

[DRAFT]

Policy

EMPLOYEE RACIAL/SEXUAL DISCRIMINATION AND HARASSMENT

Code GBAA Issued _____

~~Purpose: To establish the board's vision for a working environment free of racial/sexual discrimination and harassment.~~

Racial Harassment

Racial harassment is incompatible with equal educational opportunity and will not be tolerated in the district. It is the responsibility of every employee to strive to create an environment free of racial harassment. Racial harassment is racially motivated conduct by employees of the district toward any other employee or student that does any of the following.

- Discriminates on the basis of race under any of the following conditions:
 - in the terms, conditions, working environment, or privileges of employment
 - in enrollment, course assignment, grade, or opportunity for participation in any school benefit, service, or offering
 - in school-sponsored extracurricular activities
- Is directed toward a specific person or persons and involves any of the following:
 - use of force
 - threat of the use of force
 - intentional infliction of severe mental or emotional distress through any means including the use of racial slurs, epithets, or insults, or racially motivated actions undertaken with reckless disregard for the likely effect of inflicting severe mental or emotional distress

Employees are encouraged to express freely, responsibly, and in an orderly way their opinions and feelings about any problem or complaint of racial harassment. Any act by a district employee or agent of reprisal, interference, restraint, penalty, discrimination, coercion, or harassment against any person responsibly complaining of harassment under this policy interferes with free expression and is itself a violation.

Any employee who feels that he/she has been subjected to racial harassment may file a complaint in accordance with board policy GBK. If the employee feels his/her immediate supervisor is the source of, contributes to, or condones the racial harassment, he/she may proceed to the next level administrator or the district's civil rights coordinator as the first step in the grievance process.

All allegations will be investigated promptly and confidentially. Any employee who is found to have engaged in racial harassment will be subject to disciplinary action. This policy will not be

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used to bring frivolous or malicious charges against students, employees, or agents of the district.

Sexual Harassment

~~It is the Board's expectation that all personnel conduct themselves in a professional manner and respect other District employees, students, parents, and third parties at all times. In this regard, the Board prohibits sexual harassment, all forms of sexual discrimination, and other inappropriate conduct of a sexual nature.~~

~~All employees, including supervisory level employees, must avoid any action or conduct which could be viewed as sexual harassment or inappropriate conduct of a sexual nature. This includes any action or conduct communicated or performed in person, in writing, or electronically through such means as a telephone, cell phone, computer, or other telecommunication device, and includes text messaging and use of social media.~~

~~Sexual harassment of employees consists of unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (1) submission to such conduct is made either expressly or impliedly a condition of employment; (2) submission to or rejection of such conduct by an individual is used as the basis for any employment decisions affecting the individual; or (3) such conduct has the purpose or effect of unreasonably interfering with the employee's work performance or creating an intimidating, hostile, or offensive working environment.~~

~~Any employee who believes he/she has been subjected to sexual harassment is encouraged to file a complaint in accordance with the administrative rule that accompanies this policy. All allegations will be investigated promptly and confidentially. Employees who file a complaint of sexual harassment will not be subject to retaliation or reprisal in any form. Any employee, including a supervisory level employee, who is found to have engaged in sexual harassment or inappropriate conduct of a sexual nature with another employee, will be subject to disciplinary action, up to and including termination and all other appropriate steps will be taken to correct or rectify the situation.~~

~~All employees must avoid any action toward or conduct with a student, which could be viewed as sexually inappropriate. Inappropriate conduct of a sexual nature will not be tolerated at any time. Inappropriate conduct of a sexual nature with a student occurs when an employee (1) makes a sexually suggestive advance toward a student, (2) makes a request for a sexual favor from a student, or (3) engages in a relationship of a sexual nature with a student.~~

~~Any employee who believes another employee or a student has directed inappropriate conduct of a sexual nature toward him/her is encouraged to file a complaint in accordance with the administrative rule that accompanies this policy. Any employee who has knowledge that an employee or a student has directed inappropriate conduct of a sexual nature towards another employee or student should also file a complaint. All allegations will be investigated promptly. Employees who file a complaint of inappropriate conduct of a sexual nature by another employee or a student will not be subject to retaliation or reprisal in any form. Any employee or student who is found to have directed inappropriate conduct of a sexual nature towards an employee will~~

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~~be subject to disciplinary action, up to and including a recommendation of dismissal or expulsion, and all other appropriate steps will be taken to correct or rectify the situation.~~

