

DISTRICT ADMINISTRATION & STAFF

BOARD OF TRUSTEES

Chairman	Mr. Mike Linderman
Member	Ms. Penny James
Member	Mr. Dieter Jaegers

ADMINISTRATION

Supervising Teacher	Ms. Daisy Carlsmith
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DISTRICT TITLE IX/SECTION 504 COORDINATORS

Administrator	Ms. Daisy Carlsmith
Teacher	Mrs. Liane Keane
Counselor	Mrs. Barb Mosher

PHONE NUMBERS

District Office	827-3629
Fax	827-4185

SUCCESSFUL INQUIRIES/INVESTIGATIONS

- **Take all complaints, reports, rumors, and claims seriously.** Never belittle, downplay or ignore a report.
- **Keep an open mind.** Do not pressure guilt or innocence. Do not pre-judge or make determinations based on appearance, position or reputation of those involved.
- **Make an inquiry promptly.** Try to begin within 24 hours and end in a timely manner.
- **Be thorough.** Understand the steps you may take and when to inform key individuals in the grievance process. Follow all steps for which you are responsible/assigned.
- **Get assistance.** Contact legal counsel and the specialists in personnel, the Title IX Coordinator, or at OPI or MTSBA for answers or technical assistance. Ask earlier rather than later.
- **Document all parts of the inquiry that you conduct.** Create a separate confidential file accessible only to administrators with the “need to know”. Keep there interview notes, corroborating documents, and any earlier documents relating to this situation. If a complainant is not able or willing to make a written statement, they should review and agree with any statement you compile on their behalf.
- **Preserve privacy as much as possible.** Ask all individuals NOT to discuss the situation or inquiry with anyone but designated administrators. Explain why this is so important and why you hope they’ll honor your request for confidentiality.
- **Act in a professional manner.** Stay calm and appropriately sympathetic, but don’t take sides.
- **Prohibit any retaliation.** If anyone you talk with experiences what they believe is retaliation for reporting or participating in an inquiry, alert them to tell you immediately.
- **Step aside if you are too close.**

Adapted from Employer’s Guide to Controlling Sexual Harassment. Thompson Publishing Group, Inc. June 1994

DEFINITIONS & OBLIGATIONS IN THE LAW

Legal Framework

Sexual harassment is a form of sex discrimination which is prohibited in the workplace and in schools by state and federal law. In compliance with those laws, sexual harassment is also prohibited by school board policy. The workplace and schools are given special protection against discrimination in part because people have to go to work in order to support their families, and children are required by law to go to school. The same protection extends to post-secondary educational institutions.

The law provides for a work environment and an educational environment free of discrimination, in this case free of sexual harassment, a form of sex discrimination. The law is more concerned with the environment within which people must work or learn and less concerned with why a person is behaving in a discriminatory fashion. The law is not particularly interested in whether a person acting in a discriminatory fashion or acting in a way that creates a harassing work or educational environment, intends to discriminate or harass. Under the law it is the IMPACT rather than the INTENT of the behavior that is at issue.

Significant under the law is the way the behavior is reasonably perceived by a person of the same age and gender as the person perceiving or receiving the behavior rather than the intent of the person doing the behavior⁵. Unintentional sexual harassment is, for that reason, possible. A person may, for example, intend to be flirting, or be unskilled in appropriate conflict resolution methods, or be joking. Yet, their behavior might reasonably be perceived as sexual harassment. Training is therefore critical to inform people of the kinds of behavior which are likely to be offensive to others and for which permission should be requested before they are done, and to inform people that certain kinds of behavior will not be tolerated, and to notify that school officials wish to know if that kind of behavior is occurring and will assist in getting it stopped.

