

Emery County School District



Policy: GBAA—Sexual Discrimination & Harassment

Date Adopted: 8 September 1993
Current Review / Revision: 3 February 2021

Sexual harassment will not be tolerated in the Emery County School District (the District). In the context of this policy, the District includes locations, events, or circumstances over which the District or a school exercised substantial control over both the Respondent and the context in which the sexual harassment occurred. The District will comply with established Title IX procedures for sexual harassment reporting and resolution.

Sexual harassment within the District is prohibited. Employees whose behavior is found to be in violation of this policy may be subject to discipline, up to and including termination. Other individuals, including students, whose behavior is found to be in violation of this policy may be subject to appropriate discipline.

It is the personal responsibility of Board members, administrators, employees, students, and others having business or contact with the District to understand and act appropriately under this policy.

It is the responsibility of the Superintendent and all District employees acting in a supervisory capacity to inform and train employees, students, and relevant others about sexual harassment and this policy. The Superintendent and Coordinator will determine administrative rules regarding this policy in alignment with Title IX requirements.

Parties

- **Advisor:** Complainants and Respondents are permitted to have an advisor of her/his choice throughout the process. The advisor may be, but does not need to be, an attorney.
- **Complainant:** An individual participating or attempting to participate in a District education program or activity who is alleged to be the victim of conduct that could constitute sexual harassment. Complainants may be male or female, of the same gender as the Respondent or different genders. Complainants may be students, teachers, staff members, other employees, or other individuals.
- **Decision Maker:** An individual who makes a determination of responsibility after a formal investigation or an individual who reviews an appeal of a determination and makes a ruling on the appeal. Appointed by the Superintendent or Coordinator.
- **Facilitator:** An individual who facilitates the informal resolution process. Appointed by the Superintendent or Coordinator.
- **Investigator:** An individual who investigates formal complaints. Appointed by the Superintendent or Coordinator.
- **Respondent:** An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment. Respondents may be male or female, of the same gender as the Respondent or different genders. Complainants may be students, teachers, staff members, other employees, or other individuals.
- **Title IX Coordinator (Coordinator):** The employee of the District with primary responsibility for Title IX compliance efforts. Appointed by the Superintendent.

Definition

- Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:
 - An employee of the District conditioning the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct;

- 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 recipient's education program or activity; or
- Sexual assault, dating violence, domestic violence, or stalking as defined in United States Code.

Reporting Procedures

- An individual who believes they have been the victim of sexual harassment should report such matter to their Principal, building or department supervisor, or directly to the Coordinator.
- Any employee who is made aware of allegations of sexual harassment involving another employee, student, or person associated with the District, must immediately report the allegations and corresponding information to their Principal, building or department supervisor, or directly to the Coordinator.
- Principals, building or department supervisors shall report every allegation of sexual harassment immediately to the Coordinator. If a violation involves a student with a disability, the Coordinator should consult with a special education team from the initial report through the conclusion of the matter.
- Employees shall be trained at least every other year on these reporting procedures and obligations.

Initial Response & Supportive Measures

The Coordinator will respond promptly to each report of sexual harassment. The Coordinator will reach out to the Complainant to discuss the situation and, working with the Principal, building or department supervisor, will offer supportive measures to the Complainant.

- Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge. Examples include: counseling, extension of deadlines or other course-related adjustments, modifications of work or class schedules, mutual restrictions on contact between parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas on a school campus, or other similar measures. Supportive measures cannot be punitive toward the Respondent. Supportive measures will also be offered to the Respondent after the filing of a formal complaint and may be offered before.

The Coordinator will determine how the Complainant wishes to proceed. Options include concluding the matter as an informal complaint, or proceeding with a formal complaint.

- **Informal Complaint:** The Complainant doesn't want to go through an investigative process. If this option is chosen, the Complainant will continue to receive supportive measures but there will be no discipline taken against the Respondent. The Complainant cannot take any further action against the Respondent. The Coordinator still has the option to pursue an investigation of their own accord.
- **Formal Complaint:** The Complainant wishes to formalize the complaint and proceed with an investigative process. A formal complaint is documented and signed by the Complainant.

At any point, a complaint may be dismissed for the following reasons:

- The Complainant withdraws the complaint in writing.
- The Respondent is no longer enrolled as a student or employed by the school.
- Circumstances prevent the District from gathering evidence that would be sufficient to determine a resolution.

Formal Complaint Investigation & Process

Upon receipt of a formal complaint, the Coordinator determines if the alleged behavior constitutes sexual harassment and if an investigation is therefore necessary. Complaints may be dismissed by the Coordinator, (via written notice to both parties) if:

- The behavior wouldn't fit within the definition of sexual harassment; or
- The behavior didn't occur in an education program or activity of the District; or
- The behavior didn't occur in the United States.

