

## **HERMOSA MONTESSORI CHARTER SCHOOL POLICY ON SEXUAL HARRASMENT**

The Governing Board believes that students of Hermosa Montessori Charter School have a right to learn in an atmosphere that is most conducive to the achievement of their potential. Consequently, sexual harassment whether verbal or physical, by a school employee or by students, is unacceptable and will not be tolerated. All individuals associated with Hermosa Montessori Charter School, including, but not necessarily limited to, the Governing Board, the administration, the staff, and students, are expected to conduct themselves at all times so as to provide an atmosphere free from sexual harassment.

Anyone who is subject to sexual harassment, or who knows of the occurrence of such conduct, should inform a school official, which includes: teachers, counselors, school nurses, administrative staff or principal.

Following is a copy of the School's Sexual Harassment Policy and its related regulation and complaint form.

### **A. Definition of Sexual Harassment**

For the purposes of this policy, sexual harassment is defined as any type of unwelcome or unwanted conduct of a sexual nature committed by an employee or student of the school including, but not limited to:

- Where submission to such conduct is either explicitly or implicitly made a term of condition of an individual's employment or education; or
- Submission to or rejection of such conduct is used as a basis for employment or education decisions affecting such individuals; or
- Such conduct has the purpose or effect of substantially interfering with an individual's educational or work performance, or creating an intimidating, hostile, or offensive employment or education environment;
- Requests for sexual favors in exchange for favorable grades, assignments, other education benefits, or benefits related to extracurricular activities;
- Suggestive or obscene letters, notes, invitations or the display of sexually suggestive objects, pictures, cartoons, posters or graffiti; circulating pornography; (with the exception of appropriate material used in the Sexual Education program);

- Derogatory comments, slurs, jokes, epithets, language, or suggestive, insulting or obscene comments, or gestures; threatening rape or assault;
- Continued or repeated sexual advances, flirtations or propositions;
- Leering, whistling, name calling, related stories, gossip, jokes or comments that may be derogatory towards a particular sex;
- Asking questions about sexual conduct or sexual orientation;
- Graphic verbal commentary about an individual's body, sexual prowess, or sexual deficiencies;
- Touching, pinching, brushing the body, assault, coerced sexual acts, impeding or blocking movement; exposing genitals; grabbing or touching another's genitals;
- Implying or withholding support for an appointment, promotion, or change of assignment; suggesting that a poor performance report will be prepared; suggesting that probation will be failed; or suggesting that a scholarship recommendation or high school application will be denied;
- Coercive sexual behavior used to control, influence, or affect the career, salary and/or work environment of another employee; or engaging in coercive sexual behavior to control, influence, or affect the educational opportunities, grades, and/or learning environment of a student;
- Offering to grant favors or educational or employment benefits, such as grades or promotions, favorable performance evaluations, favorable assignments, favorable duties or shifts, recommendations, reclassifications, etc., in exchange for sexual favors;
- Unwelcome and offensive public sexual displays of affection, including kissing, making out, groping, fondling, petting, inappropriate touching of one's self or others, sexually suggestive dancing and massages.

Conduct of this nature is unacceptable on school grounds, during regular or special school sessions, or any school activity, function or event.

## **B. Sexual Harassment**

A substantiated charge against a staff member shall subject such staff member to disciplinary action. In cases of serious misconduct, dismissal or suspension proceedings in accordance with A.R.S. 15-539 et seq. may be initiated. The Governing Board may also impose a suspension without pay, or recommend dismissal, or other appropriate discipline.

A substantiated charge against a student shall subject that student to disciplinary action, which may include suspension or expulsion.

All matter involving sexual harassment complaints will remain confidential to the extent possible.

According to Susan Strauss in *Sexual Harassment at an Early Age* “Sexual harassment is not necessarily about sexuality, but it does involve the use of gender to differentiate power. Although children in the early years of elementary school may not conceptualize sexually offensive words and behaviors in the same way as older students, they certainly understand the power or impact that their words and behavior have on their victims”.

