

StudentsSexual Harassment Policy – Staff/Students

The Holdrege Board of Education prohibits harassment on the basis of sex, which harassment is a violation of law (the equal protection clause of the 14th Amendment to the U.S. Constitution, Sec. 703 of the Title VII of the Civil Rights Act of 1964 as amended, and Title IX of the Education Amendments of 1972, and the Nebraska Equal Opportunity and Education Act). Sexual harassment is a form of sex discrimination that undermines the integrity of the employment relationship, undermines morale, creates a hostile environment, and interferes with the productivity of its victims and their co-workers.

Sexual harassment is deliberate and/or repeated sexual or sex-based behavior that is not welcome and is not solicited. It may be (a) physical, such as unwelcome touching or interference with movement; (b) verbal, such as epithets, derogatory comments or slurs; and/or (c) visual, such as the display of derogatory cartoons, drawings, posters or messages. It applies to students and employees of both sexes.

The Board of Education does not intend to regulate employee's social interactions or relationships freely entered into; however, conduct constituting sexual harassment shall not be tolerated. Sexual harassment of any employee, certified or non-certified, or student by any individual under the jurisdiction of the board is expressly prohibited as a violation of law and Board policy. School employees or students who are determined to have engaged in sexual harassment shall be subject to disciplinary sanctions as set forth herein.

The following acts are specifically prohibited by this policy:

1. Unwelcome advances, requests for sexual favors, verbal or physical conduct of a sexual nature, submission to which is demanded by any employee of the District against any other person as a term of condition of obtaining employment.
2. Unwelcome advances, requests for sexual favors, verbal or physical conduct of a sexual nature, submission to which or rejection of which by an employee is used as a basis for any employment decisions such as, but not limited to, rate of pay, promotion, favorable evaluations, whether formal or informal, or the conferring of job responsibility.
3. Conduct of a sexual nature by an employee or employees directed against another employee which has the purpose or effect of unreasonable interfering with that individual's work performance or creating an intimidating, hostile or offensive working environment.
4. Unwelcome advances, a request for sexual favors, verbal or physical conduct of a sexual nature, submission to which or rejection of which by any employee of the District is used as a basis for any educative decision pertaining to a student such as, but not limited to conferring of a grade, credit, favor, or honor.
5. Conduct of a sexual nature by an employee or employees directed against a student which has the purpose or effect of interfering with academic performance of the student, or creating an

intimidation, hostile, offensive, or unsafe or unwholesome educational environment.

6. Conduct of a sexual nature by a student or any other person over whom the school district has control with such conduct being directed against a student, when such conduct has the purpose or effect of unreasonably interfering with that student's academic performance, or creating an intimidating, hostile, offensive, unsafe or unwholesome educational environment.

Upon receipt of any complaint upon the form prescribed by this policy, the superintendent or his/her designee shall undertake an investigation subject to any limitations placed upon the investigation by the complaining party as indicated on the complaint form. After the investigation is completed, the superintendent or his/her designee shall confer with the person or persons against whom the complaint has been lodged and shall give such person or persons a fair opportunity to present his or her version of the facts involved in the complaint, as well as to be informed of the name of the complaining party, the allegations of the complaining party, the names of all corroborating or refuting witnesses, as well as any statements or allegations made by any such witnesses which are known to the superintendent or his or her designee.

Upon the conclusion of such investigation, the superintendent shall take such immediate and appropriate action as is required in his/her discretion within the bounds of the law. Nothing in this policy shall be construed to require the superintendent to take disciplinary action not within his or her legal authority. In the event action is required, which by law would require Board action, the superintendent shall undertake such proceedings as may be required by law to bring before the Board such matters of proposed discipline involving the person against whom the complaint was lodged.

