall be interviewed by the outside investigator. Both shall provide written lists of witnesses to be interviewed and documents and other evidence to be reviewed relevant to the complaint. The investigator shall interview all witnesses identified by the complainant or accused, in addition to witnesses with relevant knowledge that the investigator may discover from other sources. The investigator shall also review relevant

documents and other evidence. The investigator shall then prepare a written summary of his or her investigation and a recommendation to the School Board attorney as to whether there is reasonable cause to believe that a violation of this policy may have occurred. A copy of the investigator's report and recommendation shall be provided to the entire School Board.

- iii. If the investigator determines that there is reasonable cause to find that a School Board member or the Superintendent has engaged in unlawful discrimination or harassment, the School Board attorney shall forward the report and recommendation to the Attorney General's office to determine if there is evidence of misfeasance or malfeasance of office. The Attorney General's office will be responsible for taking any necessary action in accordance with applicable law with reference to an elected official.
- iv. If the investigator determines that a School Board member or the Superintendent engaged in prohibited workplace bullying -- as distinguished from unlawful harassment or discrimination based on the victim's protected status -- the School Board, in consultation with the School Board attorney, shall make a determination as to what remedies and/or consequences are appropriate under the circumstances of the case. The School Board, under Board policy BBBB, shall determine what, if any, action will be taken against the Board member accused of violating this policy.
- v. A finding that the allegations are not substantiated or that insufficient evidence to support the allegations was found by the outside investigator, which will be reviewed and confirmed by the School Board, in consultation with the School Board attorney, shall be final.

3. Penalties for Confirmed Discrimination or Harassment

- a. Employees and Others A substantiated allegation that an employee has violated this policy may result in disciplinary action, up to, and including, termination of employment and referral to appropriate law enforcement authorities. A volunteer shall be removed from service and a referral may be made to appropriate law enforcement authorities. Substantiated claims against others, such as vendors, visitors, or service providers will be addressed as deemed appropriate under the circumstances, consistent with state and federal law and Board policy.

SEXUAL HARASSMENT AS SEXUAL ABUSE

Under certain circumstances, sexual harassment of a student may constitute sexual

abuse under the Louisiana Children's Code. In such situations, School Board personnel shall comply with Article 609 (A) of the Louisiana Children's Code and directly report the sexual abuse to the Child Protection Unit of the Louisiana Department of Social Services.

DISCIPLINE

Any action taken pursuant to this policy shall be consistent with requirements of applicable statutes and School Board policies. The School Board and Superintendent shall take such disciplinary action for employees and non-employees deemed necessary and appropriate, including warning, transfer, suspension, discharge, contract termination or other appropriate action needed to put a stop to the prohibited conduct and prevent its recurrence, all in compliance with applicable statutory provisions.

Revised: July, 2018

Ref:U.S. Constitution, Amend. XIV, § 1; 20 U.S.C. § 1681 et seq.; 29 U.S.C. § 216 et seq. (GINA); 29 U.S.C. § 621 et seq. (ADEA); 29 U.S.C. § 701 et seq. (Rehabilitation Act); 38 U.S.C. § 4301 (USERRA); 42 U.S.C. § 1981 et seq.; 42 U.S.C. § 1983 et seq.; 42 U.S.C. § 2000e et seq. (Civil Rights Act of 1964); 42 U.S.C. § 12101 et seq. (ADAAA); 29 CFR 1604.11 (EEOC); Constitution of Louisiana, Art. 1, § 3; Art. 10, §10; La. R.S. § 23:302, La. R.S. § 23:303; La. R.S. § 23:322, La. R.S. § 23:323, La. R.S. § 23:324, La. R.S. § 332, et seq. (disability); La. R.S. § 23:302, La. R.S. § 23:303, La. R.S. § 23:311, et seq. (age); La. R.S. § 23:302, La. R.S. § 23:303, La. R.S. § 23:341 et seq. (pregnancy); La. R.S. § 23:302, La. R.S. § 23:303, La. R.S. § 23:332 et seq. (race, color, religion, sex & national origin); La. R.S. § 23:302, La. R.S. § 23:303, La. R.S. § 23:351 et seq. (sickle cell); La. R.S. § 23:368 (genetic trait); La. R.S. § 23:962 (political activities); La. R.S. § 23:967 (reprisal); La. R.S. § 46:2251 et seq. (handicapped persons); La. Rev. Stat. Ann. '14:41 et seq., 17:81; La. Civil Code, '2315; Board minutes, 6-2-03.