The Governing Board certainly recognizes the need to understand behavior related to children’s sexual development and that sexual curiosity is normal and healthy. It is important school officials are careful not to include sexually harassing behavior in this category.

LEFAL REF.: A.R.S. 41-1461 et seq.

20 U.S.C. 1681, Education Amendments of 1972, Title IX

20 U.S.C. 1703, Equal Employment Opportunity Act of 1972

42 U.S.C. 2000, Civil Rights Act of 1964 as amended, Title VII

CROSS REF.: AC- Nondiscrimination/Equal Opportunity

GBA – Equal Employment Opportunity

IHBA – Special Instructional Programs and

Accommodations for Disabled Students

JB – Equal Educational Opportunities

KED – Public Concerns/Complaints about Facilities or Services

KFA – Public Conduct on School Property

### **C. Reporting a Complaint**

The Governing Board encourages students who believe they are being harassed to immediately report the incident to a school official. In reporting the harassment complaint, the following steps should be followed:

A student/parent may report the complaint to any school official, which includes: teachers, counselors, school nurses, administrative staff or principal. If the complaint involves the principal, the student should report the complaint to the Governing Board.

Students should understand, however, that in reporting the complaint, any such communication may not be considered privileged information, and the person to whom the communication is made may have a duty to report the incident either to his or her superiors or to the authorities, including the local Child Protection Agency or a proper law enforcement agency.

An accurate record of objectionable behavior or misconduct is needed to resolve a complaint of sexual harassment. Therefore, verbal reports should be written by either the student, or the person receiving the complaint, and be signed by the student. These reports should utilize the Sexual Harassment Complaint Form, which is available in the administrative office. The school encourages students who believe they have been subjected to sexual harassment to report the incident promptly so that appropriate action may be taken. Because of the sensitivity of these matters, no time frame will be instituted for the reporting of sexual harassment and the late reporting will not in and of itself preclude the district from taking remedial action.

#### **D. Investigation of the Complaint**

The School is committed to investigating each complaint and to taking the appropriate action on all confirmed violations of policy. The Superintendent or other authorized personnel shall investigate and document complaints filed pursuant to this regulation as soon as reasonable. In investigating the complaint, the investigator shall maintain confidentiality to the extent reasonably possible. The investigator shall also investigate incidents of policy violation that are raised by the Governing Board, even though no complaint has been made.

In pursuing the investigation, the investigator should attempt to ascertain all of the facts that explain what has occurred. In conducting the investigation, the student, as well as the alleged harasser, will be questioned, as will all employees or students who may have knowledge of either the incident in question or similar problems. These steps and the findings should be documented as thoroughly as possible.

In evaluating the totality of the circumstances and making a determination of whether conduct constitutes sexual harassment, faculty and staff who observe unacceptable behavior, as well as administrators conducting an investigation will consider:

- Is the conduct sexual in nature?
- Is the conduct derogatory toward one gender?
- Is the conduct unwelcome?
- Would the behavior be offensive to a reasonable person of the same gender as the victim?
- The nature, severity and scope of the incidents;
- The number of students or staff involved directly or indirectly;
- The ages of the parties involved;

- The relationship of the parties involved (i.e., staff/students, fellow students etc.), and whether there is equal power between the parties;
- The past disciplinary history of the parties involved;
- The frequency and duration of the behavior;
- Whether there is a pattern of behavior.

If after the initial investigation, the Superintendent has reason to believe that a violation of the policy has occurred, the Superintendent shall determine whether to hold an administrative hearing and/or to recommend bringing the matter before the Governing Board.

Upon completion of the investigation, the district will communicate in an appropriately sensitive manner its findings and intended actions if any to the student, the student's parents, the harasser, and the harasser's parents. If it is found that harassment has occurred, the harasser will be subject to appropriate disciplinary procedures as determined by the Governing Board.

