

SEXUAL HARASSMENT

The Caldwell County Board of Education believes that all employees and students are entitled to work and study in school-related environments that are free of sexual harassment. To this end, the board prohibits employees and students from engaging in sexual harassment and advises employees and students that when evidence of sexual harassment is established, disciplinary action may be taken, up to and including dismissal (for employee) and suspension or expulsion (for students). Independent contractors and volunteers are likewise prohibited from engaging in sexual harassment and are subject to removal from their duties or activities with the school district for violations of this policy. Although such conduct may not necessarily constitute sexual harassment, all employees of the Caldwell County Board of Education, student teachers, volunteers, and contractors hired to perform instructional or professional services, are prohibited from dating, courting, or entering into a romantic or sexual relationship with any student enrolled in the Caldwell County Public School System, regardless of the student's age.

1. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:
 - A. Submission to the conduct is made, either explicitly or implicitly, a term or condition of an individual's employment, academic progress, or completion of a school-related activity; or
 - B. Submission to or rejection of such conduct is used as the basis for employment decisions affecting such an individual, or, in the case of a student, submission to or rejection of such conduct is used in evaluating the individual's performance within a course of study or other school-related activity; or
 - C. Such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or a student's educational performance, or creating an intimidation, hostile, or offensive environment.

2. Examples of sexual harassment include, but are not limited to, deliberate, unwelcome touching; suggestions or demands for sexual involvement accompanied by implied or overt promises or preferential treatment or threats; pressure for sexual activity; continued or repeated offensive sexual flirtations, advances or propositions; continued or repeated verbal remarks about an individual's body; sexually degrading words used toward an individual or to describe an individual; or the display in the work place or school setting of sexually suggestive objects or pictures.

3. It is possible for sexual harassment to occur at various levels: between peers or coworkers, between supervisors and subordinates, between employees and students, between students, or imposed by non-employees on employees and/or students. Sexual harassment may be committed by members of the same sex or by members of the opposite sex. Romantic or sexual advances toward students by employees or romantic or sexual relationships between school system employees and students are never appropriate, whether they are consensual or otherwise outside the definition of sexual harassment. Such relationships are prohibited. Employees engaging in inappropriate relationships with students will be subject to disciplinary action, up to and including dismissal.

4. All complaints of sexual harassment shall be promptly and thoroughly investigated. A student does not have to report an incident of harassment to trigger an investigation if a school official has knowledge of the harassment. Suspected sexual harassment shall be investigated according to the following procedures:
 - A. All complaints and investigations of sexual harassment shall remain confidential. Information shall be given only to those individuals who need to have access to it in order to investigate appropriately and address the complaint.
 - B. A student who believes that he/she has suffered sexual harassment by another student may report the matter to the school principal. Any teacher or other school employee who receives from a student a report (oral or written) of alleged sexual harassment by another student shall immediately report the same to the school principal. Failure by the employee to do so may subject the employee to disciplinary action. Upon receipt of a report of sexual harassment by a student, the school principal shall notify the Superintendent, Assistant Superintendent, and any other appropriate person as required by law and Board Policy. The school principal shall also investigate the complaint and, if the complaint proves to be supported by evidence, take appropriate action regarding any necessary disciplinary and preventative measures.

A student who believes that he/she has suffered sexual harassment by a school employee may report the matter in writing to the school principal. Any teacher or other school employee who receives from a student a report (oral or written) of alleged sexual harassment by a school employee shall immediately report the same to the school principal. If the student's school principal is the alleged offender, such report by the student or other school employees shall be made to the assistant superintendent of human resources. If the school principal receives this report of sexual harassment by a school employee, the principal shall notify the assistant superintendent of human resources and any other appropriate person as required by law and Board Policy. The assistant superintendent of human resources shall initiate the investigation of the complaint.
 - C. An employee who believes that he/she has suffered sexual harassment may report the matter to the assistant superintendent of human resources. However, any school employee who occupies an organizationally superior position relative to an employee who receives from such employee a report, whether oral or written, of alleged sexual harassment shall promptly report the same to the assistant superintendent of human resources. Failure by such employee to do so may subject the employee to disciplinary action. If the assistant superintendent is the alleged offender, such report shall be made to the superintendent. Upon receipt of a report of a sexual harassment, the superintendent or assistant superintendent of human resources – employee relations shall investigate the complaint and take appropriate action regarding discipline and prevention.
 - D. In any case involving alleged sexual harassment by the superintendent, reports shall be made to any member of the board.
 - E. Claims of sexual harassment shall be promptly and thoroughly investigated, and appropriate action shall be taken. The actions taken should be reasonably calculated to end any harassment, eliminate a hostile environment if one has been created, and prevent harassment from occurring again. Violations shall be deemed to be serious disciplinary infractions. Disciplinary actions shall take into account the circumstances including the nature, frequency and severity of the harassment, and in the case of student-on-student harassment, the ages of the students involved.

