

MONTOUR SCHOOL DISTRICT

SECTION: ADMINISTRATIVE
EMPLOYEES

TITLE: UNLAWFUL HARASSMENT

ADOPTED: 10/17/2006

REVISED:

348. UNLAWFUL HARASSMENT

1. Purpose

The Board strives to provide a safe, positive working climate for its employees. Therefore, it shall be the policy of the district to maintain an employment environment in which harassment in any form is not tolerated.

2. Authority

43 P.S.
Sec. 951 et seq
Title VII
42 U.S.C.
Sec. 2000e et seq
Title IX
20 U.S.C.
Sec. 1681 et seq

The Board prohibits all forms of unlawful harassment of employees and third parties by all district students and staff members, contracted individuals, vendors, volunteers, and third parties in the schools. The Board encourages employees and third parties who have been harassed to promptly report such incidents to the designated administrators.

The Board directs that complaints of harassment shall be investigated promptly, and corrective action be taken when allegations are substantiated. Confidentiality of all parties shall be maintained, consistent with the district's legal and investigative obligations.

No reprisals nor retaliation shall occur as a result of good faith charges of harassment.

3. Definition

29 CFR
Sec. 1606.8 (a)
66 Fed. Reg.
5512

For purposes of this policy, harassment shall consist of verbal, written, graphic or physical conduct relating to an individual's race, color, national origin/ethnicity, gender, age, disability, sexual orientation or religion when such conduct:

1. Is sufficiently severe, persistent or pervasive that it affects an individual's ability to perform job functions or creates an intimidating, threatening or abusive work environment.
2. Has the purpose or effect of substantially or unreasonably interfering with an individual's work performance.
3. Otherwise adversely affects an individual's employment opportunities.

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<p>4. Delegation of Responsibility Pol. 104</p>	<p>In order to maintain a work environment that discourages and prohibits unlawful harassment, the Board designates the Superintendent as the district's Compliance Officer.</p> <p>The Compliance Officer shall publish and disseminate this policy and the complaint procedure at least annually to students, parents/guardians, employees, independent contractors, vendors, and the public. The publication shall include the position, office address and telephone number of the Compliance Officer.</p> <p>The administration shall be responsible to provide training for students and employees regarding all aspects of unlawful harassment.</p> <p>Each staff member shall be responsible to maintain a working environment free from all forms of unlawful harassment.</p> <p>The building principal or designee shall be responsible to complete the following duties when receiving a complaint of unlawful harassment:</p> <ol style="list-style-type: none">1. Inform the employee or third party of the right to file a complaint and the complaint procedure.2. Notify the complainant and the accused of the progress at appropriate stages of the procedure.3. Refer the complainant to the Compliance Officer if the building principal is the subject of the complaint.
<p>5. Guidelines</p>	<p><u>Complaint Procedure – Employee/Third Party</u></p> <p>Step 1 – Reporting</p> <p>An employee or third party who believes s/he has been subject to conduct that constitutes a violation of this policy is encouraged to immediately report the incident to the building principal.</p> <p>If the building principal is the subject of a complaint, the employee or third party shall report the incident directly to the Compliance Officer.</p> <p>The complainant is encouraged to use the report form available from the building principal, but oral complaints shall be acceptable.</p>

Step 2 – Investigation

Upon receiving a complaint of unlawful harassment, the building principal shall immediately notify the Compliance Officer. The Compliance Officer shall authorize the building principal to investigate the complaint, unless the building principal is the subject of the complaint or is unable to conduct the investigation.

The investigation may consist of individual interviews with the complainant, the accused, and others with knowledge relative to the incident. The investigator may also evaluate any other information and materials relevant to the investigation.

The obligation to conduct this investigation shall not be negated by the fact that a criminal investigation of the incident is pending or has been concluded.

Step 3 – Investigative Report

The building principal shall prepare a written report within fifteen (15) days, unless additional time to complete the investigation is required. The report shall include a summary of the investigation, a determination of whether the complaint has been substantiated as factual and whether it is a violation of this policy, and a recommended disposition of the complaint.

The findings of the investigation shall be provided to the complainant, the accused, and the Compliance Officer.

Step 4 – District Action

If the investigation results in a finding that the complaint is factual and constitutes a violation of this policy, the district shall take prompt, corrective action to ensure that such conduct ceases and will not recur.

Disciplinary actions shall be consistent with Board policies and district procedures, applicable collective bargaining agreements, and state and federal laws.

Pol. 317, 417, 517

If it is concluded that an employee has knowingly made a false complaint under this policy, such employee shall be subject to disciplinary action, including termination.

