

# PORTLAND PUBLIC SCHOOLS OFFICE OF GENERAL COUNSEL

Date: June 16, 2020  
To: School Board  
From: Mary Kane, Legal Counsel  
Subject: 5.10.060-P Workplace Harassment Policy

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## BACKGROUND

The 2019 Oregon Legislature made a number of revisions to statutes related to employment. The amendments were enrolled in SB 479 and SB 726. The focus of the bills is to address unlawful conduct in the workplace and to provide protections against workplace harassment of employees. The bills contain staggered start dates with some elements beginning January 1, 2020, and others by October 1, 2020. The bills also address the availability of resources for employees who have made a complaint of workplace discrimination or harassment. The bills may be available to them. SB 726 also provides that employers may not include nondisclosure/nondisparagement/no-rehire provisions in settlement agreements for employees who have made a complaint of workplace discrimination or harassment unless agreed upon by the employee.

This policy had its first reading at the Board of Education on June 16, 2020. The District has received no public comment since its posting.

## RELATED POLICIES/BEST PRACTICES

It is best practice to conform existing policies to current law.

## ANALYSIS OF SITUATION

SB 479 and SB 726 address workplace discrimination and harassment, including sexual assault. The bills require employers to provide information to employees who complain of workplace discrimination or harassment, including resources, and legal remedies that may be available to them. SB 726 also provides that employers may not include nondisclosure/nondisparagement/no-rehire provisions in settlement agreements for employees who have made a complaint of workplace discrimination or harassment unless agreed upon by the employee.

The District already had a Sexual Harassment Policy (5.10.060-P) addressing sexual harassment in the workplace. Rather than create a separate Workplace Harassment Policy, which would include sexual harassment under the statute, we incorporated the new state requirements into our existing policy.

## FISCAL IMPACT

It is unclear whether the amendments will lead to an increase in investigations (and therefore more FTE), which may lead to capacity issues for the Human Resources Department. The General

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## COMMUNITY ENGAGEMENT

Because these changes are driven by legislative directives, there was limited stakeholder engagement. The General Counsel ¶V RIILFH ZRUNHG FORVHO\ ZLWK WKH 'HSDUWPHQ to review the new statutory guidelines and once this policy is approved, will begin to operationalize the mandated changes.

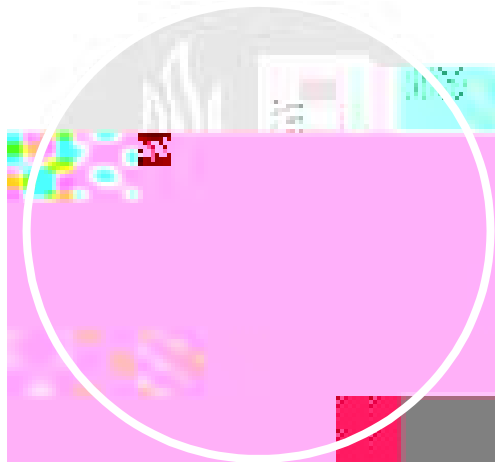


(C) includes unwanted physical contact such as touching, pinching, brushing the body, coerced sexual intercourse, or assault.

~~(3)~~(4) No District employee, school board member, contractor, or volunteer may use the authority of his or her of their position to subject any other employee to sexual harassment, as described above, or to coerce, encourage, or force another into a romantic relationship.

~~(4)~~(5) When it is brought to their attention, administrators and supervisors must take affirmative steps to stop workplace harassment, including sexual harassment by of subordinates or non-employees, including warning, discipline, and recommending possible dismissal of the







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