



Department of Defense Education Activity REGULATION

NUMBER 1800.02

[date] **JUN 15 2015**

GENERAL COUNSEL

SUBJECT: Prohibition of Adult-to-Student Sexual Abuse, Sexual Harassment, and Other Inappropriate Behavior or Conduct

- References:**
- (a) DDESS Policy Letter 05-003, "Adult-to-Student Sexual Abuse and Harassment," April 15, 2006 (hereby canceled)
 - (b) DoDEA Regulation 2050.9, "Family Advocacy Program Process and Procedures for Reporting Incidents of Suspected Child Abuse and Neglect," January 27, 1998
 - (c) DoDEA Regulation 4700.3, "Application and Background Checks for Department of Defense Education Activity School Volunteers and Student Teachers," May 15, 2006
 - (d) DoD Instruction 1100.21, "Voluntary Services in the Department of Defense," March 11, 2002, as amended

1. **PURPOSE.** This regulation establishes policy and assigns responsibility for reporting and responding to incidents of adult-to-student sexual abuse, sexual harassment, or other inappropriate behavior or conduct.

2. **APPLICABILITY.** This regulation applies to:

a. The Office of the Director, DoDEA; the Director, Domestic Dependent Elementary and Secondary Schools, and Department of Defense Dependents Schools, Cuba (DDESS/DoDDS Cuba); the Director, Department of Defense Dependents Schools, Europe (DoDDS-E); the Director, Department of Defense Dependents Schools, Pacific, and Department of Defense Domestic Dependent Elementary and Secondary Schools, Guam (DoDDS-P/DDESS-Guam), (hereafter collectively referred to as "DoDEA Area Directors"); and all DoDEA Area and District Superintendents, School Principals, Teachers, Support Staff, volunteers, and Coaches.

b. This regulation applies to the conduct between adult DoDEA employees or volunteers, and DoDEA students. It does not apply to peer-to-peer conduct exclusively involving students.

c. To the extent that the reporting requirements and procedures in this regulation overlap the requirements and procedures of Reference (b), the requirements of this regulation are supplemental to those of Reference (b).

3. DEFINITIONS. See Glossary.

4. POLICY. It is DoDEA ("Agency") policy that:

a. All DoDEA employees and volunteers hold positions of trust and are responsible for establishing and maintaining professional distance with students. Adult-to-student sexual abuse, sexual harassment, or other inappropriate behavior or conduct demonstrates a lack of professional integrity and a breach of the authoritative power of adults who are in positions of trust, and is unacceptable and will not be tolerated in DoDEA.

b. DoDEA employees and volunteers shall not subject a student to sexual abuse, sexual harassment, or any other inappropriate behavior or conduct, on or off the school campus.

c. Incidents of sexual abuse, sexual harassment, or other inappropriate behavior or conduct shall be reported promptly in accordance with the requirements of DoDEA Regulation 2050.9, (Reference (b)) whether or not the alleged victim wishes to file a complaint in accordance with Enclosure 2, and to the appropriate DoDEA supervisor.

d. Consistent with the requirements of Reference (b), the Agency will promptly inquire or investigate as appropriate all formal, informal, verbal, and written complaints or reports of adult-to-student sexual abuse, sexual harassment, or other inappropriate behavior or conduct with a student, and will take prompt corrective action to stop any such abuse, harassment, behavior or conduct.

e. No DoDEA student, parent, employee, volunteer, or other adult shall suffer reprisal for:

(1) Reporting adult to student sexual abuse, sexual harassment, or other inappropriate behavior or conduct;

(2) Making a good-faith complaint; or

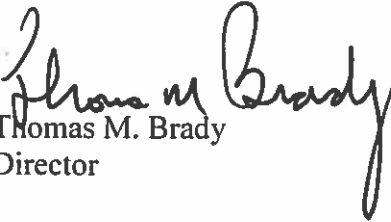
(3) Testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing of such complaint filed under this regulation.

f. False or malicious complaints or reports of sexual abuse, harassment, or other inappropriate behavior or conduct made against an employee or other adult may result in disciplinary action if made by a student or employee, or may be referred to the installation commander if made by a sponsor/parent/guardian or other adult.

g. Nothing in this regulation may delay or interfere with the proper exercise of law enforcement or judicial procedures when allegations include a potential criminal act.