Appeal Procedure

1. If the complainant is not satisfied with a finding of no violation of the policy or with the corrective action recommended in the investigative report, s/he may submit a written appeal to the Compliance Officer within fifteen (15) days.

2. The Compliance Officer shall review the investigation and the investigative report and may also conduct a reasonable investigation.
3. The Compliance Officer shall prepare a written response to the appeal within fifteen (15) days. Copies of the response shall be provided to the complainant, the accused and the building principal who conducted the initial investigation.

MONTOUR SCHOOL DISTRICT

SECTION: ADMINISTRATIVE
EMPLOYEES

TITLE: SEXUAL HARASSMENT

ADOPTED: 10/17/2006

REVISED:

348.1. SEXUAL HARASSMENT

1. Purpose

The district has long been committed to the respect for the dignity of each person and to safeguarding the right of all employees within the district to a work environment that is free from all forms of sexual harassment.

This policy shall address all complaints or reports of alleged, apparent or suspected incidents of sexual harassment of employees and third parties.

2. Authority
Pol. 348

The Board prohibits sexual harassment of employees and third parties by all district students and staff members, contracted individuals, vendors, volunteers, and third parties in the schools.

The Board directs that complaints of harassment shall be investigated promptly, and corrective action be taken when allegations are substantiated. Confidentiality of all parties shall be maintained, consistent with the district's legal and investigative obligations.

3. Definitions
29 CFR
Sec. 1604.11(a)

Sexual harassment shall consist of unwelcome sexual advances; requests for sexual favors; and other inappropriate verbal, written, graphic, or physical conduct of a sexual nature when:

1. Acceptance of to such conduct is explicitly or implicitly made a term or condition of an individual's continued employment.
2. Submission to or rejection of such conduct is used as the basis for employment decisions affecting the individual.
3. Such conduct is sufficiently severe, persistent or pervasive that it has the purpose or effect of substantially interfering with the employee's job performance or creating an intimidating, hostile or offensive work environment.

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Examples of prohibited sexual harassment include but are not limited to:

1. Unwelcome touching of an individual's body or clothing in a sexual way.
2. Unwelcome leering, staring, sexual flirtation, propositions, or pressure for sexual activity.
3. Unwelcome sexual slurs, epithets, threats, verbal abuse, derogatory comments or sexually degrading descriptions.
4. Unwelcome graphic or verbal comments about an individual's body, or overly personal conversation.
5. Unwelcome sexual jokes, stories, drawings, pictures or gestures.
6. Unwelcome spreading of sexual rumors.
7. Cornering or blocking an individual's normal movement in a sexual way.
8. Displaying sexually explicit materials or suggestive objects in the educational environment.
9. Repeated remarks to a person with sexual or demeaning implications.

The definition of sexual harassment includes all prohibited conduct described in this policy that takes place during or relative to school and school-sponsored activities, regardless of whether the prohibited conduct takes place on district property or during school hours.

This policy is in addition to and not in lieu of any other applicable Board policy and principles and procedures of the district. The types of conduct enumerated in this policy may not all be within the legal definition of sexual harassment. Any occurrence of prohibited conduct enumerated in this policy may be subject to disciplinary action, pursuant to applicable Board policy or principles and procedures of the district, notwithstanding whether or not the occurrence of such prohibited conduct constitutes a violation of this policy.

Sexual Harassment Complaint Manager shall be a designated member of the district's administrative staff who shall oversee the investigation and resolution of all reports and complaints of alleged, apparent or suspected sexual harassment within the district. The Sexual Harassment Complaint Manager shall also oversee the Site Complaint Manager and the district's Complaint Investigation Team.

<p>4. Guidelines</p>	<p>The Site Complaint Manager shall be the person designated by the district to receive statements, reports and/or complaints of alleged, apparent or suspected incidents of sexual harassment within a particular school building. Such person shall be a member of the district's administrative staff. When practical and/or appropriate, the building principal shall be the designated Site Complaint Manager. The Site Complaint Manager, if appropriately trained, may also be a member of the district's Complaint Investigation Team and may investigate reports and/or complaints of alleged, apparent or suspected sexual harassment.</p> <p>The district's Complaint Investigation Team shall be a group of appropriately trained individuals designated by the district who will investigate reports and/or complaints of alleged, apparent or suspected sexual harassment; conduct interviews of complainants, accused harassers and witnesses; and prepare written reports of such interviews and investigations.</p> <p><u>Objectives</u></p> <p>The objectives of this policy are to:</p> <ol style="list-style-type: none">1. Communicate the district's commitment that sexual harassment is strictly prohibited and will not be tolerated.2. Ensure that all reported, observed or suspected acts of alleged sexual harassment will be promptly and fully investigated.3. Institute appropriate disciplinary action in accordance with applicable Board policies, applicable collective bargaining agreements, and state and federal laws and regulations, whenever it is determined that sexual harassment has occurred. <p>Further, it is the policy of the district that intimate or sexual relations between any and all district employees and students is strictly prohibited. Such strict prohibition includes intimate or sexual relations between an administrator, teacher, counselor, coach, advisor, program director or any district staff member and a student. Any violation of this policy by a district employee will result in appropriate disciplinary action in accordance with laws and collective bargaining agreements, as may be applicable.</p>
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Reporting Incidents Of Alleged Sexual Harassment

