

EUREKA COUNTY SCHOOL DISTRICTPREVENTION OF SEXUAL MISCONDUCT TOWARD STUDENTS

The District prohibits and will not tolerate any form of sexual misconduct (including sexual abuse, sexual molestation, and sexual harassment) toward students on the part of District employees, administrators, officials, volunteers, or third parties.

This policy expands upon, and is established in addition to, the District policy on the prevention of illegal harassment. Because the District has a particular interest in maintaining student safety and well-being, it has established this additional policy to specifically address sexual misconduct toward students.

Conduct

Sexual misconduct as used in this policy is:

- Any conduct that meets the definition of sexual harassment contained in District policy.
- Any conduct or communication that explicitly or implicitly conditions a student's participation in an educational program or activity on submission to sexual conduct.
- Any conduct or communication that explicitly or implicitly indicates that an educational decision will be based on the student's submission to sexual conduct.
- Any conduct or communication of a sexual nature that is sufficiently severe, persistent, or pervasive and objectively offensive 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.
- Any conduct or communication that is immoral conduct within the meaning of NRS 391.311 (4) including but not limited to sexual assault, statutory sexual seduction, incest, commission or certain sexual acts in public, open or gross lewdness, indecent exposure, and lewdness with a minor.

Note: The District acknowledges that applicability of criminal statutes relating to sexual conduct toward a student, including NRS 201.540, which indicates that it is a felony for a teacher, administrator, coach, volunteer or teacher's aide or auxiliary nonprofessional employee who assists with instruction or supervision of pupils, to engage in sexual conduct with pupils.

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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 201.230, lewdness with a child under 14; NRS 200.366, sexual assault; NRS 200.368, statutory sexual seduction; NRS 201.560, using a computer to lure children, etc.

Examples of behavior which constitute sexual misconduct include but are not limited to:

- Making sexual advances or gestures toward a student
- Coercing, forcing, or attempting to coerce or force sexual intercourse or any sexual act with a student
- Engaging in sexual intercourse or any sexual act with any student
- Touching oneself sexually or talking about one's sexual activity in front of students
- Spreading rumors about or discussing students' sexual activity
- 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 the 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 the teacher or student requiring contact with another student
- 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.

Reporting Procedures:

The District encourages every student who believes s/ he has been the recipient of sexual misconduct and every student or other individual who has knowledge of sexual misconduct to report immediately the alleged act(s) to a teacher, school counselor, principal, or other appropriate District official. The report may be either written or oral. The District will keep the name of the person making the report confidential to the extent possible and will make it available only to those individuals who are necessarily involved in the investigation and the administration of the

complaint. The person receiving the report shall document the time and place of the report and the name of the person making the report. Any teacher, administrator, official, volunteer, or other school employee who has or receives information that a student has or may have been a recipient of sexual misconduct is required to report the alleged acts to the principal or next higher district official no longer than 48 hours after receiving the information. Failure to make this report to the principal or next higher district official as prescribed may result in disciplinary or other appropriate action against the teacher, administrator, official, volunteer, or other school employee.

(As required by NRS 432B.200, in situations where there is reasonable cause to believe that a child has been abused or neglected, a school administrator, teacher, librarian, or counselor must report this to child welfare services or a law enforcement agency within 24 hours.)

Investigation:

The District shall promptly investigate all complaints or allegations of sexual misconduct. It will keep all investigations confidential to the extent possible. The District will release information obtained only to those individuals who are necessarily 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 agency 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.

District Action:

Upon determination that a violation of this policy has occurred, the District will provide written notice of the results of the investigation to the complainant and the person accused of the violation. 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.

Reprisal:

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 the educational or school-related extra curricular opportunities of 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.

Any student who believes she/ he is being retaliated or discriminated against in any manner whatsoever as a result of having filed a complaint, provided information, testified, or participated in a proceeding, investigation, or hearing related to a complaint of sexual misconduct or provided advice and/ or assistance to one who filed a complaint should immediately notify the Superintendent or Principal who shall take appropriate timely action to review and resolve the allegation.

Training:

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 given a copy of the District's policy, and will sign an acknowledgement of receipt of 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.

Dissemination of Policy:

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.