

POLICY NO. 5500
Adopted: 9-28-94
Revised: 8-22-07
Revised: 2-26-14
Revised: 1-8-20

SEXUAL HARASSMENT OF STUDENTS PROHIBITED

POLICY:

The Lake Stevens School District is committed to providing a positive and productive learning environment for students free of all forms of discrimination, including sexual harassment. This commitment extends to all students involved in academic, educational, extracurricular, athletic, and other programs or activities of the school, whether that program or activity is in a school facility, on school transportation, or at a class or school training held elsewhere. This is accomplished through teaching using a curriculum which stresses acceptance of cultural and physical differences. The intent is to create an environment free from insult, discriminatory behavior, and malice. A form of discrimination, sexual harassment adversely affects the student's ability to learn in addition to eroding school morale. The District prohibits sexual harassment of its students whether committed by a peer, employee, contractor, or volunteer. Such behavior is cause for disciplinary action up to and including expulsion for the offending student and dismissal of the employee. Whereas sexual harassment substantially compromises the attainment of educational excellence, the District will not tolerate such behavior between the same or opposite sex.

Definitions

For purposes of this policy, sexual harassment means unwelcome conduct or communication of a sexual nature. Sexual harassment can occur adult to student, student to student, or can be carried out by a group of students or adults and will be investigated by the District even if the alleged harasser is not a part of the school staff or student body. The District prohibits sexual harassment of students by other students, employees, or third parties involved in school district activities.

Under federal and state law, the term "sexual harassment" may include:

- Acts of sexual violence;
- Unwelcome sexual or gender-directed conduct or communication that interferes with an individual's educational performance or creates an intimidating, hostile, or offensive environment;
- Unwelcome sexual advances;
- Unwelcome requests for sexual favors;

- Sexual demands when submission is a stated or implied condition of obtaining an educational benefit;
- Sexual demands when submission or rejection is a factor in an academic, or other school-related decision affecting an individual.

A “hostile environment” has been created for a student when sexual harassment is sufficiently serious to interfere with or limit the student’s ability to participate in or benefit from the school’s program. The more severe the conduct, the less need there is to demonstrate a repetitive series of incidents. In fact, a single or isolated incident of sexual harassment may create a hostile environment if the incident is sufficiently severe, violent, or egregious.

Investigation and Response

If the District knows, or reasonably should know, that sexual harassment has created a hostile environment, it will promptly investigate to determine what occurred and take appropriate steps to resolve the situation. If an investigation reveals that sexual harassment has created a hostile environment, the District will take prompt and effective steps reasonably calculated to end the sexual harassment, eliminate the hostile environment, prevent its recurrence and, as appropriate, remedy its effects. The District will take prompt, equitable, and remedial action within its authority on reports, complaints, and grievances alleging sexual harassment that come to the attention of the District, either formally or informally. The District will take these steps every time a complaint, alleging sexual harassment comes to the attention of the District, either formally or informally.

Allegations of criminal misconduct will be reported to law enforcement and suspected child abuse will be reported to law enforcement or Child Protective Services. If the misconduct is reported to law enforcement, the District will coordinate with law enforcement its investigation so that the District investigation does not interfere with an ongoing criminal investigation. A criminal investigation does not relieve the District of its independent obligation to investigate and resolve sexual harassment.

Persons found to have been subjected to sexual harassment will have appropriate school district services made reasonably available to them and adverse consequences of the harassment will be reviewed and remedied, as appropriate. Engaging in sexual harassment will result in appropriate discipline or other appropriate sanctions against offending students, staff, or other third parties involved in school district activities. Anyone else who engages in sexual harassment on school property or at school activities will have their access to school property and activities restricted, as appropriate.

Retaliation and False Allegations

Retaliation against any person who makes or is a witness in a sexual harassment complaint is prohibited and will result in appropriate discipline.

The District will take appropriate actions to protect involved persons from retaliation.

