

# **POLICY JICK**

## **Board of Education Las Cruces Public Schools**

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**Related Entries:** [JICK-RA](#), JICKA, JICKA-RA, JICFB, JICFB-RA, JICFA-JICFA-RA  
**Responsible Office:** Associate Superintendent for Instruction

### **SEXUAL HARASSMENT OF STUDENTS**

#### **I. PURPOSE**

The purpose of this Policy is to require a school environment in which students feel safe and secure. The Board of Education is committed to maintaining an environment conducive to learning in which students are safe from sexual harassment.

Sexual harassment of students impairs the proper atmosphere for education, and creates an inequitable climate for learning. In addition to its negative effect upon education, sexual harassment negatively affects the characters of young people.

#### **II. POSITION**

- A. It is the policy of the Board of Education to prohibit harassment of any student on the basis of sex. The Board of Education will not tolerate sexual harassment of students by employees or by other students. Sexual harassment is illegal.
- B. The Board of Education prohibits retaliation against any person for good faith reporting, or participating in the investigation of an alleged violation of this Policy.
- C. The Board of Education prohibits employees or students from knowingly giving false reports or information under this policy.
- D. No employee of the School District shall engage in any conduct of a sexual nature with any student, regardless of the student's age, ability to consent, or actual consent.
- E. Title IX of the Education Amendments of 1972 provides that schools must provide an educational program that offers equal educational benefits for boys and girls. Decisions of the United States Supreme Court and the United States Department of Education make clear that sexual harassment of student by employees or by other students is prohibited by law.
- F. Much of the conduct described in the detailed specification of this Policy, including sexually-oriented name-calling, graffiti, teasing, etc., has no

place in school. However, requests for dates or other age-appropriate expressions of interest or affection are not considered sexual harassment.

### **III. DEFINITIONS AND STANDARDS OF CONDUCT**

#### **A. DEFINITIONS**

**“Conduct of a Sexual Nature”** The definition of “Conduct of a Sexual Nature” may include, but is not limited to:

1. verbal or physical sexual advances, including subtle pressure for sexual activity;
2. repeated or persistent and unwelcome requests for dates, meetings, and other social interactions;
3. sexually oriented touching, pinching, patting, staring, pulling at clothing, or intentionally brushing against another;
4. showing or giving sexual pictures, photographs, illustrations, messages, texts messages, instant messages, e-mails or notes;
5. writing graffiti of a sexual nature on school property;
6. comments or name-calling to or about a student regarding alleged physical or personal characteristics of a sexual nature regardless of communication medium;
7. sexually-oriented “kidding,” “teasing,” double-entendres, and jokes; and
8. any harassing conduct to which a student is subjected because of or regarding the student’s sex.

#### **B. STANDARDS OF CONDUCT**

1. Between an employee and a student:
  - a. Sexual harassment is any conduct of a sexual nature. Between students and employees, sexual harassment is any unwelcome conduct of a sexual nature.
  - b. No employee may engage in conduct of a sexual nature with a student at any time or under any circumstances, regardless of whether such conduct takes place on school property or in connection with any school-sponsored activity.

2. Between students:

- a. Verbal or physical conduct of a sexual nature by one student of another may constitute sexual harassment when the allegedly harassed student has indicated, by his or her conduct, that the conduct is unwelcome, or when the conduct, by its nature, is clearly unwelcome or inappropriate.
- b. A student who has initially welcomed conduct of a sexual nature by active participation must have communicated to the alleged harasser that such conduct is no longer welcome in order for any such subsequent conduct to be deemed unwelcome.

3. Duty under the Policy:

School officials, employees and volunteers shall not permit or tolerate sexual harassment of students and shall immediately report, intervene or stop sexual harassment of students that is threatened, found or reasonably known or suspected to be occurring.

4. Other Prohibitions

- a. The Board of Education prohibits retaliation against any person for good faith reporting, or participating in the investigation of an alleged violation of this Policy.
- b. The Board of Education prohibits employees or students from knowingly giving false reports or information under this Policy.

#### **IV. REPORTING, INVESTIGATION, AND SANCTIONS**

##### **A. REPORTING:**

1. It is the express policy of the Board of Education to encourage students who feel they have been sexually harassed by a school employee or by another student or students to report such claims. Reports of sexual harassment may be reported on the appropriate School District forms. However, written reports of sexual harassment are not required under this Policy.

##### **2. Reporting of Sexual Harassment by a Student or Students:**

Any student who believes he or she has been sexually harassed by an employee, another student or other students, should report the incident to a teacher, counselor, principal or assistant principal, but may report incidents to any School District employee.

If a student who believes he or she has been sexually harassed by an employee, another student or students, and who feels uncertain about who to tell, or feels uncomfortable telling any counselor or principal, the student should tell his or her parent(s) about the problem, and ask for the parent(s) help in reporting the sexual harassment to appropriate School District personnel.

If a student believes he or she has been sexually harassed by a counselor or a principal, or by any other administrator, or any school employee, the student should seek the assistance of his or her parent(s) in reporting such prohibited harassment to the Superintendent. Students may also report the incident to any school employee.

