

336. PROHIBITING HARASSMENT AND VIOLENCE

II. BACKGROUND TO POLICY

Incidents of harassment against students seem to be increasing. Student performance in school has been adversely affected by harassment. Students and school personnel must be protected from any form of harassment. Educational institutions play a significant role in the process of eliminating all types of harassment. The courts have held public schools legally responsible for protecting students from sexual harassment and other kinds of harassment by teachers, staff members and by fellow students. Schools also have a moral responsibility to prevent staff on student or student to student harassment of any kind.

The Lebanon County Career & Technology Center has experienced instances of harassment upon its students and has sought the assistance of the United States Department of Justice and its Community Relations Service to help resolve and prevent racial and ethnic conflict, violence and civil disorder. Furthermore, the Career & Technology Center has sought the assistance of the Pennsylvania Human Relations Commission and the Pennsylvania State Police because of these incidents. The process of developing this anti-harassment policy included participation by CTC Joint Operating Committee, parents, Career & Technology Center staff, administrators from some of the six home school districts, concerned community members, representation from the Pennsylvania Legislative Black Caucus and community organizations interested in promoting civil rights, including the Pennsylvania NAACP. The effect of the harassment incidents at the Career & Technology Center has been to disrupt the educational environment of the Lebanon Career & Technology Center and there is a substantial likelihood that the disruption of the educational environment will continue to occur in the absence of a definitive, vigorously enforced anti-harassment policy.

II. AUTHORITY

Statutory reference

- Section 703 of Title VII of Civil Rights Act of 1964;
- Section 5(a) Pennsylvania Human Relations Act;
- Title IX of the 1972 Education Amendments; and
- Pennsylvania Crimes Code, 18 Pa.C.S.A. §2709

Regulatory guidelines

- United States Department of Education, Office for Civil Rights and the National Association of Attorneys General, Protecting Students From Harassment and Hate Crimes, A Guide For Schools, January 1999;
- Office for Civil Rights Guidelines on Sexual Harassment, 62 Fed. Reg. #49;
- Policy Memo Office for Civil Rights USDE March 1997;
- EEOC Guidelines, 29 C.F.R. §1604 et. seq.; and
- Pennsylvania Code – Education, 22 Pa.Code §12.4 Discrimination.

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III. ANTI-HARASSMENT POLICY DEFINITIONS

A. Sexual Harassment

For purposes of this policy, sexual harassment of a student consists of unwelcome and unsolicited sexual advances, requests for sexual favors, sexually motivated physical conduct, or other written, verbal or physical conduct or communication of a sexual nature 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 Center 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 by another student or a teacher, administrator or any school personnel 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.

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

- sexual advances
- making or threatening reprisals after a negative response to sexual advances
- 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 sexual intercourse or a sexual act on another
- graffiti of a sexual nature
- sexual gestures
- sexual or dirty jokes
- 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
- written, graphic or computer generated material of a sexually harassing nature or containing negative sexual stereotypes which is possessed, posted or circulated and which is aimed at degrading individuals or members of a protected class
- unwelcome, sexually motivated or inappropriate patting, pinching or physical contact. This prohibition does not preclude legitimate, non sexual physical contact such as the use of necessary restraints to avoid physical harm to persons or property, or conduct such as a teacher's demonstration of movements involved in a physical educational task, or one student's demonstration of a sports move requiring contact with another student, etc.

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- offering educational or employment benefits in exchange for sexual favors
- visual conduct—e.g., leering, making sexual gestures, displaying sexually suggestive objects or pictures, cartoons, or posters
- verbal conduct—e.g., making derogatory comments, epithets, slurs, jokes, unwanted verbal sexual propositions, verbal abuse of a sexual nature, graphic verbal commentary about an individual's body, sexually degrading words used to describe an individual, suggestive or obscene letters, notes or invitations
- physical conduct—e.g., assault, touching, impeding or blocking one's movement (any form of sexual violence)
- 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.

