

Ludington Area School District Board Policy 5517 Anti-Harassment

Policy Statement

It is the policy of the Ludington Area School District (the “District”) to provide an environment free from harassment, including sex-based harassment. Consistent with this policy, the District will investigate all allegations of harassment, including sex-based harassment, and take appropriate action, including appropriate discipline, against any individual who an investigation concludes engaged in harassment.

The District will comply with all applicable state and federal laws related to harassment, including sex-based harassment.

Student Code of Conduct

The Superintendent or designee will include and regularly update a statement explaining the District’s policy against harassment, including sex-based harassment, in each student code of conduct. This statement must include an explanation of types of harassment, including sex-based harassment, examples of harassment types, reporting requirements, and consequences as explained in this policy.

Employee Handbook

The Superintendent or designee will include and regularly update a statement explaining the District’s policy against harassment, including sex-based harassment, in all employee handbooks and manuals. This statement must include an explanation of types of harassment, including sex-based harassment, examples of harassment types, reporting requirements, and consequences explained in this policy.

Types of Harassment

Sex-based harassment is prohibited by Title IX of the Education Amendments of 1972 (“Title IX”) and the Michigan Elliott-Larsen Civil Rights Act (the “ELCRA”). Title IX provides that no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity operated by the District. Sexual harassment is a form of sex-based harassment and is prohibited by Title IX, the ELCRA and District policy. Sexual harassment is unwelcome conduct of a sexual nature. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature, such as sexual assault or any act of sexual violence. Sexual harassment of a student creates a hostile environment if the conduct is sufficiently serious to deny or limit a student’s ability to participate in or benefit from the District’s program. Examples of conduct that may constitute sex-based harassment include, but are not limited to:

Verbal: unwelcome comments, including the use of derogatory, sexually suggestive, or vulgar language; the use of sexual innuendos; unwelcome advances or repeated requests for dates or sexual favors; threats based on or motivated by a person's sex; demanding or pressuring another individual to submit to sexual requests or advances in order to attain academic or professional achievements or advances; threatening another individual's academic or professional accomplishments or reputation if that individual does not submit to sexual requests or advances; or any other similar behavior.

Visual: subjecting another individual to sexually suggestive, pornographic, or obscene images, text, or cartoons, including by electronic mail, text message, letter, or any other medium; the use of obscene gestures toward or around another individual; leering at another individual; or any other similar behavior.

Physical: unwanted kissing, touching, patting, hugging, pinching, or any other unwanted physical contact; impeding another individual's normal movements; stalking, assault, or battery based on the victim's sex; any other physical interference with another person based on that person's sex; or any other similar behavior.

Sex-based harassment does not need to include intent to harm an individual, be directed at a specific target, or involve repeated incidents. The District will investigate all reports of sex-based harassment, including allegations of harassment involving an alleged harasser and victim who are members of the same protected class.

Sexual conduct or relationships between District employees and students are prohibited. Consent is irrelevant with respect to criminal charges that may result and application of District policy.

Race/Color Harassment

Prohibited racial harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race or color and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references relative to racial customs.

Religious (Creed) Harassment

Prohibited religious harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's religion or creed and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's religious tradition, clothing or surnames, and/or involved religious slurs.

National Origin Harassment

Prohibited national origin harassment occurs when unwelcome physical, verbal or nonverbal conduct is based upon an individual's national origin and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's national origin, such as negative comments regarding customs, manner of speaking, language, surnames or ethnic slurs.

Disability Harassment

Prohibited disability harassment occurs when unwelcome physical, verbal or nonverbal conduct is based upon an individual's disability and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's disabling condition, such as negative comments about speech patterns, movement, physical impairments, or defects/appearances, or the like. Such harassment may further occur where conduct is directed at or pertains to a person's genetic information.

Prohibited Conduct

All harassment, including sex-based harassment, is strictly prohibited. This policy applies to student-to-student conduct, staff-to-student conduct, staff-to-staff conduct, and student-to-staff conduct.

This policy applies to all conduct occurring on District property including in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school-sponsored activity or event whether or not it is held on school premises.

Reporting Requirements

All District personnel must report incidents of alleged harassment, including incidents that school personnel witness or receive reports or information about, whether such incidents are verbal, visual, or physical, and whether the incidents constitute other forms of harassment, bullying, or hazing.

Any staff member who witnesses an act of harassment, including sex-based harassment, must intervene immediately, unless circumstances would make such intervention dangerous. If a staff member is unable to intervene, the staff member should promptly attempt to find another staff member who is able to intervene, contact District administration, or contact law enforcement, as the situation requires.

Any student who witnesses an act of harassment, including sex-based harassment, is encouraged to report the incident to District officials. No student will be retaliated against based on any report of harassment, including sex-based harassment. A student may also anonymously report an incident of harassment. The District will investigate anonymous reports pursuant to its investigation procedures below.

