

Final Approval – 8/3/2020

Book Board Policy Manual

Section 5. Students & Instructional Programs

Title Harassment

Code JCAC

Status Active

Adopted November 14, 1994

Last Revised XX/XX/2020

Sexual and Sex-Based Misconduct Involving Students in the Atlanta Public Schools

It is the policy of the Atlanta Board of Education that all individuals shall learn and work in an environment free of all forms of discrimination, including sex discrimination. Sexual harassment is a form of sex discrimination that undermines the integrity of the educational environment and violates Title VII of the Civil Rights Act of 1964, as amended, and Title IX of the Education Amendments of 1972 ("Title IX"). The Atlanta Public Schools does not discriminate on the basis of sex in its education program and activities, as required by Title IX. Such requirement to not discriminate extends to admission and employment. Accordingly, reasonable efforts shall be made to avert the possibility of any individual being subjected to any form of sexual or sex-based misconduct while participating in any Atlanta Public Schools program, service, or activity.

Sexual or sex-based misconduct perpetuated against or by students is prohibited in the Atlanta Public Schools. It is a violation of this policy for any student to be subjected to inappropriate sexual or sex-based behavior or to harass another person through conduct or communication of a sexual or sex-based nature, as defined by this policy.

Any student who believes that he or she has been exposed to unwelcome sexual misconduct should immediately report the act to any of the appropriate employees designated in this policy.

The Atlanta Public Schools will investigate all complaints, formal or informal, verbal or written, of alleged improper sexual or sex-based conduct and will discipline any individual who, in the course of his or her education or employment with the Atlanta Public Schools, exposes another person to improper sexual or sex-based conduct.

Effective August 14, 2020, pursuant to federal regulations implementing Title IX published in 2020 scheduled to become effective on August 14, 2020, any complaint involving "sexual harassment" as defined by those federal regulations that occurs in an Atlanta Public Schools education program or activity against a person in the United States shall be addressed pursuant to the Atlanta Public Schools Title IX Grievance Procedure. Should such federal regulations not go into effect for any reason, all such complaints involving a student complainant shall continue to be addressed under the procedure outlined in this Policy JCAC.

Inquiries about the application of Title IX may be directed to the Assistant Secretary of the Office for Civil Rights, United States Department of Education, or to the following:

Dr. Maurice Granger, Title IX Coordinator for Student Matters
Coordinator of Student Discipline, Atlanta Public Schools
130 Trinity Avenue, S.W.
Atlanta, GA 30303
(404) 802-2239
mxgranger@atlantapublicschools.us

Mr. George Williams, Title IX Coordinator for Employee Matters
Director of Employee Relations
130 Trinity Avenue, S.W.
Atlanta, GA 30303
404-802-2374
gwilliams@atlanta.k12.ga.us

I. Sexual Misconduct and Sexual Harassment Defined

Sexual misconduct refers to any unlawful sexual act; any solicitation of any unlawful sexual act, whether written, verbal, or physical; any act of child abuse, as defined by law; any solicitation, encouragement or consummation of a romantic or physical relationship with a student; or any sexual contact with a student. The definition of the term "romantic relationship" includes dating or otherwise being involved in an inappropriate social relationship with a student or any act of unlawful sexual harassment as defined by law.

Sexual harassment is a specific form of sexual misconduct. As defined by the Equal Employment Opportunity Commission (EEOC) and the Office for Civil Rights (OCR), sexual harassment consists of unwelcome sexual advances, requests for sexual favors, sexually-motivated physical conduct, or other verbal or physical conduct or communication of a sexual nature when:

- A. Submission to such conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment, educational opportunities, or other benefits provided by the Atlanta Public Schools;
- B. An individual's submission to, or rejection of, such conduct or communication is used as a factor in decisions affecting that individual's employment, educational opportunities, or other benefits provided by the Atlanta Public Schools; or
- C. Such conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment, or creating an intimidating, hostile, or offensive working or learning environment.

Sexual harassment may consist of exposure to a pattern of objectionable sexual behavior or exposure to a single, serious act. Sexual harassment exists when such conduct is unwelcome, offensive to both the recipient and to a reasonable person, and severe or pervasive. Any sexual misconduct as defined herein and perpetrated on any person by an employee of the Atlanta Public Schools will be treated as sexual harassment under this policy.