The law addressing sexual harassment derives from our state and federal constitutional prohibitions against discrimination guaranteeing equality under the law. "Sexual harassment" is defined in various federal and state statutes and regulations. To understand this area of law, it is helpful to be familiar with key constitutional, statutory, and regulatory provisions:

Federal Law

The 14th Amendment to our Federal Constitution guarantees all citizens of the United States equal protection of the laws:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

In 1964, Congress implemented the provisions of the 14th Amendment by enacting into law Title VII of the Federal Civil Rights Act prohibiting discrimination in the employment arena. In 1972, Title IX of that same Act was enacted into law as the Educational Amendments to the Federal Civil Rights Act. Title IX covers educational institutions with respect both to discrimination in employments and in education.

In 1980, the Federal Equal Employment Opportunity Commission (EEOC), the rule making body for Title VII, issued its “Final Amendment to Guidelines on Discrimination Because of Sex.” These guidelines interpret Title VII to include sexual harassment as a form of sex discrimination in employment, and provide a definition of sexual harassment. (New proposed guidelines have been published for comment in June 1994.)

The EEOC defines “sexual harassment” as:

“Unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment; [Quid pro quo]*
- (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual [Quid pro quo]; or*
- (3) such conduct had the purpose or effect of un reasonably interfering with an individual's. Work performance or creating an intimidating hostile, or offensive working environment. [Hostile Environment]*

This definition is very helpful and can be adapted to the educational setting. “Sexual harassment” means unwelcomed sexual advances, requests for sexual favors, and other verbal, non-verbal, or physical behavior of a sexual or gender-related nature that fits one of these criteria:

- Criteria 1: You feel pressure to go along with the behavior in order to get a job, get a good grade, get a recommendation, or get a position of some kind. [Quid pro quo]
- Criteria 2: You feel pressure to go along with the behavior because (or you know if you reject it) you may suffer the consequences through grades, jobs, positions, opportunities to participate, etc. [Quid pro quo]
- Criteria 3: The behavior is directed to you to either intentionally or unintentionally interfere with your ability to perform as a student [Hostile Environment]
- Criteria 4: The behavior creates an embarrassing, hostile or intimidating environment for you at school, in class, in the hall, in the locker room, on the bus, or at any school-sponsored activity or location. [Hostile Environment]

Congress, in enacting Title IX into law specifically prohibited sex-based discrimination against students and employees on the part of educational institutions.

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” Title IX of the Education Amendments of 1972, 20 U.S.C. Section 1681 (a), P.L. 92-318.

The United State Department of Education is the rule making body for Title IX. In 1981, the Federal Office of Civil Rights of the Department of Education, the federal agency charged with enforcing Title IX of the Civil Rights Act, adopted a working definition of sexual harassment under Title IX in a policy memorandum:

“Sexual harassment consists of verbal or physical conduct of a sexual nature, imposed on the basis of sex, by an employee or agent of a recipient [district] that denies, limits, provides different, or conditions the provision of aid, benefits, services or treatment protected under Title IX. “2

Title IX requires educational institutions to maintain a non-discrimination policy and grievance procedures which allow prompt and equitable resolution of sex discrimination complaints. It is highly recommended that schools have a policy and procedure specifically directed to sexual harassment.

Training of students and school personnel will permit sexual harassment to be dealt with appropriately at the lowest level possible. Title IX may be enforced through a complaint or grievance procedure at the school level, but it can also be enforced through a complaint filed with the federal Office for Civil rights (U.S. Department of Education; money damages are not available as a remedy through OCR0, through a complaint filed with the Montana Human Rights Commission (money damages available as a remedy), or by a private lawsuit in State or Federal court.

Montana Law

The Montana Constitution (1972) contains a fundamental bar to discrimination both by government and society at large. It prohibits discrimination against people because of their race, color, sex, culture, social origin or condition, political or religious ideas;

INDIVIDUAL DIGNITY. The dignity of the human being is inviolable. No person shall be denied the equal protection of the laws. NEITHER THE STATE NOR ANY PERSON, FIRM, CORPORATION, OR INSTITUTION SHALL DISCRIMINATE AGAINST ANY PERSON IN THE EXERCISE OF HIS CIVIL OR POLITICAL RIGHTS ON ACCOUNT OF race, color, SEX, culture, social origin or condition, or political or religious ideas. Montana Constitution, Article II, Section 4, 1972.