5. RESPONSIBILITIES. See Enclosure 1.

6. EFFECTIVE DATE. This regulation shall become effective upon signature


Thomas M. Brady
Director

Enclosures

1. Responsibilities
 2. Complaint Policy
 3. Inappropriate Behavior or Conduct
- Glossary

ENCLOSURE 1

RESPONSIBILITIES

1. DoDEA AREA DIRECTORS. The DoDEA Area Directors shall:

- a. Ensure compliance with the provisions of this regulation.
- b. Coordinate any implementing guidance for this regulation with the DoDEA Office of General Counsel (OGC).
- c. Notify the Director within 24 hours of receiving information that a report or complaint has been filed under this regulation.

2. DoDEA DISTRICT SUPERINTENDENTS. The DoDEA district superintendents shall:

a. Ensure that DoDEA employees and volunteers within their districts annually are made aware of their responsibility under this regulation to report all suspected or alleged adult-to student sexual abuse, sexual harassment, or other inappropriate behavior or conduct to:

- (1) Their immediate supervisor or next level supervisor, as appropriate; and
- (2) The Family Advocacy Program (FAP).

b. Ensure that principals or other appropriate DoDEA officials designated by the district superintendent or higher authority accept, and when consistent with Reference (b), investigate as necessary, and take appropriate administrative and personnel action concerning complaints of adult-to-student sexual abuse, sexual harassment, or other inappropriate behavior or conduct, in accordance with Enclosure 2.

- (1) If the matter has been referred under Reference (b)) or has been referred to an installation or civilian law enforcement activity, ensure coordination with the FAP and/or the law enforcement agency investigating the offense prior to taking any DoDEA investigative or personnel disciplinary action.
- (2) Upon clearance from the FAP or law enforcement authorities that action by the Agency will not compromise their case, ensure that appropriate DoDEA authorities investigate the allegation to the extent necessary.

(3) Ensure that appropriate disciplinary action is taken.

c. Ensure that the action officers in paragraph b. above consult with the servicing Labor Management Employee Relations (LMER) office and with the DoDEA Office of the General Counsel prior to conducting any investigation or taking any administrative or disciplinary personnel action.

d. Ensure that appropriate Agency officials maintain close communication with the parents of affected students and inform them generally of the Agency's actions to ensure student safety, and provide such counseling and other support services as are appropriate and available to the parents and affected students.

e. Ensure appropriate coordination with the host installation command to keep the command informed of the Agency's actions to ensure student safety and manage its personnel, and to obtain assistance from the command to coordinate and support the counseling and other supporting services the command and DoDEA are providing to the affected students and families.

3. DoDEA School Principals. DoDEA school principals shall:

a. Ensure that a copy of this regulation is:

(1) Maintained in a prominent location near each principal's office or on the school's website and made available to:

(a) Every DoDEA employee and volunteer, including student teachers working in the schools or with students, preferably as part of any employee or volunteer orientation to the school.

(b) Sponsors/parents/guardians of students at the beginning of each school year.

(c) Sponsors/parents/guardians of any new student as part of the enrollment process.

(d) As part of any orientation program for students.

b. Ensure that if the school has a student handbook, it contains at a minimum:

(1) The definition of adult-to-student sexual abuse, sexual harassment, or other inappropriate behavior or conduct found in the glossary of this regulation.

(2) A statement that a student and/or a sponsor/parent/guardian may report suspected incidents of adult-to-student sexual abuse, sexual harassment, or other inappropriate behavior or conduct to the principal or other school official, or to the FAP under Reference (b), and the method through which such reports can be made (such as by telephone or e-mail).

c. Annually apprise DoDEA employees and volunteers within their school of their responsibility to promptly report to their immediate supervisor, or next higher level supervisor, as appropriate, all suspected or alleged adult-to-student sexual abuse, sexual harassment, or other inappropriate behavior or conduct allegedly committed by a DoDEA employee or volunteer, with or against a DoDEA student, whether on or off the school campus; and, also report the matter to the FAP in accordance with Reference (b).

