DEFINITIONS AND EXAMPLES

Sexual Harassment

For purposes of this Regulation, sexual harassment of a student consists of sexual advances, requests for sexual favors, sexually-motivated physical conduct, or other verbal or physical conduct or communication of a sexual nature when:

1. A school employee causes a student to believe that he or she must submit to unwelcome sexual conduct in order to participate in a school program or activity, or when an employee or third party agent of the District causes a student to believe that the employee will make an educational decision based on whether or not the student submits to unwelcome sexual conduct; or

2. When the unwelcome sexual conduct of a school employee or classmate is so severe, persistent or pervasive that it affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, or abusive educational environment.

Examples of conduct which may constitute sexual harassment include:

- sexual advances;
- touching, patting, grabbing, or pinching another person's intimate parts, whether that person is of the same sex or the opposite sex;
- coercing, forcing, or attempting to coerce or force the touching of anyone's intimate parts;
- coercing, forcing, or attempting to coerce or force sexual intercourse or a sexual act on another;
- graffiti of a sexual nature;
- sexual gestures;
- sexual or dirty jokes;
- touching oneself sexually or talking about one's sexual activity in front of others;

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- spreading rumors about or rating other students as to sexual activity or performance;

- unwelcome, sexually-motivated or inappropriate patting, pinching, or physical contact. This prohibition does not preclude legitimate, non-sexual physical conduct such as the use of necessary restraints to avoid physical harm to persons or property, or conduct such as a teacher's consoling hug of a young student, or one student's demonstration of a sports move requiring contact with another student. (NOTE: Where the perpetrator is an adult and the victim is a student, welcomeness is generally not relevant.)

- other unwelcome sexual behavior or words, including demands for sexual favors, when accompanied by implied or overt threats concerning an individual's educational status or implied or overt promises of preferential treatment.

Harassment Because of Race or Color

For purposes of this Regulation, racial harassment of a student consists of verbal or physical conduct relating to an individual's race or color when:

1. The harassing conduct is sufficiently severe, persistent, or pervasive that it affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, or abusive educational environment;

2. The harassing conduct has the purpose or effect of substantially or unreasonably interfering with an individual's academic performance; or

3. The harassing conduct otherwise substantially and adversely affects an individual's learning opportunities.

Examples of conduct which may constitute harassment because of race or color include:

- graffiti containing racially-offensive language;

- name-calling, jokes, or rumors;

- threatening or intimidating conduct directed at another because of the other's race or color;

- notes or cartoons;

- racial slurs, negative stereotypes, and hostile acts which are based upon another's race or color;

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- written or graphic material containing racial comments or stereotypes which is posted or circulated and which is aimed at degrading individuals or members of protected classes;

- a physical act of aggression or assault upon another because of, or in a manner reasonably related to, race or color;

- other kinds of aggressive conduct such as theft or damage to property which is motivated by race or color.

Harassment Based Upon National Origin or Ethnicity

For purposes of this Regulation, ethnic or national origin harassment of a student consists of verbal or physical conduct relating to an individual's ethnicity or country of origin or the country of origin of the individual's parents, family members, or ancestors when:

1. The harassing conduct is so severe, persistent or pervasive that it affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, or abusive educational environment;

2. The harassing conduct has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or

3. The harassing conduct otherwise substantially and adversely affects an individual's learning opportunities.

Examples of conduct which may constitute harassment because of national origin or ethnicity include:

- graffiti containing offensive language which is derogatory to others because of their national origin or ethnicity;

- jokes, name-calling, or rumors based upon an individual's national origin or ethnicity;

- ethnic slurs, negative stereotypes, and hostile acts which are based upon another's national origin or ethnicity;

- written or graphic material containing ethnic comments or stereotypes which is posted or circulated and which is aimed at degrading individuals or members of protected classes;

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- a physical act of aggression or assault upon another because of, or in a manner reasonably related to, ethnicity or national origin;

- other kinds of aggressive conduct such as theft or damage to property which is motivated by national origin or ethnicity.

Harassment Because of Disability

For the purposes of this Regulation, harassment because of the disability of a student consists of verbal or physical conduct relating to an individual's physical or mental impairment when:

1. The harassing conduct is so severe, persistent or pervasive that it affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, or abusive educational environment;

2. The harassing conduct has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or

3. The harassing conduct otherwise adversely and substantially affects an individual's learning opportunities.

Examples of conduct which may constitute harassment because of disability include:

- graffiti containing offensive language which is derogatory to others because of their physical or mental disability;

- threatening or intimidating conduct directed at another because of the other's physical or mental disability;

- jokes, rumors, or name-calling based upon an individual's physical or mental disability;

- slurs, negative stereotypes, and hostile acts which are based upon another's physical or mental disability;

- graphic material containing comments or stereotypes which is posted or circulated and which is aimed at degrading individuals or members of protected classes;

- a physical act of aggression or assault upon another because of, or in a manner reasonably related to, an individual's physical or mental disability;

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- other kinds of aggressive conduct such as theft or damage to property which is motivated by an individual's physical or mental disability.

