

## NONDISCRIMINATION/ EQUAL OPPORTUNITY

The Board is committed to a policy of nondiscrimination and equal opportunity in relation to race, color, religion, sex, sexual orientation, age, national origin, and disability. This policy will prevail in all matters concerning staff members, students, the public, educational programs and services, and individuals with whom the Board does business. The Superintendent will appoint the compliance officers and/or Title IX Coordinators.

All reports or grievances regarding discrimination in employment other than those regarding discrimination on the basis of sex should be directed to the Superintendent's office of compliance. All complaints or reports of discrimination on the basis of sex shall be directed to the Title IX Coordinator per policy ACA.

*Adopted:* date of manual adoption

LEGAL REF.: 22-31-1 et seq. NMSA, School Athletic Equity Act

28-1-2 NMSA et seq.

20 U.S.C. 1400 et seq., Individuals with Disabilities Education Act

20 U.S.C. 1681, Education Amendments of 1972, Title IX

20 U.S.C. 1092(f)(6)(A)(v), Sexual Assault

20 U.S.C. 1703, Equal Employment Opportunity Act of 1972

29 U.S.C. 794, Rehabilitation Act of 1973, (Section 504)

34 U.S.C. 12291(a)(8), (10), (30) Domestic Violence, Dating Violence, Stalking

42 U.S.C. 2000, Civil Rights Act of 1964, Titles VI and VII

42 U.S.C. 12101 et seq., Americans with Disabilities Act

34 CFR Part 106, Nondiscrimination on the basis of Sex in Education

CROSS REF.: AC - Nondiscrimination/Equal Opportunity

GBA - Equal Employment Opportunity

GCQF - Discipline, Suspension, and Dismissal of Professional Staff Members

GDQD - Discipline, Suspension, and Dismissal of Support Staff Members

IHBA - Special Instructional Programs and Accommodations for Disabled Students

JB - Equal Educational Opportunities

JII - Student Concerns, Complaints, and Grievances

JJIB - Interscholastic Sports

JK - Student Discipline

JKD - Student Suspension/Expulsion

KED - Public Concerns/Complaints about Facilities or Services

**NONDISCRIMINATION ON THE BASIS OF SEX**

The following is to comply with Title IX regulations found in 34 CFR Part 106 as revised in April of 2020 which is said to be designed to eliminate (with certain exceptions) discrimination on the basis of sex in any education program or activity receiving Federal financial assistance. An "education program or activity" includes locations, events, or circumstances over which the District exercised substantial control over both the respondent and the context in which the sexual harassment occurs.

The District shall notify applicants for employment, students, parents or legal guardians of elementary and secondary school students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the district (persons entitled to notification), of the name or title, office address, electronic mail address, and telephone number of the employee or employees designated as the Title IX Coordinator.

Name: Travis Dempsey  
Title: Title IX Coordinator  
Address: 4950 McNutt Road Sunland Park,  
NM 88063  
Phone: 575-882-6200  
e-mail: tldempsey@gisd.k12.nm.us

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report (such as reporting to any District employee). Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator.

*Any employee of the district is required to inform the Title IX Coordinator, Superintendent or the Supervising Administrator of their work site of any report made to them or any instance they observed regarding sexual discrimination or sexual harassment as soon as possible. Failure to do so may result in their being subject to disciplinary action.*

*Policy on Nondiscrimination on the Basis of Sex.* This School District does not discriminate on the basis of sex in the education programs or activities that it operates, and per Title IX and 34 CFR Part 106 will not discriminate in such a manner. The requirement not to discriminate in the education programs or activities extends to employment. Inquiries about the application of Title IX and 34 CFR Part 106 may be referred to the District's Title IX Coordinator, to the Assistant Secretary of the Office for Civil Rights, Department of Education, or both.

*Publications.* The District will prominently display the contact information required for the Title IX Coordinator and the policy found herein on its website and in each handbook or catalog that it makes available to persons entitled to notification. The District will not use or distribute a publication stating that the recipient treats applicants, students, or employees differently on the basis of sex except as such treatment is permitted by Title IX or 34 CFR Part 106.

*Grievance procedure and process adoption.* The District shall adopt, publish and provide notice of grievance procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by 34 CFR Part 106 and a grievance process that complies with § 106.45 for a report of sex discrimination or a formal complaint. As defined in §106.30(a), a "Formal complaint means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the recipient investigate the allegation of sexual harassment." At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the District in which a formal complaint is filed.

The District must provide to persons entitled to a notification, notice of the grievance procedures and grievance process, including:

- how to report or file a grievance of sex discrimination,
- how to report or file a formal complaint of sexual harassment, and
- how recipient will respond.

For purposes of this policy and by citation, the definitions in 34 CFR 106.30(a), are adopted (see citations below under LEGAL REF.) For purposes of this policy and in accord with the definitions in 106.30(a), "sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

- (1) An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
- (2) Unwelcome conduct on the basis of sex 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
- (3) "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30)."

Upon receiving a report regarding sex discrimination or sexual harassment with or without a formal complaint, the Title IX Coordinator shall provide a response to complainant and respondent of non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge which provide supportive measures and which

shall include, discussion of supportive measures and informing them of what is available without a formal complaint. The Title IX Coordinator is responsible for the implementation of supportive measures.

Upon the making of a report regarding sex discrimination or sexual harassment the Title IX Coordinator shall promptly contact the complainant to:

- discuss the availability of supportive measures as defined in § 106.30,
- consider the complainant's wishes with respect to supportive measures
- inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and
- explain to the complainant the process for filing a formal complaint.

Supportive measures as indicated above may include:

- counseling,
- extensions of deadlines or other course-related adjustments,
- modifications of work or class schedules,
- campus escort services,
- mutual restrictions on contact between the parties,
- changes in work or housing locations,
- leaves of absence,
- increased security and monitoring of certain areas of the campus, and
- administrative leave while a grievance is pending,
- emergency removal (following an individualized safety and risk analysis), and
- other similar measures.

In responding to a report or formal complaint the District must treat complainant and respondent equitably by offering both supportive measures.

The District must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability to

provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

*Retaliation prohibition.* No recipient or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or § 106, or because the individual has made a report or grievance, testified, assisted, or participated in or refused to participate in any manner in an investigation, proceeding, or hearing under this part. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or grievance of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or this part, constitutes retaliation.

*Corrective measures.* A finding of responsibility will be a determination that the District or a person in the District has violated policy and actions to correct the discriminatory practice or change the behavior of those involved will be instituted. Remedies designed to restore or preserve equal access to the District's education program or activity will be provided by the District, if appropriate.

A substantiated report of sex discrimination or formal complaint finding responsibility against a staff member in the District shall subject such staff member to disciplinary action in accord with GCQF - Discipline, Suspension, and Dismissal of Professional Staff Members or GDQD - Discipline, Suspension, and Dismissal of Support Staff Members.

A substantiated report of sex discrimination or formal complaint finding responsibility against a student in the District shall subject that student to disciplinary action, which may include the permissible penalties of JK - Student Discipline and/or JKD - Student Suspension/Expulsion.

*Adopted:* date of manual adoption

LEGAL REF.: 22-31-1 et seq. NMSA, School Athletic Equity Act  
28-1-2 NMSA et seq., New Mexico Human Rights Act  
20 U.S.C. 1400 et seq., Individuals with Disabilities Education Act  
20 U.S.C. 1681, Education Amendments of 1972, Title IX  
20 U.S.C. 1092(f)(6)(A)(v), Sexual Assault  
20 U.S.C. 1703, Equal Employment Opportunity Act of 1972  
29 U.S.C. 794, Rehabilitation Act of 1973, (Section 504)  
34 U.S.C. 12291(a)(8), (10), (30) Domestic Violence, Dating Violence, Stalking  
42 U.S.C. 2000, Civil Rights Act of 1964, Titles VI and VII  
42 U.S.C. 12101 et seq., Americans with Disabilities Act  
34 CFR Part 106, Nondiscrimination on the basis of Sex in Education  
6.13.4.8 NMAC, Gender Equity in Sports

CROSS REF.: AC - Nondiscrimination/Equal Opportunity  
GBA - Equal Employment Opportunity

GCQF - Discipline, Suspension, and Dismissal of Professional Staff Members  
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IHBA - Special Instructional Programs and Accommodations for Disabled Students  
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JII - Student Concerns, Complaints, and Grievances  
JJIB - Interscholastic Sports  
JK - Student Discipline  
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KED - Public Concerns/Complaints about Facilities or Services

**EXHIBIT** **EXHIBIT**

NONDISCRIMINATION ON THE BASIS OF SEX

GRIEVANCE FORM

(To be filed with the Title IX Compliance Officer as provided in ACA-R)

**Please print:**

Name: \_\_\_\_\_ Date: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Secondary Phone: \_\_\_\_\_

Best time to be reached: \_\_\_\_\_

E-mail address: \_\_\_\_\_

**I wish to complain against:**

Name of person, school (department), program, or activity:

\_\_\_\_\_

\_\_\_\_\_

Address: \_\_\_\_\_

Specify your complaint by stating the problem as you see it. Describe the incident, the participants, the background to the incident, and any attempts you have made to solve the problem. Be sure to note relevant dates, times, and places.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date of the action against which you are complaining: \_\_\_\_\_

If there is anyone who could provide more information regarding this, please list name(s), address(es), and telephone number(s).

Name \_\_\_\_\_ Address \_\_\_\_\_ Telephone Number \_\_\_\_\_

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**The projected solution**

Indicate what you think can and should be done to solve the problem. Be as specific as possible.

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I certify that this information is correct to the best of my knowledge.

\_\_\_\_\_  
Signature of Complainant

*The compliance officer, as designated in ACA, shall give one (1) copy to the complainant and shall retain one (1) copy for the file.*

## NONDISCRIMINATION ON THE BASIS OF SEX

The procedures that follow are specified in 34 C.F.R. Part 106 at 106.45 as required by 106.44a and though listed as a regulation are federal regulations implementing Title IX of the Education Amendments of 1972 as amended. Therefore, this regulation is considered the same a policy.