Nothing in this policy, nor any of the terms and conditions attendant to the complaint or used by the District, nor terms or conditions of the consent form used by the complaining party shall be construed to prevent the superintendent or his/her designee from engaging in other action against any person engaging in conduct prohibited by the policy to authorities other than the administration or Board of Education of the District when such action is required or permitted by law. Such actions may be, but not limited to, providing information to any appropriate prosecuting authority, filing a report concerning any incident complained of with appropriate agencies, including, but not limited, to, the Professional Practices Commission, the Nebraska Department of Education, the U.S. Office of Education and any appropriate departmental office of civil rights. Notwithstanding the duty placed on the superintendent or his/her designee to accommodate the right of privacy of any complaining party, the superintendent or his/her designee shall be permitted by this policy to make such disclosure to witnesses, agencies, prosecutorial personnel, the Board of Education, and any other person entitled or obligated to be informed of any complaint brought under this policy when any state or federal statute, applicable case law, applicable agency law or any other appropriate body of law mandates such reporting.

It shall further be the policy of the District to strictly prohibit use of any electronic medium including, but not limited to, the Internet, telephones, electronic mail, fax machines or any other means of communicating electronically in such a manner as to create a hostile working environment.

It shall be contrary to this policy to use any electronic medium for such purposes as, but not limited to uttering profane messages, uttering sexually explicit or sexually innuendo oriented materials, soliciting romantic involvement, uttering obscene or offensive materials of a sexual nature in any

manner. It shall be the policy of the District that this prohibition shall run as to all interpersonal communications whether originated or received by members of the board or employees of the District and this prohibition shall run to such persons whether or not prohibited communications as described in this paragraph arise to the legal standard of sexual harassment or not.

Nothing in this policy shall be construed to prevent the superintendent or his/her designee from taking any remedial action as is in the best interest of the District toward the goal of preventing sexual harassment of employees and students of the District in its working or educational environment.

Procedures regarding complaints of sexual harassment: Allegations of sexual harassment will be thoroughly investigated. A person who believes he/she has been sexually harassed, or persons having knowledge of incidents of alleged sexual harassment (hereinafter referred to as "complainant") should notify one of the following individuals concerning the alleged action: the school nurse, building counselors or building principals. Such notification shall be the most direct means possible and shall be considered confidential. The complaint shall be made within thirty (30) days of the alleged incident.

Any school employee contacted by a complainant shall advise complainant to notify one of the above-mentioned individuals. The contacted employee shall not take any action with regard to this matter.

Upon notification of conduct which allegedly constitutes sexual harassment, the person notified by the complainant will investigate the complaint and attempt to resolve the situation on an informal basis. After the informal investigation has been completed and the investigator feels there is sufficient cause to further investigate the complaint, and the complainant is a student, the investigator shall notify the complainant's parents or legal guardians in writing, that their student has filed a complaint.

Informal Procedure:

The person notified by complain shall:

- A. Meet with the complainant to determine the nature and extent on the alleged incident. A records shall be kept of the complaint, including names of the complainant and the person accused of sexual harassment, date, time, location, description of the incident, witnesses and any redress sought by the complainant.
- B. If the complainant is a student, and the matter has not been resolved, refer the complaint to the principal, principal's designee or counselor and encourage the student to consult with her/him.
- C. Meet with the person accused of sexual harassment and inform him/her that a complaint of sexual harassment has been made against him/her. A record of information furnished by the person accused of sexual harassment shall be made.
- D. If the complainant is a student, his/her parents or legal guardians shall be notified and allowed to be present at any further conferences or meetings regarding this incident.

- E. If the person accused of sexual harassment is a student, his/her parents or legal guardians shall be notified and allowed to be present at any further conferences or meetings regarding this incident.
- F. Meet with witness for the complainant, if any, and record information gathered.
- G. Meet with witness for the accused, if any, and record information gathered. The accused shall be allowed to have a representative of his/her choice present.
- H. Determine if the education or work situation of the complainant is threatened and, if so, take appropriate corrective measures.
- I. Conclude the informal investigation in a period, not to exceed thirty (30) days, with one of the following findings:
 - 1. Resolve the matter to the satisfaction of both the complainant and person accused of sexual harassment.
 - 2. Find that the parties are unable to resolve the matter informally, in which case a formal complaint may be filed by the complainant.

