

## **HARASSMENT PROHIBITED**

Hononegah Board of Education has adopted policy 7:20 with expectations that students and individuals working or volunteering within the School District will abide by this policy. Complaints of harassment, intimidation or bullying are handled according to the provisions on harassment below. The Superintendent shall use reasonable measures to inform staff members and students that the School District will not tolerate harassment, intimidation or bullying by including this policy in the appropriate handbooks.

### **I. General Statement of Policy**

It is the policy of the School District to maintain a learning and working environment that is free from discrimination and harassment. No person, including a School District employee or agent, or student, shall harass, intimidate or bully another student based upon a student's race, color, national origin, immigration status, military status, unfavorable discharge from the military service, sex, sexual orientation, gender identity, gender-related identity or expression, ancestry, age, religion, physical or mental disability, order of protection status, status of being homeless, or actual or potential marital or parental status, including pregnancy, association with a person or group with one or more of the aforementioned actual or perceived characteristic, or other protected group status. The School District will not tolerate harassing, intimidating conduct, or bullying whether verbal, physical, electronic, or visual, that affects the tangible benefits of education, that unreasonably interferes with a student's educational performance, or that creates an intimidating, hostile, or offensive educational environment. Examples of prohibited conduct include name-calling, using derogatory slurs, causing psychological harm, threatening or causing physical harm, or wearing or possessing items depicting or implying hatred or prejudice of one of the characteristics stated above.

It shall be a violation of this policy for any student, teacher, administrator or other school personnel of the School District to harass a student, teacher, administrator or other school personnel through conduct or communication of a sexual nature or regarding religion, race, color, national origin, disability, sex, sexual orientation, age or other protected class as defined by this policy. For purposes of this policy, school personnel include Board of Education members, school employees, agents, volunteers, contractors or persons subject to the supervision and control of the School District.

It shall be a violation of this policy for any student, teacher, administrator or other school personnel of the School District to inflict, threaten to inflict, or attempt to inflict violence against a student, teacher, administrator or other school personnel based upon the person's religion, race, color, national origin, disability, sex, sexual orientation, age or other protected class as defined by this policy.

The school district will act to investigate all complaints, either formal or informal, verbal or written, filed based on religion, race, color, national origin, disability, sex, sexual orientation, age or other protected class as defined by this policy.

## II. Definitions

- A. Harassment Defined. "Harassment" under this policy shall include any harassment based upon an individual's membership in a protected class by a student, teacher, administrator or other school personnel, or by any other person who is participating in, observing or otherwise engaged in activities, including sporting events and other extra-curricular activities whether on or off school grounds, during and after school hours, under the auspices of the District.
- B. Sexual Harassment Defined. "Sexual harassment" is unwelcome conduct of a sexual nature. It includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual violence is a form of sexual harassment prohibited by Title IX. Sexual harassment exists 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 school 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. the unwelcome sexual 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; or
  3. the provision of educational aid, benefits, services, or treatment is denied or limited; or that makes such conduct a condition of a student's academic status; or has the purpose or effect of:
    - a. Substantially interfering with a student's educational environment;
    - b. Creating an intimidating, hostile, or offensive educational environment;
    - c. Depriving a student of educational aid, benefits, services, or treatment; or
    - d. Making submission to or rejection of such conduct the basis for academic decisions affecting a student.

The terms "intimidating," "hostile," and "offensive" include conduct that has the effect of humiliation, embarrassment, or discomfort.

Examples of conduct which may constitute sexual harassment include, but are not limited to:

- sexual advances;
- requests for sexual favors;
- 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;
- graffiti of a sexual nature;
- sexual gestures;
- sexual or dirty jokes;
- engages in other verbal, physical, or electronic conduct of a sexual or sex-based nature;

- touching oneself sexually or talking about one's sexual activity in front of others;
- 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 teacher's consoling hug of a young student, or one student's demonstration of a sports move requiring contact with another student;
- 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.

C. Harassment based on Race/Color Defined. Racial harassment of a student consists of verbal or physical conduct or electronic conduct related to an individual's race or color, when:

1. the harassing conduct is sufficiently severe, persistent or pervasive that it affects a student's or employee's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening or abusive educational or workplace 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 adversely affects an individual's learning opportunities.