The following procedures apply to all reports and formal complaints of sexual harassment that may be received with the following exceptions for reports of sex discrimination that are not formal complaints:

- notice of the allegations,
- consolidation of formal complaints,
- dismissal of formal complaints,
- investigation of formal complaints, and
- any part of a noted procedure that is specified for a formal complaint

### **Discrimination on the basis of sex.**

A District's treatment of a complainant or a respondent in response to a report or formal complaint of sexual harassment may constitute discrimination on the basis of sex under Title IX. For the purpose of addressing formal complaints of sexual harassment, the grievance process must comply with the following requirements. Any provisions, rules, or practices other than those required by § 106.45 as part of this grievance process for handling formal complaints of sexual harassment as defined in § 106.30, must apply equally to both parties.

### **Basic Requirements**

A district's grievance process will:

- Treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent, and by following this grievance process before the imposition of any disciplinary sanctions or other actions that are not supportive measures as defined in § 106.30, against a respondent. Remedies will be designed to restore or preserve equal access to the District's education program or activity. Such remedies will include the same individualized services described in § 106.30 as "supportive measures"; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent;

- Require an objective evaluation of all relevant evidence - including both inculpatory and exculpatory evidence - and provide that credibility determinations may not be based on a person's status as a complainant, respondent, or witness;
- Any individual designated by a District as a Title IX Coordinator, investigator, decision-maker, or any person designated by a District to facilitate an informal resolution process, shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. The District will ensure that Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, receive training on how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. The District will ensure that decision-makers receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, as set forth in paragraph (b)(6) of § 106.45. The District also will ensure that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence, as set forth in paragraph (b)(5)(vii) of § 106.45. Any materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, will not rely on sex stereotypes and shall promote impartial investigations and adjudications of formal complaints of sexual harassment;
- It is to be presumed that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process;
- Include reasonably prompt time frames for conclusion of the grievance process, including reasonably prompt time frames for filing and resolving appeals and informal resolution processes if the District offers informal resolution processes, and a process that allows for the temporary delay of the grievance process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities;
- Describe the range of possible disciplinary sanctions and remedies or list the possible disciplinary sanctions and remedies that the District may implement following any determination of responsibility;
- Use the preponderance of the evidence standard, apply the same standard of evidence for formal complaints against students as for formal complaints against employees, including faculty, and apply the same standard of evidence to all formal complaints of sexual harassment;
- Include the procedures and permissible bases for the complainant and respondent to appeal;

- Describe the range of supportive measures available to complainants and respondents; and
- Not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

### **Notice of Allegations**

The following is required upon receipt of a formal complaint

- The District must provide the following written notice to the parties who are known:
  - Notice of the District's grievance process that complies with § 106.45, including any informal resolution process.
  - Notice of the allegations of sexual harassment potentially constituting sexual harassment as defined in § 106.30, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include if known:
    - ▲ the identities of parties involved in the incident,
    - ▲ the conduct allegedly constituting sexual harassment under § 106.30, and
    - ▲ the date and location of the alleged incident.
  - The written notice must include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
  - The written notice must inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, under paragraph (b)(5)(iv) of § 106.45, and may request to inspect and review evidence under paragraph (b)(5)(vi) of § 106.45.
  - The written notice must inform the parties of any provision in the District's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process. That information may be found at;
    - ▲ GBEB Standard II, GBEBB last sentence and GCQF Misconduct for Professional staff,
    - ▲ GDQD Categories of Misconduct for Support Staff,

▲ JK for students.

If, in the course of an investigation, the District decides to investigate allegations about the complainant or respondent that are not included in the notice provided pursuant to paragraph (b)(2)(i)(B) of § 106.45, the District must provide notice of the additional allegations to the parties whose identities are known.

### **Dismissal of a formal complaint**

- The District must investigate the allegations in a formal complaint. If the conduct alleged in the formal complaint would not constitute sexual harassment as defined in § 106.30 even if proved, did not occur in the District's education program or activity, or did not occur against a person in the United States, then the District must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Title IX or § 106. Such a dismissal does not preclude action under another provision of the District's code of conduct.
- The District may dismiss the formal complaint or any allegations therein, if at any time during the investigation or hearing: a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein; or the respondent is no longer enrolled or employed by the District; or specific circumstances prevent the District from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
- Upon a dismissal required or permitted pursuant to paragraph (b)(3)(i) or (b)(3)(ii) of § 106.45, the District must promptly send written notice of the dismissal and reasons therefor simultaneously to the parties.

### **Consolidation of formal complaints.**

The District may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. Where a grievance process involves more than one complainant or more than one respondent, references in § 106.45 to the singular "party," "complainant," or "respondent" include the plural, as applicable.

### **Investigation of Formal Complaints**

When investigating a formal complaint and throughout the grievance process, the District must:

- Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the District and not on the parties provided that the District cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's

capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the District obtains that party's voluntary, written consent to do so for a grievance process under § 106.45 (if a party is not an "eligible student," as defined in 34 CFR 99.3, then the District must obtain the voluntary, written consent of a "parent," as defined in 34 CFR 99.3);

- Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
- Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;
- Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the District may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties;
- Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with a party, with sufficient time for the party to prepare to participate;
- Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the District does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.
  - Prior to completion of the investigative report, the District must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report.
  - The District must make all such evidence available for the parties' inspection and review and at any hearing, give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination; and
- Create an investigative report that fairly summarizes relevant evidence and, at least (ten)10 days prior to a hearing (if a hearing is required under § 106.45 or otherwise provided) or other time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

## **Alternative to Hearings**

The District's grievance process will not provide for a hearing.

- After the District has sent the investigative report to the parties pursuant to paragraph (b)(5)(vii) of § 106.45 and before reaching a determination regarding responsibility, the decision-maker(s) must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party.
- Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

The decision-maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant.

## **Determination Regarding Responsibility**

The decision-maker(s), who cannot be the same persons as the Title IX Coordinator or the investigators, must issue a written determination regarding responsibility. To reach this determination, the decision-maker(s) must apply the standard of evidence described herein.

The written determination must include:

- Identification of the allegations potentially constituting sexual harassment as defined in § 106.30;
- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of the District's code of conduct to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the District imposes on the respondent, and whether remedies designed to restore or preserve equal access to the District's education program or activity will be provided by the District to the complainant; and

- The District's procedures and permissible bases for the complainant and respondent to appeal if the District offers an appeal.

The District must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the District provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

The Title IX Coordinator is responsible for ensuring the implementation of any remedies.

### **Appeal**

The District must offer both parties an appeal from a determination regarding responsibility, and from the District's dismissal of a formal complaint or any allegations therein, on the following bases:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- The Title IX Coordinator, investigators, or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

The District may offer an appeal equally to both parties on additional bases.

As to all appeals, the District must:

- Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
- Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
- Ensure that the decision-maker(s) for the appeal complies with the standards set forth in paragraph (b)(1)(iii) of § 106.45;
- Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
- Issue a written decision describing the result of the appeal and the rationale for the result; and
- Provide the written decision simultaneously to both parties.

## **Informal Resolution**

The District may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with § 106.45. Similarly, the District may not require the parties to participate in an informal resolution process under § 106.45 and may not offer an informal resolution process unless a formal complaint is filed.

At any time prior to reaching a determination regarding responsibility the District may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the District:

- Provides to the parties a written notice disclosing, the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations;
- Obtains the parties' voluntary, written consent to the informal resolution process; and
- Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

At any time prior to agreeing to a resolution:

- Any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint; and
- Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

## **Recordkeeping**

The District must maintain for a period of seven (7) years records of:

- Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under paragraph (b)(6)(i) of § 106.45, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the District's education program or activity;
- Any informal resolution and the result therefrom;
- All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. The District must make these training materials publicly available on its website, or if the District does not maintain a

website the District must make these materials available upon request for inspection by members of the public; and

- For each response required under § 106.44, the District must create, and maintain for a period of seven years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, the District must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the District's education program or activity.

**If the District does not provide a Complainant Supportive Measures**

If the District does not provide a complainant with supportive measures, then the District must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the District in the future from providing additional explanations or detailing additional measures taken.

**REGULATION****REGULATION****NONDISCRIMINATION ON THE BASIS OF SEX****Compliance Officer**

The Title IX Coordinator shall be the compliance officer. Any person who feels unlawfully discriminated against or to have been the victim of unlawful discrimination by an agent or employee of the District or who knows of such discrimination against another person on the basis of sex should file a complaint with the Title IX Coordinator's Office using the following information.

Name: Travis Dempsey  
 Title: Title IX Coordinator  
 Address: 4950 McNutt Road Sunland Park,  
NM 88063  
 Phone: 575-882-6200  
 e-mail: tldempsey@gisd.k12.nm.us

**Grievance Procedure**

Any student or employee of the School District who believes he or she has been discriminated against, denied a benefit, or excluded from participation in any School District education program or activity on the basis of sex in violation of Board of Education Policy, may file a report of sex discrimination or a formal complaint with the Title IX Coordinator.

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment). Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator. A report may be made to any District employee and that employee shall make the report to the Title IX Coordinator within one (1) school day of receipt. Failure to make such a report upon its receipt shall expose the employee to disciplinary action in accord with District policies.

The District is committed to investigating each report and to taking appropriate action on all confirmed violations of policy. The Title IX Coordinator shall have reports investigated and document those filed pursuant to this regulation as soon as reasonable. In investigating the report, confidentiality will be maintained to the extent reasonably possible.

Upon receiving of a report regarding sex discrimination, which may include sexual harassment, with or without a formal complaint, the Title IX Coordinator shall have a response provided to complainant and respondent of non-disciplinary, non-punitive individualized services offered as

appropriate, as reasonably available, without fee or charge which provide supportive measures and which shall include, discussion of supportive measures and inform them of what is available without a formal complaint.

The Title IX Coordinator is responsible for implementation of supportive measures.

Upon the receipt of a report regarding sex discrimination or sexual harassment the Title IX Coordinator shall promptly contact the complainant to:

- discuss the availability of supportive measures,
- consider the complainant's wishes with respect to supportive measures,
- inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and
- explain to the complainant the process for filing a formal complaint (See ACA-E).