It is a violation of this policy to knowingly report false allegations of sexual harassment. Persons found to knowingly report or corroborate false allegations will be subject to appropriate discipline.

Staff Responsibilities

The Superintendent will develop and implement formal and informal procedures for receiving, investigating, and resolving complaints or reports of sexual harassment. The procedures will include reasonable and prompt time lines and delineate staff responsibilities under this policy. Any school employee who witnesses sexual harassment or receives a report, informal complaint, or written complaint about sexual harassment is responsible for informing the District's Title IX or Civil Rights Compliance Coordinator. All staff members are also responsible for directing complainants to the formal complaint process.

Reports of discrimination and discriminatory harassment will be referred to the District's Title IX/Civil Rights Compliance Coordinator. Reports of disability discrimination or harassment will be referred to the District's Section 504 Coordinator.

A certificated or classified employee who has knowledge or reasonable cause to believe that a student has been a victim of physical abuse or sexual misconduct by another school employee shall report such abuse or misconduct to the appropriate school administrator. The administrator shall report to the proper law enforcement agency if he/she has reasonable cause to believe that the misconduct or abuse has occurred as required under RCW 26.44.030.

Under certain circumstances, sexual harassment may constitute child abuse under Washington State's criminal statutes. Nothing in this policy will prohibit the District from taking appropriate action to protect victims of alleged child abuse (refer to Policy/Procedures No. 5470: Child Abuse or Neglect).

District/school staff, including employees, contractors, and agents shall not provide a recommendation of employment for an employee, contractor, or agent that the District/school, or the individual acting on behalf of the District/school, knows or has probable cause to believe, has engaged in sexual misconduct with a student or minor in violation of the law.

Notice and Training

The Superintendent will develop procedures to provide age-appropriate information and education to district staff, students, parents, and volunteers regarding this policy and the recognition and prevention of sexual harassment. At a minimum sexual harassment recognition and prevention and the elements of this policy will be included in staff, student, and regular volunteer

orientation. This policy and the procedures, which include the complaint process, will be posted in each district building in a place available to staff, students, parents, families, volunteers, and visitors. The policy will be reproduced in each student, staff, volunteer, and parent/family handbook. Such notices will identify the District's Title IX/Civil Rights Coordinator and provide contact information, including the Coordinator's email address.

Assurance of Confidentiality

Those involved with a sexual harassment investigation are expected to protect the confidentiality of all individuals and of information related to the case.

Policy Review

Annually, the Superintendent or designee will review this policy for regulatory changes. As needed, the Superintendent or designee will convene an ad hoc committee of stakeholders to review the use and efficacy of this policy. If necessary, policy changes will be recommended to the Board.

Cross References:

Policy No. 4005: Affirmative Action
Policy No. 4800: Sexual Harassment of District Staff Prohibited
Policy No. 5090: Nondiscrimination
Policy No. 5100.1: Student Discipline
Policy No. 5470: Child Abuse or Neglect
Policy No. 5580: Prohibition of Harassment, Intimidation, and Bullying

Legal References:

Section 703, Title VII of the Civil Rights
Act of 1964
29 CFR 1604.11
RCW 46.60 Law Against Discrimination
RCW 28A.640.020
Regulations, guidelines to eliminate discrimination
Scope-Sexual harassment policies
WAC 392-190-056-058 Sexual harassment

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PROCEDURES:

The procedures are intended to set forth the requirements of Policy No. 5500, including the process for a prompt, thorough, and equitable investigation of allegations of sexual harassment and the need to take appropriate steps to resolve such situations. If sexual harassment is found to have created a hostile environment, staff must take immediate action to eliminate the harassment, prevent its reoccurrence, and address its effects.

These procedures apply to sexual harassment (including sexual violence) targeted at students carried out by other students, employees, or third parties involved in school district activities. Because students can experience the continuing effects of off-campus harassment in the educational setting, the District will consider the effects of off-campus conduct when evaluating whether there is a hostile environment on campus. The District has jurisdiction over these complaints pursuant to Title IX of the Education Amendments of 1972, Chapter 28A.640, RCW and Chapter 392-190 WAC.

