

SEXUAL HARASSMENT OF STUDENTS REGULATION

I. Introduction

The following regulation will implement the Berlin Central School District Board of Education's policy concerning the sexual harassment of students.

II. Definition & Examples

A student may be sexually harassed by a member of the opposite sex or of the same sex. Sexual harassment experienced by students is not always easily recognized. It may include but not be limited to unwanted sexual behavior such as touching, verbal comments, sexual name calling, spreading sexual rumors, jokes, gestures, pictures, leers, overly personal conversation, cornering or blocking a student's movement, pulling at clothes, attempted rape, and rape.

III. Procedures

A. COMPLIANCE OFFICER DESIGNATED.

The Board of Education shall designate a Compliance Officer to carry out the District's responsibilities associated with compliance with Title IX of the Education Amendments of 1972 pursuant to Policy 5.120-99. In addition, the Board shall designate a second individual for ensuring compliance with Title IX in regard to sexual harassment, so that students who believe that they have been subjected to sexual harassment will have a second avenue of complaint, if the alleged harasser is the Compliance Officer.

B. NOTICES BY DISTRICT

1. Notice of Title IX Designees. The Superintendent of Schools shall notify all students and employees of the name, office address, and telephone number of both designees. In addition, the Board through this regulation has established grievance procedures that provide for prompt investigation and equitable resolution of student sexual harassment complaints.

2. Notice of Non-Discrimination. The Superintendent shall implement specific and continuing steps to notify students, parents, employees, and prospective students or employees that the Berlin Central School District does not discriminate on the basis of sex in the educational programs or activities that it operates, as required by Title IX. Such notification may include publication in local newspapers; student handbooks; school newsletters or other periodicals or bulletins operated by the District and memoranda or other written communications distributed to every student and employee.

C. CONFIDENTIALITY OF REPORTS OF HARASSMENT.

All reports of sexual harassment shall be held in confidence, subject to all applicable laws and any relevant provisions found in the Board's policy manual and collective bargaining agreements.

IV. Investigation of a Complaint

A. PROCEDURE WHEN RECEIVING REPORT OF HARASSMENT.

Consistent with federal and State law, and all applicable provisions contained in the Board's policy manual and collective bargaining agreements, appropriate personnel shall handle any report, investigation, and remedial action concerning allegations of sexual harassment. The Compliance officer or designee shall notify the building principal and the Superintendent of all complaints. The student may pursue her/his complaint informally, or may file a formal complaint.

B. CONDUCT OF INVESTIGATION

Upon receipt of either a formal or an informal complaint, a prompt, thorough, and impartial investigation of the allegations shall follow. This investigation shall be conducted diligently. All witnesses to the alleged harassment or those with otherwise pertinent information shall be interviewed. The complainant shall be given the opportunity to speak with an individual of the same sex about the alleged incident. Complainants shall be notified of the outcome of the investigation.

V. Informal Complaints.

A. STUDENT REQUEST FOR INFORMAL MEETING

In addition to notification of the Compliance Officer or the Board's designee as described in III.A, above, a student who believes that she/he has been sexually harassed may request and shall be granted an informal meeting between her/himself and the building principal and/or Superintendent. The student may also request and shall be granted a meeting with a counselor or administrator of the same sex. Parents or guardians of the complainant shall be notified of the right to attend any meetings or discussions concerning the alleged incident(s) with their child. The purpose of such meetings will be to discuss the allegations of sexual harassment and remedial steps that might be taken.

B. MEETING WITH ALLEGED HARASSER

Subsequent to meeting with the complainant, the building principal or Superintendent shall promptly discuss the complaint with the alleged harasser. The alleged harasser shall be informed prior to the meeting of her/his right to representation by counsel at the meeting.

1. Denial of Allegation by Alleged Harasser. If the alleged harasser denies the allegations, the building principal or Superintendent shall inform the complainant of the denial and shall request that the complainant make a formal, written complaint that can be filed by the investigator with her/his report to the next level of management on what has transpired to date. If the complainant submits a formal complaint, a copy of that complaint shall accompany the report of the building principal or Superintendent with a recommendation for further action.
2. Admission of Allegation by Alleged Harasser. If the alleged harasser admits the allegations, the building principal or Superintendent shall obtain a written assurance from the harasser that the objectionable behavior will stop immediately and hereafter. Depending on the severity of the charge, the building principal or Superintendent may commence disciplinary proceedings or impose further disciplinary measures. Thereafter, the building principal or Superintendent shall prepare a written report of the incident and shall inform the complainant of the resolution of her/his complaint. The complainant shall indicate in writing on the report whether or not she/he is satisfied with the resolution.

