

Descriptor Term:	Descriptor Code:	Issued Date:
PROHIBITING HARASSMENT, INTIMIDATION BULLYING, CYBERBULLYING, SEXTING, SEXUAL HARASSMENT SEXUAL MISCONDUCT & FRATERNIZATION	901	2-21-2017
(FOR EMPLOYEES)	Rescind:	Reference:

Board Policy

Message from the Board of Education:

The Department of Education (DOE) does not condone or tolerate acts of sexual misconduct perpetrated against employees. Public education is grounded in public trust. In upholding that trust, we remain committed to creating and maintaining a public school system where no employee will be fearful of reporting to his/her assigned worksite. Employees must feel safe and secure at all times. DOE is committed to providing a supportive, secure and safe workplace that is free of all forms of harassment and sexual misconduct.

Whereas, it is the Board’s intent to ensure employees are free of all forms of harassment and sexual misconduct and that fraternization does not occur within the public school system as follows:

I. PURPOSE

It is the policy of the Guam Education Board to ensure that employees of the Department of Education (DOE) are safe, secure and can count on being treated with respect. The worksite shall be free from harassment, intimidation, bullying, cyberbullying, sexting, sexual harassment, sexual misconduct and fraternization. School administrators shall ensure that the school environment is free of any threat while at work and any work related activities. This requires a fundamental change in the way that administrators and employees in the DOE view harassment, intimidation, bullying, cyber bullying, sexting, sexual harassment, sexual misconduct and fraternization.

Employers and employees must recognize that minor events which do not rise to the level of violations of the department’s rules or a crime may still create an environment which makes others feel uncomfortable or even terrified at the prospect of coming to school or work. This policy is to allow all employees active participation in work affairs without fear and threat of harassment, intimidation, bullying, cyber bullying, sexting, sexual harassment, sexual misconduct or fraternization.

This policy will also follow federal anti-discrimination laws enforced by the Office of Civil Rights (OCR). The statutes that OCR enforces includes Title VI of the Civil Rights Act of 1964 (Title VI), which prohibits discrimination on the basis of race, color or national origin; Title IX and Title VII of the Education Amendments of 1972 (Title IX) prohibits discrimination on the basis of sex; Section 504 of the Rehabilitation Act of 1973 (Section 504); and Title II of the Americans with Disabilities Act of 1990 prohibit discrimination on

the basis of disability.

II. COVERAGE

This policy governs all employees, volunteers, vendors, visitors and all others within the jurisdiction of DOE and is intended to clearly prohibit harassment, intimidation, bullying, cyber bullying, sexting and sexual harassment, sexual misconduct, and fraternization whether on or off duty.

III. DEFINITIONS

A. HARASSMENT, INTIMIDATION OR BULLYING is any gesture or written, verbal, or physical act that a reasonable person under the circumstances should know will have the effect of harming a pupil or employee or damaging his or her property or place him or her in reasonable fear of harm to his or her person or damage to his or her property, or that has the effect of insulting or demeaning any pupil or employee or in such a way as to disrupt or interfere with the school's educational mission or the efficiency of service. Harassment, intimidation, or bullying includes but is not limited to, such a gesture or written, verbal, or physical act that is reasonably perceived as being motivated by religion, race, color, national origin, age, sex, sexual orientation, disability, height, weight, or socioeconomic status, or by any other distinguishing characteristic. (Taken from 17 GCA Section 3112.1 (a) but added the word employee)