d. Accept reports or complaints of adult-to-student sexual abuse, sexual harassment, or other inappropriate behavior or conduct, and report as appropriate under reference (b), to the FAP, and to supervisors, and initiate appropriate administrative action, including an inquiry or investigation consistently with the limitations in Reference (b) and action (i.e., a temporary detail of an employee or an instruction to an alleged perpetrator to leave the school grounds) to ensure that the alleged misconduct is not repeated pending the outcome of the investigation.

e. Be familiar with the requirements and procedures of Reference (b), and ensure adherence to the policy and procedures of Reference (b) concerning the reporting, investigation, or actions taken involving child abuse or neglect.

f. Coordinate with the servicing LMER and OGC and ensure compliance with the appropriate policies and procedures for any disciplinary action in accordance with governing DoDEA regulations and policies.

g. After consulting with the district superintendent, OGC, and LMER, inform the installation commander that inquiry/investigation has substantiated a complaint of adult-to-student sexual abuse, sexual harassment, or other inappropriate behavior/conduct by a DoDEA employee or volunteer.

ENCLOSURE 2

COMPLAINT, REPORTING, AND INVESTIGATIVE PROCEDURES

1. Any person who is not a DoDEA employee or volunteer who believes or suspects or has received an allegation that a DoDEA student has been the victim of sexual abuse, sexual harassment, or other inappropriate behavior/conduct by a DoDEA employee or volunteer may file a complaint (including an anonymous complaint), under this enclosure, orally or in writing.
2. Any DoDEA employee or volunteer who believes or suspects or has received an allegation that a DoDEA student has been the victim of sexual abuse, sexual harassment, or other inappropriate behavior/conduct by a DoDEA employee or volunteer is required promptly to file a report in accordance with Reference (b) to the FAP, and as specified herein for the filing of a complaint by a victim.
3. Any student who believes he or she has been subjected to sexual abuse, sexual harassment, or other inappropriate behavior/conduct by a DoDEA employee or volunteer should report the incident to his or her parent and to a DoDEA employee with whom the students feels comfortable, and file a complaint under the procedures prescribed in this enclosure.
4. Procedures:
 - a. The complaint/report may be filed:
 - (1) With the school principal or any other DoDEA employee with whom the reporting person feels comfortable (e.g., teacher, counselor, psychologist, coach, aide);
 - (2) With the supervisor of the allegedly offending DoDEA employee or volunteer; or
 - (3) With the next higher level DoDEA supervisor, as appropriate. For example, if the allegedly offending party is the school principal, filing the complaint with the district superintendent would be appropriate.
 - b. The complaint or report should provide:
 - (1) The date, time and place of the alleged incident;
 - (2) The identity of any DoDEA employee or volunteer alleged to be a perpetrator and the name of any student alleged to have been harmed;
 - (3) The facts and circumstances surrounding the alleged actions;
 - (4) The identity of any witness to the incident;
 - (5) The actions of any person who tried to prevent the incident or who responded to the event presented by such actions; and

(6) The name and contact information of the person making the report.

c. A DoDEA employee or volunteer who receives a complaint alleging a violation of this regulation, or who observes or suspects inappropriate conduct by a DoDEA employee or volunteer, shall:

(1) Accept the report/complaint;

(2) Immediately refer the report or complaint, or his or her personal observation, to his or her immediate supervisor or next higher authority, as appropriate; and to a FAP official.

d. Any supervisor who receives a report or complaint in accordance with paragraph (2) above, shall, within 24 hours notify:

(1) His or her next higher supervisor (who must be a principal or the district superintendent or the Area Director) of the allegation; and

(2) The FAP, if the matter has not already been reported; and

(3) His or her supervisor, the servicing LMER and the OGC, if he or she believes the violation may violate Federal, State, local, or host nation law, or may pose a threat to the health and safety of an individual or the security of the installation. A principal or higher level supervisor, in consultation with the OGC, shall determine whether to notify the installation commander or designee.

