

6.3041 Student-to-Student Sexual Harassment

Policy

Original Adoption: 06/02/97

Effective Date: 07/20/09

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

I. PURPOSE

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

II. SCOPE

This policy applies to all students.

III. POLICY STATEMENT

All students have the right to learn in an environment free of discrimination, which includes freedom from student-to-student sexual harassment. Therefore, the Memphis City Schools will not tolerate student-to-student sexual harassment in any form. Students affected by sexual harassment shall be afforded avenues for filing complaints which are free from bias, collusion, intimidation, or reprisal.

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

Student-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. 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

Graduated disciplinary actions up to and including expulsion will be taken against any student who violates this policy. By federal statute, a person who complains about sexual harassment is exercising a protected right. Any retaliation against the complainant is illegal.

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

IV. RESPONSIBILITY

- A. The principal and the Division of Equity Compliance are responsible for investigating complaints of alleged student-to-student sexual harassment.
- B. The principal is responsible for taking appropriate action on complaints of alleged student-to-student sexual harassment and for ensuring that all students, faculty, and staff are aware that



students have a right to be free of sexual harassment from other students, and that there are procedures for submitting a complaint of retaliation.

- C. The Division of Equity Compliance is responsible for providing and/or coordinating training on Title IX and sexual harassment issues.
- D. Each student is responsible and will be held accountable for conducting himself/herself in a manner compliant with this policy.
- E. Any questions concerning the interpretation of this policy should be directed to the Division of Equity Compliance (Title IX Coordinator).
- F. The Superintendent is responsible for determining if this policy is followed.

Legal References:

Title IX of the Education Amendment of 1972

Cross References:

5.500 Employee Discrimination
5.5001 Adult-to Students Sexual Harassment
6.303 Interrogations and Searches
6.313 Student Behavior
6.309 State Mandated Zero Tolerance

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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

Any student (parent/legal guardian) who believes s/he is experiencing student-to-student sexual harassment shall report such circumstances to a teacher, counselor, or principal immediately. Often the victim does not appear to know that he/she has a right to be free of student-to-student sexual harassment. Thus, the faculty and principal need to be alert to assisting students, even when they do not ask for help. If a teacher or counselor receives a complaint of harassment or believes that a student is being harassed, s/he must notify the principal immediately.

Upon receipt of a complaint, the principal or designated staff shall promptly conduct an investigation. The nature and scope of the investigation will be determined on a case-by-case basis. The principal or designee will give a written decision within three (3) school days after receiving the complaint of the student (parent/guardian). If there is no appeal within two (2) school days the principal shall administer discipline. Principals shall immediately report all allegations of harassment occurring in their schools, including those that the alleged victim did not pursue, to the Division of Equity Compliance. Additionally, a copy of the written decision shall be forwarded to the Division of Equity Compliance.

Initiating an Appeal

If either party (complainant or alleged harasser) is dissatisfied with the decision, 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 principal or designee. 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 principal's decisions concerning the complaint.

The Division of Equity Compliance shall investigate the appeal and render its 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 appeal.

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

Disciplinary Actions

The principal shall render discipline in accordance with MCS policy and the Student Code of Conduct. When there is sufficient evidence to substantiate student-to-student sexual harassment, then the following actions will be necessary:

1. Disciplinary action must be taken against the offender commensurate with the offense. Students may appeal disciplinary actions only in accordance with procedures in the Student Code of Conduct.
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.

Time Limits

Failure of a student and/or parent or guardian to observe the time limits for an appeal on a complaint may result in the complaint or the appeal being considered abandoned. Failure by the school to respond to a complaint within the prescribed time limits will automatically move the complaint to the next step. Under these circumstances, the complainant must notify the Division of Equity Compliance at 416-6670.

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.