Supportive measures may include:

- counseling,
- extensions of deadlines or other course-related adjustments,
- modifications of work or class schedules,
- campus escort services,
- mutual restrictions on contact between the parties,
- changes in work or housing locations,
- leaves of absence,
- increased security and monitoring of certain areas of the campus, and
- administrative leave while a grievance is pending,
- emergency removal (following an individualized safety and risk analysis), and
- other similar measures.

The District must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

The Title IX Coordinator shall contact the complainant and gather information to complete the grievance report. Following completion of the forms, the Title IX Coordinator shall cause an investigation and documentation of complaints filed pursuant to policy ACA and regulation ACA-RA in so far as it applies and as soon as is reasonable. In investigating the grievance, confidentiality will be maintained to the extent reasonably possible.

The Title IX Coordinator shall, upon the investigations drawing to a close and prior to completion of the investigative report, send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy

The parties shall have at least 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report.

After the District has sent the investigative report to the parties and before reaching a determination regarding responsibility, the Superintendent or decision-maker must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party.

The Superintendent or decision-maker shall upon having the investigative report completed, and if there is reason to believe that a violation of policy has occurred:

- provide a written determination which must include;
  - identification of the allegations potentially constituting sexual harassment,
  - a description of the procedural steps taken from the receipt of the formal complaint through the determination, including
    - ▲ any notifications to the parties.
    - ▲ interviews with parties and witnesses.
    - ▲ site visits.
    - ▲ methods used to gather other evidence, and
    - ▲ hearings held.
  - findings of fact supporting the determination.
  - conclusions regarding the application of the District's code of conduct to the facts.
  - a statement of, and rationale for, the result as to each allegation, including

- ▲ a determination regarding responsibility.
- ▲ any disciplinary sanctions the District imposes on the respondent.
- ▲ whether remedies designed to restore or preserve equal access to the District's education program or activity will be provided by the District to the complainant.
- the District's procedures and permissible bases for the complainant and respondent to appeal if the District offers an appeal.

If the person alleged to have violated policy is a teacher or an administrator, the due process provisions of the District's Policy GCQF shall apply. In cases of serious misconduct, dismissal or suspension proceedings in accordance with policy may be initiated.

If the person alleged to have violated policy is a support staff employee, due process and discipline under Policy GDQD may apply if the evidence so warrants.

If the person alleged to have violated policy is a student, the discipline may be imposed in accordance with Policies JK and JKD.

### **Appeals**

The District shall offer both parties an appeal from a determination regarding responsibility, and from the District's dismissal of a formal complaint or any allegations therein, on the following bases:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

### **Timelines (following the procedures found in ACA-RA)**

The discrimination report or a formal complaint must be filed within thirty (30) calendar days after the complaining party knew or should have known that there were grounds for a complaint/grievance.

Once the grievance report has been received, the grievance form provided by the District is to be completed within one (1) working day, if possible. The Title IX Coordinator shall require the immediate supervisor or site administrator to investigate and respond in writing to the complaining party within ten (10) working days of obtaining the information in the form ACA-E, so far as was possible.

If the complainant is not satisfied with the actions taken by the administration as indicated in the response and efforts to alleviate the discrimination alleged, the complainant will have ten (10) days within which to submit a written objection, including a statement of the reason for their objection, to the Superintendent.

The Superintendent will have ten (10) additional working days to respond in writing to the complaining party regarding the objection.

If the complainant or respondent is not satisfied with the Superintendent's response and efforts to alleviate the discrimination alleged, establish responsibility or dismiss any allegations, the complainant or respondent will have ten (10) days within which to submit a written objection to the Board based on one of the following:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

The Board will then review the record of the investigation and have thirty (30) days to respond to the complaining party in writing.

#### *Extension or Delay request*

Either the person who reported or the District may request a temporary delay of the grievance process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action.

**NONDISCRIMINATION / EQUAL OPPORTUNITY****Compliance Officer**

The Superintendent shall appoint the compliance officer. Any person who feels unlawfully discriminated against or to have been the victim of unlawful discrimination in employment by an agent or employee of the District or who knows of such discrimination against another person should file a grievance with the Superintendent's Office. If the Superintendent or a compliance officer is the one alleged to have unlawfully discriminated, the grievance shall be filed with the President of the Board.

**Grievance Procedure**

The District is committed to investigating each grievance and to taking appropriate action on all confirmed violations of policy. The compliance officer shall contact the complainant and gather information to complete the grievance report. Following completion of the district provided forms, the compliance officer shall have investigated and documented grievances reported pursuant to this regulation as soon as reasonable. In investigating the grievance, confidentiality will be maintained to the extent reasonably possible. The compliance officer shall also have investigated incidents of policy violation that are raised by the Board, even though no grievance has been made.

If, after the initial investigation, there is reason to believe that a violation of policy has occurred, the compliance officer shall have remedial steps instituted and have the steps reported to the complainant. If responsibility is found, the compliance officer may determine whether or not to recommend institution of procedures in accord with due process, conduct and disciplinary policies.

If a teacher or an administrator is alleged to have violated policy, the due process provisions of the District's Policy GCQF shall apply. In cases of serious misconduct, dismissal or suspension proceedings in accordance with policy may be initiated.

If a support staff employee is alleged to have violated policy, the compliance officer may refer the matter for the purpose of due process and discipline under Policy GDQD if the evidence so warrants.

If the person alleged to have violated policy is a student, the Superintendent may impose discipline may be imposed in accordance with Policies JK and JKD.

If the investigation reveals no reasonable cause to believe policy has been violated, the compliance officer shall have the complaining party informed in writing.

## **Timelines**

The grievance must be filed within thirty (30) calendar days after the complaining party knew or should have known that there were grounds for a complaint/grievance.

Once the grievance report has been filed or reported and the forms provided by the District filled in, so far as is possible, the compliance officer shall require the immediate supervisor or site administrator to investigate and respond in writing to the complaining party within ten (10) working days.

If the complainant is not satisfied with the actions taken by the administration as indicated in the response and efforts to alleviate the discrimination alleged, the complainant will have ten (10) days within which to submit a written objection, including a statement of the reason for their objection, to the Superintendent.

The Superintendent will have ten (10) additional working days to respond in writing to the complaining party regarding the objection.

If the Superintendent does not respond within the established time, then the complaining party may request in writing that the issue be brought before the Board. The Board will then review the record of the investigation and have thirty (30) days to respond to the complaining party in writing.

## STAFF CONDUCT WITH STUDENTS

Employees are expected to exercise general supervision over the conduct of students, not only while in the schoolroom, but also before and after school and during recess.

All personnel employed by the District are expected to relate to students of the District in a manner that maintains social and moral patterns of behavior consistent with community standards and acceptable professional conduct.

Relationships between staff members and students that include "dating," "courtship," "sexual relationships," or "romantic involvement" are prohibited. These behaviors deviate from ethical or professional standards and shall be deemed unacceptable and contrary to the expectations of District governance.

Staff/student relationships shall reflect mutual respect between staff members and students and shall support the dignity of the entire profession and educational process. Staff members shall establish and maintain appropriate personal boundaries with students and their families and not engage in any behavior that is prohibited by law, regulation, policy, or that creates the appearance of prohibited behavior.

Violations of this policy shall be considered serious and may result in severe disciplinary action in accord with policies on discipline of professional and support staff. Retaliatory or intimidating acts against any person who has made a complaint under this policy and its corresponding regulations, or against a person who has testified, assisted or participated in any manner in an investigation relating to a complaint or grievance, are specifically prohibited and constitute grounds for discipline. Knowingly submitting a false report or making false accusations under this policy shall subject that individual to disciplinary action.

*Adopted:* date of manual adoption

LEGAL REF.: 6.60.9.8 NMAC  
6.60.9.9 NMAC

CROSS REF.: EEAG - Student Transportation in Private Vehicles  
GBEA - Staff Ethics  
GBEB - Staff Conduct  
GCQF - Discipline, Suspension, and Dismissal of Professional Staff Members  
GDQD - Discipline, Suspension, and Dismissal of Support Staff Members  
IJNDB - Use of Technology Resources in Instruction  
JIC - Student Conduct  
JICD - Student Harassment/Bullying/Cyberbullying Prevention  
JII - Student Concerns, Complaints, and Grievances  
JLF - Reporting Child Abuse / Child Protection

## STAFF CONDUCT WITH STUDENTS

### Working One-On-One with Children and Young People

The following summary of expectations applies to all situations where staff are providing one-on-one learning assistance or feedback, behavior assistance/monitoring, counseling, testing and/or assessment.

Make it Public	<ul style="list-style-type: none"> <li>• The more visible and/or public the location the better.</li> <li>• Use the authorized information technology systems.</li> <li>• Do not use personal e-mail, electronic communication, websites, and/or social media platforms to communicate with students or families.</li> </ul>
Make it Authorized	<ul style="list-style-type: none"> <li>• Parents/guardians should be informed and give consent.</li> <li>• Activity must be authorized by an appropriate administrator.</li> </ul>
Make it Timely	<ul style="list-style-type: none"> <li>• Provide support during normal work hours.</li> <li>• Do not conduct excessively long sessions.</li> </ul>

### Managing Privacy Expectations

School staff rely in different ways on being able to provide a degree of privacy for students. This may be to protect the student's dignity, to provide an environment conducive to the service/assessment being provided or to respect the student's desire for confidentiality.

Children and young people will often assume a high level of confidentiality when disclosing serious issues of a personal nature or reporting harassment or bullying. For these reasons, staff needs to find a careful balance between respecting the sensitive and private nature of counseling or service provided and the professional's duty of care obligations for the safety and wellbeing of the student.

Good practice in managing these circumstances is the following:

- Health/physical care should be provided with respect for the student's dignity and in a manner approved by the student, his/her parents/guardians, and within District policy.