Notice

Information about the District's sexual harassment policy will be easily understandable and conspicuously posted throughout each school building and be reproduced in each student, staff, volunteer, and parent handbook.

In addition to the posting and reproduction of these procedures and Policy No. 5500, the District will provide annual notice to employees that complaints pursuant to this procedure may be filed at the Educational Service Center, 12309 22nd Street NE, Lake Stevens, WA 98258.

Staff Responsibilities

In the event of an alleged sexual assault, the school principal will immediately inform: 1) the Title IX/Civil Rights Coordinator so that the District can appropriately respond to the incident consistent with its own grievance procedures; and 2) law enforcement.

The principal will notify the targeted student and his/her parents/guardians of their right to file a criminal complaint and a sexual harassment complaint simultaneously.

Confidentiality

If a complainant requests that his/her name not be revealed to the alleged perpetrator or asks that the District not investigate or seek action against the alleged perpetrator, the request will be forwarded to the Title IX/Civil Rights Coordinator for evaluation.

The Title IX/Civil Rights Coordinator should inform the complainant that honoring the request may limit its ability to respond fully to the incident, including pursuing disciplinary action against the alleged perpetrator.

If the complainant still requests that his/her name not be disclosed to the alleged perpetrator or that the District not investigate or seek action against the alleged perpetrator, the District will need to determine whether or not it can honor such a request while still providing a safe and nondiscriminatory environment for all students, staff, and other third parties engaging in district activities, including the person who reported the sexual harassment. Although a complainant's request to have his/her name withheld may limit the District's ability to respond fully to an individual allegation of sexual harassment, the District will use other appropriate means available to address the sexual harassment.

Retaliation

Title IX prohibits retaliation against any individual who files a complaint under these laws or participates in a complaint investigation. When an informal or formal complaint of sexual harassment is made, the District will take steps to stop further harassment and prevent any retaliation against the person who made the complaint, was the subject of the harassment, or against anyone who provided information as a witness. The District will investigate all allegations of retaliation and take actions against those found to have retaliated.

Informal Complaint Process

Anyone may use informal procedures to report and resolve complaints of sexual harassment. Informal reports may be made to any staff member, although staff will always inform complainants of their right and the process for filing a formal complaint. Staff will also direct potential complainants to the District's Title IX Coordinator. Staff members will also inform an appropriate supervisor or professional staff member when they receive complaints of sexual harassment, especially when the complaint is beyond their training to resolve or alleges serious misconduct.

During the course of the informal complaint process, the District will take prompt and effective steps reasonably calculated to end any harassment and to correct any discriminatory effects on the complainant. If an investigation is

needed to determine what occurred, the District will take interim measures to protect the complainant before the final outcome of the District's investigation (e.g., allowing the complainant to change academic or extracurricular activities or break times to avoid contact with the alleged perpetrator).

Informal remedies include:

- An opportunity for the complainant to explain to the alleged harasser that his/her conduct is unwelcome, offensive, or inappropriate either in writing or face-to-face;
- A statement from a staff member to the alleged harasser that the alleged conduct is not appropriate and could lead to discipline if proven or repeated; or
- A general public statement from an administrator in a building reviewing the district sexual harassment policy without identifying the complainant;
- A safety or separation plan;
- A staff and/or student training program.

Informal complaints may become formal complaints at the request of the complainant and the parents/guardians or because the District believes the complaint needs to be more thoroughly investigated.

The District will inform the complainant and his/her parents/guardians on how to report any subsequent problems. Additionally, the District will conduct follow-up inquiries to see if there have been any new incidents or instances of retaliation and to promptly respond and appropriately address continuing or new problems. Follow-up inquiries will follow a timeline agreed to by the District and complainant.