~~Additionally, the district references board policy GBEB (Staff Conduct) which outlines the district's general expectations for staff conduct.~~

Adopted 6/24/91; Revised 9/25/00, 11/24/08, 6/26/17, __/__/21

Legal references:

A. Federal Law:

1. Title VII of the Civil Rights Act of 1964, 42 U.S.C.A. Section 2000e, *et seq.* – Prohibits discrimination in employment based on race, color, national origin, religion, or sex.
2. ~~Title IX of the Education Amendments of 1972, 20 U.S.C.A. Sections 1681-86 – Prohibits discrimination on the basis of sex.~~

B. S.C. Code, 1976, as amended:

1. Section 1-13-10, *et seq.* – Prohibits discrimination on the basis of race, religion, color, sex, age, national origin, or disability.

Policy GBAA Employee Racial/Sexual Discrimination and Harassment

Current

Issued 6/17

Purpose: To establish the board's vision for a working environment free of racial/sexual discrimination and harassment.

Racial Harassment

Racial harassment is incompatible with equal educational opportunity and will not be tolerated in the district. It is the responsibility of every employee to strive to create an environment free of racial harassment. Racial harassment is racially motivated conduct by employees of the district toward any other employee or student that does any of the following.

- Discriminates on the basis of race under any of the following conditions:
 - in the terms, conditions, working environment, or privileges of employment
 - in enrollment, course assignment, grade, or opportunity for participation in any school benefit, service, or offering
 - in school-sponsored extracurricular activities
- Is directed toward a specific person or persons and involves any of the following:
 - use of force
 - threat of the use of force
 - intentional infliction of severe mental or emotional distress through any means including the use of racial slurs, epithets, or insults, or racially motivated actions undertaken with reckless disregard for the likely effect of inflicting severe mental or emotional distress

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Any employee who feels that he/she has been subjected to racial harassment may file a complaint in accordance with board policy GBK. If the employee feels his/her immediate supervisor is the source of, contributes to, or condones the racial harassment, he/she may proceed to the next level administrator or the district's civil rights coordinator as the first step in the grievance process.

All allegations will be investigated promptly and confidentially. Any employee who is found to have engaged in racial harassment will be subject to disciplinary action. This policy will not be used to bring frivolous or malicious charges against students, employees, or agents of the district.

Sexual Harassment

It is the Board's expectation that all personnel conduct themselves in a professional manner and respect other District employees, students, parents, and third parties at all times. In this regard, the Board prohibits sexual harassment, all forms of sexual discrimination, and other inappropriate conduct of a sexual nature.

All employees, including supervisory level employees, must avoid any action or conduct which could be viewed as sexual harassment or inappropriate conduct of a sexual nature. This includes any action or conduct

communicated or performed in person, in writing, or electronically through such means as a telephone, cell phone, computer, or other telecommunication device, and includes text messaging and use of social media.

Sexual harassment of employees consists of unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (1) submission to such conduct is made either expressly or impliedly a condition of employment; (2) submission to or rejection of such conduct by an individual is used as the basis for any employment decisions affecting the individual; or (3) such conduct has the purpose or effect of unreasonably interfering with the employee's work performance or creating an intimidating, hostile, or offensive working environment.

Any employee who believes he/she has been subjected to sexual harassment is encouraged to file a complaint in accordance with the administrative rule that accompanies this policy. All allegations will be investigated promptly and confidentially. Employees who file a complaint of sexual harassment will not be subject to retaliation or reprisal in any form. Any employee, including a supervisory level employee, who is found to have engaged in sexual harassment or inappropriate conduct of a sexual nature with another employee, will be subject to disciplinary action, up to and including termination and all other appropriate steps will be taken to correct or rectify the situation.

All employees must avoid any action toward or conduct with a student, which could be viewed as sexually inappropriate. Inappropriate conduct of a sexual nature will not be tolerated at any time. Inappropriate conduct of a sexual nature with a student occurs when an employee (1) makes a sexually suggestive advance toward a student, (2) makes a request for a sexual favor from a student, or (3) engages in a relationship of a sexual nature with a student.