Harassment Because of Gender

For purposes of this Regulation, gender harassment of a student consists of verbal or physical conduct relating to an individual's gender when:

1. The harassing conduct is sufficiently persistent or pervasive that it affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, or abusive educational environment; or

2. The harassing conduct has the purpose or effect of substantially or unreasonably interfering with an individual's academic performance; or

3. The harassing conduct otherwise substantially and adversely affects an individual's learning opportunities.

Examples of conduct which may constitute harassment because of gender include:

- graffiti containing offensive language;
- name-calling, jokes, or rumors;
- threatening or intimidating conduct directed at another because of the other's gender;
- notes or cartoons;
- slurs, negative stereotypes, and hostile acts which are based upon another's gender;
- written or graphic material containing comments or stereotypes which is posted or circulated and which is aimed at degrading individuals or members of protected classes;
- a physical act of aggression or assault upon another because of, or in a manner reasonably related to gender;
- other kinds of aggressive conduct such as theft or damage to property which is motivated by gender.

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Harassment Because of Sexual Orientation or Perceived Sexual Orientation

For purposes of this Regulation, harassment of a student because of sexual orientation or perceived sexual orientation consists of verbal or physical conduct relating to an individual's sexual orientation or perceived sexual orientation when:

1. The harassing conduct is sufficiently persistent or pervasive that it affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, or abusive educational environment; or

2. The harassing conduct has the purpose or effect of substantially or unreasonably interfering with an individual's academic performance; or

3. The harassing conduct otherwise substantially and adversely affects an individual's learning opportunities.

Examples of conduct which may constitute harassment because of sexual orientation or perceived sexual orientation include:

- graffiti containing offensive language;
- name-calling, jokes, or rumors;
- threatening or intimidating conduct directed at another because of the other's sexual orientation or perceived sexual orientation;
- notes or cartoons;
- slurs, negative stereotypes, and hostile acts which are based upon another's sexual orientation or perceived sexual orientation;
- written or graphic material containing comments or stereotypes which is posted or circulated and which is aimed at degrading individuals or members of protected classes;
- a physical act of aggression or assault upon another because of, or in a manner reasonably related to, sexual orientation or perceived sexual orientation;
- other kinds of aggressive conduct such as theft or damage to property which is motivated by sexual orientation or perceived sexual orientation.

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REPORTING PROCEDURES

The following procedures are applicable to any student who believes he or she has been the victim of sexual harassment or harassment/discrimination based on race, color, sex, national origin, age, ethnicity, disability, sexual orientation, or perceived sexual orientation by a student, teacher, administrator, or other school personnel of the School District, or by any other person who is participating in, observing, or otherwise engaged in activities, including sporting events and other extracurricular activities, under the auspices of the School District.

Such individuals are encouraged to immediately report the alleged acts to an appropriate District official designated by this Regulation.

Any teacher, administrator, or other school official who has or receives notice that a student has or may have been the victim of unlawful discrimination, sexual harassment or harassment based on race, color, sex, national origin, age, ethnicity, disability, sexual orientation, or perceived sexual orientation by a student, teacher, administrator, or other school personnel of the District, or by any other person who is participating in, observing, or otherwise engaged in activities, including sporting events and other extracurricular activities, under the auspices of the District, is required to immediately report the alleged acts to an appropriate District official designated by this Regulation.

Any other person with knowledge or belief that a student has or may have been the victim of unlawful discrimination, sexual harassment or harassment based on race, sex color, national origin, age, ethnicity, disability, sexual orientation, or perceived sexual orientation as set forth above, is encouraged to immediately report the alleged acts to an appropriate District official designated by this Regulation.

The School District encourages the reporting party or complainant to use the report form available from the principal of each building or available from the School District office, but oral reports shall be considered complaints as well. Use of formal reporting forms is not mandated. Nothing in this Regulation shall prevent any person from reporting harassment directly to the Compliance Officer or to the Superintendent. The District will respond to male and female students' complaints of discrimination and harassment promptly, appropriately, and with the same degree of seriousness.

