

EUREKA COUNTY SCHOOL DISTRICTPREVENTION OF SEXUAL MISCONDUCT TOWARD STUDENTS

1. “Sexual misconduct” as used in this regulation is defined as:
 - a. Any sexual conduct that meets the definition of prohibited conduct/behavior as described below or in any other District policy.
 - b. Any conduct or communication that explicitly or implicitly conditions a student’s participation in an educational program or activity on submission to sexual conduct.
 - c. Any conduct or communication that explicitly or implicitly indicates that an educational decision will be based on the student’s submission to sexual conduct.
 - d. Any bullying, cyberbullying, harassing, or intimidating conduct or communication, of a sexual nature, that creates an environment which is hostile to a student by interfering with their education.
 - e. Any conduct or communication of a sexual nature that is of a sufficiently severe, persistent, or pervasive and objectively offensive nature that it limits a student’s ability to participate in or benefit from an educational program or activity or creates a hostile or abusive educational environment.
 - f. Any conduct or communication that is considered immorality within the meaning of NRS 391.311 (4) including but not limited to sexual assault, statutory sexual seduction, incest, commission of certain sexual acts in public, open or gross lewdness, indecent exposure, or lewdness with a minor.
2. **Note:** The District acknowledges the applicability of criminal statutes relating to sexual conduct toward a student, including:
 - i. NRS 201.540, which indicates that it is a felony, for a person 21 years and older, who is or was employed or is or was a volunteer at a public or private school, from engaging in sexual conduct with pupils who are 16 years or age or older.
 - ii. NRS 201.230 states it is a felony for a person to conduct lewdness with a child under the age of 16.
 - iii. Other criminal statutes which are pertinent to this policy include, but are not limited to, NRS 201.195, solicitation of a minor to engage in acts constituting crimes against nature; NRS 200.366, sexual assault; NRS 200.368, statutory sexual seduction; NRS 201.560, using a computer to lure children.

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3. Examples of behavior which constitutes sexual misconduct include, but are not limited to
 - a. Making sexual advances or gestures toward a student;
 - b. Coercing, forcing, or attempting to coerce or force sexual intercourse or any sexual act with a student;
 - c. Engaging in sexual intercourse or any sexual act with any student;
 - d. Touching oneself sexually or talking about one's sexual activity in front of students;
 - e. Spreading rumors about or discussing students' sexual activity; and
 - f. Sexually motivated or inappropriate touching, patting, grabbing, or pinching a student's body, whether that student is of the same or the opposite sex. Note: This prohibition does not preclude legitimate, non-sexual physical conduct which may include, but is not limited to, the use of necessary restraints to avoid physical harm to persons or property, or conduct such as a teacher's consoling or congratulatory hug of a student, or the demonstration of an athletic move by a teacher or student requiring contact with another student.
 - g. Other sexual behavior or communication, including requests for sexual favors, whether or not accompanied by implied or overt threats concerning a student's educational status or implied or overt promises of preferential treatment.

4. If the alleged sexual misconduct could constitute sexual harassment under Title IX, Board Policy 4002 and Administrative Regulation 4002 AR apply rather than Board Policy 4113 and Administrative Regulation 4113 AR.¹ Because the school district must respond with specific steps whenever any employee has notice of sexual harassment under Title IX, all school employees are required to report possible incidents of sexual harassment directly to the District's Title IX Coordinator, as soon as practicable, but not later than a time during the same day on which the employee became aware of an incident of sexual harassment, including allegations of sexual harassment. Reports by school district employees must be made in person, by telephone, and/or by email to the school district's Title IX Coordinator as follows:

Personnel Officer
Eureka County School District
PO Box 249
Eureka, NV 89316
Ph: 775-237-5373/Fax: 775-237-5014
detchegaray@eureka.k12.nv.us

The school district's Title IX Coordinator will assist the employee, in consultation with the school principal if the employee is not the principal, to determine whether the allegation could constitute sexual harassment under Title IX, in which case Board Policy 4002 and Administrative Regulation 4002 AR will be followed rather than Board Policy 4113 and Administrative Regulation 4113 AR.

5. The District shall promptly investigate all complaints or allegations of sexual misconduct. If a violation is found to have occurred, the investigation shall include recommendations concerning the incorporation of disciplinary action and other measures to be

¹ Sexual harassment is defined under the federal Title IX regulations as conduct on the basis of sex that satisfies one or more of the following:

- a. A school employee conditioning the provision of an aid, benefit, or service of the school district on an individual's participation in welcome sexual conduct (i.e., *quid pro quo*); or
- b. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school district's education program or activity; or
- c. Sexual assault as defined in the federal Clery Act, or dating violence, domestic violence, or stalking as defined in the federal Violence Against Women Act.

imposed. It will keep all investigations confidential to the extent possible. The District will release information obtained only to those individuals with business need-to-know or involved in the investigation and the administration of the complaint or as required by law. The District will inform the individual filing the complaint, as well as the individual against whom the complaint was made, of the final determination. All employees and students questioned as part of an investigation will be told and expected to refrain from discussing the matter with anyone except District or legal representatives or their own union or legal representatives.

The initial investigation will be conducted by a qualified and objective school official not named in the complaint, or by an outside investigator. The investigator will act with due regard for the rights of all individuals and, in particular, to ensure any rights of students to have their parent(s)/guardian(s) present during questioning. If the initial investigation indicates that a criminal act may have occurred, the investigator shall immediately notify the Superintendent, who will in turn immediately report the matter to the law enforcement agency having jurisdiction.

The District treats all complaints or allegations of sexual misconduct seriously and expects all employees and students to be candid and truthful during the investigation process. If credible evidence indicates that a participant in the investigation has made intentionally false or malicious statements, the District will discipline or take other appropriate action against that participant.

6. If warranted, the District will also initiate appropriate remedial and/or disciplinary action consistent with the findings of the report and the requirements of applicable collective bargaining agreements, District policy, and state and federal law.
7. The District will not tolerate any form of retaliation toward any person who reports alleged sexual misconduct in good faith, assists another in filing a complaint, or provides truthful statements during an investigation.

The District will discipline or take other appropriate action against any student, school personnel, volunteers, administrators, or officials for threatening, intimidating, or interfering with any person who complains of sexual misconduct, or reports sexual misconduct, or who testifies or participates in a proceeding, investigation, or hearing related to a complaint of sexual misconduct.

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8. All District employees, volunteers, officials, and administrators will participate in an initial training session and in periodic training updates on the prevention of sexual misconduct, will be provided an opportunity to review a copy of the District Policy, and will sign an acknowledgment of receipt stating: I have been given an opportunity to review such policy. The District will provide all new employees with a copy of this policy and afford employees an opportunity to discuss the contents during orientation.
9. The District will make this policy available to parents or guardians and all students, as appropriate, during annual registration. The District will also publish the policy in student handbooks and post the policy in the District administrative offices and in school offices. At least annually, the District will publicize this policy in school newsletters or other publications used to communicate District policies to parents and guardians.

Legal References:

NRS 391.311, NRS 201.540, NRS 201.195, NRS 201.230, NRS 200.366, NRS 200.368, NRS 201.560, NRS 432B.220, NRS 392.275 *et seq.*