If the investigation reveals no reasonable cause to believe that this regulation has been violated, the investigator shall so inform the complaining party in writing.

The School will maintain a complete written record of each complaint, the manner in which it was investigated, and the manner in which it was resolved. Written records, to the extent appropriate, will be maintained in a confidential manner but may be included in any affected employee's personnel file.

### **E. Protection Against Retaliation**

The School will not in any way retaliate against a student who makes a report of sexual harassment nor, to the extent possible will it permit any employee or student do so. Retaliation will be considered to be a violation of this policy and should be reported immediately. Any person found to have retaliated against another individual for reporting an incident of sexual harassment may be subject to the same disciplinary action provided for sexual harassment offenders. Those persons who assist students who believe they have been sexually harassed or who assist or participate in an investigation of sexual harassment also are protected from retaliation under this policy.

### **F. Discipline**

Any individual, including an individual with disabilities, who violates this policy, will be subject to appropriate disciplinary action. Disciplinary measures available to school authorities include, but are not limited to, the following:

- Verbal warnings/reprimands;

- Written warning/reprimand in employee or student files;
- Detention or in-school suspension;
- Behavior contracts;
- Requirement of verbal and/or written apology to victim;
- Mandatory education and training on sexual harassment by means of reading; assignments, videos, classes or other presentations;
- Requiring a written paper on the topic sexual harassment;
- Referral for psychological assessment or treatment;
- Requiring parents to attend school with perpetrator;
- Involvement of police or other law enforcements authorities;
- Community service.

In addition, if the harassment is severe or persistent, any individual who violates this policy may be subject to suspension, expulsion or termination. These penalties may be imposed even for first offenses, which are severe or extreme.

In determining what disciplinary or corrective action is appropriate, school officials shall consider the totality of the circumstances, including, but not limited to:

- The number of victims and harassers involved;
- The ages of the victims and harassers;
- The prior disciplinary record of the harasser;
- The disability status of the victim and/or harasser;
- The threatened or actual harm caused by the harassment;
- The frequency and/or severity of the harassment.

If school officials have reasonable suspicion that the harassment involves sexual assault, rape or any other activity of a criminal nature, they shall notify appropriate law enforcement authorities and immediately initiate appropriate due process proceeding to remove the accused party from the situation.

If the alleged harasser is a student with a disability whose education involves services under the Individuals with Disabilities Education Act (IDEA), no suspension or expulsion longer than ten (10) school days or change of placement, or other steps shall be imposed until a School multi-disciplinary team meets to determine the extent to which the harassing behavior is or is not a manifestation of the student's disability.

### **Inappropriate Behaviors That Make the Classroom Unsafe**

#### **Sexual Harassment:**

##### *Consequence:*

-First offense: Removal from class that day and the following day  
 Conference with parents and action plan developed before reentry to classroom  
 Requirement of verbal and/or written apology to victim

- Second offense: Removal from class that day and the next two days.  
Conference with parents and action plan developed before reentry to classroom  
Communication & documentation of a preexisting assessment and/or treatment from a professional.
- Third offense: Removal from class that day and the next three days.  
Conference with parents and action plan developed before reentry to classroom  
Requiring parents to attend school with perpetrator.
- Fourth Offense: Removal from class that day and suspended from school.  
Conference with parents and school director and teacher-student-family action plan developed before reentry to school. Discipline record forwarded to Governing Board for consideration of suspension duration and/or expulsion.

## **G. Conclusion**

The Governing Board has developed this policy to insure that all students and employees of Hermosa Montessori Charter School can operate in an atmosphere that is conducive to the provision of a meaningful educational program. The district will make every effort to insure that all of its students and personnel are familiar with this policy and that its' students know that any complaint received will be thoroughly investigated and appropriately resolved.

Adopted January 8, 2003

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For the Governing Board