



Book: Southern Lehigh School District
Section: 200 Pupils
Title: Students Convicted or Adjudicated of Sexual Assault
Code: 218.5
Status: Active
Adopted: May 10, 2021
Last Review/Revised: 1st Reading: April 26, 2021, Second Reading: May 10, 2021

Purpose

The Board of School Directors is committed to the maintenance of a safe, secure, and positive environment for learning. The Board recognizes the importance of a safe school environment for students who are victims of sexual assault and compliance with ACT 110 of 2020.

Authority

This policy addresses requirements for a student convicted or adjudicated delinquent of sexual assault upon another District student in compliance with Section 1318.1 of the School Code, which is designed to separate victims of sexual assault from their assailants. It is not the objective of this policy to limit, in any way, the District's authority to discipline students for any behavior that violates any applicable law, policy, code of conduct or handbook.

Legal: SC 13-1318.1

Definitions

"Adjudicated," "adjudicated delinquent," "adjudication," "adjudication of delinquency" and any similar language means a finding of delinquency under Pennsylvania's Juvenile Act, 42 Pa.C.S. §§ 6301–6365, as amended.

"Conviction" or "convicted" means the finding of guilty by a judge or a jury or the entry of a plea of guilty or nolo contendere for sexual assault whether or not judgment of sentence has been imposed.

"School setting" means in the school, on school grounds, in school vehicles, at a designated bus stop or at any activity sponsored, supervised or sanctioned by the District, including school-sponsored activities.

"School-sponsored activity" means any assemblies, field trips, class trips, graduation ceremonies, athletics, extracurricular activities, clubs, groups, teams or any activities sponsored, held or approved by the District.

"Sexual assault" means any of the offenses specified under the following provisions of 18 Pa.C.S. (relating to crimes and offenses), as amended:

- a. Section 3121 (relating to rape).
- b. Section 3122.1 (relating to statutory sexual assault).
- c. Section 3123 (relating to involuntary deviate sexual intercourse).

Legal: SC 13-1318.1 (j), 18 Pa. C.S. 3121; 3122.1; 3123; 3124.1; 3125; and 3126

Guidelines

1. Reporting. A student convicted or adjudicated delinquent of sexual assault upon another student enrolled in this District shall notify the District's Superintendent or designee of the conviction no later than 72 hours after the conviction.

2. Discipline. Except as set forth in Paragraph 3 (below), upon conviction or adjudication of sexual assault upon a District student, the District shall, pursuant to applicable laws and regulations, take one of the following actions against the convicted or adjudicated student:

- a. Expel the student, in accordance with law and Board policy.
- b. Transfer the student to an alternative education program.
- c. Reassign the student to another school or educational program within the District.

3. Limitations on Discipline. The District may not take action under Paragraph 2 (above) if:

- a. The District has already expelled, transferred or reassigned the convicted or adjudicated student for the same sexual assault.
- b. The convicted or adjudicated student does not attend the same school as the victim.

4. Victim Rights. Notwithstanding the discipline imposed in Paragraph 2 (above) or the limitations set forth in Paragraph 3 (above), the District shall ensure that the convicted or adjudicated student is not educated in the same school building, transported on the same school vehicle or allowed to participate in the same school-sponsored activities at the same time as the victim.

5. Limitations on Authority. Nothing in this policy shall be interpreted as limiting (a) the District's authority to impose discipline on students for any behavior that violates any applicable law, policy, code of conduct or handbook, up to and including expulsion, or (b) the District's authority or duty to make an alternative assignment or provide alternative educational services during or after an expulsion at the discretion of the Superintendent or designee.

6. Out of School Conduct. The District may take action under this policy for convictions or adjudications for sexual assaults that occur outside of a school setting if the assault:

- a. was against another student enrolled in the District; and
- b. has the effect of:
 1. substantially interfering with the victim's education;
 2. creating a threatening or hostile educational environment; or
 3. substantially disrupting the orderly operation of the school.

7. Title IX Reporting. Upon report of a student's conviction or adjudication of sexual assault upon a District student that occurred in a school setting or in the District's education program or activity, the Superintendent or designee shall notify the Title IX Coordinator to determine whether the incident has been addressed in accordance with applicable Board policy.

8. Students with Disabilities. In the case of a student with a disability, including a student for whom an evaluation is pending, prior to implementing any disciplinary removal or considering a change of placement for the student, the District shall coordinate with the student's Individualized Education Program (IEP) team and take all steps required to comply with state and federal laws and regulations, and Board policies.

9. Return to School. The District may return the student who is expelled, transferred or reassigned under this policy to the student's originally assigned school if one (1) of the following circumstances occurs:

- a. The victim is no longer enrolled in the District.
- b. The conviction or adjudication has been reversed and is not pending appeal.

10. Transfer Students. When the District receives a student who transfers from a public or nonpublic school during or after the period of expulsion for an act or offense involving a sexual assault conviction or adjudication of delinquency, it may assign that student to an alternative assignment or provide alternative education services.

11. Registration Statements. Prior to admission to the District, the parent, guardian or other person having control or charge of a student shall, upon registration, provide a sworn statement or affirmation stating whether the student was previously or is presently expelled under the provisions of Section 1318.1 of the School Code. The registration shall include the name of the school from which the student was expelled with the dates of expulsion and shall be maintained as part of the student's disciplinary record. Any willful false statement made under this subsection shall be subject to 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Legal: SC 13-1318.1, Pol. 218, Pol 233, Pol. 248, Sec. 5(a) PHRC Act; Title IX of the 1972 Education Amendments Pol. 248, Incorporation and adoption of laws and regulations 20 U.S.C. §§ 1400 et seq.; 29 U.S.C. § 794; 42 U.S.C. §§ 12181 et seq.; 34 C.F.R. Parts 104 and 300; 28 C.F.R. Part 36; 22 Pa. Code Chapt. 14 Pol. 113; 113.2, 18 Pa. C.S. §4904

Delegation of Responsibility

It is the responsibility of the Administration to implement and enforce this policy, and to develop administrative procedures, practices and forms for implementation or enforcement where necessary.