The application of this provision to “person, firms, corporations and institutions” in addition to government makes Montana’s constitutional protection significantly broader than that afforded by the constitutions of many states or that of the federal government.

Montana’s Constitution also specifically prohibits discrimination in education:

*“It is the goal of the people to establish a system of education which will develop the full educational potential of each person. **Equality of educational opportunity is guaranteed to each person of the state.**” Montana Constitution, Article X, Section 1, 1972.*

Protection of students against discrimination, including sex discrimination, is guaranteed by this provision. This constitutional provision gives students constitutional protection against discrimination in education greater than that afforded citizens in the workplace.

In accordance with this constitutional provision. **The Montana Board of Public Education Accreditation Standard 10.55.802** – The “Equity Standard states:

“Opportunity and Educational Equity (1) The school district shall not discriminate against any student on the basis of sex... This includes programs, facilities, textbooks, curriculum, counseling, library services, and extracurricular activities. It is the purpose of the accreditation standards to guarantee equality of educational opportunity to each person regardless of sex, race, marital status, national origin, or handicapping condition.”

The Montana Human Rights Act (1974) is the comprehensive legislation prohibiting discrimination based on race, creed, religion, color, national origin, age, physical or mental handicap, marital status or sex. Title 49 of the Act details Freedom from Discrimination (Section 49-2-307, MCA). It prohibits discrimination against a student in terms, conditions and privileges of the institution. Section 49-2-303, MCA, prohibits discrimination in employment, and Section 49-2-304, MCA, prohibits discrimination in public accommodations.

In 1987, the Montana Legislature authorized the Montana Human Rights Commission to issue the following definitions which were adopted as part of the Human Rights Act regulation, Chapter of “Sex Discrimination in Education” (ARM 24.9.1001+):

24.19.1002 DEFINITIONS...

(9) “Sexual harassment” means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

(10) “Sexual intimidation” means any unreasonable behavior, verbal or nonverbal, which has the effect of subjecting members of either sex to humiliation, embarrassment or discomfort because of their gender.

Montana regulatory law also specifies that schools are responsible to ensure that students are not subjected to sexual harassment by other students. This provision makes Montana law more progressive in this area than many states and distinguishes its law from that of most other state civil rights laws affecting education.

24.9.1003 TREATMENT OF STUDENTS...(3) No students shall be subjected to sexual intimidation or harassment by any school employee or by the effect of any school policy or practice when any employee or agent of the educational institution knew or reasonably should have known of the activity, policy or practice. NO STUDENTS SHALL BE SUBJECTED TO SEXUAL HARASSMENT OR SEXUAL INTIMIDATION BY ANOTHER STUDENT ON SCHOOL-OWNED OR CONTROLLED PROPERTY OR AT ANY SCHOOL

SPONSORED OR SUPERVISED FUNCTIONS OR ACTIVITIES WHEN ANY AGENT OR EMPLOYEE OF THE EDUCATIONAL INSTITUTION KNEW OR REASONABLY SHOULD HAVE KNOWN OF THE ACTIVITY.

Additionally, the Montana Governmental Code of Fair Practices prohibits sexual harassment in employment and requires that government services be delivered free of discrimination (49-2-303, MCA).

Consequences of Sexual Harassment

The consequences of sexual harassment can be educational, disciplinary, civil or criminal in nature. It is generally wise to initially view any occurrence of sexual harassment as an educational opportunity for all involved and to use the opportunity to teach people what is not permissible within education, and how it can and should be dealt with.

DISTRICT POLICY - Sexual harassment can be dealt with through the school's or district's grievance and disciplinary processes. For students this can mean a variety of disciplinary measures. In persistent cases which fail to respond to educational and lesser disciplinary measures, expulsion is [and has been used in some Montana schools as] an appropriate consequence. For employees engaging in sexually harassing behaviors, depending on the behavior, education, or some form of discipline, extending as far as termination, may be appropriate.