If it is determined that the alleged behavior does constitute sexual harassment, and once both parties are aware of the allegations, the Coordinator has the option to appoint a facilitator to pursue an Informal Resolution. This is a type of mediation and must be done with the consent of both parties and without coercion of either party. This option for Informal Resolution cannot be considered if the Respondent is an employee and the Complainant is a student.

If an Information Resolution is not pursued or reached, the Coordinator will begin the investigative process. The Superintendent and/or Coordinator will appoint one or more trained investigators who will independently interview witnesses and gather evidence. The Coordinator may be an investigator. Principles of the investigation include:

- Fairness and equal treatment to all parties, without bias or conflict of interest, and not reliant on stereotypes
- Parties are permitted (but not required) to bring advisors into the process
- Parties are guaranteed access to all evidence
- The investigator will operate independently from the decision maker
- Respondents are presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the process

Investigations will be completed within 15 days, unless unusual circumstances require an extension of this timeline. Upon concluding the investigation, the investigator will create an investigative report that offers no conclusion of responsibility, only a summary of facts and evidence gathered. The report is presented to both parties and they are given 10 days to provide written responses. The investigator compiles the report and responses and creates a final investigative report. This is forwarded to both parties, the Coordinator, and the appointed decision maker.

The Coordinator will give both parties 5 days to submit written questions to the decision maker that will then be posed to parties and witnesses to ensure that all questions from both parties are answered. Parties will have 5 days to respond to the written questions. Once these questions are responded to, the decision maker will objectively evaluate all information, and using an approved standard of evidence will reach a conclusion. The decision maker will make a written determination (final report) regarding responsibility. This determination is shared with all parties.

If the determination is that the Respondent engaged in inappropriate behavior, remedies will be offered. Such remedies may include additional supportive measures for the Complainant and/or disciplinary measures for the Respondent. The purpose of these remedies is to restore or preserve equal access to education programs and activities.

Generally, disciplinary measures cannot be taken until the investigation is complete, however if an initial assessment reveals an immediate threat to the physical health or safety of another individual, the interim removal of a Respondent is an option. In this case, the Respondent must be allowed to challenge the removal decision. A challenge should be submitted in writing to the Coordinator within 5 days of the removal decision and will be reviewed promptly.

Substantiated charges of sexual harassment against a student may result in corrective action or discipline, including the possibility of expulsion, suspension, or alternative placement.

Substantiated charges of sexual harassment against an employee may result in corrective action or discipline, up to and including termination.

Appeals

A final report may be appealed, only on the following grounds:

- Evidence of a procedural irregularity that affected the outcome.
- Newly discovered evidence that could affect the outcome.
- Evidence that Title IX personnel had a conflict of interest or bias that affected the outcome.

Appeals must be made within 10 days of receiving the final report and are made by sending a written appeal request and corresponding evidence to the Superintendent. The Superintendent will function as the decision maker for appeals and will review all evidence and submit a written decision within 10 days of receipt of the appeal.

Confidentiality

The District will keep confidential the identity of any individual who has made a report or filed a complaint of sexual harassment, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as may be permitted by the FERPA statute, or as required by law, or to carry out the purposes of an investigation, hearing, or judicial proceeding.

Retaliation

No one shall retaliate against an individual because they have filed a sexual harassment complaint or participated in a sexual harassment investigation.

Non-Harassment

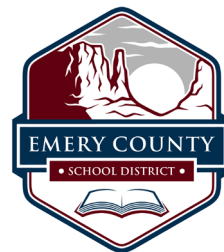
The District recognizes that not every advance or consent of a sexual nature constitutes harassment. Whether a particular action or incident is a personal, social relationship without a discriminatory or harassment effect requires a determination based on all the facts and surrounding circumstances.

Record Keeping

Records related to both informal and formal complaints of sexual harassment, and including supportive measures offered, will be kept by the District for 7 years.

Emery County School District

Sexual Harassment Complaint Form



Name of Complainant: _____

Position of Complainant: _____ Date of Complaint: _____

Name of Alleged Harasser: _____

Date and Place of Incident or Incidents: _____

Description of Misconduct: _____

Name(s) of Witness(es): _____

Evidence of Harassment, i.e., letters, photos, etc.: _____

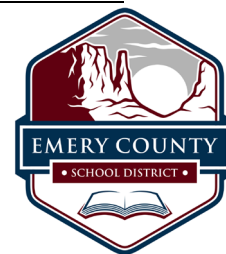
Any Other Information: _____

By signing below, I agree that all the information on this form is accurate and true to the best of my knowledge.

Formal Complaint (Y/N): _____ Informal Complaint (Y/N): _____

Signature: _____ Date: _____

Emery County School District
Sexual Harassment Witness Disclosure Form



Name of Witness: _____

Position of Witness: _____ Date of Testimony/Interview: _____

Description of Incident Witnessed: _____

Date and Place of Incident or Incidents: _____

Any Other Information: _____

I agree that all the information on this form is accurate and true to the best of my knowledge

Signature: _____ Date: _____