1. Common forms of harassment, intimidation or bullying include but are not limited to the following:
 - a. Repeated negative behaviors intended to frighten or cause distress to another. Behaviors also include assault & battery, pushing, shoving, teasing, and name calling.
 - b. Posting of negative messages on the bathroom walls, school walls, and classroom walls thus creating an atmosphere of distress to the point that another is frightened to attend school or work.
 - c. Verbal expressions, physical acts, and gestures and antagonism intended to strike fear in employees.
 - d. Threatening notes, phone calls, and other means of electronic communication which indicate some form of retaliation.
 - e. Aggressive behavior of an individual or group meant to use greater power by threatening and generally oppressing a targeted individual or group of individuals.
 - f. Acts of intimidation that prevents others from engaging in the academic learning process or job-related duties and responsibilities.
 - g. An action that targets an individual or group and causes distress or suggests oppression based on race, color, religion, disability and beliefs as well as negatively hinders an employee's ability to adequately perform his/her job-related duties and responsibilities.
 - h. Physical aggression such as assault, kicking, punching, hitting and biting.
 - i. Physical and aggressive gestures imitating an action to hit another person.
 - j. Extortion for money or property.
 - k. Teasing in such a manner as to impact the emotional functioning of another.

- l. Writing offensive notes on walls, paper, or other surfaces in an attempt to demean and defame a person's character or integrity.
- m. Other behaviors meant to create a climate of fear and that affect the daily functioning of covered individuals on and off the school campus or worksite.
- n. Behaviors that cause or intend to cause social exclusion or isolation of another; lies, false rumors and/or other behaviors that promote relational aggression.
- o. Having money or other things taken or damaged, or threatening or forcing others to engage in bullying behaviors.

B. **CYBERBULLYING** is the use of any electronic communication device to harass, intimidate or bully. Cyberbullying is bullying through the use of a computer or telecommunications device. Cyberbullying, like traditional bullying, involves an imbalance of power, aggression and repetitive negative action.

Common forms of cyberbullying include but are not limited to the following:

- (a) **Harassment:** Repeatedly sending offensive, rude and insulting messages.
- (b) **Denigration:** "Dissing" someone online. Sending or posting cruel gossip or rumors about a person to damage his or her reputation or friendships.
- (c) **Flaming:** Online fights using electronic messages with angry and vulgar language.
- (d) **Impersonation:** Breaking into someone's email or social networking account posing as that person and sending messages to make the person look bad, get that person into trouble or danger, or damage that person's reputation or friendships
- (e) **Outing and trickery:** Sharing someone's secrets or embarrassing information online. Tricking someone into revealing secrets or embarrassing information which is then shared online.
- (f) **Cyberstalking:** repeatedly sending messages that include threats of harm or are highly intimidating; engaging in other online activities that make a person afraid for his or her safety.
- (g) **Exclusion:** Intentionally excluding someone from an online group like a "buddy list" or a game.
- (h) **Trolling:** Intentionally posting provocative messages about sensitive subjects to create conflict, upset people, and bait them into "flaming" or fighting.

C. **SEXTING.** A person is guilty of an offense of illegal use of a computer or telecommunications device involving a minor, otherwise known as sexting, if, by use of a computer or any telecommunications device, he or she recklessly or knowingly creates, receives, exchanges, sends, disseminates, transmits or possesses a photograph, video, depiction or other material that shows himself or herself, or of minor, in a state of nudity. Prohibited forms of sexting also include behavior that involves unwanted, negative actions and/or material that are sexual in nature through the use of electronic device(s) or digital means to transmit or distribute unwelcome material that are explicit and sexual in nature.

Common forms of sexting include but are not limited to:

- (a) Electronically transmitting offensive, sexually explicit and/or inappropriate pictures, images or drawings that damage another's reputation, educational standing, social standing or that interferes with the mission of the

organization.

- (b) Electronically transmitting offensive messages, postings, texts, instant messages and/or other forms of written communication that contain sexual content that interferes with the organization's efficiency, service, or mission.
- (c) Electronically transmitting offensive music, sound bites, voices, noises or any recorded material that contain sexually explicit and/or inappropriate content that interferes with the organization's efficiency, service, or mission.

D. **SEXUAL HARASSMENT** is unwelcomed 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. Sexual harassment in the workplace is prohibited by Title VII and there are two recognized types of sexual harassment: 1) quid pro quo and 2) hostile work environment.