Civil law – Civil law refers to laws which govern the conduct between citizens. It is enforced privately, frequently with the assistance of private attorneys. The most common form of compensation requested in a civil action is money. The standard of proof in a civil case is by a **preponderance of the evidence**. The laws governing sexual harassment are civil laws which can be enforced through a private lawsuit filed in federal or state district court or through a private complaint filed with the Montana Human Rights Commission. A complaint can also be filed with the Federal Office for Civil Rights of the Department of Education. The Office for Civil Rights does not award money damages to a complainant, but will seek to remedy the problem with the district involved.

CRIMINAL LAW – Criminal actions are considered an injury to the state or its people as a whole. Criminal laws are enforced by public prosecutors and are punishable by fines, imprisonment, and other such punishments imposed by courts criminally. Sexual harassment is not generally a violation of criminal law, unless the harassing behavior is not only behavior constituting sexual harassment, but is also a separate violation of the criminal laws, as is the situation in the case of sexual intercourse without consent, sexual assault, assault, etc. In such a case, proof of the criminal offense must be **beyond a reasonable doubt** and may be punishable by fine or imprisonment under the criminal laws, while also subject to school or district disciplinary process, and compensatable under the civil laws.

Liability

A person who sexually harasses another is responsible for their own behavior and potentially liable to the person they are harassing. School districts, administrators and employees who allow harassment to continue unchecked are potentially liable for sexual harassment occurring in the educational arena. The extent of personal liability of school personnel is a rapidly developing area of law. It remains uncertain, and may eventually be found to be different under federal and Montana law, given the greater protection afforded students under the Montana law and the greater responsibility placed on school personnel by that law. To avoid potential liability is important that districts and district personnel take PROMPT, EFFECTIVE REMEDIAL ACTION TO STOP HARASSMENT AND PREVENT FURTHER HARASSMENT.

Retaliation

Both Federal and State law recognize that fear of retaliation, that it will get worse, prevents many people from reporting offensive behavior and thwarts efforts to make our schools and work places safe, healthy places for children and employees.

Retaliation is for that reason specifically prohibited by both Federal and State law:

Intimidatory or retaliatory acts prohibited. No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Section 601 of the act or this part, or because he/she has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding or hearing under this part.

Office fro Civil Rights,, Department of Education, regulation 49-3-209, Montana Codes Annotated. Retaliation prohibited: It is unlawful and discriminatory for a district to discharge, expel, blacklist, or otherwise discriminate against an individual because [he] has opposed any practices forbidden under this statute or because [he] has filed a complaint, testified , assisted, or participated in any manner in an investigation or proceeding under this statute.

Montana Governmental Code of Fair Practices 49-2-303, Montana Code Annotated. Discrimination in employment. (1) It is an unlawful discriminatory practice for: (a) an employer to refuse employment to a person, to bar [them] from employment, or to discriminate against [them] in compensation or in a term, condition, or privilege of employment because of [their] race, creed, religion, color, or national origin or because of [their] age, physical or mental handicap, marital status, or sex when the reasonable demands of the position do not require an age, physical or mental handicap, marital status, or sex distinction...

Montana Human Rights Act

Taking retaliatory action against someone who claims that he or she is being sexually harassed (or against anyone who assists in an investigation) constitutes a separate and distinct violation of the law. It is possible to find insufficient evidence to substantiate the original claim of sexual harassment, but to find evidence of retaliation which can then constitute an appropriate basis for disciplinary action. Retaliation, whether from the claimed harasser, or his or her friends, should be

addressed with the complainant and the claimed harasser at the outset. If friends of the claimed harasser retaliate, they are making themselves part of the problem and are acting as co-harassers. They should also be warned and admonished appropriately and, if they fail to cease the retaliatory behavior, they, too, should be disciplined appropriately.

Special Education Students

Appropriate discipline for sexual harassment by a special education student which is a function of the student's disability should be addressed by the student's Individual Education Plan (IEP) through the Child Study Team. Special education students have no special right to sexually harass others. The Child Study Team will be able to determine whether the harassment is related to the child's disability. If it is not, the child may be disciplined in the same way that any other student would be disciplined. If it is, the behavior must be addressed and stopped in the manner specified in the IEP and in applicable statute and regulation.

