

Board of Education

POLICY ACA Las Cruces Public Schools

Related Entries: [ACA-R](#), [ACA-RA](#), [GBAA](#), [JICK](#), [JICK-R](#), [JKD-RA](#), [JK](#)
Responsible Office: Superintendent

Sexual Harassment

I. PURPOSE

By issuing a single, comprehensive policy statement, the Board of Education seeks to clarify and reaffirm its commitment to ensuring that all LCPS employees and students are provided with a work and learning environment that is free of sexual harassment. Sexual harassment is a form of sex discrimination and includes but is not limited to sexual harassment based on gender, gender identity, gender stereotypes, or sexual orientation, or any other prohibited basis related to sex, which is prohibited by this policy in addition to federal law. In addition, same-sex sexual harassment constitutes unlawful sexual harassment.

II. POSITION

LCPS ~~will not condone or tolerate~~prohibits any form of sexual harassment of, or by, staff or students. LCPS is committed to the creation and maintenance of a learning and work environment in which all persons who participate in school programs and activities can do so in an atmosphere free from all forms of sexual harassment. In addition, the District prohibits retaliation against any student or employee who makes a report of sexual harassment in good faith, serves as a witness, or otherwise participates in an investigation of such conduct.

The ~~S~~uperintendent is directed to make every effort to ~~make certain~~ensure that everyone affected by this policy ~~shall be~~is informed of its provisions ~~and also~~and that infractions of it may be in violation of federal/civil and/or criminal laws. It is the intention of LCPS to take whatever action may be needed to prevent, correct, and, if necessary, discipline behavior which violates this policy.

It is the responsibility of every supervisor and principal to recognize acts or reports of sexual harassment and take necessary action to ensure that such ~~instances~~acts or reports are investigated and addressed ~~swiftly~~promptly, fairly, and effectively. Consequently, all LCPS administrators, teachers, and staff in schools, offices, and other facilities shall be cognizant of, and responsible for, ~~effectively~~ implementing the sexual harassment complaint ~~resolution and reporting~~ procedures established in this policy and related regulations.

The Superintendent of Schools shall promulgate a regulation for the enforcement of this policy.

III. DEFINITIONS

~~Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, and other verbal, graphic, written, or physical conduct of a sexual nature~~

Formatted: Heading 2, Indent: Left: -0.01", Right: 0", Space After: 15.2 pt, Tab stops: 1.05", Centered

A. Prohibited sexual harassment of an employee is defined by federal law as unwelcome sexual advances; requests for sexual favors; sexually motivated physical, verbal, or nonverbal conduct; or other conduct or communication of a sexual nature when:

- a. Submission to the conduct is either explicitly or implicitly a condition of an employee's employment, or when submission to or rejection of the conduct is the basis for an employment action affecting the employee; or
- b. The conduct is so severe, persistent, or pervasive that it has the purpose or effect of unreasonably interfering with the employee's work performance or ~~creates~~ creates an intimidating, threatening, hostile, or offensive work environment.

Examples of sexual harassment of an employee may include sexual advances; touching intimate body parts; coercing or forcing a sexual act on another; jokes or conversations of a sexual nature; and other sexually motivated conduct, contact, or communication, including electronic communication.

B. Under federal law, prohibited sexual harassment of a student is defined as:

- a. A District employee conditioning the provision of a District aid, benefit, or service on the student's participation in unwelcome sexual conduct (i.e., quid pro quo sexual harassment); or
- b. Unwelcome conduct, by a District employee or by another student, determined by a reasonable person to be so severe, pervasive, AND objectively offensive that it effectively DENIES the student equal access to the District's education program or activity; or
- c. One of the following:
 - i. Sexual assault as defined by federal ~~law~~ law
 - ii. Dating Violence as defined by federal law
 - iii. Domestic Violence as defined by federal law
 - iv. Stalking as defined by federal law

ACA/ACA-RA: Sexual Harassment

Sexual harassment of a student, including harassment by another student or a District employee, includes unwelcome sexual advances; requests for sexual favors; or sexually motivated physical, verbal, or nonverbal conduct, or harassment based on the student's gender, the student's expression of characteristics perceived as stereotypical for the student's gender, or the student's failure to conform to stereotypical notions of masculinity or femininity when the conduct is so severe, persistent, or pervasive that it:

1. Affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;environment.
2. Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
3. Otherwise adversely affects the student's educational opportunities.