Any employee who believes another employee or a student has directed inappropriate conduct of a sexual nature toward him/her is encouraged to file a complaint in accordance with the administrative rule that accompanies this policy. Any employee who has knowledge that an employee or a student has directed inappropriate conduct of a sexual nature towards another employee or student should also file a complaint. All allegations will be investigated promptly. Employees who file a complaint of inappropriate conduct of a sexual nature by another employee or a student will not be subject to retaliation or reprisal in any form. Any employee or student who is found to have directed inappropriate conduct of a sexual nature towards an employee will be subject to disciplinary action, up to and including a recommendation of dismissal or expulsion, and all other appropriate steps will be taken to correct or rectify the situation.

Additionally, the district references board policy GBEB (Staff Conduct) which outlines the district's general expectations for staff conduct.

Adopted 6/24/91; Revised 9/25/00, 11/24/08, 6/26/17

Legal References:

Federal Law:

Title VII of the Civil Rights Act of 1964, 42 U.S.C.A. Section 2000e, *et seq.* - Prohibits discrimination in employment based on race, color, national origin, religion, or sex.

Title IX of the Education Amendments of 1972, 20 U.S.C.A. Sections 1681-86 - Prohibits discrimination on the basis of sex.

S.C. Code, 1976, as amended:

Section 1-13-10, *et seq.* - Prohibits discrimination on the basis of race, religion, color, sex, age, national origin, or disability.

York 3/Rock Hill School District

AR GBAA-R Employee Racial/Sexual Discrimination and Harassment

Issued 6/17

These following procedures are intended to do the following:

- discourage employees from subjecting employees or students of the district to sexual harassment or inappropriate conduct of a sexual nature;
- promote a harassment-free work and/or learning environment;
- effectively and appropriately address all sexual harassment and inappropriate conduct of a sexual nature found to have occurred or be occurring;
- establish on-going education and awareness of the problem of sexual harassment and inappropriate conduct of a sexual nature; and
- provide information about how to report allegations of sexual harassment and inappropriate conduct of a sexual nature.

Types of Behavior Which Constitute Sexual Harassment of Employees

Sexual harassment of employees includes unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature which:

- is made an employment condition so that submission to such conduct is a term or condition of employment;
- has an employment consequence, so that submission to or rejection of such conduct is used as a basis for employment decisions affecting an individual employee; or
- is an offensive job interference, so that such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile, or offensive work environment.

Sexual harassment may include, but is not limited to, the following:

- verbal harassment including epithets, sexually offensive comments, or slurs;
- physical harassment or physical interference with movement or work; or
- visual harassment such as sexually offensive cartoons, drawings, or posters.

Sexual harassment is prohibited against members of the opposite sex as well as against members of the same sex. Gender based harassment is another form of sex-based harassment and refers to unwelcome conduct based on an individual's actual or perceived sex. These types of sex-based harassment are also prohibited.

Behavior Prohibited of Administrators/Supervisors

No administrator/supervisor may condition any offer of employment, employee benefit, or continued employment on an employee's agreement to any of the sexual behavior defined above.

No administrator/supervisor may retaliate against any employee because that employee has opposed a practice prohibited by Title VII of the Civil Rights Act of 1964 and the South Carolina Human Affairs Law or has filed a

complaint, testified, assisted, or participated in any manner in an investigation, proceeding or hearing conducted by an authorized agency.

No administrator/supervisor will cause or tolerate the creation of a sexually hostile or offensive work environment by any subordinate employee or third party associated with schools who engages in sexual harassment.

No administrator/supervisor will destroy evidence relevant to an investigation of sexual harassment.

Types of Behavior Which Constitute Inappropriate Conduct of a Sexual Nature with Students

Inappropriate conduct of a sexual nature with students includes inappropriate sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature. Inappropriate conduct of a sexual nature may include, but is not limited to, the following:

- engaging or participating in any dates, sexual activity, or other activity which contains a sexual or romantic overture;
- leering at a student's body;
- touching, grabbing, and/or pinching;
- making comments, gestures, or jokes of a sexual nature;
- manipulating clothing in a sexual manner;
- displaying sexual pictures or objects;
- spreading sexual rumors or commenting about sexual behavior;
- teasing and/or bullying in sexual terms;
- inflicting sexual assault or abuse; or
- any other behavior by an employee toward a student that would reasonably cause the student to feel uncomfortable or that would reasonably give the appearance of impropriety or unprofessional conduct, regardless of whether the behavior is overtly sexual and regardless of whether such behavior would constitute a crime.