Ann Gilkey, Counsel for Montana's Office of Public Instruction, advises of the IEP process to discipline special education students who sexually harass to initially determine whether the behavior is disability-related and, where it is, to determine the appropriate form of discipline. It is important to seek to harmonize the requirements of Title IX and those of IDEA and Section 504. Where the behavior is not disability related, the student should be disciplined under school discipline procedures. Another placement may be part of the consideration up to and including 10 days suspension, but we may not deny special education services. When in doubt, contact Ann Gilkey, (406) 444-4399, at Montana OPI.

STUDENTS

Sexual Harassment/Intimidation of Students

Sexual harassment is a form of sex discrimination and is prohibited in the District. An employee, District agent, or student engages in sexual harassment whenever he/she makes unwelcome advances, requests sexual favors, or engages in other verbal, non-verbal or physical conduct of a sexual or sex-based nature, imposed on the basis of sex, that:

1. denies or limits the provision of educational aid, benefits, services, opportunities, or treatment, or that makes such conduct a condition of a student's academic status; or
2. has the purpose or effect of:
 1. substantially interfering with the student's educational environment;
 2. creating an intimidating, hostile, or offensive educational environment;
 3. depriving a student of educational aid, benefits, services, opportunities or treatment; or
 4. making submission to or rejection of such unwelcome conduct the basis for academic decisions affecting a student.

The terms "intimidating", "hostile" and "offensive" include conduct which has the effect of humiliation, embarrassment, or discomfort. Examples of sexual harassment include, but are not limited to, unwelcome touching, crude jokes or pictures, discussions of sexual experiences, pressure for sexual activity, intimidation by words, actions, insults or name calling, teasing related to sexual characteristics, and spreading rumors related to a person's alleged sexual activities.

Students who believe that they may have been sexually harassed or intimidated should contact a counselor, teacher, or the Administrator, who will assist them in the complaint process. Supervisors or teachers who knowingly condone, or fail to report or assist a student to take action to remediate such behavior of sexual harassment or intimidation, may themselves be subject to discipline.

Any District employee who is determined, after an investigation, to have engaged in sexual harassment will be subject to disciplinary action up to and including discharge. Any student of the District who is determined, after an investigation, to have engaged in sexual harassment will be subject to disciplinary action, including, but not limited to, suspension and expulsion consistent with the discipline policy. Any person knowingly making a false accusation regarding sexual harassment will likewise be subject to disciplinary action up to and including discharge with regard to employees, or suspension and expulsion with regard to students.

The District will make every effort to insure that employees or students accused of sexual harassment or intimidation are given an appropriate opportunity to defend themselves against such accusations.

To the greatest extent possible, complaints will be treated in a confidential manner. Limited disclosure may be necessary in order to complete a thorough investigation. Retaliation against persons who file a complaint is a violation of law prohibiting discrimination, and will lead to disciplinary action against the offender.

Any individual seeking further information should contact the Administrator.

An individual with a complaint alleging a violation of this policy shall follow the Uniform Grievance Procedure.

Cross Reference: 1700 Uniform Complaint Procedure

Legal References: Title IX of the Educational Amendments, 20 U.S.C. § 1681, et seq.
34 CFR Part 106
Montana Constitution, Article X, § 1
Montana Human Rights Act, § 49-3-101, et seq., MCA

Policy History:

Adopted on: 08-13-01

Revised on:

Harassment Reporting Form for Students

School _____ Date _____

Student's name _____

(If you feel uncomfortable leaving your name, you may submit an anonymous report, but please understand that an anonymous report will be much more difficult to investigate. We assure you that we'll use our best efforts to keep your report confidential.)

