

LEGAL: THIS LANGUAGE IS BEING REMOVED AS IT IS A LEGAL COURT STANDARD THAT IS NOT CONTROLLED BY POLICY AND THE OFFICE OF CIVIL RIGHTS' POSITION IS THAT IT LEADS STAFF OTHER THAN ADMINISTRATORS TO BELIEVE THEY DO NOT HAVE TO ADDRESS ALLEGATIONS OF HARASSMENT.

FINANCIAL IMPLICATIONS: NONE ANTICIPATED

DRAFT 7/23/15, REVISED 8/5/15

STUDENTS

09.42811

## **Harassment/Discrimination**

### **DEFINITION**

Harassment/Discrimination is unlawful behavior based on ~~a student's~~ ~~an individual's~~ ~~age, color, disability, marital or parental status, national origin,~~ race, color, national origin, age, religion, marital or parental status, political affiliations or beliefs, sex, sexual orientation, gender identity, gender expression, ~~political opinion or affiliation or religion~~ veteran, status, or disability. It is intimidation that is sufficiently severe, pervasive, or objectively offensive so as to adversely affect a student's education or create a hostile or abusive educational environment. It may involve threats of or actual physical violence; the creation, by whatever means, of a climate of hostility or intimidation, or the use of language, conduct, or symbols in such manner as to be commonly understood to convey hatred, contempt, or prejudice or to have the effect of insulting or stigmatizing an individual.

The provisions of this policy shall not be interpreted as applying to speech otherwise protected under the state or federal constitutions where the speech does not otherwise materially or substantially disrupt the educational process, as defined by policy 09.426, or where it does not violate provisions of policy 09.422.

### **PROHIBITION**

Harassment/Discrimination is prohibited at all times on school property and off school grounds during school-sponsored activities. This prohibition also applies to visitors to the school who may come into contact with employees and students. (Acts of harassment/discrimination based on sex may be committed by persons of the same or the opposite sex.)

District staff shall provide for a prompt and equitable resolution of complaints concerning harassment/discrimination.

### **DISCIPLINARY ACTION**

Students who engage in harassment/discrimination of an employee or another student shall be subject to disciplinary action including, but not limited to suspension or expulsion.

### **GUIDELINES**

Students who believe they or any other student, employee, or visitor is being or has been subjected to harassment/discrimination shall, as soon as reasonably practicable, report it. In each school building, the Principal is the person responsible for receiving reports of harassment/discrimination at the building level. Otherwise, reports of harassment/discrimination may be made directly to the Superintendent. Additionally, if sexual discrimination or harassment is being alleged, reports may be made directly to the District Title IX Coordinator. Complaints of harassment/discrimination, whether verbal or written, shall lead to a documented investigation and a written report. Without a report being made to the Principal, Superintendent or Title IX/Equity Coordinator, the District shall not be deemed to have received a complaint of harassment/discrimination.

Employees who believe prohibited behavior is occurring or has occurred shall notify the victim's Principal, who shall immediately forward the information to the Superintendent.



**Harassment/Discrimination****GUIDELINES (CONTINUED)**

The Superintendent shall develop grievance/complaint procedures providing for:

1. Investigation of allegations of harassment/discrimination to include the submission of a written report of all findings of an investigation, regardless of the manner in which the complaint is communicated to a District administrator;
2. Establishment of measures to provide confidentiality in the complaint process;
3. A process to identify and employ methods to correct and prevent recurrence of the harassment/discrimination;
4. A process where the provisions of this policy are disseminated in writing annually to all staff and students; ~~and~~
5. Age-appropriate training explaining prohibited behaviors and the necessity for prompt reporting of alleged harassment/discrimination; and
6. Alternate methods of filing complaints for individuals with disabilities and others who may need accommodation.