What is or is not sexual harassment depends upon all of the surrounding circumstances. Depending upon such circumstances, examples of sexual harassment may include, but are not limited to, the following:

1. Verbal harassment or abuse;
2. Subtle pressure for sexual activity;
3. Unwelcome or inappropriate sexually-motivated touching;
4. Offensive or unwelcome sexual advances or propositions;
5. Unwelcome, intentional touching of intimate body parts;
6. Graphic or degrading verbal comments about an individual or his/her physical attributes;
7. Display of sexually suggestive objects, pictures, cards, or letters;
8. Lewd or suggestive comments or gestures;
9. Off-color language or jokes of a sexual nature;
10. Demanding sexual favors accompanied by implied or overt threats concerning an individual's employment or educational status;
11. Demanding sexual favors accompanied by implied or overt promises of preferential treatment with regard to an individual's employment or educational status;
12. Employees dating students and/or otherwise being romantically involved with a student; or
13. Sexual violence, a physical act of aggression that includes a sexual act or purpose.

Sexual harassment involving students can occur in many settings and may involve a variety of individuals. The circumstances may involve, but are not limited to:

1. Student-to-student harassment;
2. Harassment of a student by an employee, representative, or constituent of the Atlanta Public Schools;
3. Harassment of an employee, representative, or constituent of the Atlanta Public Schools by a student;
4. Harassment caused by exposure to offensive conduct or communication even though the affected individual was not the direct recipient of the offensive conduct or communication; or
5. Harassment involving individuals of the same gender.

Even if never acted upon, threats or suggestions of preferential or adverse treatment with regard to an individual's employment or educational status constitute sexual harassment when made by a person in a supervisory position.

II. Complaint Resolution Process

Any student who believes that he/she is or has been the victim of sexual or sex-based misconduct or has knowledge of such action perpetrated against another student should immediately report the alleged acts to any teacher, counselor, assistant principal, or principal. Any employee who receives a complaint by a student of sexual or sex-based misconduct must immediately report the complaint to the principal or to the assistant principal, if the principal is unavailable. The principal shall immediately intervene to eliminate sexual or sex-based misconduct and shall immediately report such offenses to the Director of the Office of Internal Resolution (OIR).

Measures to be taken independent of receipt of a complaint shall include, but are not limited to:

1. Discussing the circumstances with the alleged victim;
2. Maintaining the anonymity of the alleged victim, if requested or deemed to be in the best interest of the involved parties;
3. Conducting an informal investigation to determine the validity of the allegations;
4. Advising the alleged offender of the complaint and directing him/her to cease the alleged objectionable behavior and any other behavior that may constitute sexual harassment;
5. Restricting contact between the alleged victim and the alleged offender.

Other personnel who have knowledge of the occurrence of alleged sexual or sex-based misconduct shall immediately make a proper report of the alleged misconduct to the appropriate principal or assistant principal or to the Director of the Office of Internal Resolution (OIR). If desired, students or their parents, or other persons acting on behalf of students may directly submit reports of alleged sexual or sex-based misconduct to the Director of the OIR. These reports should be provided in writing on the OIR Incident Intake Report form ("Intake Form"). Reports may also be made during face-to-face or telephone conferences with the Director or his/her designee.

The school administrators designated herein shall submit reports of alleged sexual or sex-based misconduct to the Director of the OIR, via transmission of a completed OIR Intake Form. The Intake Form should be completed as soon as possible but no later than 48 hours after becoming aware of the incident. The Intake Form may be hand delivered or transmitted via telefax or electronic technology. The Director of the OIR shall review the facts presented and determine the appropriate formal or informal method of resolution, which is not necessarily limited to a formal investigation. The Superintendent, or the Board when appropriate, may appoint an individual outside the school system to investigate reports of sexual harassment.

The OIR shall make a recommendation for resolution to the Superintendent based on the findings of formal or informal investigations or on proactive resolution efforts. The complainant or his/her parents or guardians and the respondent or his/her parents or guardians will be informed of the resolution through an appropriate communication.

III. Sanctions

Appropriate disciplinary actions will be taken against persons found to have violated this policy. These actions shall include sanctions authorized by law, Board policy, the Civil Service Policy for Classified Employees, and the Code of Student Conduct and Discipline. These actions shall also include other measures designed to end sexual and sex-based misconduct and to prevent their recurrence. Due process rights shall be afforded to all affected persons, where appropriate.

The Superintendent shall recommend that the Board terminate the employment of all personnel found to have sexually harassed students. Due process rights shall be afforded to all affected employees, where appropriate.

The Director of the OIR shall report all substantiated allegations of sexual or sex-based misconduct committed by certified personnel to the Professional Practices Section of the Professional Standards Commission. A recommendation for the revocation of the employee's

teaching certificate shall be made to the PSC in all such cases. This agency has the authority to:

1. Issue warnings or reprimands;
2. Terminate, suspend, or non-renew contracts; and
3. Suspend or revoke teaching certificates.