C. PROCEDURE FOLLOWING NOTICE TO COMPLAINANT OF RESOLUTION.

1. Complainant Satisfied with Resolution. If the complainant is satisfied with the resolution of a complaint, the incident will be deemed closed. Nevertheless, the complaint may be reopened for investigation if a recurrence of sexual harassment is reported. The building principal or Superintendent shall advise the complainant to promptly report any occurrence or reoccurrence of harassment or any retaliatory action that may occur from any source.
2. Complainant Dissatisfied with Resolution. If the complainant is dissatisfied with the resolution attained through informal procedures, then she/he is to file a formal written complaint.

D. ALLEGED HARASSER ADMITS ALLEGATION AND REFUSES TO ASSURE REFRAINING FROM FUTURE HARASSMENT

If, during the informal investigation procedures described above, the alleged harasser admits the substantial truth of the allegations but refuses to provide an assurance that she/he will refrain immediately and hereafter from the unwelcome behavior, the building principal or Superintendent shall file a report with the next appropriate level in the complaint procedure. The report shall indicate the nature of the complaint, a description of what took place when the building principal or Superintendent informed the alleged harasser of the allegations that had been made against her/him, the alleged harasser's response to the allegations, and a recommendation that stronger corrective measures be taken. This report should be accompanied by the student's formal complaint.

VI. Formal Complaints

A. CIRCUMSTANCES OF FORMAL COMPLAINT

A formal complaint of sexual harassment may be submitted by a student either initially to report any incident of sexual harassment, or as the next step after an unsatisfactory resolution of an informal attempt to resolve a complaint under the procedures described in 5, above. When a complaint has not been resolved informally to the satisfaction of the complainant, that person should submit a formal written complaint to the building principal or Superintendent originally consulted, who will then forward it to the next appropriate level of management, e.g., the Superintendent or the Board of Education, for appropriate action.

B. ASPECTS OF A FORMAL COMPLAINT

The formal written complaint will consist of any appropriate forms and a copy of any relevant reports prepared by the building principal or Superintendent. The appropriate forms shall solicit the particulars of the complaint, including date(s) and place(s) of incident(s), a description of the alleged sexual misconduct, the names of any witnesses to the incident(s) or its circumstances, and any previous action taken administratively to resolve the matter.

C. ACTION UPON DETERMINATION OF HARASSMENT

Upon the determination that a student has been sexually harassed, the Superintendent or the Board shall take immediate, appropriate, and corrective action. The Superintendent or the Board shall notify the complainant of any findings made and action taken.

VII. Remedial Action.

A. DETERMINATION THAT HARASSMENT OCCURRED

If the investigation of an alleged incident of the sexual harassment of a student reveals that such harassment has occurred, then appropriate sanctions shall be imposed. Any sanction shall be imposed only in a manner consistent with applicable law, Board policies and regulations, and with pertinent collective bargaining agreements. Any sanction imposed for the sexual harassment of a student will take account of the gravity of the particular case. Sanctions for this offense may range from a reprimand of the harasser up to and including dismissal of an employee or suspension of a student.

B. POST-REMEDIAL ACTION

If the investigation reveals that no sexual harassment has occurred, or if the complainant is unsatisfied with the remedial action taken after a finding of sexual harassment has been made, then the complainant may appeal to the next appropriate level in the complaint procedure. The appeal must include a copy of the original complaint, all relevant reports, the specific being appealed, and an explanation of why the complainant is appealing that action.

VIII. Retaliation Forbidden

Anyone who subjects a student complaining of sexual harassment, witnesses to an incident of sexual harassment, or witnesses to circumstances surrounding a student's complaint of sexual harassment, to any form of retaliation whatever, shall be subject to disciplinary action. Such disciplinary action shall be taken in the manner prescribed by law, and shall be consistent with the Board's policies and pertinent collective bargaining agreements.

IX. Post-Remedial Action

Following a finding of sexual harassment, the victim shall be interviewed periodically by the appropriate building principal or the Superintendent, in order to ensure that the harassment has not resumed and that no retaliatory measures have been taken against the victim or any witness. In the administrative discretion of the District, such post-finding interviews will continue for as long as is deemed necessary.

X. Complaint Records.

Upon written request, complainants alleging sexual harassment should receive a copy of any resolution reports filed by a building principal or the Superintendent concerning that student's complaint. Upon the complaint's substantiation, copies shall also be filed with the student or employment records of both the complainant and the harasser.

XI. Investigation in the Absence of a Complaint.

In any instance where, in the absence of a complaint, the Board nonetheless becomes aware of an actual or suspected incident of the sexual harassment of a student, the Board will ensure that an investigation is promptly commenced by the appropriate persons.