Under the quid pro quo form of harassment, a person in authority demands that subordinates tolerate sexual harassment as a condition of getting or keeping a job or job benefit. A single instance of harassment is sufficient to sustain a quid pro quo claim if it is severe and sufficiently pervasive.

Hostile work environment harassment is grounds for legal action when the conduct is unwelcomed, based on sex, and severe or pervasive enough to create an abusive or offensive working environment. Typically, a pattern of sexual harassment involving repeated incidences is necessary to sustain a claim of hostile work environment.

Common forms of sexual harassment include but are not limited to the following:

Sexual harassment may occur as a pattern of degrading sexual speech or action ranging from verbal or physical annoyances or distractions to deliberate intimidation and frank threats or sexual demands.

- a. verbal, non-verbal, and physical sexual behaviors
- b. coerced sex
- c. sexual jokes and innuendoes
- d. remarks about a person's body
- e. turning discussions inappropriately to sexual topics
- f. whistling or cat calls
- g. looking a person up and down or staring in a sexually suggestive manner
- h. invading someone's personal space or blocking her/his path
- i. sexually explicit visuals such as pin-ups
- j. suggestions of sexual intimacy
- k. repeated requests for dates
- l. unwanted letters, electronic mail or other computer communications
- m. unwanted gifts
- n. touching, hugging, massaging, and other gestures or sounds that a reasonable person of the same sex as the recipient would find offensive

E. **SEXUAL MISCONDUCT.** All employees, volunteers, vendors, contractors, student teachers and all others under the jurisdiction of DOE are prohibited from dating, courting,

or entering into a romantic or sexual relationship with any student while enrolled in DOE schools, regardless of the student's age, regardless of whether or not the involvement is consensual and regardless of whether or not it occurs on or off DOE property or the worksite, whether on or off duty or online through electronic medium.

For the purpose of this policy, sexual misconduct shall be broadly interpreted to include, but is not limited to, any form of a relationship between an employee, volunteer, vendor, contractor, student teacher of DOE and a student enrolled in the public school system that involves dating, courting, or entering into romantic relationship or sexual contact regardless of the student's age and regardless of whether the involvement of the student is consensual. Sexual misconduct may involve people of the same or different gender.

F. **FRATERNIZATION.** Relationships between supervisors and their subordinate employees often adversely affect decisions, distort judgement, and undermine workplace morale for all employees, including those not directly engaged in the relationship. Any employee who participates in supervisory or administrative decisions concerning an employee with whom s/he has or has had an affectionate relationship has a conflict of interest in those situations. These types of relationships, specifically those involving spouses and/or individuals who reside together, also may violate the Standard of Conduct for Public Employees of the Government of Guam. Accordingly, DOE prohibits all employees from pursuing or engaging in affectionate relationships with subordinate employees whom they supervise. No supervisor shall initiate or participate in institutional decisions involving a direct benefit or penalty (employment, retention, promotion, salary, leave of absence, etc.) to a person with whom that individual has or has had an affectionate relationship.

Pre-existing affectionate relationships between Supervisors and Subordinate Employees prior to the effective date of this policy must be disclosed within thirty (30) days of the effective date of this policy by both employees involved to their immediate supervisor who will then take the necessary steps to eliminate the conflict of interest.

Common forms of fraternization include but are not limited to sexual, intimate and romantic relationships between a supervisor or person of authority and a subordinate employee. Fraternization is defined as a situation in which an employee engages in an emotional, romantic, or sexual relationship with an employee for whom he or she has a professional responsibility as a supervisor or power of authority over the individual involved regardless of whether or not it occurs on or off DOE property; and may involve the behavior of a person of either sex against a person of the opposite or same sex.

IV. NON-COMPLIANCE

Non-compliance with this policy will result in appropriate disciplinary action.

V. FURTHER ACTION BY THE SUPERINTENDENT

The Superintendent shall create appropriate standard operating procedures for implementation of this policy within 30 days of its adoption. All supervisors will ensure that the standard operating procedures are followed.

ADOPTED: Guam Education Board 01/31/17