Examples of conduct which may constitute harassment because of race or color includes, but is not limited to:

- 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;
- 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.

D. Harassment based upon National Origin or Ethnicity. 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 adversely affects an individual's learning opportunities.

Examples of conduct which may constitute harassment because of national origin or ethnicity include, but are not limited to:

- graffiti containing offensive language which is derogatory to others because of their national origin or ethnicity;
- threatening or intimidating conduct directed at another because of the other's 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
- 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.

E. Harassment based on Disability. Disability harassment includes harassment based on a person's disabling mental or physical impairment and includes any unwelcome verbal, written or physical conduct, directed at the characteristics of a person's disabling condition 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 affects an individual's learning opportunities.

Examples of conduct which may constitute harassment because of disability include, but are limited to:

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

### III. Reporting Procedures

- A. Reporting. Any student or employee who believes he or she has been the victim of harassment based on race, color, national origin, or disability, sex or age or other protected basis 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 extra-curricular activities, under the auspices of the School District, is encouraged to immediately report the alleged acts to the Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, or a Complaint Manager. Students may choose to report to a person of the student's same sex. Complaints will be kept confidential to the extent possible given the need to investigate. An allegation that one student was harassed by another student shall be referred to the Building Principal or Assistant Building Principal for appropriate action. Any teacher, administrator, or other school official who has or receives notice that a student has or may have been the victim of sexual harassment or harassment based on race, color, national origin, disability, sex or age 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 extra-curricular activities, under the auspices of the School District, is required to immediately report the alleged acts to an appropriate School District official designated by this policy, specifically the Complaint Manager. The Complaint Manager(s) are the Principal and the Associate Principal or other administrator deemed appropriate by the Superintendent. Nothing in this policy shall prevent any person from reporting harassment directly to the Superintendent.

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

Upon receipt of a report, the Complaint Manager must notify the Non-Discrimination Coordinator without screening or investigating the report. For sex-based complaints, the Complaint Manager shall notify the Title IX Coordinator or other District officer who oversees sexual misconduct, abuse, or harassment; for disability-based complaints, the Complaint Manager must notify the Section 504 Coordinator or other District officer who oversees disability harassment (as applicable).

The Complaint Manager may request but may not insist upon a written complaint. Oral reports shall be considered complaints as well. A written statement of the facts alleged will be forwarded as soon as practicable by the Complaint Manager to the appropriately designated Non-Discrimination Coordinator. If the report was given verbally, the Complaint Manager shall personally reduce it to written form within 24 hours and forward it to the appropriately designated Non-Discrimination Coordinator. Failure to forward any harassment report or complaint as provided herein will result in disciplinary action against the Complaint Manager. If the complaint involves the building Complaint Manager, the complaint shall be made or filed directly with the appropriately designated Non-Discrimination Coordinator by the reporting party or the complainant.

- B. Designees. The Board of Education designates the following school district individuals with responsibility to identify, prevent, and remedy harassment. The District Superintendent (or designee) shall:

- receive reports or complaints of sexual harassment and harassment based on race, color, national origin, disability, and other basis as identified by this policy;
- oversee the investigative process of harassment complaints;
- be responsible for assessing the training needs of the District's staff and students in connection with the dissemination, comprehension, and compliance with this policy;
- arrange for necessary training required for compliance with this policy; 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 the Complaint Manager, the complaint shall be filed with the Superintendent. If any complaint involves the Superintendent, the complaint shall be filed with the Board of Education.

Nondiscrimination Coordinator<sup>1</sup>:  
 Dr. Lynn Gibson, Superintendent  
 Hononegah C.H.S., 307 Salem St.  
 Rockton, IL 61072  
 815-624-5062

Complaint Managers:

Mr. Eric Flohr, Principal  
 Hononegah C. H. S., 307 Salem St.  
 Rockton, IL 61072  
 815-624-5005

Ms. Kathy Eckmann, Associate Principal  
 Hononegah C. H. S., 307 Salem St.  
 Rockton, IL 61072  
 815-624-5058

Conflict of Interest: If prior to making a report of harassment or during the investigation and/or hearing process any individual has reason to believe a conflict of interest exists, the individual should report the conflict of interest to the Complaint Manager. If the conflict of interest involves the Complaint Manager, the individual may report the conflict to the Non-Discrimination Coordinator or the Board of Education.