- Counseling should be provided in unlocked rooms with part-glass doors, where possible, that are located near staff traffic areas.
- Avoid out-of-hours contact.
- While parental consent is often not applicable in many counseling situations, the school will provide all parents/guardians with written information about the school's counseling services which outlines confidentiality and privacy issues.
- Ensure student appointments and counseling notes are documented properly, while preserving appropriate levels of confidentiality.

**Conducting Home Visits**

Staff must ensure they follow the specific home visiting protocols that apply. The key principle is that a home visit should place no one at unreasonable risk and that identified minor risks are consciously managed.

A summary of general expectations is provided below.

Inform	Home visits must be authorized and documented by the administration and this must include information about when and where visits are being undertaken and the expected departure and return times.
Prepare	<ul style="list-style-type: none"> <li>• All available information about the safety of the proposed visit must be considered and risks managed.</li> <li>• Mobile phones must be taken and school ID should be visible.</li> <li>• Parents/guardians are to be notified in advance of the intended visit.</li> </ul>
Protect	<ul style="list-style-type: none"> <li>• Do not enter the house if parents/ guardians are not at home.</li> <li>• Speak with the student where the parent/guardian is present or clearly visible.</li> <li>• Do not interview or interact with students in bedrooms or other locations not conducive to the purpose of the visit.</li> <li>• Have a colleague present if problems are anticipated.</li> <li>• Document the visit.</li> </ul>

Examples of Boundary Invasions by staff members, include, but are not limited to the following:

- Making any type of inappropriate physical contact with a student or any other conduct that might be considered harassment under the law or policies addressing the prohibition against Harassment and Retaliation.
- Condoning hazing, initiations or other rituals that causes embarrassment, harassment or ridicule and risks emotional and/or physical harm to students, regardless of the student's willingness to participate.
- Showing inappropriate images to a student, including, but not limited to violent, disturbing or sexually explicit or pornographic subject matter.
- Dating a student, or discussing or planning a future romantic or sexual relationship with a student.
- Making sexual advances toward a student, including but not limited to personalized comments about a student's body, appearance, physical features, attributes or attractiveness, off color jokes, or sexual innuendoes.
- Telling off color jokes or making comments with sexual innuendo.
- Encouraging a flirtatious, romantic, or sexual relationship with a student.
- Unnecessarily invading a student's personal space or privacy.
- Singling out a particular student or students for personal attention and friendship beyond the professional staff/student relationship.
- Socializing where students are consuming alcohol, drugs, or tobacco.
- Providing or offering to provide alcohol, drugs, or tobacco to students.
- For non-guidance/non-counseling staff, excessively encouraging students to confide their personal or family problems and/or relationships. If a student initiates such discussions, staff members are expected to immediately use professional judgment as contained in this training and refer the student to appropriate guidance/counseling staff.
- Sending students on personal errands unrelated to any educational, athletic, non-curricular or extracurricular purpose.
- Bantering, joking or making comments of a sexual nature with students.
- Asking a student to keep a secret.

- Disclosing inappropriate personal, sexual, family, employment concerns, or other inappropriate private matters to one (1) or more students.
- Addressing students with personalized terms of endearment or pet names that would suggest the staff member feels love or affection for the student. As a staff member, permitting students to address you by your first name, nickname, personalized terms of endearment, pet names, or otherwise in an overly familiar manner.
- Maintaining personal contact with a student outside of school by telephone, text message, e-mail, Instant Messenger, Internet chat rooms, social networking websites or letters beyond homework or other legitimate school business.
- Exchanging gifts cards or letters that are personal or extravagant in nature with a student beyond customary student-staff gifts.
- Socializing or spending time with students outside of school-related or school-sponsored curricular or extracurricular activities or organized community activities, including but not limited to activities such as going out for beverages, meals or movies, shopping, traveling and recreational activities.
- Giving a student a ride alone in a vehicle in a non-emergency situation or in a situation that can be avoided. If a staff member is approved to give a student a ride, the student shall ride in the back seat of the vehicle when possible, and staff member must attempt to gain prior permission from the parent for the transportation arrangement.

Romantic or Sexual Relationship examples, include, but are not limited to the following:

Staff members shall be prohibited from dating, courting, or entering into or attempting to form a romantic or sexual relationship with any student enrolled in the school or any other public or private school, regardless of the student's age. Students of any age are not legally capable of consenting to romantic or sexual interactions with staff members.

Prohibited romantic or sexual interaction involving students includes, but is not limited to:

- Sexual physical contact.
- Romantic flirtation, propositions, or sexual remarks.
- Sexual slurs, leering, epithets, sexual or derogatory comments.
- Personal comments about a student's body, appearance, attractiveness or physical attributes.
- Sexual jokes, notes, stories, drawings, gestures or pictures.
- Spreading sexual or romantic rumors.

- Touching a student's body or clothes in a sexual or intimate way.
- Accepting massages, or offering or giving massages other than in the course of injury care administered by an athletic trainer, coach, or health care provider.
- Restricting a student's freedom of movement in a sexually intimidating or provocative manner.
- Displaying or transmitting sexual objects, pictures, or depictions.

Inappropriate Social Interactions, including, but not limited to the following:

In order to maintain professional boundaries, staff shall ensure that their interactions with students are appropriate. Examples of prohibited conduct that violates professional boundaries include, but are not limited to:

- Touching students without a legitimate educational reason. Reasons could include, but are not limited to, the need for assistance when injured, restraint or intervention to prevent or separate students who are fighting, threatening to fight or posing a risk of violence or harm to others, a kindergartner having a toileting accident and requiring assistance, appropriate coaching instruction, or appropriate music instruction.
- Taking a student out of class without a legitimate educational reason.
- Being alone with a student behind closed doors without a legitimate educational reason.
- Initiating or extending contact with a student beyond the school day or outside of class times without a legitimate educational reason.
- Inviting a student to the staff member's home.
- Taking a student on outings without prior notification to and approval from both the parent/guardian and the building principal.
- Engaging in harassing, bullying, discriminatory, or other conduct prohibited by other District policies or by state or federal law and regulations.

### **Appearances of Impropriety**

The following activities are boundary invasions and can create an actual impropriety or the appearance of impropriety. Whenever possible, staff should avoid these situations. If unavoidable, these activities must be pre-approved by the appropriate administrator. If not pre-approved, the staff member must immediately report the occurrence to the principal or other appropriate administrator.

- Conducting ongoing, private conversations with individual students that do not have an educational purpose, are unrelated to school activities or the well-being of the student, and that take place in locations inaccessible to or not observable by others.
- Being alone with an individual student out of the view of others or in an inaccessible location, except in the context of school counselors providing professional counseling support services, teachers working with students in an after-school setting or during testing, or a school nurse providing medical services to a student.
- Inviting students for social contact off school grounds without the prior knowledge and express permission of the parent/guardian and an appropriate administrator.
- Social networking with students for non-educational purposes.

Staff members are expected to be aware of the appearance of impropriety in their conduct with students. Staff members are encouraged to discuss issues with the appropriate administrator whenever they are unsure whether particular conduct may constitute a violation of Policy GBEBB and this regulation.

### **Electronic Communication**

The District supports the use of technology to communicate for educational purposes. However, employees acting in their District capacity are prohibited from inappropriate online socializing, phone calls, texting, skyping, instant messaging, or use of any other telecommunication device, or from engaging in any conduct that violates the law, District policies or other generally recognized professional standards. Employees must conduct themselves in ways that do not distract from or disrupt the educational process. Nothing in Policy GBEBB and this regulation prohibits employees, faculty, staff or students from the use of approved educational websites if such sites are used solely for educational purposes.

Electronic and online communication between staff members and students must be transparent, contemporaneously accessible to administrators and parents/guardians, and must be professional in content and tone. Such communication must be professional, non-sexual, appropriate to the circumstances, and unambiguous in meaning. Staff members must restrict one-on-one electronic communications with individual students to accounts, systems, and platforms that are provided by and accessible to the District schools or with the prior express permission of the appropriate administrator and the parent/guardian.

As with in-person communications, staff members shall avoid appearances of impropriety and refrain from inappropriate electronic communications with students. Factors that may be considered in determining whether an electronic communication is inappropriate include, but are not limited to:

- The subject, content, purpose, authorization, timing, and frequency of the communication;

- Whether there was an attempt to conceal, shield, or misrepresent the nature of the communication from administrators and/or parents/guardians;
- Whether the communication could be reasonably interpreted as soliciting sexual contact or a romantic relationship; and/or
- Whether the communication contained sexual innuendo, such as for purposes of grooming the student for victimization.

**EXHIBIT** **EXHIBIT**

STAFF CONDUCT WITH STUDENTS  
REPORTING BOUNDARY VIOLATIONS  
AND SUSPECTED BOUNDARY VIOLATIONS

Name: \_\_\_\_\_

E-mail: \_\_\_\_\_

Phone: \_\_\_\_\_

Describe what happened/what is happening: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

When did it happen? Date: \_\_\_\_\_ Time: \_\_\_\_\_

- Where did it happen?
- At school
  - At school event
  - In a school parking lot
  - On a school playground
  - On the bus
  - Other: \_\_\_\_\_

Location Detail: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Who was committing the boundary violation? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Did anyone else witness the boundary violation? \_\_\_\_\_

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Were you or other persons physically or emotionally hurt? \_\_\_\_\_

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Have you told anyone about the boundary violation? \_\_\_\_\_

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Has this happened before? \_\_\_\_\_

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**STAFF CONDUCT WITH STUDENTS****(Maintaining Professional Boundaries)**

A boundary invasion is an act, omission, or pattern of behavior by a staff member that does not have an educational purpose and either abuses or compromises the staff/student professional relationship or has the potential to abuse or compromise the staff/student professional relationship.

Clear and reasonable boundaries for interactions between students and staff members are necessary to protect students from sexual misconduct and abuse and to protect staff members from misunderstandings and false accusations. All staff are required to maintain appropriate professional, moral, and ethical relationships in their conduct with students. They shall serve as positive role models for students at all times, whether on or off school property, both during and outside of school hours. Staff will not intrude on a student's physical and emotional boundaries, unless the intrusion is necessary to serve an educational, physical, mental, and/or emotional health purpose or to prevent an immediate risk of injury or harm to the student.