Formal Complaint Process

Level One – Complaint to District

Anyone may initiate a formal complaint of sexual harassment, even if the informal complaint process is being utilized. At any level in the formal complaint process, the District will take interim measures to protect the complainant before the final outcome of the District's investigation. Potential complainants who wish to have the District hold their identity confidential will be informed that the District will almost assuredly face due process requirements that will make available to the accused all of the information that the District has related to the complaint. The District will, however, fully implement the anti-retaliation provisions of this policy to protect complainants and witnesses. Student complainants and witnesses may have a trusted adult with them during any district-initiated investigatory activities. The Superintendent or designated Compliance Officer may conclude that the District needs to conduct an investigation based on information in his/her possession, regardless of the complainant's interest in filing a formal complaint.

The following process will be followed:

Filing of Complaint

All formal complaints will be in writing and will set forth the specific acts, conditions, or circumstances alleged to have occurred to constitute sexual harassment. The Title IX Coordinator may draft the complaint based on the report of the complainant for the complainant to review and approve. The Superintendent or Title IX Coordinator may also conclude that the District needs to conduct an investigation based on information in his/her possession, regardless of the complainant's interest in filing a formal complaint.

The time period for filing a complaint is one year from the date of the occurrence that is the subject matter of the complaint. However, a complaint filing deadline may not be imposed if the complainant was prevented from filing due to: 1) specific misrepresentations by the District that it had resolved the problem forming the basis of the complaint; or 2) withholding of information that the District was required to provide under WAC 392-190-065 or WAC 392-190-005.

Complaints may be submitted by mail, fax, e-mail, or hand-delivery to the District's Title IX Coordinator, John Balmer, 12309 22nd Street NE, Lake Stevens, WA 98258; 425-335-1592; or john_balmer@lkstevens.wednet.edu. Any district employee who receives a complaint that meets these criteria will promptly notify the Coordinator.

Investigation and Response

The Title IX Coordinator will receive and investigate all formal, written complaints of sexual harassment or information in the Coordinator's possession that he/she believes requires further investigation. The Coordinator will delegate his/her authority to participate in this process if such action is necessary to avoid any potential conflicts of interest. Upon receipt of a complaint, the Coordinator will provide the complainant a copy of this procedure.

Investigations will be carried out in a manner that is adequate in scope, reliable, and impartial. During the investigation process, the complainant and accused party or parties, if the complainant has identified an accused harasser(s), will have an equal opportunity to present witnesses and relevant evidence. Complainants and witnesses may have a trusted adult with them during any district-initiated investigatory activities. The District and complainant may also agree to resolve the complaint in lieu of an investigation. When the investigation is completed, the Coordinator will compile a full written report of the complaint and the results of the investigation.

Superintendent Response

The Superintendent or designee will respond in writing to the complainant and the alleged perpetrator within thirty (30) calendar days of receipt of the complaint, unless otherwise agreed to by the complainant or if exceptional circumstances related to the complaint require an extension of the time limit. In the event an extension is needed, the District will notify the complainant in writing of the reason for the extension and the anticipated response date. At the time the District responds to the complainant, the District must send a copy of the response to the Office of Superintendent of Public Instruction (OSPI).

The response of the Superintendent or designee will include: 1) a summary of the results of the investigation; 2) a statement as to whether a preponderance of the evidence establishes that the complainant was sexually harassed ; 3) if sexual harassment is found to have occurred, the corrective measures the District deems necessary, including assurance that the District will take steps to prevent recurrence and remedy its effects on the complainant and others, if appropriate; 4) notice of the complainant's right to appeal to the Board and the necessary filing information; and 5) any corrective measures the District will take, remedies for the complainant (e.g., sources of counseling, advocacy and academic support), and notice of potential sanctions for the perpetrator(s) (e.g., discipline).

The Superintendent or designee's response will be provided in a language the complainant can understand and may require language assistance for complainants with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964. If the complaint alleges discriminatory harassment by a named party or parties, the Coordinator will provide the accused party or parties with notice of the outcome of the investigation and notice of their right to appeal any discipline or corrective action imposed by the District.