C. Publication. The School District shall conspicuously post this policy against harassment and violence in each school that the District maintains, 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 Non-Discrimination Officer, [the name, mailing address and telephone number of 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 (Citicorp Building, 500 W. Madison, Chicago, Illinois, 60661; 312-730-1560).

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<sup>1</sup> The Non-Discrimination Coordinator is the District's Designated Title IX and Section 504 Grievance Coordinator

A copy of this policy shall appear in all publications including, but not limited to, the student handbook, employee handbook, school district website, and shall be made available upon request of parents, students, and other interested parties.

- D. **Training.** The Board of Education (or designee) will develop a method of discussing this policy with students and employees. Training on the requirements of non-discrimination 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 of Education in consultation with the Non-Discrimination officer determines is necessary or appropriate.
- E. **Annual Review.** This policy shall be reviewed at least annually for compliance with state and federal law.
- F. **Privacy.** The School 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.

#### **IV. Interim Measures**

Upon notice of the complaint/report, the School District will promptly take steps to protect the complaining party as necessary, including interim measures before final outcome of the School District's investigation (e.g., no contact order; increased supervision, check-in with both parties to a designee; change classes; change path to classes; provide different bus transportation; counseling; health and mental services; escort services; academic support; retake course or withdraw with/out penalty; or similar measures.

#### **Mediation**

The School District will offer the parties the option to mediate the complaint and will only mediate complaints if both (all) parties mutually agree to participate. However, the School District does not require the complainant to work out an issue directly with the accused. Additionally, the parties have the right to end the informal process and begin a formal process at any time. Further, sexual violence complaints are not to be mediated even on a voluntary basis.

#### **V. Investigation**

The District will act to promptly and impartially investigate using a preponderance of the evidence standard all complaints, either formal or informal, verbal, written, or electronic of prohibited harassment. During the process, the School District will apprise all parties of the status of the investigation at regular intervals.

Upon receipt of a report or complaint alleging harassment consistent with policy, the Complaint Manager shall immediately notify the Nondiscrimination Coordinator, without screening or investigating the report. The Complaint Manager shall then also immediately undertake or authorize an investigation. The investigation may be conducted by other 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 conduct constitutes a violation of this policy, the District shall consider:

- the nature of the behavior;
- how often the conduct occurred;
- whether there were past incidents or past continuing patterns of behavior;
- the relationship between the parties involved;
- the race, color, national origin, disability, sex, age or other status 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 harasser;
- 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

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

**Criminal Complaint.** With regard to allegations of sexual assault, the District will inform the complainant of the right to proceed with a criminal investigation and a Title IX complaint simultaneously. The District is obligated to conduct its investigation whether or not there is a criminal investigation pending addressing the same or similar allegations or such investigation has concluded.

**Confidentially.** The School District will take steps to investigate and respond to complaints, consistent with a complainant's requests for confidentiality. The privacy of the parties involved and the witnesses will be respected as much as possible, consistent with legal obligations to investigate, to take appropriate action, and to comply with any discovery or disclosure obligations.

The School District notes, however, if a complainant requests anonymity and does not agree to release of information, the School District may be limited in its ability to respond to the complaint (including pursuing discipline against the accused) or the School District must override a request for confidentiality to address the complaint. The School District will evaluate a request for confidentiality in the context of its responsibility to provide a safe and nondiscriminatory environment for all students, and may weigh the request for confidentiality against the following factors: the seriousness of the alleged harassment; the complainant's age; whether there have been other harassment complaints about the same individual; and the alleged harasser's rights to receive information about the allegations if the information is maintained by the school as an "education record" under the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g; 34 C.F.R. Part 99.15. The Complaint Manager is responsible for evaluating requests for confidentiality.

## **VI. Retaliation.**

Submission of a good faith complaint or report of sexual harassment, or harassment based upon race, color, national origin, disability, sex, or other basis consistent with this policy 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 a person who reports, testifies, assists or participates in an investigation, proceeding or hearing relating to such harassment. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

## **VII. School District Action**

- A. Upon receipt of a report that a violation has occurred, the School District will take prompt, 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, termination, discharge or other recourse. School District action taken for violation of this policy shall be consistent with the requirements of applicable collective bargaining agreements, state and federal law, and School District policies for violations of a similar nature or similar degree of severity. In determining what is an appropriate response to a finding that harassment in violation of this policy has occurred, the School 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; and,
  - whether the harassment was engaged in by school personnel, and if so, the School District will also consider how it can best remediate the effects of the harassment.