This regulation addresses a range of behaviors that include not only obviously unlawful or improper interactions with students, but also precursor grooming and other boundary-blurring behaviors that have the intention or effect of leading to more egregious misconduct.

All staff have a responsibility to provide and support an atmosphere conducive to learning through consistent, unambiguous, and fairly applied discipline. They shall maintain professional physical and emotional boundaries with students. These boundaries shall be maintained regardless of the student's age, the perceived consensual nature of the relationship or activity, the location of the activity, or whether the staff member directly supervises the student.

**Working with the Community**

Staff shall use good judgment in their relationships with students beyond their work responsibilities and/or outside the school setting. They shall also avoid excessive informal and social involvements with individual students and their families. It is the responsibility of the District staff to maintain a professional relationship with students and their families. Staff members have a responsibility to report to the administration when they suspect, recognize or observe the development of, or suspicion of the development of non-professional or potentially inappropriate personal relationships with students and/or their families.

Staff working in local communities face additional challenges in managing professional boundaries.

Following the advice offered here will assist staff to enjoy these social engagements without compromising their professional responsibilities. The guiding principles in managing these situations are that:

- Social contact should be generated via the relationship the staff member has with the parents/guardians of children and young people or by an event, such as a sporting event.
- Staff should avoid being alone or in unsupervised settings with children and young people in these situations.
- Staff should politely refuse to discuss matters relating to the workplace and should not discuss children and young people's learning or social progress, other than at times specifically set aside for that purpose.

Any concern a staff member has about whether or not a situation may be compromising or breaching a professional boundary should be discussed with an appropriate administrator.

### **Inappropriate Behavior Initiated by a Student**

In the event that a student initiates inappropriate behavior toward a staff member, the staff member must immediately document the incident and report it to the appropriate administrator. If applicable, the appropriate administrator will intervene and speak with the student and the student's parent/guardian about the alleged inappropriate behavior, and implement necessary follow-up discipline or guidance.

The District shall provide guidelines with respect to the provisions of Policy GBEBB and this regulation to current and new staff, to School Board members and to volunteers who interact with students or routinely work on school grounds.

Contracts with virtual school programs and other vendors providing instructional services to students will include a requirement that those staff members will comply with Policy GBEBB and this regulation.

### **Exceptions**

An emergency situation or a legitimate educational reason may justify deviation from professional boundaries. The staff member shall articulate the reason for any deviation from policy to that student, to the parent or guardian, to their supervisor and will ensure that an appropriate relationship is maintained with the student.

Under no circumstance will an educational or other reason justify deviation from the "Romantic and Sexual Relationships" prohibition.

## PROFESSIONAL STAFF ORIENTATION AND TRAINING

The Superintendent will establish a program to provide orientation for all new District employees. Those new staff members not present at the orientation/training will be given a program of the same or similar content on or immediately after employment by their immediate supervisor. All staff are required to participate in annual training as underlined per statute. The orientation and training ~~will~~ may cover the following items and will include all statutorily required training as determined by the Superintendent:

- Goals, objectives, and programs of the District.
- Personnel policies.
- Terms of employment.
- Disciplinary and conduct rules and procedures.
- Annually, train staff regarding behavioral supports or behavioral management and the use of restraint and seclusion techniques.
- Provide activities that create an awareness among staff of homeless student behaviors and direct them toward strategies and support so that out of school suspension or expulsion would be used only as a last resort.
- Bullying prevention and reporting.
- Salary and fringe-benefit plans.
- Self-improvement opportunities.
- The evaluation program and name(s) of evaluator(s).
- Handling of body fluids.
- Child abuse reporting responsibilities.

*Adopted:* date of manual adoption

LEGAL REF.: 22-35-1 NMSA *et seq.* NMSA  
6.11.2.10 NMAC  
29 U.S.C. 653  
42 U.S.C. 11301, McKinney-Vento Homeless Assistance Act of 2001, as  
amended by the Every Student Succeeds Act (ESSA) of 2015

CROSS REF.: GBEBB - Staff Conduct with Students  
GBGC - Employee Assistance  
JICD - Harassment / Bullying / Cyberbullying Prevention  
JK - Student Discipline  
JLF - Child Abuse / Child Protection  
JLI - Student Safety

## SUPPORT STAFF ORIENTATION AND TRAINING

The Superintendent will establish a program to provide orientation for all new District employees and volunteers. Those new staff members not present at the orientation/training will be given a program of the same or similar content on or immediately after employment by their immediate supervisor. All staff are required to participate in the underlined training annually per statute. The orientation and training ~~will~~ may cover the following items and will include all statutorily required training as determined by the Superintendent:

- Goals, objectives, and programs of the District.
- Personnel policies.
- Terms of employment.
- General disciplinary rules and procedures.
- Bullying prevention and reporting.
- Salary and fringe benefit plans.
- Self-improvement opportunities.
- The evaluation program and name(s) of evaluator(s).
- Handling of body fluids.

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JK - Student Discipline  
JLF - Child Abuse / Child Protection  
JLI - Student Safety

## USE OF TECHNOLOGY RESOURCES IN INSTRUCTION

### **Appropriate Use of Electronic Information Services**

The District may provide electronic information services (EIS) to qualified students, teachers, and other personnel who attend or who are employed by the District. Electronic information services include networks (e.g., LAN, WAN, Internet), databases, and any computer-accessible source of information, whether from hard drives, tapes, compact disks (CDs), floppy disks, flash drives, memory cards or other electronic sources. The use of the services shall be in support of education, research, and the educational goals of the District. To assure that the EIS is used in an appropriate manner and for the educational purposes intended, the District will require anyone who uses the EIS to receive instruction in and follow its guidelines and procedures for appropriate use. Instruction in appropriate online behavior shall include how to interact with other individuals on social networking websites and in chat rooms and cyberbullying awareness and response. Anyone who misuses, abuses, or chooses not to follow the EIS guidelines and procedures will be denied access to the District's EIS and may be subject to disciplinary action.

Each user will be required to sign an EIS user agreement. The District may log the use of all systems and monitor all system utilization. Accounts may be closed and files may be deleted at any time. The District is not responsible for any service interruptions, changes, or consequences. The District reserves the right to establish rules and regulations as necessary for the efficient operation of the electronic information services.

The District does not assume liability for information retrieved via EIS, nor does it assume any liability for any information lost, damaged, or unavailable due to technical or other difficulties.

### **Web and Internet Publishing**

Documents created for the Web must have a purpose that falls within at least one of the following two categories: (1) Support of curriculum, instruction, and learning, and (2) Communication with parents and the community.

All information must accurately reflect the mission, goals, policies, program, and activities of the School District. All subject matter should relate to curriculum, instruction, and general information that is appropriate, or it should relate to activities of the District or the schools within the District.

### **Filtering and Internet Safety**

The District shall provide for technology protection measures that protect against Internet access by both adults and minors to visual depictions that are obscene, child pornography, or, with respect to use of the computers by students, harmful to students. The protective measures shall also include monitoring the online activities of students.

Limits, controls, and prohibitions shall be placed on student:

- Access to inappropriate matter.
- Safety and security in direct electronic communications.
- Unauthorized online access or activities.
- Unauthorized disclosure, use and dissemination of personal information.

Electronic communication directed at a student, that is published with the intent that it be seen by or disclosed to that student and that substantially interferes with the student's ability to participate in or benefit from the services, activities or privileges provided by the public school are prohibited.

The Superintendent is responsible for establishing and enforcing the District's electronic information services guidelines and procedures for appropriate technology protection measures (filters), monitoring, and use.

*Adopted:* date of manual adoption

LEGAL REF.: 22-35-1 *et seq.* NMSA  
20 U.S.C. 9134, The Children's Internet Protection Act  
47 U.S.C. 254, Communications Act of 1934 (The Children's Internet Protection Act)

CROSS REF.: EGD - Use of Technology in Office Services

## **STUDENT ATTENDANCE Supplemental for REMOTE LEARNING**

The Superintendent is to assess the effectiveness of each of the following rubrics of participation and attendance based upon the currently available remote instruction capability within the District by grade and special circumstances, including teaching methodology and programmatic necessities. The rubrics which apply, for the purpose of reporting and implementing interventions required by the Attendance for Success Act, shall be selected in accord with the best instructional practices and circumstances available. They will be listed according to the grade or subject to which the rubric more specifically applies and will be used to submit reports on attendance and to determine chronic absence for purposes of intervention in so far as that is possible. All actions regarding implementation of the Attendance for Success Act following the identification of attendance or non-attendance shall be considered by applying policy and procedures JEA and JHB.

Remote learning environments can be characterized by whether instruction is happening in real time (synchronously, as in a virtual classroom) or without real time interaction (asynchronously, as in viewing a video remotely or following a learning packet). These environments each present unique participation measurement hurdles that are also affected by the level of technology available. Specific measures may vary according to technological capacity and instructional design, below are some guiding principles:

- Students should have multiple opportunities to demonstrate their participation, potentially in any given instructional day.
- Measures should be easily tracked by teachers or administrators.
- To the extent possible, measures should readily indicate whether a student or group of students is engaging in remote learning content and activities.

### **Tracking attendance and participation**

Taking attendance is still important for tracking who is participating and whether they are doing it synchronously or asynchronously. Below are listed some examples:

#### *Synchronous* (real time)

- Participation in conference or other individual phone calls
- Participation in video conferencing with staff or live virtual classroom
- Participation in interactive tutorial
- Participation in an online study group

#### *Asynchronous* (not real time)

- Text (including group text)

- E-mail with question or other student-initiated contact
- Packet pick-ups and returns
- Submission of an assignment
- Posting in a discussion forum or online academic discussion with time-stamp
- Completion of online web forms or surveys

*General synchronous or asynchronous*

- Requiring a response. If you are doing a live class through Zoom or other architectures, you likely have the ability to create polls (The Zoom polling feature for meetings allows you to create single choice or multiple choice polling questions for your meetings). You can use this function to take attendance. Using live polls or questions is a good way to keep track of who can attend synchronously as well as who may be having a difficult time with the course content.
- Pre-class assessments. For live and asynchronous instruction, pre-class assessments or quizzes can be a good way to both record who is showing up to engage with course content as well as promote learning. Additionally, they are useful for gauging students' prior knowledge or the level of understanding with which they are approaching the week's instruction.
- Incorporate some kind of written reflection activity into the instruction. It breaks up the presentation, but also gives students an opportunity to engage more critically with the course content and give instructors a chance to check-in regarding whether students are thriving or struggling.