Any corrective measures deemed necessary will be instituted as quickly as possible, but in no event more than thirty (30) days after the Superintendent's mailing of a written response, unless the accused is appealing the imposition of discipline and the District is barred by due process considerations or a lawful order from imposing the discipline until the appeal process is concluded. Staff may also pursue complaints through the appropriate collective bargaining agreement process or anti-discrimination policy.

The District will inform the complainant and his/her parents/guardians on how to report any subsequent problems. Additionally, the District will conduct follow-up inquiries to see if there have been any new incidents or instances of retaliation and to promptly respond and appropriately address continuing or new problems. Follow-up inquiries will follow a timeline agreed to by the District and complainant.

Level Two - Appeal to Board of Directors

Notice of Appeal and Hearing

If a complainant disagrees with the Superintendent or designee's written decision, the complainant may appeal the decision to the District's Board of Directors by filing a written notice of appeal with the Secretary of the Board within ten (10) calendar days following the date upon which the complainant received the Superintendent's response.

The Board will schedule a hearing to commence by the twentieth (20th) calendar day following the filing of the written notice of appeal, unless otherwise agreed to by the complainant and the Superintendent or for good cause.

Both parties will be allowed to present such witnesses and testimony as the Board deems relevant and material.

Board Decision

Unless otherwise agreed to by the complainant, the Board will render a written decision within thirty (30) calendar days following the filing of the notice of appeal and will provide the complainant with a copy of the decision.

The decision will be provided in a language that the complainant can understand which may require language assistance for complainants with limited English proficiency in accordance with Title VI of the Civil Rights Act.

The decision will include notice of the complainant's right to appeal to OSPI and will identify where and to whom the appeal must be filed. The District will send a copy of the appeal decision to OSPI.

Level Three - Complaint to the Superintendent of Public Instruction **Filing of Complaint**

If a complainant disagrees with the decision of the Board of Directors or if the District fails to comply with these procedures, the complainant may file a complaint with OSPI.

A complaint must be received by OSPI on or before the twentieth (20) calendar day following the date upon which the complainant received written notice of the Board of Directors' decision, unless OSPI grants an extension for good cause. Complaints may be submitted by mail, fax, electronic mail, or hand-delivery.

A complaint must be in writing and include: 1) a description of the specific acts, conditions, or circumstances alleged to violate applicable anti-sexual harassment laws; 2) the name and contact information, including address, of the complainant; 3) the name and address of the district subject to the complaint; 4) a copy of the District's complaint and appeal decision, if any; and 5) a proposed resolution of the complaint or relief requested. If the allegations regard a specific student, the complaint must also include the name and

address of the student, or in the case of a homeless child or youth, contact information.

Investigation, Determination, and Corrective Action

Upon receipt of a complaint, OSPI may initiate an investigation, which may include conducting an independent on-site review. OSPI may also investigate additional issues related to the complaint that were not included in the initial complaint or appeal to the Superintendent or Board.

Following the investigation, OSPI will make an independent determination as to whether the District has failed to comply with RCW 28A.642.010 or Chapter 392-190, WAC and will issue a written decision to the complainant and the District that addresses each allegation in the complaint and any other noncompliance issues it has identified. The written decision will include corrective actions deemed necessary to correct noncompliance and documentation the District must provide to demonstrate that corrective action has been completed.

All corrective actions must be completed within the timelines established by OSPI in the written decision unless OSPI grants an extension. If timely compliance is not achieved, OSPI may take action including, but not limited to, referring the District to appropriate state or federal agencies empowered to order compliance.

A complaint may be resolved at any time when, before the completion of the investigation, the District voluntarily agrees to resolve the complaint. OSPI may provide technical assistance and dispute resolution methods to resolve a complaint.

Level Four - Administrative Hearing

If the complainant or the District desires to appeal the written decision of OSPI, a written notice of appeal may be filed with OSPI within thirty (30) calendar days following the date of receipt of that office's written decision. OSPI will conduct a formal administrative hearing in conformance with the Administrative Procedures Act, Chapter 34.05, RCW.