How to Report Harassment

If you or someone you know has been harassed on the basis of sex, you may file a complaint with:

Randy Fountain
Title IX/Civil Rights Coordinator
Ludington Area Schools
809 E. Tinkham Ave.
Ludington, Michigan 49431
(231) 845-7303
rfountain@lasd.net

All other reports of harassment should be reported to the appropriate building administrator or by following the District chain of command.

A complaint of harassment, including sex-based harassment, may be made verbally or in writing.

Those individuals named above shall document all reports of incidents of harassment, as well as any incidents they personally observe. This documentation shall be retained in accordance with the District's Title IX recordkeeping protocol. A copy of this protocol is available in the Title IX/Civil Rights Coordinator's office.

Complaint Process

Any individual who has been the victim of harassment, including sex-based harassment, or any individual who has witnessed an incident of harassment, may make a complaint at any time. Any staff member who receives a complaint of harassment, including sex-based harassment, shall immediately document the reported incident and notify the appropriate staff person, as listed above.

Once a complaint is received by the appropriate staff, as listed above, that person will begin an investigation into the alleged conduct and, if necessary, notify the appropriate authorities.

During the investigation, impartial school officials will contact witnesses to the alleged act(s) of harassment, including sex-based harassment, and obtain statements from those witnesses. If a school official's impartiality is questioned during the investigation process, that school official will be removed from the investigation and have no further involvement.

Investigation Timelines

The District will initiate an investigation within 3 school days of receiving a complaint of harassment, including sex-based harassment. In most cases, an investigation will be completed within 10 school days. The District will comply with all law enforcement requests for cooperation. In some circumstances, compliance with law enforcement requests may require the District to suspend its factual investigation. The District will promptly resume its investigation as soon as it is notified by the law enforcement agency that it has completed the evidence gathering process. This delay will typically be 3-10 school days. If the District's investigation is suspended, interim steps will be taken to provide for the safety of the victim(s) and the school community, and to avoid potential retaliation. Those steps may include suspension of an alleged perpetrator from work or school until the investigation is complete.

Within 2 school days of the investigation's conclusion, the District will separately notify, in writing, the victim(s) and the perpetrator(s) of the investigation's outcome. Any disciplinary action against the perpetrator(s) will be implemented immediately. If appropriate disciplinary action includes a suspension for more than 10 school days of a student, the perpetrator(s) may be suspended from school pending a hearing before the Board of Education or its designee. Any such hearing will comply with Board Policy.

If the perpetrator is a student with a disability, the District must also comply with Board Policy 5605, which provides the procedures for the discipline of students with disabilities. A perpetrator's status as a student with a disability will not affect the

District's obligation to protect the victim during and after the course of the investigation.

Investigation Procedures

The District will use the following procedures in initiating and conducting investigations:

1. Any written or verbal report of harassment, including sex-based harassment, will be addressed and investigated, including anonymous written or verbal reports.
2. The District will assure any victim(s) of harassment, including sex-based harassment, that the complaint will be fully investigated.
3. The District will provide the victim(s) of harassment, including sex-based harassment, with assurances that his/her identity will be kept confidential during the investigation, to the extent possible.
4. The District will provide the victim(s) of harassment, including sex-based harassment, with assurances that he/she will not be retaliated against by the District. The District will also take preventative measures to ensure that the alleged perpetrator does not retaliate against the alleged victim(s) at any time during or after the investigation.
5. The District will notify the alleged victim(s) of harassment, including sex-based harassment, that he/she will not be required to confront the alleged perpetrator and that steps will be taken to immediately ensure that the alleged harassment does not continue. The District will attempt to accomplish this in a manner that does not disclose the identity of the victim(s), if possible.
6. The District will interview any witnesses identified by the victim(s) and the alleged perpetrator(s). All witnesses will be assured that their identities will be kept confidential during the investigation, to the extent possible.
7. The District will take action to end the harassment, including sex-based harassment, including monitoring that the conduct does not reoccur and modifying responses if the harassment does reoccur.
8. If the victim(s) is a student under the age of 18, the District will notify the student's parent(s)/guardian(s) of the harassment complaint. The parent(s)/guardian(s) will be informed of the status of the investigation, as appropriate.
9. If a student victim of sex-based harassment has been targeted due to his/her sexual orientation, gender identity, or failure to comply with gender stereotypes, the District will first consult with the student to determine an appropriate method of notifying the student's parent(s)/guardian(s) of the sex-based harassment complaint.

10. All documentation, including witness statements, must be kept with the complaint and reports.
11. The District will use the “preponderance of the evidence” as the appropriate standard for investigating allegations of harassment.

If the victim(s) request(s) complete confidentiality or asks that the complaint not be pursued, the District will take all reasonable steps to investigate and respond to the complaint consistent with the victim’s request. If a victim insists that his/her name or other identifying information not be disclosed to the alleged perpetrator, the District will notify the victim that its ability to respond may therefore be limited. In cases involving allegations of sex-based harassment, the District will also inform the victim that Title IX specifically prohibits retaliation and that District officials will take steps to prevent retaliation and will take strong responsive action if it occurs.

