

# Regulation 0403-71

## Harassment, Bullying, and Sexting

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### Harassment, Bullying, and Sexting

The District is committed to preventing and prohibiting all types of harassment and retaliation in the workplace. The District shall afford equal employment opportunity to all qualified applicants or personnel with respect to compensation and all terms and conditions of employment, including hiring, training, promotion, transfer, discipline, and termination. All personnel have the right to work in an atmosphere that promotes equal opportunities free from all forms of discrimination and conduct that could be harassing, coercive, or disruptive.

Conduct need not violate either federal or state law to constitute a violation of this regulation. A single act by a covered individual may constitute a violation of this policy and provide sufficient grounds for corrective action.

The District expressly prohibits any retaliation against personnel because they filed or supported a complaint or because they participated in the investigation or complaint resolution process. Individuals found to have retaliated against personnel in violation of this regulation will be subject to disciplinary action.

### Harassment

Conduct that amounts to harassment is unwelcome verbal, visual, or physical conduct based on membership in a protected classification that creates an intimidating, offensive, or hostile work environment. Such conduct constitutes as harassment when:

- Submission to the conduct is made either an explicit or implicit condition of employment, or an unpaid internship or volunteer program.
- Submission to or rejection of the conduct is used as the basis for an employment decision.
- The harassment unreasonably interferes with a personnel's work performance or creates an intimidating, hostile, or offensive work environment.

District personnel are:

- Prohibited from engaging in any conduct which could reasonably be construed as constituting harassment on the basis of an individual's protected classification, including but not limited to, sex, race, color, national origin, age, religious beliefs, ethnic background, physical or mental disability, military or veteran status, or any other basis protected by the law;
- Prohibited from displaying graffiti and/or slogans or visual displays such as cartoons or posters depicting slurs or derogatory sentiments related to the victim's sex, race, color, national origin, age, religious beliefs, ethnic background or disability;
- Prohibited from sexually harassing other personnel, students or visitors of the district;
- Required to report to their supervisor, the Human Resources Director, or the Chief Human Resources Officer any harassment of which personnel becomes aware; and,
- Required to take immediate action to discipline and/or report students who engage in conduct which may be reasonably considered constituting harassment of another student.

This policy applies to all conduct on the district's premises and to conduct off the District's premises that has an effect upon a personnel's work environment or a student's educational environment.

As deemed appropriate, the District will provide training to personnel regarding harassment and will take reasonable steps to take remedial action to stop harassment and prevent its recurrence.

## Sexual Harassment

Sexual harassment is a form of misconduct that includes unwelcome sexual advances, requests for sexual favors, unwelcome visual, verbal or physical contact of a sexual nature when:

- The personnel's submission to such conduct is made either as an implicit or explicit term or quid pro quo condition of employment (including but not limited to wages, evaluation, advancement, retention, assigned duties or other employment-related matters);
- Submission to or rejection of such conduct is used as a basis for decisions affecting employment or educational decisions affecting the individuals;
- Such conduct by supervisors, other personnel or volunteers has the purpose or effect of unreasonably interfering with an individual's work performance or education, or creating an intimidating, hostile or offensive work or educational environment.

- Examples of sexual harassment include, but are not limited to, the following:
  - Verbal conduct includes sexual innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions and threats, negative comments regarding an individuals' gender;
  - Nonverbal conduct includes sexually suggestive objects or pictures, graphic commentaries, suggestive or insulting noises, obscene gestures, whistling, leering, and stalking;
  - Physical conduct includes unwanted physical contact such as touching, pinching, brushing the body, coerced sexual intercourse or assault;
  - The distribution of sexually-explicit or sexually suggestive images using an electronic device, more commonly known as "sexting".
- No personnel may use the authority of their position to subject any other employee to sexual harassment, as described above, or to coerce, encourage or force another into a romantic relationship.

Sexual harassment need not be motivated by sexual desire or attraction. Sexual harassment can be based on pregnancy, childbirth, or related medical conditions where such conduct unreasonably interferes with the personnel's work performance, affect or impact a personnel's terms and conditions or privileges of employment or creates an intimidating, hostile or offensive work environment.

## Sexting

Sexting is the distribution of sexually-explicit or sexually suggestive images using an electronic device.