Certain "inappropriate conduct of a sexual nature" that district employees direct towards students may also be criminal conduct as defined by state law, including S.C. Code Ann. §16-3-755. However, the district will take appropriate action against any employee who engages in inappropriate conduct of a sexual nature, as defined in district policy, regardless of whether the conduct rises to the level of a crime.

Inappropriate conduct of a sexual nature is prohibited against students of the opposite sex as well as against students of the same sex. Additionally, students are prohibited from directing inappropriate conduct of a sexual nature toward employees, whether of the same sex or opposite sex. Gender-based harassment is another form of sex-based harassment and refers to unwelcome conduct based on an individual's actual or perceived gender. These types of sex-based harassment are also prohibited.

Behavior Prohibited of All Employees

No administrator, supervisor, or any other employee of this district will create a sexually hostile or offensive work environment for any employee by engaging in any sexual harassment.

No administrator, supervisor, or any other employee of this district will create a sexually hostile, offensive, or charged educational environment for any student by engaging in any sexual harassment or inappropriate sexual conduct with a student.

No administrator, supervisor, or any other employee of this district will encourage or assist any individual in performing any act that constitutes sexual harassment or inappropriate sexual conduct against any employee or student.

Preventive Action

The administration will ensure the following:

Policy GBAA and this administrative rule will be fully referenced in employee handbooks and/or a copy will be provided to each employee.

Policy GBAA and this administrative rule will be available on-line at www.rock-hill.k12.sc.us, in each school, and at the District Office.

All employees will be informed about the nature of sexual harassment and inappropriate conduct of a sexual nature, the procedures for registering a complaint, and the possible redress that is available.

Administrators and designated sexual harassment contact persons are expected to be knowledgeable of the district's procedures regarding sexual harassment and inappropriate conduct and should know how to address and/or investigate complaints. For example, they should be made aware of the kinds of acts that constitute sexual harassment and inappropriate conduct of a sexual nature, the district's commitment to eliminating and preventing sexual harassment and inappropriate conduct of a sexual nature in the schools, the penalties for engaging in harassment or inappropriate conduct of a sexual nature, the procedures for reporting incidents of sexual harassment and inappropriate conduct of a sexual nature, and the procedures for conducting a sexual harassment or inappropriate conduct of a sexual nature investigation.

The District Office will make available information from the Equal Employment Opportunity Commission and the South Carolina Human Affairs Commission about filing claims of sexual harassment with these entities.

The district will designate a Title IX coordinator. The name, address, and business telephone number of the Title IX coordinator will be disseminated throughout the system.

Reporting and Response Procedures

Any employee who believes that he/she has been the object of sexual harassment or inappropriate conduct of a sexual nature is encouraged to file a complaint with his/her immediate supervisor or principal except for situations covered below. (See Employee Sexual Harassment Complaint Form GBAA-E which may be used to file a complaint.)

Any employee who believes that he/she has witnessed inappropriate conduct of a sexual nature toward an employee or a student must immediately report such a situation to his/her immediate supervisor or principal except for situations covered below.

Under no circumstances will an employee be required to first report allegations of harassment or inappropriate conduct of a sexual nature to his/her immediate supervisor if that person is the individual who is accused of the harassment or inappropriate conduct. In such cases, the employee will file the complaint with the district's Title IX coordinator.

All administrators/supervisors/contact persons will initiate an investigation of any incident of alleged sexual harassment or inappropriate conduct of a sexual nature reported to them or observed by them in consultation with the district's Title IX coordinator. The administration will be responsible for ensuring that reasonable efforts are made to prevent public disclosure of the names of all parties involved in the sexual harassment or

inappropriate conduct of a sexual nature allegation, except to the extent necessary to carry out an investigation and comply with statutory obligations.

All administrators/supervisors will report to the Title IX coordinator and/or superintendent in writing the results of any investigation of sexual harassment or inappropriate conduct of a sexual nature, including corrective or disciplinary action taken. The employee or student who brought the sexual harassment or inappropriate conduct of a sexual nature allegation will be informed that appropriate actions were taken and will be advised as to how to report any subsequent problems.

If an employee is determined to have sexually harassed another employee or engaged in inappropriate conduct of a sexual nature with a student, the administration will take whatever disciplinary action is warranted, up to and including termination from employment. If a student is found to have directed inappropriate conduct of a sexual nature toward an employee, the student will be subject to disciplinary action.