B. Harassment because of race or color

For purposes of this policy, racial harassment of a student consists of verbal or physical conduct relating to an individual's race or color, when

1. the harassing conduct is sufficiently 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 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 include, but are 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
- harassing conduct or hostile acts directed at one student, because of that student's association with another student and motivated by the race or color of the second student
- harassing conduct or hostile acts directed at a student because of the perceived race or color of the student
- written, graphic or computer generated material containing racial comments or stereotypes which is possessed, posted or circulated and which is aimed at degrading individuals or members of protected classes

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- a physical act of aggression or assault upon another because of, or in a manner reasonably related to, race or color
- racial slurs, degrading statements, gestures, and symbols and signs, which can be associated with hate groups. Such symbols and signs can include, but are not limited to: confederate flags, nazi flags, insignias and salutes, and symbols such as “88”, “666” or “SS”. Expressions can be verbal, written, gestures, electronic or graphic in nature. This includes such expressions being displayed on vehicles driven on to the school property
- other kinds of aggressive conduct such as theft or damage to property which is motivated by race or color.

C. Harassment based upon National Origin or Ethnicity

For purposes of this policy, 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
- harassing conduct or hostile acts directed at one student, because of that student’s association with another student and motivated by the national origin or ethnicity of the second student
- harassing conduct or hostile acts directed at a student because of the perceived national origin or ethnicity of the second student
- written, graphic or computer generated materials containing negative ethnic comments or stereotypes which is possessed, posted or circulated and which is aimed at degrading individuals or members of a protected class
- a physical act of aggression or assault upon another because of, or in a manner reasonably related to, national origin or ethnicity

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- ethnic slurs, degrading statements, gestures, and symbols and signs, which can be associated with hate groups. Such symbols and signs can include, but are not limited to: confederate flags, nazi flags, insignias and salutes, and symbols such as “88”, “666” or “SS”. Expressions can be verbal, written, gestures, electronic or graphic in nature. This includes such expressions being displayed on vehicles driven on to the school property
- other kinds of aggressive conduct such as theft or damage to property which is motivated by national origin or ethnicity.

C. Harassment because of disability

For purposes of this policy, harassment because of the disability of a student consists of verbal or physical conduct relating to an individual’s physical or mental impairment 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.

D. Harassment because of religion

For purposes of this policy, harassment because of the religion of an individual consists of verbal or physical conduct relating to an individual’s religion when the conduct:

1. has the purpose or effect of creating an intimidating, hostile or offensive working or academic environment;
2. has the purpose or effect of substantially or unreasonably interfering with an individual’s work or academic performance; or
3. conduct otherwise adversely affects an individual’s employment or academic opportunities.

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

- graffiti containing offensive language which is derogatory to others because of their religion
- threatening or intimidating conduct directed at another because of the other’s religion
- jokes, rumors or name calling based upon an individual’s religion
- slurs, negative stereotypes, and hostile acts which are based upon another’s religion
- harassing conduct or hostile acts directed at one student, because of that student’s association with another student and motivated by the religion of the second student

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- harassing conduct or hostile acts directed at a student because of the perceived religion of the second student
- written, graphic or computer generated materials containing negative comments or stereotypes which is possessed, posted or circulated and which is aimed at degrading individuals or members of protected classes having to do with religion
- a physical act of aggression or assault upon another because of, or in a manner reasonably related to, an individual's religion
- other kinds of aggressive conduct such as theft or damage to property which is motivated by an individual's religion.

E. Harassing because of age

For purposes of this policy, harassment because of the age of a student or staff member consists of verbal or physical conduct relating to an individual's age when that age is forty (40) or more, and when the conduct:

1. has 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 age (forty (40) or more years of age) include, but are not limited to:

- graffiti containing offensive language which is derogatory to others because of their age
- threatening or intimidating conduct directed at another because of the other's age
- jokes, rumors or name calling based upon an individual's age
- slurs, negative stereotypes, and hostile acts which are based upon another's age
- harassing conduct or hostile acts directed at one student, because of the age (40 years of age or more) of the second student
- harassing conduct or hostile acts directed at a student because of the perceived age (40 years or more) of the second student
- written, graphic or computer generated materials containing negative comments or stereotypes which is possessed, posted or circulated and which is aimed at degrading individuals or members of a protected class having to do with age, of forty (40) or more years of age
- a physical act of aggression or assault upon another because of, or in a manner reasonably related to, an individual's age
- other kinds of aggressive conduct such as theft or damage to property which is motivated by an individual's age.

