

The Board prohibits discrimination, harassment of, and retaliation against any student on the basis of the student’s race, color, religion, sex, sexual orientation, gender, gender identity, national origin, disability, or any other basis prohibited by law. To assist with ensuring compliance with this policy, the Superintendent shall develop administrative regulations for implementation of this policy, including any necessary reporting forms.

### Definitions

“Discrimination:” conduct directed toward a student on the basis of the student’s race, color, religion, sex, sexual orientation, gender, gender identity, national origin, disability, or on any other basis prohibited by law, that adversely affects the student.

“Harassment:” physical, verbal, or nonverbal conduct directed toward a student based on the student’s race, color, religion, sex, sexual orientation, gender, gender identity, national origin, disability, or any other basis prohibited by law that is so severe, persistent, or pervasive that the conduct:

1. Affects a student’s ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the student’s academic performance; or
3. Otherwise adversely affects the student’s educational opportunities.

“Retaliation:” is generally an act to intimidate, coerce, threaten or discriminate against any individual for the purpose of interfering with any right or privilege secured by law (i.e. Title II, Title VI, Title IX or Section 504 of the Rehabilitation Act) because the person has made a complaint, testified, assisted, or participated, or refused to participate, in any manner in an investigation, proceeding or hearing, or opposed any unlawful act or practice.

“Sexual harassment:” conduct by an employee towards a student, or between students, that is of a sexual nature including but not limited to unwelcome or unwanted sexual advances, requests for sexual favors, and other verbal, non-verbal, or physical conduct of a sexual nature when:

1. submission to such conduct is made, explicitly or implicitly, a term or condition of participation or advancement of the student in school programs or activities;
2. submission to or rejection of such conduct by a student is used as the basis for decisions affecting the student; or
3. the conduct is so severe, persistent, or pervasive that it:
  - a. affects the student’s ability to participate in or benefit from an educational program or activity, or otherwise adversely affects the student’s educational opportunities;
  - b. has the purpose or effect of substantially or unreasonably interfering with the student’s academic performance; or
  - c. creates an intimidating, threatening, hostile, or abusive educational environment.

“Gender-based harassment:” physical, verbal, or nonverbal conduct towards a student that is based on the student’s gender, gender identify, expression of characteristics perceived as stereotypical for the student’s gender, or failure to conform to stereotypical notions of masculinity or femininity and that is so severe, persistent, or pervasive that the conduct:

1. affects a student’s ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. has the purpose or effect of substantially or unreasonably interfering with the student’s academic performance; or
3. otherwise adversely affects the student’s educational opportunities.

“Gender Identity:” a student’s personal, internal sense of being male or female, regardless of the student’s birth sex, SFPS will treat a student’s gender identity as the student’s sex for purposes of Title IX and its implementing regulations.

“Transgender Student:” for purposes of this policy, a transgender student is one who consistently and uniformly asserts a gender identity from the student’s assigned sex at birth, or for which there is evidence that the gender identity is sincerely held as part of the students core identity. The District will treat a transgender student in the same manner it treats other students of the same gender identity.

#### Non-Discriminatory Access to Educational Programs and Activities and Single Sex-Designated Activities and Facilities

All students are entitled to participate in educational programs and activities free from discrimination and harassment. Where the District offers sex-designated classes and activities, all students may participate in such classes and activities consistent with their gender identity. Likewise, all students may use single sex-designated facilities in accordance with their gender identities. Any student, regardless of gender identity, may request and will be provided access to private facilities.

#### Reporting Discrimination or Harassment

The District has the following methods to report incidents of discrimination or harassment:

1. Any student who believes he/she has been the target of discriminatory or harassing conduct by another student or by a school employee, or any person with knowledge or belief of such conduct toward a student should immediately report the alleged acts to a teacher, counselor, principal, other District employee, or the appropriate District official listed in this policy.
2. Any District employee who suspects or receives notice that a student or group of students has or may have experienced prohibited conduct shall immediately notify the campus principal or the appropriate District official listed in this policy. Furthermore, any employee who has experienced conduct prohibited by the policy may file a complaint by following the procedures in AR 218 or AR 220.