Any employee or third party who believes that s/he has been subjected to sexual harassment should immediately report the incident to the building principal or designee. The person receiving a report of alleged sexual harassment shall request the complainant to prepare a statement, in the complainant's own words, describing the complainant's version of the alleged incident of sexual harassment. The person receiving the complainant's incident statement shall immediately deliver such statement to the designated Site Complaint Manager, who will promptly provide a copy of such incident statement to the designated Sexual Harassment Complaint Manager.

If the complainant declines to prepare a statement, the person receiving the report of the alleged incident of sexual harassment shall prepare a report of the alleged incident, which shall be based on what the employee witnessed and/or what they were told by the alleged victim(s) or witness(es). Such incident report shall be immediately delivered to the Site Complaint Manager, who shall provide a copy of the incident report to the Sexual Harassment Complaint Manager.

In any instance where the suspected or accused harasser is the Site Complaint Manager, any incident statement, report or complaint of alleged, apparent or suspected sexual harassment should be delivered to the Sexual Harassment Complaint Manager.

False Allegations

Abuse of the procedures established in this policy will not be tolerated, and an employee who has knowingly made a false allegation of sexual harassment will be subject to severe disciplinary action.

Investigation

Upon receipt of a statement or report of an alleged, apparent or suspected incident of sexual harassment, or as soon thereafter as reasonably possible, the Site Complaint Manager or a designated member of the district's Complaint Investigation Team shall contact and interview the subject of the alleged, apparent or suspected incident of sexual harassment and prepare a detailed written report of the interview. The person conducting the interview shall explain this policy to the allegedly harassed individual, including the individual's rights and options. The interviewer shall also ask if the individual wishes to file a complaint of alleged sexual harassment. If the individual desires to file a complaint, a copy of the complaint shall be promptly delivered to the Site Complaint Manager and the Sexual Harassment Complaint

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Manager. If the individual declines to file a complaint, the person conducting the interview shall promptly provide copies of his/her detailed interview report to the Site Complaint Manager and Sexual Harassment Complaint Manager for further action or investigation as may be appropriate under the circumstances.

All reports of alleged, apparent or suspected sexual harassment and/or complaints of alleged sexual harassment will be promptly, thoroughly and impartially investigated and resolved in a way that respects the privacy of all parties concerned to the extent permitted by law and to the extent practical and appropriate under the circumstances. The nature and extent of the investigation to be conducted may vary from case to case and shall be determined by the circumstances involved, including the nature and severity of the alleged conduct, the existence and number of witnesses, and the existence of disputed facts.

Upon receipt by the Sexual Harassment Complaint Manager of a complaint of alleged sexual harassment or report of an alleged, apparent or suspected incident of sexual harassment, and the report of the person interviewing the subject of such incident, the Sexual Harassment Complaint Manager shall designate one (1) or more members of the district's Complaint Investigation Team to promptly initiate an investigation into the incident of alleged, apparent or suspected sexual harassment. Whenever possible, the investigation shall commence within forty-eight (48) hours. If the investigation discloses disputed facts concerning the allegation(s) of sexual harassment, the investigator(s) may expand the investigation or further investigate the facts concerning such allegation(s) as may be necessary and/or appropriate under the circumstances. When conducting an investigation, the district will, to the extent practical, attempt to comply with the wishes of the allegedly harassed individual; however, the district reserves the right to conduct its investigation in a manner and to the extent that is necessary and appropriate under the circumstances.

After conducting the investigation, the investigator(s) shall, within one (1) week or a reasonable extension of time thereafter as may be necessary under the circumstances, summarize and describe the investigation and reduce the findings of the investigation to a written report and provide a copy of the written report to the Site Complaint Manager and Sexual Harassment Complaint Manager, who may review and comment on such findings and make any changes or amendments that, after consultation with the investigation(s), may be appropriate. The district will promptly communicate the results of the investigation to the complainant and the accused. If the results of the investigation are indeterminate, the matter will be recorded as unresolved. A written record of the allegations and investigation will be maintained by the district separate and apart from any personnel file.