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III. REPORTING PROCEDURES

Any student who believes he or she has been the victim of sexual harassment or harassment based on race, color, age, religion, national origin, ethnicity or disability by a student, teacher, administrator or other school personnel of the Center, or by any other person who is participating in, observing, or otherwise engaged in activities, including any extra curricular activities, under the auspices of the Center, is encouraged to immediately report the alleged acts to an appropriate Center official designated by this policy.

Any teacher, administrator, or other school personnel who has or receives notice that a student has or may have been the victim of sexual harassment or harassment based on race, color, religion, age, national origin, ethnicity or disability by a student, teacher, administrator, or other school personnel of the Center, or by any other person who is participating in, observing, or otherwise engaged in activities, including any extra curricular activities, under the auspices of the Center, is required to immediately report the alleged acts to an appropriate Center official designated by this policy.

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, age, religion, national origin, ethnicity or disability as set forth above, is required to immediately report the alleged acts to an appropriate Center official designated by this policy.

Regardless of whether a harassed student, his or her parent, or a third party files a complaint, under the school's reporting procedures or otherwise requests action on the student's behalf, if the school knows or should reasonably know about possible harassment, the LCCTC must promptly investigate to determine what occurred and then take appropriate steps to resolve the situation.

If a student files a complaint with the school concerning harassment by any person directly associated with the school and the alleged harassment occurred off the school grounds or outside a school's education program or activity, the LCCTC must investigate the allegation to determine if the situation is resulting in the creation of a hostile environment on campus. If the situation has created a hostile environment on campus, the school will take appropriate steps to resolve the situation.

The Center encourages the reporting party or complainant to use the report form available from the assistant principal available from the Center office, however, oral reports shall be considered complaints as well. Use of formal reporting forms is not mandated. Nothing in this policy shall prevent any person from reporting harassment directly to the Center's Human Rights Officer or to the Administrative Director.

- A. The Center's Assistant Principal is the person responsible for receiving oral or written reports of sexual harassment, or harassment based on race, color, religion, age, national origin, ethnicity or disability at the building level. Any adult Center personnel who receives a report of sexual harassment, or harassment based on race, color, religion, age, national origin, ethnicity or disability shall inform the Center's Assistant Principal immediately.

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Upon receipt of a report, the Assistant Principal must notify the Administrative Director and the parent(s) of the target of the harassment immediately, without screening or investigating the report. The Assistant Principal may request but may not insist upon a written complaint. A written statement of the acts alleged will be forwarded as soon as practicable by the Assistant Principal to the Administrative Director. If the report was given verbally, the Assistant Principal shall personally reduce it to written form using the complaint form within 48 hours, and forward it to the Administrative Director. If the complaint involves the Assistant Principal, the complaint shall be made or filed directly with the Administrative Director by the reporting party or the complainant.

B. The Joint Operating Committee has designated the Assistant Principal of the Career & Technology Center as the Career & Technology Center’s Human Rights Officer with responsibility to identify, prevent and remedy harassment. The Career & Technology Center’s Human Rights Officer shall

- receive reports or complaints of sexual harassment, and harassment based on race, color, religion, age of forty or more, national origin, ethnicity and disability
- oversee the investigative process;
- be responsible for assessing the training needs of the Center’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 a Human Rights Officer, the complaint shall be filed directly with the Administrative Director. If any complaint involves the Administrative Director, the complaint shall be filed directly with the President of the Joint Operating Committee.

The Center shall conspicuously post this policy against harassment and violence 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 Human Rights Officer and the name, mailing address and telephone number of the Pennsylvania Human Relations Commission (Pa.H.R.C.) and the mailing address and telephone number of the United States Department of Education, Office for Civil Rights.

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- C. A copy of this policy shall appear in the student handbook and shall be made available upon request of parents, students, and other interested parties.
- D. The Joint Operating Committee 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 Joint Operating Committee in consultation with the Administrative Director determines is necessary or appropriate.
- E. This policy shall be reviewed at least annually for compliance with state and federal law.
- F. The Center 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 Center's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations.