➤ Who was responsible for the harassment or incident(s)? _____

➤ Describe the incident(s). _____

➤ Date(s), time(s), and place(s) the incident(s) occurred. _____

➤ Were other individuals involved in the incident(s)? yes no

If so, name the individual(s) and explain their roles. _____

➤ Did anyone witness the incident(s)? yes no

If so, name the witnesses. _____

➤ Did you take any action in response to the incident? yes no

If yes, what action did you take? _____

➤ Were there any prior incidents? yes no

If so, describe any prior incidents. _____

Signature of complainant _____

Signatures of parents/legal guardians _____

STUDENTS

Uniform Complaint Procedure

The Board establishes this Uniform Complaint Procedure as a means to address complaints arising within the District. This Uniform Complaint Procedure is intended to be used for all complaints except those involving challenges to educational material and those governed by a collective bargaining agreement.

The District requests all individuals to use this complaint procedure, when the individual believes the Board or its employees or agents have violated the individual's rights under: (1) Montana constitutional, statutory, or administrative law; (2) United States constitutional, statutory, or regulatory law; or (3) Board policy.

The District will endeavor to respond to and resolve complaints without resorting to this formal complaint procedure and, when a complaint is filed, to address the complaint promptly and equitably. The right of a person to prompt and equitable resolution of a complaint filed hereunder will not be impaired by a person's pursuit of other remedies. Use of this complaint procedure is not a prerequisite to pursuit of other remedies, and use of this complaint procedure does not extend any filing deadline related to pursuit of other remedies.

The Superintendent has the authority to contract with an independent investigator at any time during the complaint procedure process. Within fifteen (15) calendar days of the Superintendent's receipt of the independent investigator's report and recommendation, the Superintendent will respond to the complaint and take such administrative steps as the Superintendent deems appropriate and necessary.

Level 1: Informal

An individual with a complaint is first encouraged to discuss it with the appropriate teacher, counselor, or building administrator, with the objective of resolving the matter promptly and informally. An exception is that a complaint of sexual harassment should be discussed directly with an administrator not involved in the alleged harassment.

Level 2: Building Administrator

When a complaint has not been or cannot be resolved at Level 1, an individual may file a signed and dated written complaint stating: (1) the nature of the complaint; (2) a description of the event or incident giving rise to the complaint, including any school personnel involved; and (3) the remedy or resolution requested. This written complaint must be filed within thirty (30) calendar days of the event or incident or from the date an individual could reasonably become aware of such event or incident.

When a complaint alleges violation of Board policy or procedure, the building administrator will investigate and attempt to resolve the complaint. The administrator will respond in writing to the complaint, within thirty (30) calendar days of the administrator's receipt of the complaint.

If either the complainant or the person against whom the complaint is filed is dissatisfied with the administrator's decision, either may request, in writing, that the Superintendent review the administrator's decision. (See Level 3.) This request must be submitted to the Superintendent within fifteen (15) calendar days of the administrator's decision.

When a complaint alleges sexual harassment or a violation of Title IX of the Education Amendments of 1972 (the Civil Rights Act), Title II of the Americans with Disabilities Act of 1990, or Section 504 of the Rehabilitation Act of 1973, the building administrator may turn the complaint over to a District nondiscrimination coordinator. The coordinator will complete an investigation and file a report and recommendation with the Superintendent. A coordinator may hire, with the approval of the Superintendent, an independent investigator to conduct the investigation. Within fifteen (15) calendar days of the Superintendent's receipt of the coordinator's or independent investigators report and recommendation, the Superintendent will respond to the complaint and take such administrative steps as the Superintendent deems appropriate and necessary. If either the complainant or the person against whom the complaint is filed is dissatisfied with the Superintendent's decision, either may request, in writing, that the Board consider an appeal of the Superintendent's decision. (See Level 4.) This request must be submitted in writing to the Superintendent, within fifteen (15) calendar days of the Superintendent's written response to the complaint, for transmission to the Board.

Level 3: Superintendent

If either the complainant or the person against whom the complaint is filed appeals the administrator's decision provided for in Level 2, the Superintendent will review the complaint and the administrator's decision. The Superintendent will respond in writing to the appeal, within thirty (30) calendar days of the Superintendent's receipt of the written appeal. In responding to the appeal, the Superintendent may: (1) meet with the parties involved in the complaint; (2) conduct a separate or supplementary investigation; (3) engage an outside investigator or other District employees to assist with the appeal; and/or (4) take other steps appropriate or helpful in resolving the complaint.