Recordkeeping

A written record of all reports of alleged, apparent or suspected incidents of sexual harassment and complaints of alleged sexual harassment, as well as a written record of the investigation of such reports and complaints and the findings of such investigations, shall be maintained by the district as a part of a confidential file used to monitor such incidents within the district. The file shall be maintained separate and apart from the personnel file. If a student is found to have violated this policy, a record of the violation and disciplinary action taken shall be kept in the student's confidential discipline file. If a district employee is found to have violated this policy, a record of the violation and the disciplinary action taken will be placed in the employee's personnel file.

Disciplinary Action

Where the investigation of an alleged, apparent or suspected incident of sexual harassment or complaint of alleged sexual harassment discloses that an incident of sexual harassment has taken place, the district shall take such disciplinary action against the accused as appropriate under the circumstances. Key considerations in determining appropriate discipline will include the age of the student(s) involved in the incident, the severity of the conduct, the intent of the accused, and the pattern or number of offenses or incidents of prohibited conduct of a sexual nature. The district prohibits retaliatory behavior against any complainant or any participant in the complaint process. Any such retaliatory action will result in disciplinary action.

The initiation of a complaint of alleged sexual harassment, or reporting an incident of alleged sexual harassment will not reflect negatively on the student or employee who initiates the complaint or makes a report, nor will it affect the complainant's academic or employment standing, rights or privileges, if the complaint or report is a result of a good faith charge of harassment.

Occurrences of prohibited and/or inappropriate conduct of a sexual nature which are not within the legal definition of sexual harassment, or otherwise do not rise to the level of and/or constitute sexual harassment, will be addressed pursuant to applicable Board policies and principles and procedures of the district, and will result in disciplinary action, as may be appropriate.

Appeal Procedure

1. If the complainant is not satisfied with a finding of no violation of the policy or with the corrective action recommended in the investigative report, s/he may submit a written appeal to the Sexual Harassment Complaint Manager within fifteen (15) days.

2. The Sexual Harassment Complaint Manager shall review the investigation and the investigative report and may also conduct a reasonable investigation.
3. The Sexual Harassment Complaint Manager shall prepare a written response to the appeal within fifteen (15) days. Copies of the response shall be provided to the complainant, the accused and the designated individual(s) who conducted the initial investigation.

Administrative Responsibility

It shall be the responsibility of the administration to:

1. Adopt administrative principles and procedures to implement this policy.
2. Implement this policy and any related principles and procedures.
3. Designate and train a Sexual Harassment Complaint Manager, Site Complaint Manager for each school, and a district Complaint Investigation Team. The district shall take steps as reasonably necessary to apprise all district personnel, students, parents/guardians, independent contractors, vendors and the public of the identity of the Sexual Harassment Complaint Manager, the Site Complaint Manager and their office locations and office telephone numbers.
4. Provide training to staff and students to recognize, discourage and refrain from sexual harassment.
5. Provide annual inservice instruction to all staff.
6. Provide annual student instruction about sexual harassment and the procedures for reporting sexual harassment in an age-appropriate manner.
7. Take appropriate disciplinary action as needed.

Teachers, counselors and administrators should instruct students on sexual harassment and the procedures for reporting sexual harassment within the educational setting on an as needed basis.

Communication

The administration will annually communicate this policy to all personnel of the district, all students, parents/guardians, independent contractors, vendors, parents' organizations, the PTA, and the public. This policy, which shall include a definition of sexual harassment, the prohibited conduct of a sexual nature, and a description of the reporting and complaint procedures, shall be included in any school publications that sets forth the district's comprehensive rules, regulations and procedures. A list of the Sexual Harassment Complaint Manager, individual Site Complaint Manager, and their office locations and office telephone numbers shall also be included in the school publication. Copies of this policy shall be available in each building principal's office.

REPORT FORM FOR COMPLAINTS OF UNLAWFUL HARASSMENT

Complainant: _____
Home Address: _____
Home Phone: _____
School Building: _____
Date of Alleged Incident(s): _____

Alleged harassment was based on: (circle those that apply)

- | | | |
|----------|--------------------|-----------------|
| Race | Color | National Origin |
| Gender | Age | Disability |
| Religion | Sexual Orientation | |

Name of person you believe violated the district's unlawful harassment policy:

If the alleged harassment was directed against another person, identify the other person:

Describe the incident as clearly as possible, including what force, if any, was used; verbal statements (i.e. threats, requests, demands, etc.); what, if any, physical contact was involved. Attach additional pages if necessary:

When and where incident occurred: _____

List any witnesses who were present: _____

This complaint is based on my honest belief that _____ has harassed me or another person. I certify that the information I have provided in this complaint is true, correct and complete to the best of my knowledge.

Complainant's Signature

Date

Received By

Date