Upon filing of a formal complaint, the file of the informal procedure shall be forwarded to the individual conducting the formal procedure. If no formal complaint is filed, the record of the informal investigation shall be kept in a confidential file in the office of the central administration. If the complaint involves the central office administrator or employee, the file shall be kept at the office of an appointed school attorney.

Formal Procedure:

If the complainant of the sexual harassment is not satisfied with the result of the informal procedure, he/she may file a formal written complaint to the Superintendent of Schools and/or secretary of the Board of Education. The complainant must include information of the alleged incident such as names, date(s), time(s), location(s), description of the incident(s), and redress requested. The complaint must be filed within 30 days of the final determination under the informal procedure. The report of the informal complaint investigation shall become part of the formal complaint.

If deemed necessary, the academic or employment situation of the complainant may be changed to provide for a non-intimidation or non-hostile atmosphere. These changes may include transfer or work situations, change of instructor, and if pertinent, waiver or academic requirements.

The Superintendent and/or the Board of Education who is conducting the formal procedure will render a written decision concerning the validity of the formal complaint within 15 days after receiving the formal complaint.

In determining whether conduct constitutes sexual harassment, the Superintendent and/or the Board of Education who is conducting the formal procedure will examine the record as a whole and the

totality of the circumstances, such as the nature of the alleged sexual advances and the contest in which the alleged incident occurred. The determination will be on a case-by-case basis.

Copies of the decision shall be furnished to the complainant and the person accused of sexual harassment. The record of the formal investigation will be kept at the office of an appointed school attorney.

The complainant may withdraw a complaint and stop the proceedings at any time. In the event a complaint is withdrawn, all records of the proceedings shall be expunged from the files of the individuals involved and complete confidentiality shall be maintained. Any person who is found to have engaged in sexual harassment of a subordinate, co-worker, or student will be subject to disciplinary probation, demotion, transfer, required professional counseling, or termination of employment. A student who is found to have engaged in sexual harassment against an employee or fellow student will be subject to disciplinary actions, which may include, but not be limited to written reprimand, disciplinary probation, suspension and/or expulsion.

Bad faith allegations of sexual harassment or use of the policy for purposes unrelated to its clear intent are expressly prohibited.

Sexual Assault:

If criminal charges for sexual assault have been formally filed against any employee, certificated or non-certificated, on the basis of alleged criminal conduct committed on the school premises or within the scope of school employment, the employee shall be suspended with pay without prejudice pending the outcome of the trial. No hearing regarding, or evaluation of, the alleged conduct shall be made until the criminal matter is dismissed or decided.

Legal References: Neb. Rev. Stat. §79-2,114 - 79-2,124

Date of Adoption: 12/9/1996

Amended: May 9, 2005

GENERAL AUTHORITY TO DISCLOSE INFORMATION

I understand that Holdrege Public Schools will be conducting an investigation of my complaint. By affixing my signature to this paragraph, I authorize the investigator to disclose such portions of the information I have set forth in my complaint and which I may provide in the future with respect to this complaint. By affixing my signature to this paragraph, I hold harmless the district and its duly authorized investigator for any claim I may have resulting from the disclosure of any facts set forth in this complaint when such disclosure occurs in the course and scope of the investigation. By signing this paragraph, I acknowledge that I have read it fully and understand its contents.

Complaining Party's Signature

Date: _____

LIMITED AUTHORITY TO DISCLOSE

I understand that Holdrege Public Schools will be conducting an investigation of my complaint. However, it is my wish that certain facts set forth in this complaint not be disclosed to others or that certain facts be disclosed only to such persons as I specifically direct. The information which I wish to be disclosed to no one during the course of any investigation is as follows:

Below is listed factual information that I do not wish to have generally disclosed. Beside each specific fact stated below I have provided the name or names of those during the course of any investigation to whom I specifically authorize you to disclose such information:

I specifically acknowledge by signing this paragraph, rather than the general authority paragraph, that I may have placed limitations on the investigation which may make it difficult or impossible for the district to fully resolve my complaint.

Complaining Party's Signature

Date: _____