

[DRAFT]

*Policy*

**EMPLOYEE SEX/GENDER DISCRIMINATION AND HARASSMENT**

*Code GBAC Issued*

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It is the board's expectation that all personnel conduct themselves in a professional manner and respect other district employees, students, parents/legal guardians and third parties at all times. In this regard, the board prohibits sex/gender discrimination and harassment and other inappropriate conduct of a sexual nature.

**Note: Upon receipt of a complaint under this policy, the administrator shall consult with the Title IX coordinator for guidance. This policy does not apply to any conduct that rises to the level of sexual harassment, as determined by the Title IX coordinator, consistent with the 2020 Title IX regulations addressed in Board policies GBAB and JBAB.**

All employees, including supervisory level employees, must avoid any action or conduct which could be viewed as sex/gender discrimination or 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 cell phone, computer, or other telecommunication device, and includes text messaging and social networking.

Sex/gender discrimination is defined as unfair, unjust or prejudicial treatment of a person related to a person's sex (including gender identity, sexual orientation, and pregnancy, childbirth, and any related medical conditions) in any aspect of employment.

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 and confidentially. 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.

Sexual harassment of employees consists of unwelcome verbal, non-verbal or physical conduct related to a person's sex (including gender identity, sexual orientation, and pregnancy, childbirth, and any related medical conditions) under the following circumstances:



## PAGE 2 – GBAC – EMPLOYEE SEX/GENDER DISCRIMINATION AND HARASSMENT

- submission to such conduct is made either expressly or impliedly a condition of employment
- submission to or rejection of such conduct by an individual is used as the basis for any employment decisions affecting the individual
- 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 sex/gender discrimination or 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 who is found to have engaged in sex/gender discrimination or harassment, or inappropriate conduct of a sexual nature, will be subject to disciplinary action, up to and including, a recommendation of termination. Any student who is found to have engaged in sex/gender discrimination or harassment, will be subject to disciplinary action, up to and including, a recommendation of expulsion. If a non-employee, including, but not limited to, an individual working in the District through another agency or third party, a contractor, a sales representative or a service vendor is determined to have engaged in sex/gender discrimination or harassment, or engaged in inappropriate conduct of a sexual nature toward an employee or student, the District will take appropriate action against the individual, including severing the relationship with the individual or entity. The district will take all other appropriate steps to correct or rectify the situation.

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

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### Legal references:

#### A. Federal statutes:

1. Title IX of the Education Amendments of 1972, 20 USC § 1681, et seq. - Prohibits discrimination on the basis of sex.
2. 42 U.S.C. 2000e – Prohibits discrimination in employment on the basis of race, color, national origin, religion, or sex.
3. Title VII of the Civil Rights Act of 1964, as amended.

**GBAC-E Sex/Gender 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

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

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Remedy sought

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\_\_\_\_\_  
Signature of complainant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of individual receiving complaint

\_\_\_\_\_  
Date



[DRAFT]

*Administrative Rule*

**EMPLOYEE SEX/GENDER DISCRIMINATION AND HARASSMENT**

*Code GBAC-R Issued*

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These 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
- provide, at the lowest possible level, prompt and equitable resolutions to complaints based on sex/gender discrimination or harassment
- promote a harassment-free work and/or learning environment
- effectively and appropriately address sexual harassment and inappropriate conduct of a sexual nature found to have occurred or be occurring
- establish ongoing education and awareness of the problem of sexual harassment and inappropriate conduct of a sexual nature
- provide information about how to report allegations of sexual harassment and inappropriate conduct of a sexual nature

**Note: Upon receipt of a complaint under this policy, the administrator shall consult with the Title IX coordinator for guidance. This policy does not apply to any conduct that rises to the level of sexual harassment, as determined by the Title IX coordinator, consistent with the 2020 Title IX regulations addressed in Board policies GBAB and JBAB.**

**Types of Behavior Which Constitute Sex/Gender Discrimination or Harassment of Employees**

Sex/gender discrimination involves treating an applicant or employee unfavorably because of that person's sex, including discrimination against an individual because of gender identity, sexual orientation or because of pregnancy, childbirth or related medical conditions. Sexual harassment of employees includes unwelcome sexual advances, requests for sexual favors, or other verbal, non-verbal or physical conduct of a sexual nature which does any of the following:

- 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
- 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:

## **PAGE 2 – GBAC-R – EMPLOYEE SEX/GENDER DISCRIMINATION AND HARASSMENT**

- verbal harassment including epithets, sexually offensive comments, or slurs
- physical harassment or physical interference with movement or work
- 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 employment, employee benefit, or continued employment on the 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 conducted pursuant to this policy.

### **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 comments
- teasing and/or bullying in sexual terms
- inflicting sexual assault or abuse
- any other behavior by an employee toward a student that would reasonably cause the



## **PAGE 3 – GBAC-R – EMPLOYEE SEX/GENDER DISCRIMINATION AND HARASSMENT**

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

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 sex/gender discrimination or harassment or inappropriate conduct of a sexual nature.