Sexual or sex-based misconduct perpetrated by students will not be tolerated in the Atlanta Public Schools. Appropriate progressive disciplinary and rehabilitation actions will be taken to resolve the problem and eliminate the possibility of its recurrence. These actions may include, but are not limited to:

1. Student counseling;
2. Family counseling;
3. Specialized training;
4. Referral to outside agencies (e.g., DFACS, mental health centers);
5. Detention;
6. In-School and Out-of-School suspensions;
7. Development of specially designed research projects;
8. Class or school transfer;
9. Revocation of out-of-zone school assignments;
10. Expulsions.

As appropriate, due process rights shall be afforded to students found to have exposed other students enrolled in the Atlanta Public Schools or employees or other constituents to acts of sexual or sex-based misconduct.

IV. Appeals Process

Any determination by the Superintendent may be appealed by the complainant or by the party or parties against whom the complaint has been filed. Any appeal of the notification of a case must be made in writing within 10 days of the date of the letter of determination. Any such appeal to the Board shall set forth the grounds of the appeal and shall be filed with the Superintendent, who shall transmit the same, with the record, to the Board. The Board shall determine the appeal on the record, but may hear the parties or receive additional evidence, as it shall deem proper. The decision of the Board shall be final, subject to any appeal allowed by law.

V. Prohibitions

A. Retaliation

Retaliation against individuals who file complaints of alleged sexual or sex-based misconduct or those who assist in the investigation of complaints of alleged sexual or sex-based conduct is expressly prohibited. Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment. Appropriate disciplinary actions shall be imposed for verified acts of retaliation.

B. Intentional False Reporting

Students who knowingly fabricate allegations of sexual or sex-based misconduct shall be subject to disciplinary actions up to and including expulsion or termination.

C. Hindering an Investigation

Individuals who withhold information, purposely provide inaccurate facts, violate privacy and confidentiality rules, or otherwise hinder an investigation of sexual or sex-based misconduct shall be subject to disciplinary action up to and including expulsion or termination.

VI. Notice

This policy shall be available at all school and work sites and online at the Georgia School Board Association's web site. This policy shall also be placed in the student handbook. Technical assistance shall be made available by the OIR.

The Atlanta Public Schools shall conspicuously post its Notice of Nondiscrimination, inclusive of the name, mailing address, and telephone number of the department responsible for system-wide compliance with nondiscrimination provisions.

VII. Right to Alternative Dispute Resolution Procedures

These procedures do not deny the right of any individual to pursue other avenues of recourse, which may include, but are not limited to, mediation, filing a charge with the Equal Employment Opportunity Commission (EEOC), filing a complaint with the Office for Civil Rights (OCR), initiating a civil action, or seeking redress under state criminal statutes, policies, and procedures and/or federal laws. Information on alternative avenues of redress may be obtained from the OIR.

VIII. Retention of Records

Subject to the provisions of applicable law, these records shall not become a part of any student permanent record file and may be reviewed only upon the approval of the Superintendent or his/her designee. Based on a legitimate need for access to the information contained in any file, the Superintendent will determine which individuals will have such access to the files on a case-by-case basis.

All official records shall be retained by the OIR. However, any documents regarding disciplinary action arising from any investigation shall be included in the permanent record files and personnel files, as applicable, of the individual against whom the complaint was filed. Records will be retained for the maximum time allowed for redress through actions pursued by regulatory or judicial entities.

IX. Confidentiality of Proceedings

In all cases, the highest degree of confidentiality allowed by law will be maintained by Atlanta Public Schools employees to protect parties involved in investigations of sexual or sex-based misconduct.

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Only those persons who have a need to know for purposes of the investigation or resolution of the complaint shall be informed of the case. Any individual who releases information relating to the complaint or the investigation during the course of the investigation shall be subject to disciplinary action up to and including termination.

Last Revised: X/X/2020

First Adopted: 11/14/1994, 5/14/2001

See also:

[Board Policy GAE Complaints and Grievances](#)

[Board Policy GAEB Harassment](#)

[Board Policy JAA Equal Educational Opportunities](#)

[Board Policy JCDA Student Behavior Code](#)

Legal citations:

[O.C.G.A. 45-01-0004 Whistleblower](#)

[42 USC 2000d 1964 Civil Rights Act](#)

[42 USC 2000e-2 Unlawful employment practices](#)

[20 USC 1681 Title IX of the Education Amendments of 1972](#)

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