IV. INVESTIGATION

Upon receipt of a report or complaint alleging sexual harassment, or harassment based upon race, color, religion, age, national origin, ethnicity, or disability, the Human Rights Officer shall immediately undertake or authorize an investigation. That investigation may be conducted by Center officials or by a third party designated by the Center. The individual(s) shall inform the complainant and all witnesses that confidentiality can't be guaranteed.

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. During the investigation neither the alleged victim nor the alleged perpetrator may question or cross-examine one another. 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 alleged conduct constitutes a violation of this policy, the Center 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, religion, age, national origin, ethnicity, disability and sex 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

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- the number of alleged harassers
- the age of the alleged 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 any 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. All determinations must be based on the preponderance of evidence standard.

The investigation shall be completed no later than sixty days from receipt of the report. The Center's Human Rights Officer shall make a written report to the Administrative Director upon completion of the investigation. If the complaint involves the Administrative Director, the report may be filed directly with the Joint Operating Committee. The report shall include a determination of whether the allegations have been substantiated as factual and whether they appear to be violations of this policy. The Center's Human Rights Officer's obligation to conduct this investigation shall not be extinguished by the fact that a criminal investigation involving the same or similar allegations is also pending or has been concluded. Both parties shall receive a written response regarding the outcome of the complaint. Either party may inquire concerning the progress of the investigation at any time.

V. CENTER'S ACTIONS

- A. Upon receipt of a report that a violation has occurred, the Center 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, recommendations for expulsion, transfer, remediation, termination or discharge. Center action taken for violation of this policy shall be consistent with the requirements of applicable collective bargaining agreements, state and federal law, and Center 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 Center 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
 - whether the harassment was engaged in by school personnel, and if so, the Center will also consider how it can best remediate the effects of the harassment.

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Depending on the specific nature of the problem, remedies for the complainant might include, but are not limited to:

- providing an escort to ensure that the complainant can move safely between classes and activities;
- ensuring that the complainant and alleged perpetrator do not attend the same classes;
- providing counseling services;
- providing academic support services, such as tutoring;
- arranging for the complainant to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the complainant's academic record; and
- when feasible, ensuring that the complainant and perpetrator do not attend the same classes;
- mediation (not applicable for sexual violence instances);
- disciplinary action for perpetrator.

In the event that the evidence suggests that the harassment at issue is also a crime in violation of a Pennsylvania or federal criminal statute, the Administrative Director shall also direct the Center Human Rights Officer to report the results of the investigation to the appropriate law enforcement agency charged with responsibility for handling such crimes.

- B. The results of the Center's investigation of each complaint filed under these procedures will be reported in writing to the complainant and other parties by the Center in accordance with state and federal laws regarding data or records privacy, and consistent with the privacy rights of the alleged harasser.
- C. If the results of the Center'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 Joint Operating Committee procedures for appealing other adverse personnel and/or education related actions. If the results of the Joint Operating Committee's evaluation of a complaint of harassment results in a conclusion that no unlawful harassment has occurred, an individual who was allegedly subjected to harassment and believes that this conclusion is erroneous may appeal this determination by use of established Joint Operating Committee procedures for appealing other adverse personnel and/or education related actions.
- D. Copies of all complaints of harassment and the investigations conducted pursuant to them shall be maintained for a period of at least two years at the main administrative offices of the Center.

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VI. REPRISAL

Submission of a good faith complaint or report of sexual harassment, or harassment based upon race, color, religion, age, national origin, ethnicity or disability will not affect the complainant or reporter's future education, employment, grades, learning or working environment or work assignments. However, if it is concluded that any person has made a knowingly false accusation of harassment, such person shall be subject to appropriate disciplinary action.

The Center will discipline or take appropriate action against any student, teacher, administrator or other school personnel who retaliates against any person who reports an incident of alleged sexual, racial, color, religious, age, national origin, ethnic or disability related harassment or violence, or any person who testifies, assists or participates in a proceeding, investigation or hearing relating to such harassment or violence. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

Refer to Personnel Plan for "Report Form for Reports or Complaints of Sexual Harassment and Harassment because of race, color, religion, age of forty or more, national origin, ethnicity and disability"