1. In each school building, the building principal is the person responsible for receiving oral or written reports of discrimination, sexual harassment, or harassment based on race, sex, color, national origin, age, ethnicity, disability, sexual orientation, or perceived sexual orientation at the building level. Any adult School District personnel who receives a report of discrimination, sexual harassment, or harassment based on race, sex, color,

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national origin, age, ethnicity, disability, sexual orientation, or perceived sexual orientation shall inform the building principal immediately.

Upon receipt of a report, the principal must notify the District Compliance Officer immediately, without screening or investigating the report. The principal may request but may not insist upon a written complaint. If the report was given verbally, the principal shall personally reduce it to written form and forward it to the Compliance Officer within twenty-four (24) hours. Failure to forward any harassment report or complaint as provided herein will result in disciplinary action against the principal.

If the complaint involves the building principal, the complaint shall be made or filed directly with the Superintendent or the School District Compliance Officer by the reporting party or the complainant.

2. The School Board has designated the Special Education Director as the District Compliance Officer with responsibility to identify, prevent, and remedy unlawful discrimination and harassment. The District Compliance Officer shall:

- receive reports or complaints of unlawful discrimination, sexual harassment, or harassment based on race, sex, color, national origin, age, ethnicity, disability, sexual orientation, or perceived sexual orientation;
- oversee the investigative process;
- be responsible for assessing the training needs of the District's staff and students in connection with the dissemination, comprehension, and compliance with this Regulation;
- arrange for necessary training required for compliance with this Regulation; and
- insure that any investigation is conducted by an impartial investigator who has been trained in the requirements of equal educational opportunity, including harassment, and who is able to apply procedural and substantive standards which are necessary and applicable to identify unlawful harassment, recommend appropriate discipline and remedies when harassment is found, and take other appropriate action to rectify the damaging effects of any prohibited discrimination, including interim protection of the victim during the course of the investigation.

If any complaint involves a Compliance Officer, the complaint shall be filed directly with the Superintendent.

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The District shall conspicuously post a notice against unlawful discrimination and harassment in each school in a place accessible to students, faculty, administrators, employees, parents, and members of the public. This notice shall include the name, mailing address, and telephone number of the Compliance Officer; the name, mailing address, and telephone number of the Missouri Commission for Human Rights, the state agency responsible for investigating allegations of discrimination in educational opportunities; and the mailing address and telephone number of the United States Department of Education, Office for Civil Rights, and the United States Department of Justice.

3. A copy of Policy 2130 shall appear in the student handbook, and this Regulation shall be made available upon request of parents, students, and other interested parties.

4. The School Board will develop a method of discussing this Regulation with students and employees. Training on the requirements of nondiscrimination and the appropriate responses to issues of harassment will be provided to all school personnel on an annual basis, and at such other times as the Board in consultation with the District Compliance Officer determines is necessary or appropriate.

5. This Regulation shall be reviewed at least annually for compliance with state and federal law.

6. The District will respect the privacy of the complainant, the individuals against whom the complaint is filed, and the witnesses as much as possible, consistent with the District's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations.

INVESTIGATION

Upon receipt of a report or complaint alleging unlawful discrimination, sexual harassment, or harassment based upon race, color, sex, national origin, age, ethnicity, disability, sexual orientation, or perceived sexual orientation, the Compliance Officer shall immediately undertake or authorize an investigation. That investigation may be conducted by District officials or by a third party designated by the District.

The investigation may consist of personal interviews with the complainant, the individual against whom the complaint is filed, and others who have knowledge of the alleged incident or circumstances giving rise to the complaint. The investigation may also consist of the evaluation of any other information or documents, which may be relevant to the particular allegations.

In determining whether the alleged conduct constitutes a violation of this Regulation, the District shall consider:

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- the nature of the behavior;
- victim's statements;
- how often the conduct occurred;
- mandatory written witness statements or interview summaries;
- whether there were past incidents or past continuing patterns of behavior;
- opportunity for the complainant to present witnesses and provide evidence;
- evaluation of all relevant information and documentation relating to the complaint of discrimination or harassment;
- the relationship between the parties involved;
- the race, color, sex, national origin, age, ethnicity, disability, sexual orientation or perceived sexual orientation of the victim;
- the identity of the perpetrator, including whether the perpetrator was in a position of power over the student allegedly subjected to harassment;
- the number of alleged harassers;
- the age of the alleged harassers;
- where the harassment occurred;
- whether there have been other incidents in the school involving the same or other students;
- whether the conduct adversely affected the student's education or educational environment;
- the context in which the alleged incidents occurred.