For students who are unable to complete online assignments or assessments, the district may furnish offline instructional resources like pre-loaded flash drives assigned to each student or work packets. In those instances, the student will submit the flash drive or packet to the teacher within 1 week of completing the assignment for grading. The school principal shall identify the approved offline resource that is available for the students or alternative non-electronic means to be made available for remote instruction.

This Supplement to Policy JE is to provide interim suggestions for attendance taking for remote instruction and application of that attendance for purposes of applying policy JHB which implements the "Attendance for Success Act".

LEGAL REF.: 22-8-2 NMSA (1978)  
 22-12A-9 NMSA  
 22-12A-11 NMSA  
 22-12A-12 NMSA  
 6.10.8.7 NMAC  
 6.10.8.8 NMAC  
 6.10.8.9 NMAC  
 6.10.8.10 NMAC

CROSS REF.:    JE - Student Attendance  
                  JEA - Compulsory Attendance Ages  
                  JH - Student Absences and Excuses  
                  JHB - Truancy / Chronic Absence

## STUDENT ATTENDANCE

### Supplemental for REMOTE LEARNING (Remote Learning Daily Attendance)

Student attendance and daily participation remains a critical component of learning. This is particularly important in a remote learning environment. Parents should continue to call in to the school's attendance line to report absences.

Student attendance will be captured in the following ways:

#### **Remote Learning Attendance – High School**

Attendance for high school classes during Remote Learning will be addressed as follows:

- Attendance will be completed each school day via the PowerSchool reporting platform.
- Student attendance will be reported for each class period each day of the week.
- Attendance will be taken in classes “synchronously” (i.e., the students and teacher are interacting in real time)
  - Mondays and Thursdays: Periods 1, 2, 3, and 4
  - Tuesdays and Fridays: Periods 5, 6, 7
  - Students will be considered present by responding either by voice or by attending face-to-face online at the time attendance is taken by the teacher in addition to engaging in the content for the entire period. In addition, real-time participation in a video conference or responding in some manner in real time may also be considered present.
- Attendance will be taken for classes for which the assigned learning activity is completed “asynchronously” (i.e., there is no real time interaction between students and teacher)
  - Wednesdays: All periods
  - Mondays and Thursdays: Periods 5, 6, 7
  - Tuesdays and Fridays: Periods 1, 2, 3, 4
  - A student will be marked ASY (present) if the student can show that he or she completed the material assigned during synchronous learning time. The material assigned may include, but is not limited to, participation in an interactive tutorial, text messaging with study groups or teachers, submission of assigned work, or engagement in a video-conference or phone call with teacher or classmates.

*Extenuating circumstances involving individual students' school attendance will be addressed on a case-by-case basis by the school principal.*

### **Remote Learning Attendance – Middle School (Grades 7– 8)**

Attendance for middle school classes during Remote Learning will be addressed as follows:

- Attendance will be completed each school day via the PowerSchool reporting platform.
- Attendance will be recorded for each period, each day of the week, during synchronous (real time interaction between teacher and students) learning time.
- Students will be either present or recorded as absent each class period that is in a session that day.
- Students will be considered present by:
  - Responding verbally to roll call;
  - Responding in writing through a virtual platform’s chat feature;
  - Attending face-to-face online at the time attendance is taken; or
  - Participating during instruction delivered by the teacher.
- A student will also be considered present regardless of the number of times the student experiences a loss of connection and re-enters a meeting, or when a student is unable to connect due to connectivity issues. (Confirming connectivity issues can include a student emailing or messaging a teacher, and/or a parent calling/emailing the teacher or attendance office.)
- A student will also be marked present if the student can show that he or she completed the material assigned during synchronous learning time. The material assigned may include, but is not limited to, an assignment, attending a Google Meet session for any amount of time within the class period, or engagement in any of the following forms of communication (phone call, message, and/or videoconference) with the teacher and/or, counselor, admin.

*Extenuating circumstances involving individual students’ school attendance will be addressed on a case-by-case basis by the school principal.*

### **Remote Learning Attendance – Kindergarten through Grade 6**

Attendance for elementary grades during Remote Learning will be addressed as follows:

- Attendance will be completed each school day via the PowerSchool reporting platform.
- Students will be either present or recorded as absent twice during the school day – once in the a.m., and once in the p.m.

- Students will be considered present by responding either by voice or by attending face-to-face online at the time attendance is taken by the teacher. Special consideration will be given to students experiencing connectivity or other technological issues.
- Student absences will be reported for a half-day or a full-day, as applicable.

*Extenuating circumstances involving individual students' school attendance will be addressed on a case-by-case basis by the school principal.*

### **Remote Learning Attendance – Pre-Kindergarten**

Attendance in PreK (3Y and 4Y) will be based on weekly participation and completion of tasks.

*Extenuating circumstances involving individual students' school attendance will be addressed on a case-by-case basis by the school principal.*

## ADMISSION OF RESIDENT STUDENTS

A student who is a resident of the District and who meets the applicable requirements established by state law shall be admitted without payment of tuition to the school in the attendance area in which the student resides and may be admitted as a resident transfer student to another school in the District in accordance with the District's open enrollment policy.

- A student who is in the legal custody of a natural or adoptive parent or other person to whom custody has been granted by a court order and who resides with the parent or other person in the District.
- A student who is an emancipated minor and whose place of residence is in the District. When determining whether a minor is emancipated, the Superintendent will consider such factors as whether the student is married, financially independent, and residing away from the family domicile with parental consent.
- A student who is seventeen (17) years of age or older and whose place of residence is in the District.
- A student who is homeless, and who attended a school in the District at the time of becoming homeless.
- A school age person who is a client as defined in Section 43-1-3 NMSA 1978 in a state institution and recommended for placement in a public school.

The residency of a student, natural or adoptive parent, or other person to whom custody of the student has been granted by court order shall be based upon evidence of the individual's physical presence and intent to remain in the District. Such evidence of residency may include, without limitation, landlord-tenant agreements, rent receipts, and receipts for utility payments.

A student found to have an invalid enrollment shall be disenrolled from school in accordance with the procedure set forth in Section 6.10.4.9 NMAC.

*Adopted:* date of manual adoption

LEGAL REF.: 22-12A-3 NMSA  
43-1-3 NMSA  
6.10.4.9 NMAC  
42 U.S.C. 11301, McKinney-Vento Homeless Assistance  
Act of 2001

CROSS REF.: IKEB - Acceleration  
JFAB - Admission of Nonresident Students  
JFABD - Admission of Homeless Students JFB  
- Open Enrollment  
JG - Assignment of Students to Classes and Grade Levels  
JLCB - Immunizations of Students  
JR - Student Records

JRCA - Request for Transfer of Records

## TUITION / ADMISSION OF NONRESIDENT STUDENTS

The Board may admit as students' school-age persons who do not live within the school district to the schools when there are sufficient school accommodations to provide for them.

For purposes of open enrollment a "nonresident pupil" means a student who resides in this state and who is enrolled in or is seeking enrollment in a school district other than the school district in which the student resides. A student who is not a resident of the District but is a resident of New Mexico who meets the age and other requirements for open enrollment established by state law and District policy may be admitted to a school without payment of tuition.

Employees of the Gadsden Independent School District, who are not residents of the District, shall be afforded the opportunity to enroll their children in District schools with no charge for tuition provided that space is available in the requested school and grade level. In such situations, student transportation shall be the responsibility of the employee for their child. All eligibility regulations shall be applicable.

Out-of-state school age persons may be admitted when there are sufficient school accommodations to provide for them and tuition may be charged. The tuition shall not exceed the amount generated by the public school fund for school-age persons similarly situated within the district for the current year. The amount of the tuition payable for the school year may be reduced by the District average ad valorem tax per pupil as determined by the ad valorem tax credit utilized in calculating state equalization guarantee distribution if the parent or guardian for the student pays an ad valorem property tax for school purposes within the District.

*Adopted:* date of manual adoption

LEGAL REF.: 22-12A-7 NMSA  
42 U.S.C. 11301, McKinney-Vento Homeless Assistance  
Act of 2001

CROSS REF.: IKEB - Acceleration  
JFABD - Admission of Homeless Students  
JFB - Open Enrollment  
JG - Assignment of Students to Classes and Grade Levels  
JLCB - Immunizations of Students  
JR - Student Records  
JRCA - Request for Transfer of Records

## STUDENT WITHDRAWAL FROM SCHOOL/DROPOUTS

A withdrawal form shall be presented to the parent or legal guardian of a student who may or must withdraw from school. The withdrawal form shall include space for the reason for withdrawal and the signature of an official of the school from which the student has withdrawn.

Reasons for withdrawal may include:

- Parents or legal guardians moving from the District or to an area served by another school.
- A request from a student who has reached eighteen (18) years of age.
- An approved hardship waiver for a student who is between sixteen (16) and eighteen (18) years of age.
- Absence of more than ten (10) consecutive days; provided that withdrawals do not include children that the school district is required to intervene with and keep in an educational setting as provided in the Attendance for Success Act.
- Attendance in a private school or home school.
- Expulsion or long-term suspension.

Upon withdrawal, the student shall check in all books and other District property through the office of the school that was attended.