**PROHIBITED CONDUCT**

Depending on the circumstances and facts of the situation, and within the definition of harassment/discrimination contained in this policy, examples of conduct and/or actions that could be considered a violation of this policy include, but are not limited to:

1. Any nicknames, slurs, stories, jokes, written materials or pictures that are lewd, vulgar, or profane and relate to any of the protected categories listed in the definition of harassment/discrimination contained in this policy;
2. Instances involving sexual violence;
3. Implied or overt threats of physical violence or acts of aggression or assault based on any of the protected categories;
4. Seeking to involve students with disabilities in antisocial, dangerous or criminal activity where the students, because of disability, are unable to comprehend fully or consent to the activity; ~~and~~
5. Destroying or damaging an individual's property based on any of the protected categories; ~~and~~
6. Unwanted touching, sexual advances, requests for sexual favors, and spreading sexual rumors.

Sexual harassment shall include, but not be limited to, unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of a student's academic advancement or participation in school programs or activities; or
2. Submission to or rejection of such conduct by a student is used as the basis for decisions affecting the student; or

**Harassment/Discrimination****PROHIBITED CONDUCT (CONTINUED)**

3. Such conduct has the purpose or effect of unreasonably interfering with a student's performance or creating an intimidating, hostile, or offensive learning environment.

When sexual harassment is alleged, the District's Title IX Coordinator, as designated in the student handbook/code, shall be notified.

**RETALIATION PROHIBITED**

No one shall retaliate against an employee or student because she/he submits a grievance which she/he believes to be true, assists or participates in an investigation, proceeding, or hearing regarding a charge of harassment/discrimination or opposes language or conduct that violates this policy.

**NOTIFICATIONS**

Within twenty-four (24) hours of receiving a serious allegation of harassment/discrimination, District personnel shall attempt to notify parents of both student victims and students who have been accused of harassment/discrimination.

In circumstances also involving suspected child abuse, additional notification shall be required by law. (See Policy 09.227.)

In applicable cases, employees must report harassment/discrimination to appropriate law enforcement authorities in accordance with law.<sup>1</sup>

**CONFIDENTIALITY**

District employees involved in the investigation of complaints shall respect, as much as possible, the privacy and anonymity of both victims and persons accused of violations.

**APPEAL**

Upon the completion of the investigation and correction of the conditions leading to the harassment/discrimination, any party may appeal any part of the findings and corrective actions to the Superintendent.

If a supervisor is an alleged party in the harassment/discrimination complaint, procedures shall also provide for addressing the complaint to a higher level of authority.

Failure by employees to initiate an investigation of alleged harassment/discrimination, to follow approved procedures, or to take corrective action shall be cause for disciplinary action.

**FALSE COMPLAINTS**

Deliberately false or malicious complaints of harassment/discrimination may result in disciplinary action taken against the complainant.

**OTHER CLAIMS**

When a complaint is received that does not appear to be covered by this policy, administrators shall review other policies that may govern the allegations, including but not limited to, 09.422 and/or 09.426.

**Harassment/Discrimination****REFERENCES:**

<sup>1</sup>KRS 158.156

42 USC 2000e, Civil Rights Act of 1964, Title VII

Racial Incidents and Harassment Against Students at Educational Institutions;

Investigative Guidance (U.S. Department of Education)

~~U. S. Supreme Court~~ Franklin vs. Gwinnett County. Public Schools, 503 U.S. 60 (1992)

29 C.F.R. 1604.11, Equal Employment Opportunity Commission (EEOC)

Regulations Implementing Title VII

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

34 C.F.R. 106.1-106.71, U.S. Department of Education Office for Civil Rights

Regulations Implementing Title IX

Gebser v. Lago Vista Independent School Dist., ~~118 S. Ct. 1989~~524 U.S. 274 (1998)

Davis v. Monroe County Bd. of Educ., ~~119 S. Ct. 1661~~526 U.S. 629 (1999)

**RELATED POLICIES:**

03.162; 03.262; 09.13; 09.2211; 09.227; 09.422; 09.426; 09.438