3. For the purposes of this policy, District officials are the Title IX coordinator, the ADA/Section 504 coordinator, and the Superintendent.
4. Reports should be done in writing using the Discrimination and Complaint Form (attached to Policy 330). A copy of this form will be submitted to the appropriate school official or district official, as designated below.
5. Students are not required to report discriminatory or harassing conduct to the person alleged to have committed the conduct. Reports concerning such prohibited conduct may be directed to the Superintendent. A report against the Superintendent may be made directly to the Board. If a report is made directly to the Board, the Board shall appoint an appropriate person to conduct an investigation.
6. School principal or designee must accept and investigate all reports of discrimination and harassment.
7. The right to confidentiality, both of the complainant and the accused, shall be preserved consistent with applicable laws.
8. Alternatively, a complaint does not need to be filed internally, but can be made directly to the Office for Civil Rights at the following website:

<http://www.ed.gov/about/offices/list/ocr/complaintintro.html>.

You may also contact the Office for Civil Rights at 800-421-3481, or:

**U.S. Department of Education  
Office for Civil Rights  
Lyndon Baines Johnson Department of Education Bldg  
400 Maryland Avenue, SW  
Washington, DC 20202-1100**

#### Investigating Discriminatory or Harassing Conduct

The Principal, his/her designee, or other district official, will appropriately and promptly investigate all reports of discrimination or harassment as follows:

1. The investigating administrator will make every effort to inform the responsible parents/guardians of the targeted student and the parents of the accused student of any report of discrimination or harassment.
2. The District may take immediate interim steps to protect the complainant, students, teachers, or other school personnel pending the completion of an investigation.
3. The investigation will be completed within twenty (20) school days, and if the investigation requires more time, the administrator (or investigator) will inform the parties involved. The principal (or investigator) shall make a written report to the Superintendent upon completion of the investigation. If the complaint involves an

alleged misconduct by certified personnel, any necessary reports shall be filed with the NMPED, Educator Ethics Bureau. 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. A copy of the completed report will be maintained by the school site.

#### Consequences for Discriminatory or Harassing Conduct

The District may implement the following range of consequences for verified incidents of discriminatory or harassing conduct, including:

1. Prompt corrective measures by the building principal or his/her designee intended to address the misconduct and to ensure that no further discriminatory or harassing conduct occurs.
2. Any necessary actions to eliminate and/or prevent a discriminatory or harassing environment and its effects.
3. Discipline in accordance with Board Policy, Administrative Regulation, and the Behavioral Expectations for Students (“BES”) or Employee Handbook.
4. Other corrective action including separating the involved students, counseling for the targeted student and the student who engaged in prohibited conduct, classroom changes, follow-up activities to determine if any new incidents have occurred, involving parents and students in efforts improve the school climate, increasing staff monitoring of areas where discrimination or harassment has occurred, and reaffirming the District’s policy against discrimination and harassment through training or similar outreach measures.

#### False Complaints or Claims

A student who intentionally makes a false claim or offers false statements regarding complaints of discrimination or harassment shall be subject to appropriate disciplinary action.

#### Title IX and Section 504/ADA Coordinators

For purposes of implementing this policy, the following District officials are designated as the Title IX coordinator and the ADA/Section 504 coordinator.

##### Title IX:

Crystal Ybarra, Chief Equity, Diversity and Engagement Officer  
610 Alta Vista Street  
Santa Fe, NM 87505  
(505) 469-4344 (cell phone); (505) 467-2596 (office)  
cybarra@sfps.k12.nm.us

##### Section 504/ADA:

Sue O’Brien, Director, Executive Director of Student Wellness Department  
1300 Camino Sierra Vista Street

Santa Fe, NM 87505  
(505) 204-1941 (cell phone); (505) 467-2527 (office)  
sueobrien@sfps.k12.nm.us

The Superintendent, or designee, shall serve as coordinator for purposes of District compliance with all other anti-discrimination laws. The names and contact information for the Title IX and Section 504/ADA coordinators shall be on the District's website.

**Reference:** Board Policy 200 – Non-Discrimination; Board Policy 411 – Section 504 of the Rehabilitation Act of 1973

**Legal Reference:** Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d *et seq.*; Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681 *et seq.*; Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794; Title II of the Americans with Disabilities Act of 1990 (Title II); 42 U.S.C. § 12131 *et seq.*  
6.11.2.7(S) NMAC (2000); 6.11.2.8(S) NMAC (2000); 6.60.9.9 NMAC (2006).