3. **Reporting of Sexual Harassment by a School Employee:**

Any employee who witnesses or is aware of conduct which may violate this Policy shall report it to the principal or their immediate supervisor at his or her earliest opportunity. Any employee who receives any report of sexual harassment of a student, whether the report is given by a student, a parent, or another employee, or who himself or herself observes instances of sexual harassment must notify his or her immediate supervisor or the Superintendent, regardless of whether the employee receiving the report or observing the instance considers the matter credible or significant.

**B. INVESTIGATION**

1. All reports of sexual harassment by a school employee in violation of this Policy shall be promptly investigated by the Director of Human Resources or his/her designee. Should a designee conduct the investigation, the Director's designee must be a licensed public school administrator.
2. All reports of sexual harassment by a student or by students in violation of this Policy shall be promptly investigated by the school principal or his/her designee of the school receiving the report or of the school in which the conduct allegedly occurred or pertains. Should a designee conduct the investigation, the school principal's designee must be a licensed public school administrator.
3. The Superintendent of Schools shall promulgate regulations governing the investigation of complaints of violations of this Policy ensuring that all complaints of violations are properly and thoroughly investigated. The regulations shall require that the final investigation report created be sufficient to document the investigation and to support any disciplinary or other action specified or recommended in the investigation report as a result of the investigation. The regulations shall also provide specific

provisions for communication with the alleged victims and their parents/guardians as to whether the complaint was substantiated and as to the progress of the investigation. With regard to investigations of students, the regulations shall provide that the investigation process must be concluded within a maximum of ten (10) school days of receipt of such complaints. The regulations shall also provide that if the investigation of a student is conducted by an administrator other than the school principal, the principal will respond to the submission of the final investigation report within three (3) school days, approving the proposed action to be taken or directing further or different action. The regulations shall also provide that requests for an extension of these time requirements must be approved in writing by the Superintendent. With regard to the investigations of employees, the regulations shall provide that the Director of Human Services will coordinate his or her investigation with the applicable law enforcement agency, if applicable, and the investigation shall be concluded in the most expeditious manner possible.

4. Parents and students to which the complaint pertains will be kept informed throughout the investigative process.
5. The Superintendent's regulations shall provide for a grievance procedure for parents and students (*see* regulation JICK-RA) with regard to investigations of students who are not satisfied with actions taken by or wish to appeal the initial findings of the school principal or designee. The regulations for the Policy shall provide that the Superintendent of Schools shall be the final appeal authority on any such grievance. Parents and students shall be informed of the availability of such a grievance process.
6. With regard to investigation of students, the regulations shall provide that the Superintendent shall make a determination on a grievance within fifteen (15) school days of the submission of a grievance under the regulations approving the actions of the school principal or directing further or different action.
7. There shall be no grievance procedure under this Policy with regard to investigations of employees as all personnel decisions pertaining to employees shall remain within the sound judgment of the Superintendent of Schools.
8. The Board of Education prohibits any person from actively obstructing an investigation into an alleged violation of this Policy.
9. Where violations of criminal law may have occurred, the principal, in consultation with the Superintendent or his/her designee, shall report the matter to the appropriate law enforcement agency.

**C. STANDARD:**

In assessing the existence of a violation of this Policy by students and the appropriate discipline, the principal or designee shall consider the nature and extent of the conduct, the age of the student(s) involved, the context in which the alleged conduct occurred, and any prior history of conduct prohibited by this Policy on the part of the violator.

In assessing the existence of a violation of this Policy by employees and the appropriate discipline, the Superintendent shall consider the nature and extent of the conduct, the age of the student(s) involved, the context in which the alleged conduct occurred, and best interests of the victim and the School District.

**V. CONFIDENTIALITY**

The identities of those reporting violations of this Policy and those cooperating in the investigation of alleged violations shall be kept confidential to the extent consistent with the requirements of a full and fair investigation, the due process rights of persons charged with violations, and state and federal law.

**VI. SANCTIONS**

- A. Employees: Any employee found to have engaged in conduct that violates this Policy shall be subject to sanctions, including, but not limited to, warning or reprimand, suspension, discharge or termination, subject to any applicable procedural requirements.
- B. Students: Any student found to have engaged in conduct that violates this Policy shall be subject to discipline, including, but not limited to, suspension or expulsion, subject to any applicable procedural requirements and to any applicable limitations imposed by state and federal disabilities law.

**VII. PUBLICATION**

This Policy shall be published in the Board's policies manual and on the School District's website. A summary of this Policy shall be published each year in all student and employee handbooks.

**VIII. REVIEW**

This Policy shall be reviewed on an ongoing basis in accordance with the Board of Education policy review process.

***JICK Sexual Harassment of Students***

**History:** Formerly Policy 339; Formerly Policy JICK, Harassment, Intimidation, Bullying, and Hazing;  
Revised 1.7.06; Re-titled Jan. 08; REVISED 5.20.08

**Legal Reference:** Legal Review Sept-Oct. 2007; Jan. 2008; May 2008.

*Bonnie L. Votaw*

May 20, 2008

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*Board of Education, President*

*Date Approved*