Adults engaged in sexting are subject to:

- Notification of police
- Appropriate disciplinary action that may include probation, suspension and/or termination

Any form of harassment related to sexting is strictly forbidden.

## Bullying

Bullying is unwanted repeated aggressive behavior or actions seeking to harm, intimidate or coerce others with an apparent intent to dominate. Bullying may include, but is not limited to physical (hitting, pushing, or attacks on property); verbal (name-calling, obscene gestures, malicious teasing or cyber bullying) or indirect attacks (anonymous hurtful notes or spreading of rumors). Bullying often occurs without apparent provocation and in voles a real or perceived power imbalance.

Bullying is not playful teasing between relatively equal individuals, nor negative conversation, commentary or constructive performance criticism by an administrator regarding an employee's performance.

It shall be a violation of policy for any personnel to bully another personnel or individual through any means, including technology, while on District property or at any District-sponsored activity, regardless of location.

Reporting, investigation and discipline of bullying is addressed through the provisions detailed below.

## Reporting A Complaint

Individuals who believe they are being harassed or bullied should firmly and promptly notify the offender that their behavior is unwelcome. When a direct communication with the alleged harasser is not feasible or effective, the following steps should be followed when reporting a harassment complaint:

- The individual may choose to report the complaint to their supervisor or principal.
- If the supervisor successfully resolves the complaint in an informal manner, a confidential report will be made to the Human Resources Director about the complaint and resolution so that the District may determine if any pattern of harassment by any particular individual exists.
- If the supervisor is unable to resolve the complaint, the complaint will be referred to the Chief Human Resources Officer.
- If the individual chooses not to report the complaint to their supervisor, the individual may report the incident directly to the Human Resources Director or Chief Human Resources Officer. If the complaint in any manner involves the Human Resources Director or Chief Human Resources Officer the individual should report the complaint to the Superintendent.

Personnel, at any time, may file a sexual discrimination or harassment claim with the Idaho Human Rights Commission and/or the Equal Employment Opportunity Commission (EEOC).

## Protection Against Retaliation

Retaliation is taking adverse action against a covered individual because of the covered individual's opposition to a practice that the covered individual reasonably believes constitutes employment discrimination or harassment or because of the covered individual's participation in an employment discrimination or harassment investigation, proceeding or hearing. Retaliation also includes adverse action against an employee because of opposition or participation by a family member or close associate of the personnel.

The District will not retaliate in any way against an individual who makes a report of harassment, in good faith, nor will it permit any District employee to do so. Any person found to have retaliated against another individual for reporting an incident of

harassment, in good faith, may be subject to the same disciplinary action provided for harassment offenders. Individuals who are not complainants but who assist individuals who believe they have been subjected to harassment or who assist or participate in a harassment investigation are also protected from retaliation.

## Investigation Of Harassment, Bullying Or Sexting Complaint

- Any allegation of harassment, including sexual harassment, bullying, or sexting will be promptly investigated in a confidential manner to protect the privacy of all individuals involved.
- Confidentiality will be maintained throughout the investigatory process to the extent practical and appropriate under the circumstances.
- Complaints not resolved at the immediate supervisory/administrative level will be investigated by the District's Human Resources Director.
- Upon completion of the investigation of a harassment complaint, the investigator will communicate their finding to the Human Resources Director and/or Chief Human Resources Officer. If the complaint in any manner involves the Superintendent, the investigator's finding will be submitted directly to the Chief Human Resources Officer.
- The District will keep and maintain a written record including, but not limited to, witness statements, investigative reports, and correspondence from the date any allegation of harassment is reported to District personnel. The information in the written record will also include the action taken by the district in response to each allegation. The record will be kept within the Human Resources Office at the District office and will not, at any time, be purged by District personnel.
- If the findings of the investigation determine that harassment has occurred and that suspension, probation or dismissal is warranted, the Board will be informed of the findings in executive session, and the record will be maintained in the personnel file.

## Disciplinary Actions

When it is brought to their attention, principals and supervisors must take affirmative steps to stop harassment, bullying, or sexting by subordinates or non-personnel, including, warning, discipline and recommending possible probation or dismissal.

If the investigation finds that personnel has harassed another personnel or a student, disciplinary actions may include probation, suspension and/or dismissal from employment. In addition, documentation regarding the disciplinary action will be placed in the individual's personnel file.

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