(4) The parent of the child allegedly subjected to sexual abuse, sexual harassment, or other inappropriate behavior/conduct by a DoDEA employee or volunteer, and inform the parent of the complaint procedures available under this Enclosure, and of the actions taken to report the incident to the FAP and to DoDEA management.

e. In coordination with the DoDEA OGC, the servicing LMER, and when consistent with limitations imposed by the FAP under Reference (b), take the following actions:

(1) The district superintendent shall oversee the investigation of any school or district level allegation under this regulation;

(2) The Area Director will oversee any investigation of an allegation against a district superintendent or staff of the Area office; and,

(3) The supervisor of a DoDEA employee or volunteer alleged to have violated this regulation may initiate such administrative action as is necessary to remove the employee or volunteer from contact with students in order to protect the health and safety of any student and the school pending the completion of any investigation.

f. Documentation shall be thorough and designed to protect the privacy of all parties involved in this allegation.

g. If the complaint is substantiated by FAP or law enforcement, or a DoDEA investigation, the principal or district superintendent shall initiate action as appropriate, to include disciplinary action against a DoDEA employee, and termination of the volunteer status of a volunteer.

(1) Before acting to enforce an alleged violation of this policy, DoDEA administrators and supervisors will, in consultation with the servicing LMER and OGC, examine closely the totality of the circumstances, including the context within which the incident occurred, the age(s) of the student(s) involved, the type of activity under scrutiny, and any cultural, ethnic, or linguistic factors that may relate to the conduct.

(2) Faculty and staff shall be disciplined according to the applicable policies and procedures.

(3) Inform the installation commander of substantiated complaints of sexual abuse, sexual harassment, or other inappropriate behavior or conduct with students.

ENCLOSURE 3

INAPPROPRIATE BEHAVIOR/CONDUCT AND SEXUAL ABUSE/HARASSMENT

Inappropriate behavior or conduct. Any behavior or conduct of an employee or volunteer toward a student that would reasonably cause the student to feel uncomfortable, physically threatened, place the student in pain, or be perceived as offensive (e.g., a battery), or that would reasonably give the appearance of impropriety, regardless of whether the student complains of such behavior or conduct and regardless of whether the behavior is overtly sexual, and/or regardless of whether such behavior would constitute a crime. Inappropriate behavior does not extend to legitimate nonsexual touching or conduct (e.g., demonstrating, in the appropriate context or manner, sports maneuvers, assistance in toileting a young or disabled student within the bounds of normal operating procedures, touching necessary to break up a fight or to prevent an immediate risk of injury to a student or other person).

The following is a nonexclusive list of examples of behavior/conduct that may, upon examination of the totality of the circumstances, constitute inappropriate behavior or conduct under this policy:

Any act used to influence or threaten the rights or privileges of a student.

Conduct that creates a hostile learning environment (harassment) as the analogous terms “hostile work environment” and harassment are defined in case law under federal civil rights laws and criminal code.

Offensive touching of a student, including shoving, pushing, grabbing, poking, slapping, jabbing, patting, pinching, brushing against a student’s body, or moving a student against his or her will, regardless of whether the touching causes actual injury or the reason for the interaction.

Frequent personal communication with a student via cell phone, regular telephone, e-mail, text messaging, social networking, or other forms of electronic communication, letters, or notes for reasons unrelated to instruction or official school business.

Conversations or discussions with students (excluding those with a school counselor, psychologist, nurse, and/or teacher in a professional setting and/or with consent of a sponsor/parent/guardian) that are degrading, or insulting, humiliating, that pry inappropriately into a student's personal business, or that include remarks, gestures, or innuendoes about a student's body or appearance

Transporting students in a personal vehicle without permission from the student’s sponsor/parent/guardian and the employee’s supervisors, unless such transportation is necessary to protect the student’s health, safety, or welfare.

Drinking alcohol in the presence of a student without the student’s sponsor/parent/guardian’s presence and approval; taking illicit drugs in the presence of a student;

providing alcohol or drugs to students; or permitting students to drink alcohol or to take drugs at school-sponsored activities or events, at the employee's residence, or in any school-related context.

Inviting a student to travel or go somewhere alone with a school employee for reasons unrelated to instruction or official school business without sponsor/parent/guardian permission.

Providing a student, or the parent of a student, with gifts, money, privileges, or other favors outside the customary school employee/student/parent relationship, and/or which are not provided equally to other students or parents or that are not otherwise associated with an independent relationship to the student's sponsor/parent/guardian.