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Whether a particular action or incident constitutes a violation of this Regulation requires a determination based on all the facts surrounding the circumstances.

The investigation shall be completed and a written report given to the Superintendent no later than fifteen (15) days from receipt of the complaint. If the complaint involves the Superintendent, the written report may be filed directly with the School Board. The written report shall include a determination of whether the allegations have been substantiated as factual and whether they appear to be violations of this Regulation. The Compliance Officer's obligation to conduct this investigation shall not be extinguished by the fact that a criminal investigation involving the same or similar allegations is also pending or has been concluded.

SCHOOL DISTRICT RESPONSE

1. Upon receipt of a report that a violation has occurred, the District will, within _____days, take appropriate formal or informal action to address, and where appropriate, remediate the violation. Appropriate actions may include, but are not limited to, counseling, awareness training, parent-teacher conferences, warning, suspension, exclusion, expulsion, transfer, remediation, or discharge. District action taken for violation of this Regulation shall be consistent with the requirements of applicable collective bargaining agreements, state and federal law, and District policies for violations of a similar nature of similar degree of severity. In determining what is an appropriate response to a finding that harassment in violation of this Regulation has occurred, the District shall consider:

   - what response is most likely to end any ongoing harassment;
   - whether a particular response is likely to deter similar future conduct by the harasser or others;
   - the amount and kind of harm suffered by the victim of the harassment;
   - the identity of the party who engaged in the harassing conduct.
   - whether the harassment was engaged in by school personnel, and if so, the District will also consider how it can best remediate the effects of the harassment.

   In the event that the evidence suggests that the harassment at issue is also a crime in violation of a Missouri criminal statute, the Board shall also direct the District Compliance Officer to report the results of the investigation to the appropriate law enforcement agency charged with responsibility for handling such crimes.

2. The results of the District's investigation of each complaint filed under these procedures will be reported in writing to the complainant and other parties by the District within 10 days of the Compliance Officer’s receipt of the complaint, in accordance with state and federal laws regarding data or records privacy, and consistent with the privacy rights of the alleged harasser.

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3. If the District's evaluation of a complaint of harassment results in a conclusion that a school employee has engaged in unlawful discrimination or harassment in violation of this Regulation, or that a school employee(s) has failed to report harassment as required herein, that individual may appeal this determination by presenting a written appeal within 10 school days of receiving notice of the District's conclusion, by use of established School Board procedures for appealing other adverse personnel actions. (See personnel handbooks.)

4. If the District's evaluation of a complaint of harassment results in a conclusion that no unlawful harassment has occurred, an individual who was allegedly subjected to harassment and believes that this conclusion is erroneous may appeal this determination by presenting a written appeal to the Superintendent within 10 school days of receiving notice of the District's conclusion. The grievant may request a meeting with the Superintendent or his/her designee. The Superintendent or his/her designee has the option of meeting with the grievant to discuss the appeal. A decision will be rendered by the Superintendent or his/her designee within 10 working days after receiving the written appeal.

5. If the complainant believes the Superintendent has not adequately or appropriately addressed the appeal, he or she may present a written appeal to the President of the Board of Education within ten (10) working days after the grievant receives the report from the Superintendent. The grievant may request a meeting with the Board of Education. The Board of Education has the option of meeting with the grievant to discuss the appeal. A decision will be rendered by the Board of Education at their next regularly scheduled meeting or no later than 45 calendar days from the District's receipt of the complainant's appeal to the Board. The grievant will be notified in writing of the decision within 5 working days after the Board of Education meeting.

6. An individual who was allegedly subjected to unlawful discrimination or harassment may also file a complaint with the Missouri Commission for Human Rights, the United States Department of Education, Office for Civil Rights, or the United States Department of Justice. In addition, such individual may choose to file suit in the United States District Court or the State Circuit Court.

7. Copies of all complaints of harassment and the investigations conducted pursuant to them shall be maintained at the main administrative offices of the School District.

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RETALIATION

Submission of a good faith complaint or report of unlawful discrimination, sexual harassment, or harassment based upon race, sex, color, disability, national origin, age, ethnicity, or sexual orientation will not affect the complainant or reporter's future employment, grades, learning, or working environment, or work assignments.

The School District will discipline or take appropriate action against any student, teacher, administrator, or other school personnel who retaliates against any person who reports an incident of alleged harassment/discrimination, sexual, racial, ethnic, sexual orientation discrimination, disability-related harassment or violence, or any person who testifies, assists, or participates in a proceeding, investigation, or hearing relating to such harassment or violence. Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment.

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