- F. No employee or student will be subject to negative action in retaliation for reporting alleged sexual harassment in accordance with this policy. Such retaliation is against the law and is prohibited by this policy.
- G. The superintendent may establish such guidelines and additional procedures, as he/she deems necessary for the purpose of implementation of this policy. It shall be the responsibility of the superintendent and his/her designees to inform school employees and students regarding this policy.

Reporting Information to the Principal and External Agencies

It is the policy of the board in serious matters relating to the safety and welfare of students and employees that certain actions and information be reported to external agencies as required by law or regulation.

Principal

All school employees, including substitute teachers, student teachers, and volunteers, must immediately report to the principal or his/her designee any act of violence in school, on school property, or at school-sponsored events. Acts that should be reported are all those known or believed to be violent. This includes, but is not limited to, acts reportable by the principal to law enforcement under board policy. An act of violence includes but is not limited to any illegal or immoral behavior amounting to physical or sexual abuse of a child as defined in Board Policy.

Superintendent of Public Instruction

Any administrator, including the superintendent, assistant superintendent, or principal, who knows or has substantial reason to believe that a certified employee has engaged in illegal or immoral behavior amounting to physical or sexual abuse of a child, shall report the information to the superintendent of public instruction. Failure to report such information constitutes grounds for certificates revocation or suspension.

For purposes of this requirement, “physical abuse” means the infliction of serious physical injury other than by accidental means or other than self defense. The term “sexual abuse” means the commission of any sexual act upon a student or causing a student to commit a sexual act regardless of the age of the student and regardless of the presence or absence of consent.

Law Enforcement

Any principal who has personal knowledge or actual notice from school personnel that an act has occurred on school property involving assault resulting in serious personal injury, sexual assault, sexual offense, rape, kidnapping, indecent liberties with a minor, assault involving the use of a weapon, possession of a firearm or other weapon in violation of the law, possession of a controlled substance in violation of the law, death by other than natural causes, robbery with or without a dangerous weapon, or assault on a school official, employee or volunteer not resulting in serious injury, shall immediately report the act to the appropriate law enforcement agency. “Immediately” means without undue delay as soon as possible after the act has occurred.

For purposes of this requirement, “school property” shall include any school building, bus, public school campus, grounds, recreation area, or athletic field in the charge of the principal.

Designated crimes that occur on school property shall be reported without regard to whether they occur before, during, or after normal operating hours. The report must be made without regard to the age of the victim or the perpetrator. Student offenders and victims should be identified by age, grade, sex, race, and educational status (i.e., regular or exceptional)

The principal shall designate persons who shall report the acts to law enforcement in his/her absence.

If the principal reports a crime committed by a child with a disability, the principal must ensure that copies of the child's special education and disciplinary records are transmitted to the appropriate authorities for consideration. The principal shall obtain the written consent of the parent or student (if the student is at least eighteen (18) years of age) before transmitting the records. If consent is refused, the records will not be transmitted unless pursuant to a lawful subpoena or court order, or as otherwise authorized under the Family Education Rights and Privacy Act (FERPA) and with proper notice to the parent as may be required by that law.

Department of Social Services

Principals shall report suspected cases of reportable communicable diseases or conditions to the Caldwell County Health Director for investigation. Without releasing information that would identify the employee, the principal shall also report suspected cases of reportable communicable diseases or conditions to the superintendent. Any employee who has reason to believe that a fellow employee has a reportable communicable disease and is not following safe practices shall report the situation to his/her principal or supervisor. Supervisory personnel shall report such unsafe conduct to the health director. In the absence of the principal or supervisor, the employee must report the situation to the health director.

Confidentiality of such reports is protected by law and school officials cannot be liable for making such reports. (Refer also to Communicable Diseases Policy.)

The superintendent may develop procedures necessary for the implementation of this policy.

Legal References: G.S. 115 C-400, 16 N.C.A.C.6C.0312, G.S. 115C-288, G.S. 130A-136, G.S. 115C-307, 20 U.S.C.& 1415(k)(9), and 34 CFR 300.529(b), N.C.G.S Section 7A-543

Adopted: August 14, 1995

Revised: April 5, 2004