Engaging in or condoning student improper use of school computers and/or improper use of the Internet, whether or not the behavior involves sexual content, including, but not limited to: accessing, downloading, or uploading pornography; sharing Internet pornography or e-mails with students; creating or maintaining web sites with sexual content or pictures of children; participating in inappropriate personal discussions with students by means of e-mail, Internet "chat rooms," instant messaging, or any other form of on-line communications.

Sexual abuse or harassment:

Any inappropriate behavior or conduct that appears, or is perceived, to cultivate an inappropriate relationship between an adult and a student, or that reasonably prepares a student to be receptive to sexual behavior, or that is overtly related to sex, gender, sexual or gender orientation. This includes behavior that is sexually suggestive, that implies sexual motives or intentions, or that is overtly sexual, or sexually seductive, or that occurs in exchange for sexual favors, whether it occurs between individuals of the same sex or opposite sexes, or of transgender persons. It includes any act of a sexual nature committed with the intent to arouse, appeal to, or gratify the lust, passions, or sexual desires of the employee/volunteer and/or student. It includes any sexual act defined in state or Federal law as misconduct or a crime, including rape, carnal knowledge, attempted rape, statutory rape, sexual assault and battery, child sexual abuse, gratification of lust, contributing to the delinquency of a minor; indecent exposure, indecent acts with another; or producing, viewing, or trafficking in child pornography. While not all individual acts of a sexual nature are harassment, repetitive behaviors, or a single significant act of a sexual nature (such as a sexual proposition or an offensive touching of the genitals) may qualify as sexual abuse or sexual harassment.

A nonexclusive list of examples of sexually abusive or harassing behaviors that may, upon an examination of the totality of circumstances, constitute sexual harassment or abuse includes the list of inappropriate conduct/behavior described above when some relationship to sex can be found, and the following behaviors when not related to approved instruction or curriculum or other official school business or when undertaken without the sponsor/parent/guardian's knowledge or consent:

Requesting or encouraging students to "model," taking or distributing photographs of individual students, or "promoting" students on Web pages or through other means, where sexual abuse or harassment is expressed or implied.

Participating in, or condoning physical pranks or teasing, particularly of a sexual nature.

Organizing, participating in, or condoning, skits, assemblies, or productions that are sexually suggestive, sexually degrading, or that imply sexual motives or intentions.

Providing, paying for, attending, or concealing medical appointments or procedures for a student, such as tests for pregnancy or sexually transmitted diseases, giving birth, or having an abortion, unless the adult is a school nurse or other employee authorized to assist students with health and wellness appointments.

Viewing with a student sexually explicit movies, programs, or content, or providing a student with a music or video recording containing sexually explicit lyrics and/or content.

Engaging in discussions with or questioning students about, for example, anyone's sexual experiences or exploits, or sexual relationships with a boyfriend or girlfriend, or about dates, or sexual attitudes.

The use in the presence of students of inappropriate behavior or language such as, sexual innuendoes, sexual profanity, sexual slang, or other language or behaviors having sexual content.

Touching of students or physical displays of affection that are outside the customary employee/student school relationship.

Making sexual invitations or requests for sexual activity or sexual advances or gestures.

GLOSSARY

PART I. ABBREVIATIONS AND ACRONYMS

DDESS. Domestic Dependent Elementary and Secondary Schools

DODEA. Department of Defense Education Activity

DoDDS. Department of Defense Dependents Schools

FAP. Family Advocacy Program

LMER. Labor Management Employee Relations

OGC. Office of the General Counsel, DoDEA

PART II. DEFINITIONS

adult. An individual 18 years old and over who is not in a student status in a DoDEA school.

student. Any individual, ages 3 to 21, inclusive, enrolled full-time or part-time in a DoDEA school or program.

DDESS: The DoDEA schools located in the continental U.S., in Guam and Puerto Rico, and for administrative purposes only, the DoDDS operated school in Cuba.

DoDDS: The DoDEA schools located overseas, in DoDDS-Europe and DoDDS-Pacific, and for administrative purposes, the DDESS operated school in Guam.

DoDEA: The Department of Defense Education Activity that operates the DoDEA schools in DDESS and in DoDDS.

volunteer. Any individual performing services for a DoDEA school or program who does not receive financial compensation for the services, including student teachers. Volunteers must comply with the requirements of References (c) and (d).