*Adopted:* date of manual adoption

LEGAL REF.: 22-8-2 NMSA (1978)  
22-12A-1 *et seq* NMSA

CROSS REF.: JF - Student Admissions

## STUDENT ABSENCES AND EXCUSES

The regular school attendance of a child of school age is required by state law. Regular school attendance is essential for success in school; therefore, absences shall be excused only for necessary and important reasons. Such reasons include but are not limited to illness, injury, bereavement of a family member, other family emergencies, and observance of major religious holidays of the family's faith or religious instruction and tribal obligations. For religious instruction and tribal obligations, written consent of a parent and approval of the principal are required. A student may be excused for parent or doctor authorized medical reasons. Time shall be provided for the student to make up the work.

An unexcused absence means an absence from a class or school day (half of the student's approved program) for which the student does not have an allowable excuse.

Absent means not in attendance for a class or school day for any reason, excused or not excused except for interscholastic extracurricular activities.

In the event of a necessary absence known in advance, the parent is expected to inform the school; if the absence is caused by emergency, such as illness or injury, the parent is expected to telephone the school office, if possible. When a student returns to school following an absence, a note of explanation from the parent is required, unless the parent notified the school in advance of the absence.

School administrators are authorized to excuse students from school for necessary and justifiable reason as determined from the circumstances surrounding the cause of the absence.

*Adopted:* date of manual adoption

LEGAL REF.: 22-12A-6 NMSA  
22-12A-9 NMSA

CROSS REF.: JE - Student Attendance  
JHB - Truancy

**REGULATION****REGULATION****STUDENT ABSENCES AND EXCUSES****When Absent from School**

If the parent(s)/guardian(s) have a telephone and provide the contact number to the school, the school may make a reasonable effort to give notification of absence within three (3) hours of the beginning of the school day if the school has not received confirmation of the student's absence. No right of being informed is established by this direction to staff.

State law mandates that parents are responsible for children to be in attendance during the period when school is in session. Therefore, when a student is absent, the parent shall call the school on or before the day of the absence in order to advise the school as to the reason for the absence if a telephone is available. When it is impossible to call on the day of the absence, the school should be notified on the morning the student returns by signed parental note, in time for the student to obtain an admission approval prior to class time. All absences not verified by parental or administrative authorization will be considered unexcused.

If a parent does not have access to a phone, either at home or at work, a note will be accepted for verification purposes.

For absences greater than one (1) day in length, the school should be notified each day of the absence.

If a student is absent for three (3) or more successive school days, the school shall contact the student's parents, legal guardian or custodian by telephone, if possible, no later than the close of school on the school day next succeeding the three-day period. A written notice shall be dispatched if telephone contact has not been made. The provisions of this section do not apply to any absence if the parent, legal guardian or custodian, prior to the end of the three-day period, has contacted the school to explain the absence.

All personnel will solicit cooperation from parents in the matter of school attendance and punctuality, particularly in regard to the following:

- The scheduling of medical and dental appointments after school hours except in cases of emergency.
- The scheduling of family vacations during school vacation and recess periods.

The school may require an appointment card or a letter from a hospital or clinic when the parent has not notified the school of an appointment of a medical or dental nature.

## STUDENT HARASSMENT / BULLYING / CYBERBULLYING PREVENTION

Harassment, bullying and cyberbullying are prohibited on school property:

- including electronic communication on or with the use of its property;
- at sponsored functions; and
- on its to-and-from-school transportation or transportation by the District to or from any school-sponsored event.

Electronic communication is prohibited if it is:

- directed at a student,
- published with the intent that it be seen by or disclosed to that student and others, and
- substantially interferes with the student's ability to participate in or benefit from the services, activities or privileges provided by the public school.

Anti-bullying and prevention shall be included as a part of the health education curriculum as set forth in the New Mexico Administrative Code and incorporated annually in the instruction for all students.

**Definitions** for purposes of this policy:

- "Harassment" means knowingly pursuing a pattern of conduct that is intended to annoy, alarm or terrorize another person.
- "Bullying" means any severe, pervasive or persistent act or conduct that targets a student, whether physically, electronically or verbally, and that:
  - may be based on a student's actual or perceived race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, spousal affiliation, physical or cognitive disability or any other distinguishing characteristic; or on an association with a person, or group with any person, with one or more of the actual or perceived distinguishing characteristics; and
  - can be reasonably predicted to:
    - ▲ place a student in reasonable fear of physical harm to the student's person or property;

- ▲ cause a substantial detrimental effect on a student's physical or mental health;
  - ▲ substantially interfere with a student's academic performance or attendance;  
or
  - ▲ substantially interfere with a student's ability to participate in or benefit from the services, activities or privileges provided by an agency, educational institution or grantee.
- "Cyberbullying" means any bullying that takes place through electronic communication.
- "Electronic communication" means a communication transmitted by means of an electronic device, including a telephone, cellular phone, computer, electronic tablet, pager or video or audio recording.
- "Gender identity" means a student's self-perception, or perception of that student by another, of the student's identity as a male or female based upon the student's appearance, behavior or physical characteristics that are in accord with or opposed to the student's physical anatomy, chromosomal sex or sex at birth.
- "Local school board" includes the governing body of a charter school.
- "Physical or cognitive disability" means a physical or cognitive impairment that substantially limits one or more of a student's major life activities.
- "Progressive discipline" means disciplinary action, other than suspension or expulsion from school, that is designed to correct and address the basic causes of a student's specific misbehavior while retaining the student in class or in school, or restorative school practices to repair the harm done to relationships and other students from the student's misbehavior, and may include:
  - meeting with the student and the student's parents;
  - reflective activities, such as requiring the student to write an essay about the student's misbehavior;
  - counseling;
  - anger management;
  - health counseling or intervention;
  - mental health counseling;
  - participation in skill-building and resolution activities, such as social-emotional cognitive skills building, resolution circles and restorative conferencing;

- community service; and
  - in-school detention or suspension, which may take place during lunchtime, afterschool or during weekends.
- "Sexual orientation" means heterosexuality, homosexuality or bisexuality, whether actual or perceived."

## **Reporting and Investigation**

School employees and volunteers having significant contact with students shall complete training on how to recognize signs that a person is being harassed, bullied or cyberbullied and shall be responsible for reading and understanding this policy.

Any student, parent or person may report an allegation of bullying by contacting a school employee with information that will allow the administration to contact those who may be involved. A school employee who has information about or a reasonable suspicion that a person is being harassed, bullied or cyberbullied shall report immediately to the school principal, an administrator, the superintendent or any of these school officers. Retaliation for witnessing or reporting bullying is prohibited and the person initiating such retaliation is subject to disciplinary action. Reports of retaliation shall be made in the same manner as those for bullying.

The employee shall elicit from a student, parent or person the particulars determined by the Superintendent to be necessary for the allegation to be investigated. When the allegation is submitted in a manner other than on a prescribed form, the particulars of the allegation must be written on the form as immediately as possible after receipt by the employee. The employee may assist the student, parent or person in completing the information form or may enter the information needed from any provided verbal or other source. A student, parent or person making an allegation should sign and date the information provided, however, unsigned forms are to be processed in the same manner as signed forms. No formal disciplinary measures may be taken based solely upon an anonymously submitted complaint. A school staff member, support staff member or volunteer shall report behavior that falls within this policy, on the forms provided, upon becoming aware of such behavior.

When the school staff member receiving the information or observing the act is other than a school administrator, it shall be the responsibility of the staff member to inform a school administrator as soon as feasible, but not later than two (2) days after the staff member receives or observes the allegation of bullying. If a school administrator is included in the allegation, the information shall be transmitted to the next higher administrative supervisor. A failure by the school staff member to timely inform the school administrator or next higher administrative supervisor of the allegation may subject the staff member to disciplinary action. The professional staff member shall preserve the confidentiality of the subject, disclosing it only to the appropriate school administrator or next higher administrative supervisor or as otherwise required by law.

The Superintendent shall designate a school administrator at each campus to investigate all reports of bullying and shall supervise the investigation of all reports of bullying. Any school administrator who receives a report of harassment, bullying, or cyberbullying shall take immediate steps to ensure a prompt investigation of the report and shall take prompt action in response to these acts upon confirmation of the occurrence through such investigation. Such action may include the least restrictive means necessary to address a hostile environment resulting from harassment, bullying or cyberbullying that may include:

- counseling;
- mediation;
- development of a student safety support plan for protection of the targeted student;
- discipline up to but not including expulsion (see "progressive discipline" in **Definitions** above).

Where disciplinary action is necessary, District policies and regulations pertaining to permissible penalties and procedures shall be followed as in policy. Reference policy JK for implementation of permissible penalties within the context of progressive discipline referent to all of the surrounding circumstances including:

- the nature of the incident;
- the developmental age of the student who is bullying as well as the student who has been bullied; and
- any history of problem behavior from the student who is bullying.

The district shall document reports and investigations of bullying by school and shall maintain those records for no less than four years making such reports as shall be necessary to both state and federal authorities.

To assure that students and staff are aware of its content and intent, a notice of this policy and procedure shall be:

- posted conspicuously in each school building;
- made a part of the student handbook in such form and such language as may provide the best understanding for the student and parent population; and
- posted on the district web site.

Forms for submitting complaints are to be available to students, parents, other persons, and staff in the school offices.

Reports or investigative information relative to harassment, bullying and cyberbullying shall be maintained by staff and the District and shared only in accord with the Family Education Rights and Privacy Act and conforming District discipline and conduct policies. Records of investigation and reported information sufficient to meet both state and federal reporting requirements on these topics shall be maintained.

*Adopted:* date of manual adoption

LEGAL REF.: 22-35-1 *et seq.* NMSA  
28-1-2 *et seq.* NMSA  
6.12.7.8 NMAC  
6.29.6.8 NMAC

CROSS REF.: AC - Nondiscrimination/Equal Opportunity  
ACA - Sexual Harassment  
IJNDB - Use of Technology Resources in Instruction  
JB - Equal Educational Opportunities  
JIC - Student Conduct  
JII - Student Concerns, Complaints, and Grievances  
JK - Student Discipline  
JKD - Student Suspension/Expulsion  
JR - Student Records  
KE - Public Concerns and Complaints

**EXHIBIT**

**EXHIBIT**

**STUDENT HARASSMENT / BULLYING /  
CYBERBULLYING PREVENTION**

(To be filed with the school administrator, the administrator's supervisor,  
or with the Superintendent)

Additional pages may be attached if more space is needed.