The School District will provide the parties written notice of range of potential remedies and sanctions (apology; written warning; written reprimand; prohibition from holding office or participating in student activities, including sports; recommended counseling; required training; termination or other remedies. This may include services separate from or in addition to interim measures offered at the time the Complainant reported the harassment even if originally declined.

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

- B. To the extent the District can do so while respecting the privacy rights of the individuals involved, including the duty of confidentiality under FERPA and/or the Illinois School Student Records Act, the Complaint Manager shall inform the parties notice of action taken in response to the complaint.
- C. If the results of the School District's evaluation of a complaint of harassment results in a conclusion that an individual has engaged in unlawful harassment in violation of this policy, or that school personnel have failed to report harassment as required herein, that individual may appeal this determination by use of established Board of Education

procedures for appealing other adverse personnel and/or education related actions. A written appeal to the Board of Education may be requested by either party within three (3) days from receipt of the written report. If an appeal reaches the Board of Education, the District hearing officer shall conduct a hearing within ten (10) days of receipt of the appeal and make a written report to the Board of Education summarizing the evidence heard at the hearing within ten (10) days of the hearing. If the procedures allow the parties access to information used at a hearing, the School District will provide similar and timely access to both parties. With respect to the hearing, the School District will provide equal opportunity to both parties and apply equal restrictions to ability of lawyers/representatives to speak or otherwise participate (or equally permitting 3rd party expert testimony; equal cross examination on witnesses; equally present for the entirety of a hearing).

With respect to hearings pertaining to sexual assault: the School District must not require a complainant to be present at the hearing as prerequisite to proceed. The School District does not allow parties to personally question or cross-examine each other during a hearing. However, the complainant and accused will have equal opportunity to present relevant witnesses and other evidence. The complainant and the accused will have similar and timely access to any information that will be used in a hearing. The complainant and the accused shall have the right to present witnesses, subject to the right of cross examination by the hearing officer. The School District does not allow evidence of past relationships with anyone other than alleged perpetrator.

Upon receipt of the written report from the hearing officer, the Board of Education may take action, as it finds appropriate. The Board of Education will take action within thirty (30) days of receipt of the hearing officer's report.

- D. Copies of all complaints of harassment and the investigations conducted pursuant to them shall be maintained by the District for at least five (5) years. The Nondiscrimination Coordinator shall be responsible for maintaining these records in a secure location.
- E. Submission of a good faith complaint or report of harassment will not affect the complainant or reporter's future employment, grades, learning or working environment or work assignments. Any person making a knowingly false accusation regarding harassment will likewise be subject to disciplinary action up to and including discharge, with regard to employees, or suspension and expulsion, with regard to students.

LEGAL REF.: 20 U.S.C. §1681 et seq., Title IX of the Educational Amendments.  
34 C.F.R. Part 106.  
105 ILCS 5/10-20.12, 10-22.5, 5/27-1, and 5/27-23.7.  
775 ILCS 5/1-101 et seq., Illinois Human Rights Act.  
23 Ill.Admin.Code §1.240 and Part 200.  
Davis v. Monroe County Board of Education, 119 S.Ct. 1661 (1999).  
Franklin v. Gwinnett Co. Public Schools, 112 S.Ct. 1028 (1992).  
Gebser v. Lago Vista Independent School District, 118 S.Ct. 1989 (1998).  
West v. Derby Unified School District No. 260, 206 F.3d 1358 (10th Cir., 2000).  
Title IV of the Civil Rights Act of 1964.  
Section 504 of the Rehabilitation Act of 1973 (Section 504).  
Title II of the American's with Disabilities Act of 1990.

Title IX of Education Amendments of 1972

CROSS REF.: 2:260 (Uniform Grievance Procedure), 5:20 (Workplace Harassment Prohibited), 7:10 (Equal Educational Opportunities), 7:190 (Student Discipline)