Possible Remedies

The District will take all appropriate steps to ensure that the effects of harassment to the victim and others are promptly remedied. Appropriate remedies will be based on the circumstances and may include, but are not limited to:

1. Providing an escort to ensure that the victim can safely attend classes and school activities;
2. Providing the victim with school-based counseling services;
3. Providing the victim with academic support services, such as tutoring;
4. Rearranging course schedules, to the extent practicable, to minimize contact between the victim and alleged perpetrator;
5. Moving the victim or the alleged perpetrator’s locker;
6. Issuing a “no contact” directive to the alleged perpetrator.

This list is not exhaustive. The District will remedy the effects of harassment, including sex-based harassment, in a manner that is appropriate under the circumstances. The District will, whenever possible, strive to ensure that the victim’s academic and extracurricular schedule remains intact, if the victim desires.

These remedies are also available to any other individual who is affected by the harassment. Individuals affected by harassment are entitled to the protections afforded to victims of harassment, even if the individual was not the intended target of the alleged perpetrator.

Broader remedies in the District community may include, but are not limited to:

1. Assemblies reminding students and staff of their obligations under Board Policy and handbook language;
2. Additional staff training;

3. Letters to students, staff, and parents reminding them of their obligations under Board Policy and handbook language.

Investigation Report

During the course of the investigation, the appropriate staff member, as indicated above, or his/her designee shall create an investigatory report. This report shall include the following information:

1. The name or a description or identifying information available about the victim;
2. The victim's protected class;
3. The name or a description or identifying information available about the individual making the report, if not the victim;
4. The protected class of the individual making the report, if not the victim;
5. The nature of the allegation, a description of the incident, and the date and time (if known) of the alleged incident;
6. The name(s) and protected classes of all persons alleged to have committed the alleged harassment, if known, or a description/identifying information available if the name is not known;
7. The name(s) or description/identifying information and protected classes of all known witnesses to the alleged incident;
8. Any written statement of the reporter, the victim (if different than the reporter), the accused individual(s), and any known witnesses;
9. The investigation outcome;
10. The response by school personnel and, if applicable, school officials, including the date any incident was reported to law enforcement.

Filing a False Report

An individual who knowingly or maliciously files a false report of harassment, including sex-based harassment, will be subject to discipline, up to and including expulsion or discharge.

Retaliation

Retaliation against an individual who reports harassment, including sex-based harassment, is strictly prohibited. Any individual who retaliates against a person who reports suspected harassment will be disciplined, in accordance with the District's policies on discipline, up to and including expulsion from the District or termination of employment. This prohibition on retaliation also applies to retaliation against individuals who participate in or cooperate with any investigation related to the complaint.

The Office for Civil Rights

Any individual who believes that he/she was the victim of harassment, including sex-based harassment, may file a complaint with the Office for Civil Rights (“OCR”) at any time:

U.S. Department of Education
Office for Civil Rights
1350 Euclid Avenue, Suite 325
Cleveland, Ohio 44115
Phone: (216) 522-4970
E-mail: OCR.Cleveland@ed.gov

This complaint may be filed before, during, or after a complaint with the District is filed, or an individual may choose to forego filing a complaint with the District and rely solely on OCR. The District recommends that any individuals who have been subjected to harassment, including sex-based harassment, also file a complaint with the District, in order to ensure that the District is able to take steps to prevent any further harassment or discrimination and discipline the perpetrator, if necessary. OCR does not serve as an appellate body for District decisions. An investigation by OCR will occur separately from any District investigation.

Appeal Process

A victim of harassment, including sex-based harassment, who believes that the District’s investigation reached an incorrect result may bring any additional evidence at any time. A victim may also appeal the findings and conclusions of the investigation to the Superintendent. Upon receipt of an appeal from a victim, the Superintendent will review the investigation report, contact any additional witnesses, consider all additional evidence, and may re-interview any witnesses. The Superintendent will then notify the parties in writing of his or her decision. The Superintendent is not required to give deference to the investigation report and may consider any additional evidence available in evaluating the appeal.

Any individual accused of perpetrating harassment, including sex-based harassment, may appeal the results of an investigation to the Superintendent. Upon receipt of an appeal from an alleged perpetrator, the Superintendent will review the investigation report, contact any additional witnesses, consider all additional evidence, and may re-interview any witnesses. The Superintendent will then notify the parties in writing of his or her decision. The Superintendent is not required to give deference to the investigation report and may consider any additional evidence available in evaluating the appeal.

A student found to have perpetrated harassment, including sex-based harassment, who is suspended for more than 10 school days has the right to a Board hearing, pursuant to and in compliance with Board Policy 5611. An employee's appeal right is based on the applicable collective bargaining agreement or individual contract rights.

Training

The District will provide annual training on responding to and investigating harassment, including sex-based harassment, for District officials, administrators, staff, and security personnel. This training is mandatory for all personnel responsible for implementing and enforcing anti-harassment laws and related policies and procedures. This training may be hosted by an outside entity. Employees will be provided notice of mandatory training sessions.

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