All administrators/supervisors will follow up periodically on any incident of sexual harassment or inappropriate conduct of a sexual nature they were involved in investigating to determine whether the employee or student has been subjected to any further sexual harassment or inappropriate sexual conduct since the corrective action was taken.

No administrator/supervisor or other employee of this district will retaliate in any way against an employee or student who has provided information as a witness to or victim of an incident of sexual harassment or inappropriate conduct of a sexual nature.

Additional Obligations of All Employees

All employees will report to their immediate supervisor any conduct on the part of non-employees, such as sales representatives or service vendors, which is believed to constitute sexual harassment or inappropriate conduct of a sexual nature.

Any employee who has received information in his/her professional capacity which gives him/her reason to believe that a child under the age of 18 has been or may be sexually abused by an employee or third party must report such a situation. The employee must make the report to either a law enforcement agency in the City of Rock Hill or York County or to the York County Department of Social Services. If such a report is made, the employee must also advise either his/her principal or the district's Title IX coordinator.

All employees will cooperate with and maintain the confidentiality of any investigation of alleged acts of sexual harassment or inappropriate conduct of a sexual nature conducted by the district or by an appropriate state or federal agency. Failure to do so could result in disciplinary action against the individual who failed to cooperate or who violated the confidentiality of the matter.

No employee of this district will take any action to discourage any other employee or student from reporting alleged sexual harassment or inappropriate conduct of a sexual nature. Any person who intentionally provides false information in connection with a report or investigation of sexual harassment or inappropriate conduct of a sexual nature will be subject to disciplinary action.

No employee will retaliate in any way against an employee or a student who has provided information regarding an incident of sexual harassment or inappropriate conduct of a sexual nature.

All employees will be informed about the nature of sexual harassment and inappropriate conduct of a sexual nature, and procedures for registering a complaint, and the possible redress that is available.

Administrators and designated sexual harassment contact persons are expected to be knowledgeable of the district's procedures regarding sexual harassment and inappropriate conduct of a sexual nature and should know how to address and/or investigate complaints. For example, they should be made aware of the kinds of acts that constitute sexual harassment and inappropriate conduct of a sexual nature; the district's commitment to

eliminating and preventing sexual harassment and inappropriate conduct of a sexual nature in the schools; the penalties for engaging in sexual harassment and inappropriate conduct of a sexual nature; the procedures for reporting incidents of sexual harassment and inappropriate conduct of a sexual nature; and the procedures for conducting a sexual harassment and inappropriate conduct of a sexual nature investigation.

Sexual Battery with a Student as Defined in South Carolina Law

Section 16-3-755 provides, in part:

(B) If a person affiliated with a public or private secondary school in an official capacity engages in sexual battery with a student enrolled in the school who is sixteen or seventeen years of age, and aggravated coercion or aggravated force is not used to accomplish the sexual battery, the person affiliated with the public or private secondary school in an official capacity is guilty of a felony and, upon conviction, must be imprisoned for not more than five years.

(C) If a person affiliated with a public or private secondary school in an official capacity engages in sexual battery with a student enrolled in the school who is eighteen years of age or older, and aggravated coercion or aggravated force is not used to accomplish the sexual battery, the person affiliated with the public or private secondary school in an official capacity is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned for thirty days, or both.

(D) If a person affiliated with a public or private secondary school in an official capacity has direct supervisory authority over a student enrolled in the school who is eighteen years of age or older, and the person affiliated with the public or private secondary school in an official capacity engages in sexual battery with the student, and aggravated coercion or aggravated force is not used to accomplish the sexual battery, the person affiliated with the public or private secondary school in an official capacity is guilty of a felony and, upon conviction, must be imprisoned for not more than five years.

Adopted 11/24/08; Revised 6/26/17

York 3/Rock Hill School District

GBAA-E Racial Discrimination or Harassment Complaint Form

Name of employee complainant _____

Address _____

Telephone number _____

Position with the District _____

Job site _____

Immediate supervisor _____

Name(s) of alleged harasser(s) _____

Approximate date(s) of alleged discrimination/harassment or when began, if on-going

Location or situation where alleged discrimination/harassment occurred or is occurring

Nature of the discrimination/harassment

Other individual(s) in whom you have confided about the alleged discrimination/harassment

Individuals you believe may have witnessed or also been subjected to, the alleged discrimination/harassment

Remedy sought

Signature of complainant

Date

Signature of individual receiving complaint

Date

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