Other Complaint Options

Office for Civil Rights (OCR), U.S. Department of Education

OCR enforces several federal civil rights laws, which prohibit discrimination in public schools on the basis of race, color, national origin, sex, disability, and age. File complaints with OCR within 180 (180) calendar days of the date of the alleged discrimination.

206-607-1600 | TDD: 1-800-877-8339 | OCR.Seattle@ed.gov | www.ed.gov/ocr
Washington State Human Rights Commission (WSHRC)

WSHRC enforces the Washington Law Against Discrimination (RCW 49.60), which prohibits discrimination in employment and in places of public

accommodation, including schools. File complaints with WSHRC within six (6) months of the date of the alleged discrimination.

1-800-233-3247 | TTY: 1-800-300-7525 | www.hum.wa.gov

Mediation

At any time during the complaint procedure set forth in WAC 392-190-065 through 392-190-075, the District may, at its own expense, offer mediation. The complainant and the District may agree to extend the complaint process deadlines in order to pursue mediation.

The purpose of mediation is to provide both the complainant and the District an opportunity to resolve disputes and reach a mutually acceptable agreement through the use of an impartial mediator. Mediation must be voluntary and requires the mutual agreement of both parties. It may be terminated by either party at any time during the mediation process. It may not be used to deny or delay a complainant's right to utilize the complaint procedures.

Mediation must be conducted by a qualified and impartial mediator who may not: 1) be an employee of the District or a private agency that is providing education-related services to the student who is the subject of the complaint being mediated; or 2) have a personal or professional conflict of interest. A mediator is not considered an employee of the district or private agency solely because he/she serves as a mediator.

If the parties reach agreement through mediation, they may execute a legally binding agreement that sets forth the resolution and states that all discussions that occurred during the course of mediation will remain confidential and may not be used as evidence in any subsequent complaint, due process hearing, or civil proceeding. The agreement must be signed by the complainant and a district representative who has authority to bind the District.

Training and Orientation

A fixed component of all district orientation sessions for staff, students, and regular volunteers will introduce the elements of this policy. Staff will be provided information on recognizing and preventing sexual harassment. Staff members will be fully informed of the formal and informal complaint processes and their roles and responsibilities under this policy and procedures. Certificated staff members will be reminded of their legal responsibility to report suspected child abuse and how that responsibility may be implicated by some allegations of sexual harassment. Regular volunteers will get the portions of this component of orientation relevant to their rights and responsibilities. Students will be provided with age-appropriate information on the recognition and prevention of sexual harassment and their rights and responsibilities under this and other district policies and rules at student orientation sessions and at other appropriate occasions, which may include parents.

As part of the information on the recognition and prevention of sexual harassment staff, volunteers, students, and parents will be informed that sexual harassment may include, but is not limited to:

- Demands for sexual favors in exchange for preferential treatment or something of value;
- Stating or implying that a person will lose something if he or she does not submit to a sexual request;
- Penalizing a person for refusing to submit to a sexual advance, or providing a benefit to someone who does;
- Making unwelcome, offensive or inappropriate sexually suggestive remarks comments, gestures, or jokes, or remarks of a sexual nature about a person's appearance, gender or conduct;
- Using derogatory sexual terms for a person;
- Standing too close, inappropriately touching, cornering, or stalking a person; or
- Displaying offensive or inappropriate sexual illustrations on school property.

Policy and Procedure Review

Annually, the Superintendent or designee will review this policy for regulatory changes. As needed, the Superintendent or designee will convene an ad hoc committee composed of representatives of certificated and classified staff, volunteers, students, and parents to review the use and efficacy of this policy and procedures. The Compliance Officer will be included in the committee. Based on the review of the committee, the Superintendent shall prepare a report to the Board including, if necessary, any recommended policy changes. The Superintendent shall consider adopting changes to this procedure if recommended by the committee.