Examples of sexual harassment of a student may include sex or gender-based name-calling, sexual advances; touching intimate body parts or coercing physical contact that is sexual in nature; jokes or conversations of a sexual nature, or based on the student's actual or perceived sexual orientation or gender identity; and other sexually or gender-based motivated conduct, contact, or communications, including electronic communication.

~~when made by a member of the district staff, student, or member of the public while on district property or while attending an LCPS function, where:~~

~~submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment or education; or~~

~~submission to or rejection of such conduct is used as a basis for employment or education decisions affecting such individual; or~~

~~A. such conduct has the purpose or effect of substantially interfering with an individual's educational or work performance, or creating an intimidating, hostile, or offensive employment or educational environment. D. Sexual harassment may include, but is not limited to:~~

- ~~1. Suggestive or obscene letters, notes, invitations, e-mails, derogatory comments, slurs, jokes, epithets, assault, touching, fondling, sexual~~

ACA/ACA-RA: Sexual Harassment

~~molestation or assault, impeding or blocking movement, leering, gestures, display of sexually suggestive objects, posters, or cartoons.~~

- ~~2. Continuing to express sexual interest after being informed that the interest is unwelcome.~~
 - ~~3. Implying or withholding support for an appointment, promotion, or change of assignment; suggesting a poor performance report will be prepared; or suggesting probation will be failed. Within the educational environment, actual withholding of or implying that grades earned or deserved would be withheld; suggesting a poor performance evaluation will be prepared; or suggesting a scholarship recommendation or college application will be denied.~~
 - ~~4. Coercive sexual behaviors used to control, influence, or affect the career, salary, and/or work environment of another employee. Within the educational environment, engaging in coercive sexual behavior to control, influence, or affect the educational opportunities, grades, and/or learning environment of a student.~~
 - ~~5. Offering favors or educational or employment benefits, such as grades or promotions, favorable duties or shifts, recommendations, reclassifications, etc., in exchange for sexual favors.~~
- ~~A. E. In determining whether the alleged conduct constitutes sexual harassment, consideration shall be given to the record as a whole and to the totality of the circumstances, including the nature of the sexual advances and the context in which the alleged incidents occurred. A single incident may result in violation of this policy.~~

IV. REPORTING

- A. Any student who believes that he or she has experienced sexual harassment and any person who believes that a student has experienced sexual harassment should immediately report the alleged acts to a teacher, school counselor, principal, other District employee, or the District Title IX Coordinator, listed on the District web site.
- B. Any District employee who suspects or receives direct or indirect notice that a student or group of students has or may have experienced sexual harassment shall immediately notify the Title IX Coordinator listed in this policy and take any other steps required in the regulation implementing this policy.

ACA/ACA-RA: Sexual Harassment

C. Any employee who believes that he or she has experienced sexual harassment or believes that another employee has experienced sexual harassment should immediately report the alleged acts to his or her supervisor or campus principal, or the employee may report the alleged conduct to the Superintendent or Title IX Coordinator, as listed on the District's web site.

D. To ensure the District's prompt investigation, reports of sexual harassment shall be made as soon as possible after the alleged act or knowledge of the alleged act.

V. STANDARDS OF CONDUCT

Romantic or other inappropriate social relationships between students and District employees are prohibited. Any sexual relationship or conduct between a student and a District employee is always prohibited, even if consensual.

Between an employee and a student, sexual harassment is any conduct of a sexual nature. Between students, sexual harassment is inappropriate conduct of a sexual nature. Specific definitions follow.

A. *Standard of Conduct for Employees.* No employee may engage in conduct of a sexual nature with a student at any time or under any circumstances, regardless if the student consents and whether such conduct takes place on school property or in connection with any school-sponsored activity.

B. *Standard of Conduct for Students:* Verbal or physical conduct of a sexual nature by one student to another may constitute sexual harassment.

VI. REVIEW

This policy shall be reviewed on an on-going basis in accordance with the Board of Education policy review process.

Legal Ref: Education Amendments of 1972, Title IX, Equal Employment Opportunity Act of 1972, and Civil Rights Act of 1964 as amended, Title VII

History: Previously Policy 214 and Policy 337, Revised 11.01.05

Approved – Board of Education, President Date

Formatted: Font: Italic

ACA/ACA-RA: Sexual Harassment

John H. Schmelke

Approved - Board of Education, President

11/01/05

Date