If either the complainant or the person against whom the complaint is filed is dissatisfied with the Superintendent's decision, either may request, in writing, that the Board consider an appeal of the Superintendent's decision. (See Level 4.) This request must be submitted in writing to the Superintendent, within fifteen (15) calendar days of the Superintendent's written response to the complaint, for transmission to the Board.

Level 4: The Board

Upon written appeal, the Board will consider the Superintendent's decision in Level 2 or 3. Upon receipt of written request for appeal, the Chair will either: (1) place the appeal on the agenda of a regular or special Board meeting; or (2) appoint an appeals panel of not less than three (3) trustees to hear the appeal and make a recommendation to the Board. If the Chair appoints a panel to consider the appeal, the panel will meet to consider the appeal and then make written recommendation to the full Board. The Board will report its decision on the appeal, in writing, to all parties, within thirty (30) calendar days of the Board meeting at which the Board considered the appeal or the recommendation of the panel. A decision of the Board is final, unless it is appealed pursuant to Montana law within the period provided by law.

Level 5: County Superintendent

When a matter falls within the jurisdiction of a county superintendent of schools, the decision of the Board may be appealed to the county superintendent by filing written appeal within thirty (30) calendar days of the Board's decision, pursuant to Montana law.

Legal Reference: Title IX of the Education Amendments of 1972 (Civil Rights Act)
Title II of the Americans with Disabilities Act of 1990
§ 504 of the Rehabilitation Act of 1973

Policy History:

Adopted on: March 11, 2009 (Replaces 3215 and 5240P)

Revised on:

Grievance Reporting Form

School _____ Date _____

Grievant's Name _____

➤ **Nature of grievance** _____

➤ **Date(s), time(s), and place(s) the incident(s) occurred.** _____

➤ **Were other individuals involved in the incident(s)?** yes no
If so, name the individual(s) and explain their roles. _____

➤ **Did anyone witness the incident(s)?** yes no
If so, name the witnesses. _____

➤ **Did you take any action in response to the incident?** yes no
If yes, what action did you take? _____

➤ **What remedy are you seeking?** _____

Signature of Grievant _____

Sexual Harassment/Sexual Intimidation in the Workplace

The District shall do everything in its power to provide employees an employment environment free of unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communications constituting sexual harassment, as defined and otherwise prohibited by state and federal law.

District employees shall not make sexual advances or request sexual favors or engage in any conduct of a sexual nature when:

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- (2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- (3) Such conduct has the purpose or effect of substantially interfering with the individual's work performance or creating an intimidating, hostile, or offensive working environment.

Sexual harassment prohibited by this policy includes verbal or physical conduct. The terms "intimidating", "hostile", or "offensive" include, but are not limited to, conduct which has the effect of humiliation, embarrassment, or discomfort. Sexual harassment will be evaluated in light of all of the circumstances.

A violation of this policy may result in discipline, up to and including discharge. Any person making a knowingly false accusation regarding sexual harassment will likewise be subject to disciplinary action, up to and including discharge.

Aggrieved persons who feel comfortable doing so, should directly inform the person engaging in sexually harassing conduct or communication, that such conduct or communication is offensive and must stop.

Employees who believe they may have been sexually harassed or intimidated should contact the Administrator, who will assist them in filing a complaint. An individual with a complaint alleging a violation of this policy shall follow the Uniform Grievance Procedure.

Cross Reference: 1700 Uniform Complaint Procedure

Legal Reference: Title VII of the Civil Rights Act, 42 U.S.C. §§ 2000(e), et seq., 29 C.F.R. § 1604.11
Title IX of Education Amendments, 20 U.S.C. §§ 1681, et seq.
Montana Constitution, Art. X, § 1
§ 49-2-101, MCA Human Rights Act
Harris v. Fork Lift Systems, 114 S.Ct. 367 (1993)

Policy History:

Adopted on: 08-13-01