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Statement of.....

Policy and Responsibility

SUBJECT: SEXUAL HARASSMENT & DISCRIMINATION

I. General Statement

- A. Sexual harassment is a form of sex discrimination which violates Section 703 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq. and § 34A-5-101 et seq. of the Utah Antidiscrimination Act. Title IX of the Education Amendments of 1972 provides the Murray School District jurisdiction over complaints of sexual discrimination, and requires that policies and procedures are in place for maintaining a positive and productive work and educational environment free from discrimination, including sexual harassment, for adults and students.
- B. It is unlawful discriminatory practice for any employer, due to the sex of an individual, or sexual orientation to discharge without just cause, to refuse to hire, or otherwise to discriminate against that person with respect to any matter directly or indirectly related to employment. Harassment of an employee on the basis of sex violates this federal law.
- C. In keeping with guidelines suggested by the Federal Equal Employment Opportunity Commission, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature will constitute unlawful sexual harassment when:
 - 1. Submission to sexual conduct is an explicit or implicit term or condition of an individual's employment;
 - 2. The submission to or rejection of sexual conduct by an individual is the basis for employment decision affecting that individual; or
 - 3. When sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature have the purpose or effect of unreasonably interfering with the individual's work performance or creates an intimidating hostile or offensive working environment.
- D. Sexual harassment is also defined as unwelcome sexual advances, requests for sexual favors, or other physical or verbal conduct of a sexual nature when
 - 1. Submission to the conduct is made either explicitly or implicitly a term or condition of a student's education,
 - 2. Submission to or rejection of the conduct by a student is used as the basis for academic decisions affecting the student, or

3. The conduct has the purpose or effect of unreasonably interfering with a student's academic performance or creating an intimidating, hostile or offensive education environment.

E. The Murray School District strongly disapproves of any form of sexual harassment at the work place or in the school, including acts of non-employees. Disciplinary action will be taken against any student or employee, (supervisory or other) engaging in unlawful sexual harassment.

II. Definitions of Sex Discrimination and Sexual Harassment

- A. Sexual harassment is a form of employee/teacher/student misconduct that undermines the integrity of that relationship. All employees and students must be allowed to work in an environment free from unsolicited and unwelcome sexual overtures. Sexual harassment does not refer to occasional compliments. It refers to behavior that is not welcome, that is personally offensive, that debilitates morale, and that therefore interferes with the work effectiveness of its victims and their coworkers. Sexual harassment may include actions such as:
1. Verbal sex-oriented "kidding", insults, or subtle pressure for sexual activity;
 2. Visual such as sexually suggestive pictures, posters, cartoons or objects displayed in a work area which are directed toward an individual;
 3. Physical contact such as patting, pinching, or constant brushing against another's body;
 4. Demands for sexual favors, accompanied by implied or overt promises of preferential treatment or threats concerning an individual's employment/student status.
- B. Sexual harassment is always a prohibited personnel practice when it results in discrimination for or against an employee on the basis of conduct not related to work performance, such as the taking or refusal to take a personnel action, including promotion of employees who submit to sexual advances or refusal to promote employees who resist or protest sexual overtures.
- C. It is possible for sexual harassment to occur at four levels: among peers or co-workers, between supervisors and subordinates, between teacher and student, between student and student or imposed by non-employees on employees. Individuals who experience sexual harassment from co-workers or others should make it clear that such behavior is offensive to them. They may file a written complaint following the procedures outlined in this policy.
- D. Sexual violence is a form of sexual harassment and refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g. due to the student's age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent). Rape, sexual assault, sexual battery, sexual abuse and sexual coercion all fall into the category of sexual violence.
- E. Gender-based harassment is another form of sex-based harassment and refers to unwelcome conduct based on an individual's actual or perceived sex, including harassment based on gender identity or nonconformity with sex stereotypes, and not necessarily involving conduct of a sexual nature.

F. Sexual harassment, sexual violence, and gender-based harassment are all forms of sex discrimination prohibited by Title IX. In fulfilling our obligation to maintain a positive and productive work and educational environment, free from discrimination, the Board and district officials will make every attempt to halt any harassment of which they become aware by calling attention to this policy or by direct disciplinary action, if necessary.

G. Statement to be added to Open Disclosure documents

Sexual harassment is a form of sex discrimination which violates Title VII of the Civil Rights Act of 1964. The Murray City School District prohibits sex discrimination in all its forms, including sexual harassment, sexual violence, and gender-based harassment. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- submission to such conduct is used as the basis for educational decisions affecting the individual or
- such conduct has the purpose or effect of unreasonably interfering with an individual's academic performance or creating an intimidating, hostile or offensive study environment.

Whether you have a complaint, or someone you know is a victim help is readily available. Speak with your teacher, counselor, or school principal. These individuals will assist you in resolving your concern.

III. Reporting Procedures

A. Any person who believes he or she has been the victim of sexual harassment, sexual violence, and/or gender-based harassment by a student, an employee of the District, or a third party should provide an oral or written report of the alleged acts immediately to an appropriate District official as designated by this policy. The District encourages the reporting party or complainant to use the report form available from the principal of each building or available from the District office. All employees are expected to promptly report sexual harassment, sexual violence, and/or gender-based harassment that they observe or learn about.