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 sex/gender discrimination or harassment or inappropriate conduct of a sexual nature 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 sex/gender discrimination or harassment or inappropriate conduct of a sexual nature against any employee or student.

### **Preventive Action**

The administration will ensure the following on an annual basis:

- Policy GBAC and this administrative rule will be fully referenced in employee handbooks and/or a copy will be provided to each employee.
- Policy GBAC and this administrative rule will be available online at [www.rock-hill.k12.sc.us](http://www.rock-hill.k12.sc.us) in each school, and at the District office.
- All employees will be informed about the nature of sex/gender discrimination or harassment and inappropriate conduct of a sexual nature, the procedures for registering a complaint, and the possible redress that is available.

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



## **PAGE 4 – GBAC-R – EMPLOYEE SEX/GENDER DISCRIMINATION AND HARASSMENT**

Annually, administrators/supervisors will ensure that the provisions of the District policy on sex/gender discrimination and harassment and inappropriate conduct of a sexual nature and this administrative rule as well as an orientation on the definition of sex/gender discrimination and harassment and inappropriate conduct of a sexual nature, the procedures for registering a complaint about such conduct, and the redress which is available are reviewed with all employees and students.

The District office will make available information from the Equal Employment Opportunity Commission and the South Carolina Human Affairs Commission about filing claims of sex/gender discrimination or harassment with these entities.

The District's Title IX coordinator's name and contact information is available on the District's website.

### **Reporting and Response Procedures**

Any employee who believes that he/she has been the object of sex/gender discrimination or harassment or inappropriate conduct of a sexual nature is encouraged to file a complaint with his/her immediate supervisor or principal in accordance with this policy (except for situations covered below) See attached Complaint Form.

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 sex/gender discrimination or harassment or inappropriate conduct of a sexual nature to his/her immediate supervisor if that person is the individual who is accused of such conduct. In those cases, the employee will file the complaint with the District's Title IX coordinator.

All administrators/supervisors/contact persons will, within three working days, initiate an investigation of any incident of alleged sex/gender discrimination or 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 sex/gender discrimination or 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 sex/gender discrimination or harassment or inappropriate conduct of a sexual nature, including corrective or disciplinary action taken. The District will inform (to the extent permitted by federal law) the complainant and alleged perpetrator in writing of the outcome of the investigation, i.e., whether or not the alleged conduct occurred and/or was found to be a violation of policy.



## **PAGE 5 – GBAC-R – EMPLOYEE SEX/GENDER DISCRIMINATION AND HARASSMENT**

Any employee who is found to have engaged in sex/gender discrimination or harassment, or inappropriate conduct of a sexual nature, will be subject to disciplinary action, up to and including, a recommendation of termination. Any student who is found to have engaged in sex/gender discrimination or harassment, will be subject to disciplinary action, up to and including, a recommendation of expulsion. If a non-employee, including, but not limited to, an individual working in the District through another agency or third party, a contractor, a sales representative or a service vendor is determined to have engaged in sex/gender discrimination or harassment or engaged in inappropriate conduct of a sexual nature toward an employee or student, the District will take appropriate action against the individual, including severing the relationship with the individual or entity. The district will take all other appropriate steps to correct or rectify the situation.

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

No administrator/supervisor 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 sex/gender discrimination or harassment or inappropriate conduct of a sexual nature.

### **Record Keeping**

The District's Title IX coordinator shall maintain a record of all reported cases of sex/gender discrimination or harassment to enable the District to monitor, address, and prevent such repetitive behavior in District schools.

### **Additional Obligations of All Employees**

All employees will report to their immediate supervisor any conduct on the part of any non-employee, including, but not limited to, an individual working in the District through another agency or third party, a contractor, a sales representative or a service vendor, which is believed to constitute sex/gender discrimination or 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 the appropriate law enforcement agency or to the 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 sex/gender discrimination or harassment or inappropriate conduct of a sexual nature conducted by the District or by an appropriate state or federal agency. Failure to do so

**PAGE 6 – GBAC-R – EMPLOYEE SEX/GENDER DISCRIMINATION AND HARASSMENT**

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 sex/gender discrimination or harassment or inappropriate conduct of a sexual nature. Any person who intentionally provides false information in connection with a report or investigation of such an allegation will be subject to disciplinary action.

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

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

Administrators and designated sex/gender discrimination and harassment contact persons are expected to be knowledgeable of the District's procedures regarding such 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 sex/gender discrimination, sexual harassment and inappropriate conduct of a sexual nature; the District's commitment to eliminating and preventing such conduct in the schools; the penalties for engaging in sex/gender discrimination or harassment or inappropriate conduct of a sexual nature; the procedures for reporting incidents of sex/gender discrimination or harassment and inappropriate conduct of a sexual nature; and the procedures for conducting such investigations.

Adopted \_\_/\_\_/21