

Policy 4113.1 – Sexual Harassment: Employees and/or Students

In compliance with Title VII of the Civil Rights Act of 1964, as amended, Title IX of the Education Amendments of 1972, and the Nebraska Equal Opportunity and Education Act, Cozad Community School Policy prohibits discrimination based on race, color, age, sex, marital status, handicap, or religious or political affiliation.

Purpose: to establish procedures for handling allegations of sexual harassment of (A) school employees by other school employees, (B) school employees by school students, (C) school students by school employees, and (D) school students by other school students.

Policy: sexual harassment of any employee, certificated or non-certificated, or student by any individual under the jurisdiction of the Cozad Community Schools is expressly prohibited as a violation of law and board policy. Persons determined to have engaged in sexual harassment shall be subject to disciplinary sanctions as set forth herein.

Regarding school employees, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature shall constitute sexual harassment when:

1. Submission to sexual conduct is made either explicitly or implicitly a term or condition of an individual's employment.
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Regarding students, unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature shall constitute sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's enrollment, participation, or affiliation with a course, activity, or other school sanctioned program;
2. Submission to or rejection of such conduct by an individual is used as a basis for any decision that may affect the educational standing of an individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's educational performance or creating an intimidating, hostile, or offensive environment.

Responsibility: all Cozad Community School employees have the responsibility of keeping school officers informed, through the most confidential and direct means possible, of any alleged acts and/or complaints of sexual harassment. It is the responsibility of each administrative officer, principal, department head, and supervisor to provide a working and academic environment free of sexual harassment or sexual intimidation. The school will take prompt action to investigate and act upon instance of alleged sexual harassment.

Procedures regarding complaints of sexual harassment:

Allegations of sexual harassment will be thoroughly investigated. A person who believes he/she has been sexually harassed, or persons having knowledge of incidents of alleged sexual harassment, (hereinafter referred to as "complainant"), should notify one of the following individuals concerning the alleged action: Peggy Butler, School Nurse; Dustin Favinger, Senior High Guidance, Heath Kiem, Middle School Guidance; or Dale Henderson, Elementary Principal. Such notification shall be the most direct means possible and shall be considered confidential. The complaint shall be made within thirty (30) days of the alleged incident.

Any school employee contacted by a complainant shall advise complainant to notify one of the above-mentioned individuals. The contacted employee shall not take any action with regard to this matter.

Upon notification of conduct which allegedly constitutes sexual harassment, the person notified by the complainant will investigate the complaint and attempt to resolve the situation on an informal basis. After the informal investigation has been completed and the investigator feels there is sufficient cause to further investigate the complaint, and the complainant is a student, the investigator shall notify the complainant's parents or legal guardians, in writing, that their student has filed a complaint.

Informal Procedures:

The person notified by complainant shall:

1. Meet with the complainant to determine the nature and extent of the alleged incident. A record shall be kept of the complaint, including names of the complainant and the person accused of sexual harassment, date, time, location, description of the incident, witnesses and any redress sought by the complainant.
2. If the complainant is a student, and the matter has not been resolved, refers the complaint to the Principal, Principal's designee or Counselor and encourages the student to consult with her/him.
3. Meet with the person accused of sexual harassment and inform him/her that a complaint of sexual harassment has been made against him/her. A record of information furnished by the person accused of sexual harassment shall be made.
4. If the complainant is a student, his/her parents or legal guardians shall be notified and allowed to be present at any further conferences or meetings regarding this incident.
5. Meet with witness for the complainant, if any, and record information gathered.
6. Meet with witness for the accused, if any, and record information gathered. The accused shall be allowed to have a representative of his/her choice present.
7. Determine if the education or work situation of the complainant is threatened and, if so, takes appropriate corrective measures.
8. Conclude the informal investigation in a period, not to exceed thirty (30) days, with one of the following findings:
 - a. Resolve the matter to the satisfaction of both the complainant and person accused of sexual harassment.
 - b. Find that the parties are unable to resolve the matter informally, in which case a formal complaint may be filed by the complainant.

Upon filing of a formal complaint, the file of the informal procedure shall be forwarded to the individual conducting the formal procedure. If no formal complaint is filed, the record of the informal investigation shall be kept in a confidential file in the Office of the Central Administration. If the complaint involves the Central Office Administrator or employee, the file shall be kept at the Office of the School Attorney.

Formal Procedures:

If the complainant of the sexual harassment is not satisfied with the result of the informal procedure, he/she may file a formal written complaint to the Superintendent of Schools and/or Secretary of the Board of Education. The complainant must include information on the alleged incident such as names, date(s), time(s), location(s), description of the incident(s), and redress requested. The complainant must be filed within 30 days of the final determination under the informal procedure. The report of the informal complaint investigation shall become part of the formal complaint.

If deemed necessary, the academic or employment situation of the complainant may be changed to provide for a non-intimidating or non-hostile atmosphere. These changes may include transfer or work situations, change of instructor, and if pertinent, waiver of academic requirements, decisions concerning such action must consider that the complainant is not to be inadvertently or otherwise punished because he/she has allegedly been sexually harassed.

The Superintendent and/or the Board of Education who is conducting the formal procedure will render a written decision concerning the validity of the formal complaint within 15 class days after receiving the formal complaint.

In determining whether conduct constitutes sexual harassment, the Superintendent and/or the Board of Education who is conducting the formal procedure will examine the record as a whole and the totality of the circumstances, such as the nature of the alleged sexual advances and the context in which the alleged incident occurred. The determination will be on a case-by-case basis.

Copies of the decision shall be furnished to the complainant and the person accused of sexual harassment. The record of the formal investigation will be kept in a confidential file in the Office of the Central Administration. If the complaint involves a Central Office Administrator or employee, the file shall be kept at the Office of the School Attorney.

The complainant may withdraw a complaint and stop the proceedings at any time. In the event a complaint is withdrawn, all records of the proceedings shall be expunged from the files of the individuals involved and complete confidentiality shall be maintained. Any person who is found to have engaged in sexual harassment of a subordinate, co-worker, or student will be subject to disciplinary sanctions, which may include, but not be limited to; written reprimand, probation, demotion, transfer, required professional counseling, or termination of employment. A student who is found to have engaged in sexual harassment against an employee or fellow student will be subject to disciplinary sanctions, which may include, but not be limited to, written reprimand, disciplinary probation, suspension and/or expulsion.

Bad faith allegations of sexual harassment or use of this policy for purposes unrelated to its clear intent are expressly prohibited.

Sexual Assault:

If criminal charges for sexual assault have been formally filed against an employee, certificated or non-certificated, on the basis of alleged criminal conduct committed on the school premises or within the scope of school employment, the employee shall be suspended with pay without prejudice pending the outcome of the trial. No hearing regarding or evaluation of, the alleged conduct shall be made until the criminal matter is dismissed or decided.

Adopted 12/2/98

Reviewed 5.11.2009

Revised 7.18.2011