1. In Each School Building. The building principal is the person responsible for receiving oral or written reports of sexual harassment at the building level. Upon receipt of a report, the principal must notify the District Human Rights Officer immediately without screening or investigating the report. If the report was given verbally, the principal shall reduce it to written form within 24 hours and forward it to the Human Rights Officer. Failure to forward any sexual harassment report or complaint as provided herein will result in disciplinary action. If the complaint involves the building principal, the complaint shall be filed directly with the District Human Rights Officer.
2. District-Wide. The School Board hereby designates the Director of Personnel and Student Services as the District Human Rights Officer to receive reports or complaints of sexual harassment from any individual, employee or victim of sexual harassment and also from the building principals as outlined above. If the complaint involves the Human Rights Officer, the complaint shall be filed directly with the Superintendent. The District will conspicuously post the name of the Human Rights Officer, including a mailing address and telephone number.

Human Rights Officer for MCS D – Director of Personnel and Student Services
147 E. 5065 S.
Murray, UT 84107
801-264-7400

3. Submission of a complaint or report of sexual harassment will not affect the individual's future employment, grades or work assignments.
4. Use of formal reporting forms is not mandatory.
5. A preponderance of the evidence will be the evidentiary standard used to investigate all Title IX complaints.

IV. Confidentiality

- A. It is District policy to respect the privacy and anonymity of all parties and witnesses to complaints brought under this policy. However, because an individual's right to confidentiality must be balanced with the District's obligations to cooperate with police investigations or legal proceedings, or to investigate and take necessary action to resolve a complaint, the District retains the right to disclose the identity of parties and witnesses to complaints in appropriate circumstances.
- B. Where a complaint involves allegations of child abuse, the complaint shall be immediately reported to appropriate law enforcement authorities and the anonymity of both the complainant and school officials involved in the investigation will be strictly protected as required by Utah Code Ann. § 62A-4a-412.

V. Investigation and Recommendation

- A. By authority of the District, the Human Rights Officer, upon receipt of a report or complaint alleging sexual harassment, shall immediately authorize an investigation. This investigation should be started within one working day and may be conducted by District officials or by a third party designated by the District. The District will maintain documentation of the complaint investigation and any corrective action at each school site and at the District level.
The investigating party shall provide a written report of the findings of the investigation within ten (10) working days to the Superintendent of Schools and the Human Rights Officer. If the investigation cannot be reasonably completed within the (10) working day time frame a status report will be submitted to the Human Rights Officer.
- B. In determining whether alleged conduct constitutes sexual harassment, the District will consider the surrounding circumstances, the nature of the sexual advances, relationships between the parties involved and the context in which the alleged incidents occurred.
- C. The investigation may consist of personal interviews with the complainant, the individuals against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of any other methods and documents deemed pertinent by the investigator.
- D. All complaints will be impartially investigated by a designated District officer and will permit either party to present witnesses and/or evidence.
- E. The District will take appropriate interim steps to protect the complainant, students, and employees and school community pending completion of an investigation of alleged sexual harassment. Additionally, students, parents/guardians, and District staff will be made aware of the availability of interim measures and any available resources, such as counseling, academic support, increased monitoring, supervision or security, and

measures for separating students. Any interim measures implemented will not disproportionately impact the complainant.

- F. The District will comply with law enforcement requests for cooperation and such cooperation may require the District to temporarily suspend the fact-finding aspect of the investigation while the law enforcement agency is in the process of gathering evidence. The District will promptly resume its investigation as soon as notified by the law enforcement agency that it has completed the evidence gathering process, which typically takes three to ten calendar days, although the delay in the District's investigation may be longer in certain instances. The District will implement appropriate interim steps during the law enforcement agency's investigation period to provide for the safety of the victim(s) and the school community, and for the avoidance of retaliation.
- G. The District will maintain on-going contact with the victim(s) throughout the investigation.
- H. The District Human Rights Officer shall make a report to the Superintendent upon completion of the investigation.

VI. District Action

- A. Upon receipt of a recommendation that the complaint is valid, the District will take such action as appropriate based on the results of the investigation.
- B. The result of the investigation of each complaint filed under these procedures will be reported in writing to both parties by the District.
- C. Possible disciplinary sanctions for employees or students who have engaged in sex discrimination may include, but is not limited to: counseling, verbal/written reprimands, suspension, termination, etc.
- D. Remedies for victims (and others) of sexual discrimination may include, but is not limited to: counseling, academic support, safety plans, class/schedule changes, student separation, etc.
- E. If either party disagrees with results of the investigation they may appeal directly to the Assistant Superintendent in writing within five business days. The Assistant Superintendent will then conduct an impartial review of the investigation and render a decision within five business days from the receipt of the written appeal.
- F. The District will actively take steps to prevent discrimination and harassment, to prevent the reoccurrence thereof, and to remedy the discriminatory effects on the victim(s) and others.

VII. Retaliation

The District will discipline any individual who retaliates against any person who reports alleged sexual harassment or who retaliates against any person who testifies, assists, or participates in an investigation, proceeding, or hearing relating to a sexual harassment complaint. Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment.

VIII. Non-Harassment

- A. The District recognizes that not every advance or consent of a sexual nature constitutes harassment. Whether a particular action or incident is a personal, social relationship without a discriminatory employment effect requires a determination based on all the facts and surrounding circumstances. False accusations of sexual harassment can have a serious detrimental effect on innocent parties.

IX. Right to Alternative Complaint Procedures

These procedures do not deny the right of any individual to pursue other avenues of recourse which may include filing charges with the Division of Antidiscrimination and Labor, initiating civil action or seeking redress under state criminal statutes and/or federal law.