Targeted Student Name: \_\_\_\_\_ Date: \_\_\_\_\_

Grade: \_\_\_\_\_

Person or Persons alleged to be harassing, bullying, or cyberbullying: \_\_\_\_\_

Specify the suspected offense by stating the problem as you see it. Describe the incident, the participants, the background to the incident, and any attempts you have made to solve the problem. Be sure to note relevant dates, times, people, and places.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date of the of the incident or offense(s): \_\_\_\_\_

Provide what you would expect as an outcome to the incident reported.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If there is anyone who could provide more information regarding this, please list name(s), address(es), and telephone number(s).

Name	Address	Telephone Number
------	---------	------------------

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

I certify that this information is correct to the best of my knowledge.

\_\_\_\_\_  
Signature of Student/Parent/Other Person

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Staff Member Receiving Complaint

\_\_\_\_\_  
Date Received

\_\_\_\_\_  
Signature of Investigating Administrator

\_\_\_\_\_  
Date Signed

The investigating administrator shall give one (1) copy to the Superintendent and retain one (1) copy for the file.

**REGULATION****REGULATION****STUDENT HARASSMENT / BULLYING /  
CYBERBULLYING PREVENTION**

Procedures When a school staff member receives the information regarding a suspected bullying offense, the staff member will transmit it to the school administrator not later than two (2) days following the day the staff member receives the information or observes the incident. If the incident involves the school administrator, the professional staff member shall forward the information to the next administrative level.

At a minimum, the school employee shall provide the identifying information on the suspected bullying offense in writing and with such specificity of names, places and times as to permit an investigation to be carried out by the administration. The written suspected bullying offense report should be signed by the person providing the information and the school employee. However, an anonymous report will be processed in the same manner as a signed form but no formal disciplinary measures may be taken based solely on the anonymous submission.

The staff member reporting the suspected offense shall preserve the confidentiality of the subjects, disclosing names only to the appropriate school administrator or next higher administrative supervisor, or as otherwise required. A failure by the staff member to timely inform the school administrator or next higher administrative supervisor of the allegation may subject the staff member to disciplinary action.

*Investigation* The incident will be investigated by the designated school administrator. Confidentiality of records and student information shall be observed in the process. The procedures to be followed are:

- An investigation of the reported suspected offense or activity shall be made within five (5) school days of the date of the report when school is in session or within fifteen (15) days during which the school offices are open for business when school is not in session. Extension of the time line may only be by necessity as determined by the Superintendent.
- The investigator shall prepare a written report of the findings and a copy of the report shall be provided to the Superintendent.
- The investigator shall initiate appropriate action pursuant to the investigation to safeguard the welfare of the targeted student and circumscribe any further actions by the perpetrator through proper disciplinary or informal means.
- The investigator shall meet with the student and parent of the student who is the target of the suspected offense at or before the end of the time period and shall discuss the conclusions and actions to be taken as a result of the investigation. Confidentiality of records and student information shall be observed in the discussion. If the investigating

administrator believes from information gathered in his professional capacity that notifying the parents would endanger the health or well-being of the student, notification may be delayed as appropriate. Such action shall include:

- notifying the parent telephonically, by e-mail, or in writing by mail or personal service;
  - providing the date, time and place for a meeting to be held with the student, parent and administrator;
  - identifying appropriate specialized supports needed to help the student; and
  - enlisting the parents' support in preventing further bullying,
- The investigator shall contact the parents of the student alleged to have committed the act as soon as possible to seek cooperation in alleviating the suspected bullying. Confidentiality of records and student information shall be observed in the process of making such contact. Such action shall include:
    - notify the parent telephonically, by e-mail, or in writing by mail or personal service;
    - providing the date, time and place for a meeting to be held with the parent and administrator;
    - Identifying appropriate specialized supports needed to help the student address the underlying causes of the actions with the parents;
    - establishing nonpunitive consequences for the student at the school level, if possible, considering the circumstances; and
    - apprising the student and the parent of the consequences of violations of student rules of conduct.

*Appeal* Upon conclusion of the investigation should either the student accused of bullying or the target of the bullying take exception to the outcome of the investigation, an appeal may be made to the Superintendent of schools in writing. The Superintendent will review the actions taken based upon the application of appropriate school policy and procedure. The Superintendent will review the report and procedures and may refer the actions for further consideration, affirm the action or make such changes as may be in accord with current policy and procedure. The determination of the Superintendent is final.

Where disciplinary action is necessary, District policies and regulations pertaining to permissible penalties and procedures shall be followed as in policy JIC, JK and JKD.

The district shall document reports and investigations of bullying by each school and shall maintain those records for no less than four years making such reports as may be required to the state and federal authorities.

**STUDENT DISCIPLINE**

Parents, school personnel and students shall be involved in the development of policies, and public hearings before the Board shall be held during the formulation of these policies in the high school attendance areas within each district or on a district-wide basis for those districts that have no high school. The Superintendent shall prepare and recommend the final format of discipline policies and develop procedures for the discipline of students that comply with state laws and regulations. These policies and procedures will apply to all students traveling to, attending, and returning from school, and while visiting another school or at a school-sanctioned activity and may be imposed if the student's behavior affects the school order. When suspension or expulsion is involved, notice, hearing, and appeal procedures shall conform to applicable legal requirements.

Information concerning a student's disciplinary record will be held in the strictest confidence.

Disciplinary actions taken will be recorded in an administrative log, and all types of suspensions or expulsions will be recorded in a separate file for each student.

*Adopted:* date of manual adoption

LEGAL REF.: 22-35-3 NMSA (1978)  
22-5-4.3 NMSA (1978)  
6.11.2.7 NMAC  
6.11.2.8 NMAC  
6.11.2.9 NMAC  
6.11.2.10 NMAC  
6.11.2.11 NMAC  
6.11.2.12 NMAC

CROSS REF.: JIC - Student Conduct  
JKA - Corporal Punishment  
JKD - Student Suspension/Expulsion  
JR - Student Records

**STUDENT DISCIPLINE**

The following are prohibited activities:

- Criminal or delinquent acts;
- Gang related activity;
- Sexual harassment
- Disruptive conduct;
- Refusal to identify self; and
- Refusal to cooperate with school personnel; and,
- Harassment, bullying or cyberbullying

A student may be subject to disciplinary action when the student engages in the above or those below:

- Engages in conduct that is disorderly, i.e., intentionally causing public inconvenience, annoyance, or alarm, or recklessly creating a risk thereof, by:
  - Fighting or engaging in violent behavior.
  - Making unreasonable noise.
  - Using abusive or obscene language or gestures.
  - Obstructing vehicular or pedestrian traffic.
  - Creating a hazardous or physically offensive condition by any act that serves no legitimate purpose.
- Engages in conduct that is insubordinate, i.e., failing to comply with the lawful directions of a teacher, school administrator, or other school employee in charge of the student.
- Endangers the safety, morals, health, or welfare of others by any act, including but not limited to:

- Selling, distributing, using, or possessing alcohol, drugs, or other controlled substances or drug paraphernalia;
  - Selling, distributing, using, or possessing weapons, fireworks, or other dangerous instruments or contraband;
  - Selling, using, or possessing obscene materials;
  - Using profane, vulgar, or abusive language (including ethnic slurs);
  - Gambling;
  - Hazing;
  - Engaging in lewd behavior;
  - Engaging in harassing, cyberbullying or bullying of another student.
- Engages in any of the following forms of academic misconduct:
    - Lateness for, missing, or leaving school or class without permission or excuse;
    - Cheating (including but not limited to copying, using unauthorized assistance in any form, illegally obtaining tests in advance, substituting for a test-taker, and other forms of unauthorized collusion);
    - Plagiarism.
- Engages in conduct violative of the Board's rules and regulations for the maintenance of public order on school property.
  - Uses electronic communication directed at a student, that is published with the intent that it be seen by or disclosed to that student and that substantially interferes with the student's ability to participate in or benefit from the services, activities or privileges provided by the public school.
  - Has a record of excessive absenteeism.
  - Is believed to have or actually has committed a crime.

Reasonableness of use of physical force in self-defense, defense of others, and defense of property will be considered as a mitigating factor in determining penalties for misconduct. The threat or use of physical force by a student is not reasonable (i) when made in response to verbal provocation alone, (ii) when assistance from a school staff member is a reasonable alternative, or (iii) when the degree of physical force used is disproportionate to the circumstances or exceeds that necessary to avoid injury to oneself or to others or to preserve property at risk.

## **Permissible Penalties**

The range of penalties that may be imposed for violations of student discipline rules include, but are not limited to, the following:

- Parent-student disciplinary conference.
- Directed reflective activities.
- Anger management training referral.
- Verbal warning.
- Written warning.
- Written notification to parents.
- Probation.
- Detention.
- Suspension from transportation.
- Suspension from athletic participation.
- Suspension from social or extracurricular activities.
- Suspension of other privileges.
- Exclusion from a particular class.
- In-school suspension.
- Involuntary transfer.
- Community service.
- Suspension.
- Expulsion.

Depending upon the nature of the violation, and the surrounding circumstances, student discipline may be progressive, i.e., generally, a student's first violation should merit a lighter penalty than subsequent violations. A District employee or agent should take into account all other relevant

factors in determining an appropriate penalty. The above penalties may be imposed either alone or in combination.

### **Student Disciplinary Proceeding**

Any parent, student or other person may report a violation of student disciplinary rules to school staff member or administrator. The employee will then report this to an administrator who will then make an investigation of the charges as deemed appropriate and will institute appropriate proceedings.

This information for the maintenance of public order on school property will be publicized on the district web site, in student handbooks and explained to all students and provided in writing to parents as requested. In order to promote effectiveness of student discipline, the assistance of parents in enforcing rules for student discipline shall be invited and encouraged.

### **Involving Staff Members**

The principal is responsible for involving staff members of the school in the development of a positive plan for student discipline. All staff members are responsible for implementing the plan of student discipline for the school.