

5.5001 Adult-to-Student Sexual Harassment

Policy

Original Adoption: 03/15/93

Effective Date: 07/20/09

Revision Dates: 06/02/97; 07/10/06; 07/20/09

I. PURPOSE

To ensure that students are provided an educational environment that is free of sexual harassment.

II. SCOPE

This policy applies to all employees, contracted agents, and other third parties (including volunteers, visitors, and parents).

III. POLICY STATEMENT

All students have the right to learn in an environment free of discrimination, which includes freedom from adult-to-student sexual harassment. Therefore, the Memphis City Schools will not tolerate adult-to-student sexual harassment in any form. MSC employees are prohibited from engaging in behaviors that cause a student to believe that s/he must submit to unwelcome sexual conduct in order to participate in a school program, or activity; that cause a student to believe that the employee will make an educational decision based on whether or not the student submits to unwelcome sexual conduct; or that creates an offensive, hostile, and/or intimidating environment for the student. Students affected by sexual harassment shall be afforded avenues for filing complaints which are free from bias, collusion, intimidation, or reprisal.

Adult-to-student sexual harassment is a form of sex discrimination as set forth in federal law and Title IX of the Education Amendments of 1972. It is illegal.

Adult-to-student sexual harassment includes unwelcome actions which cause a reasonable person to feel uncomfortable or unsafe resulting in a learning environment which is offensive, hostile and/or intimidating. It applies to opposite sex and same sex victims. It also includes conditioning participation in a school program or submitting to sexual advances. Examples of sexual harassment include, but are not limited to:

1. unwelcome sexual flirtation or sexual propositions
2. offensive jokes, drawings, cartoons, graffiti, pictures, or gestures
3. making graphic comments about a person's body or conduct
4. sexually insulting remarks about race, gender, socioeconomic status, disability, or sexual orientation
5. spreading sexual rumors
6. cyber sexual harassment, including harassment through the use of the Internet or other telecommunications technologies

7. cornering/blocking normal movements, threatening behavior
8. unwelcome physical contact including touching, patting, or grabbing a person or their clothing
9. a teacher conditioning a grade or a role in a program on a student's submitting to sexual advances

Some of these sexual behaviors also fall under laws addressing child sexual abuse and sexual assault/battery. Therefore, an employee could be cited for violations of this policy as well as charged with sexual abuse and/or sexual assault/battery.

Disciplinary action up to and including dismissal will be taken against any employee who violates this policy. By federal statute, a person who complains about sexual harassment is exercising a protected right. Any retaliation against the complainant and/or any person reporting acts of adult-to-student harassment is illegal.

Mandatory annual training on this policy shall be conducted for all principals and designated staff.

IV. RESPONSIBILITY

- A. Each employee is responsible and held accountable for conducting activities in a manner which will ensure compliance with this policy.
- B. The principal or supervisor will be responsible for taking appropriate action on complaints of alleged sexual harassment of students. The principal is also responsible for ensuring that all students, faculty, and staff are aware that students have a right to be free of sexual harassment, that retaliation of any kind is illegal, and that there are procedures for submitting complaints.
- C. The Division of Labor Relations is responsible for conducting a confidential investigation of the allegations.
- D. Any questions concerning the interpretation of this policy should be directed to the Division of Equity Compliance.
- E. The Division of Equity Compliance is responsible for providing and/or coordinating training on Title IX and Sexual Harassment issues.
- F. The Superintendent is responsible for ensuring that this policy is followed.

Legal References:

1. 1992 Supreme Court Decision (*Franklin v. Gwinnett County Public Schools*)

Cross References:

1. 5.500 Employee Discrimination
2. 6.304 Student-to-Student Sexual



2. TCA 39-13-501 et seq.
3. Tennessee Public Chapter 478
4. Title IX of the Educational Amendments of 1972

Harassment

3. 6.303 Interrogations and Searches
4. 6.409 Child Abuse and Neglect

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A. Division of Equity Compliance

The Division of Equity Compliance is responsible for developing policies prohibiting sexual harassment and discrimination, disseminating information on student rights and informing staff of timelines and procedures for students filing complaints of sexual harassment.

The Division of Equity Compliance shall conduct training sessions for supervisors/principals on Title IX and sexual harassment issues.

B. Complaint Procedures

A student (parent/guardian) who feels that s/he has been a victim of adult-to-student sexual harassment must immediately inform a teacher, counselor, principal, or may, at their option, contact the Division of Labor Relations or Division of Equity Compliance to report a violation of this policy. A teacher, counselor, or principal, who receives a complaint of harassment must immediately inform the principal/supervisor, who must file a complaint with the Division of Labor Relations. Upon receipt of the complaint, the principal/supervisor shall immediately provide information pertaining to the complaint and appeals process, including applicable timelines, to the student (parent/guardian). The complaint must include the name, address, and telephone number of the aggrieved victim (complainant); an explanation of the action or conduct complained of; and the alleged harasser. In addition, the principal will conduct an initial fact finding investigation and submit the results of the fact finding investigation to the Division of Labor Relations. The Division of Labor Relations shall immediately begin an investigation and will attempt to complete its investigation as expeditiously as possible, but not beyond fifteen (15) school days after receiving the complaint. The nature and scope of the investigation will be determined on a case-by-case basis. The Division of Labor Relations will give a written decision to appropriate staff.

All employees must report any violations of this policy to their principal, supervisor, or the Division of Labor Relations or Division of Equity Compliance. Failure to do so may result in disciplinary action.

Initiating an Appeal

If either party (complainant or alleged harasser) is dissatisfied with the decision of the Division of Labor Relations, an appeal may be filed in writing with the Division of Equity Compliance for further investigation, if required, and resolution. This appeal should be submitted within two (2) school days from receipt of the decision of the Division of Labor Relations. Appeals should include: the name of the complainant; the name of the alleged harasser; an explanation of the action or conduct being complained; and a copy of the previous decision concerning the complaint.

The Division of Equity Compliance shall investigate the appeal and shall render a decision and recommendation for resolving the complaint/appeal. A written notification shall be provided to appropriate staff within five (5) school days after receipt of the complaint/appeal.

The decision of the Division of Equity Compliance shall be the final administrative decision.

Disciplinary Actions

The Division of Labor Relations shall render discipline in accordance with MCS policy. When there is sufficient evidence to substantiate adult-to-student sexual harassment, the following actions will be necessary:

1. disciplinary action must be taken against the offender commensurate with the offense;
2. counseling services must be offered to the victim; and
3. there should be a review of the need for increased vigilance on the part of staff, modifications in student schedules, and any other action intended to protect the student from future harassment.

C. Confidentiality

The privacy and anonymity of all parties and witnesses to complaints will be respected. However, because an individual's need for confidentiality must be balanced with obligations to cooperate with police investigations or legal proceedings, to provide due process to the accused, to conduct a thorough investigation or to take necessary action to resolve a complaint, the identity of parties and witnesses may be disclosed in appropriate circumstances to individuals with a need to know.

D. Non-Retaliation

Any attempt by a student or an employee to retaliate in any way against a person bringing a charge is prohibited and will be treated as a separate incident to be reviewed.

E. Reporting Incidences of Child Abuse

Staff who have reasonable cause to know or suspect that any child has been abused are responsible for immediately reporting such suspicions directly to the judge having juvenile jurisdiction, the office of the chief law-enforcement official where the child resides, the Sheriff of the county where the child resides or the Department of Children Services.