# PERSONNEL 03.162

‑ Certified Personnel ‑

Harassment/Discrimination

Definition

Harassment/Discrimination of employees is unlawful behavior based on the race, color, national origin, age, religion, sex (including sexual orientation or gender identity), genetic information, disability, or limitations related to pregnancy, childbirth, or related medical conditions of an employee involving intimidation by 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 or prejudice.

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

Employees who engage in harassment/discrimination of another employee or a student on the basis of any of the areas mentioned above shall be subject to disciplinary action including but not limited to termination of employment.

Guidelines

Employees who believe they or any other employee, student, 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. Unless a report involves the Superintendent, any other reports of harassment/discrimination may be made directly to the Superintendent. If an employee is not assigned to a particular school, a report of harassment/discrimination may be made to the employee's immediate supervisor or 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 on the basis of one of the protected categories listed in this policy, whether verbal or written, shall lead to a documented investigation and a written report. Complaints of harassment/discrimination or sexual harassment involving the Superintendent shall be filed with or referred to a member of the School Board or to the Board Attorney. If any other administrator receives a report involving the Superintendent, he/she should pass the report to a Board member or the Board Attorney.

In applicable cases, employees must report harassment/discrimination to appropriate law enforcement authorities in accordance with law.1Reports alleging misconduct unrelated to the protected categories listed in this policy should be addressed under Policy 03.16 and its administrative procedures.

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Harassment/Discrimination

Guidelines (continued)

Except in reports involving the Superintendent, the Superintendent shall provide for the following:

1. Investigation of allegations of harassment/discrimination to commence as soon as circumstances allow, but not later than three (3) working days of receipt of the original complaint, regardless of the manner in which the complaint is communicated to a District administrator. A written report of all findings of the investigation shall be completed within thirty (30) calendar days, unless additional time is necessary due to the matter being investigated by a law enforcement or governmental agency.

The Superintendent/designee may take interim measures to protect complainants during the investigation.

1. A process to identify and implement, within five (5) working days of the submission of the written investigative report, methods to correct and prevent reoccurrence of the harassment/discrimination. If corrective action is not required, an explanation shall be included in the report.
2. A process to be developed and implemented to communicate requirements of this policy to all staff, which may include, but not be limited to the following:

* written notice provided in publications such as handbooks, staff memoranda, and/or pamphlets;
* postings in the same location as are documents that must be posted according to state/federal law; and/or
* such other measures as determined by the Superintendent/designee.

Method(s) used shall provide a summary of this policy, along with information concerning how individuals can access the District's complete policy.

1. Annual training explaining prohibited behaviors and the necessity for prompt reporting of alleged harassment/discrimination; and
2. Development of alternate methods of filing complaints for individuals with disabilities and others who may need accommodation.

In reports involving the Superintendent, any Board Member who receives a report, whether written or verbal, shall provide all pertinent information to the chairperson or Board Attorney, who will consult to determine whether the allegations fall within the scope of the Board’s authority to investigate and/or remedy, and will identify appropriate steps and timelines to follow, including potentially calling a Special Board meeting for discussion or action by the Board.

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:

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Harassment/Discrimination

Prohibited Conduct (continued)

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. Unwanted touching, sexual advances, requests for sexual favors, and spreading sexual rumors;
3. Instances involving sexual violence;
4. Causing an employee to believe that he or she must submit to unwelcome sexual conduct in order to maintain employment or that a personnel decision will be based on whether or not the employee submits to unwelcome sexual conduct;
5. Implied or overt threats of physical violence or acts of aggression or assault based on any of the protected categories;
6. Seeking to involve individuals with disabilities in antisocial, dangerous or criminal activity where they, because of disability, are unable to comprehend fully or consent to the activity; and
7. Destroying or damaging an individual's property based on any of the protected categories.

Confidentiality

District employees involved in the investigation of complaints shall respect, as much as possible, the privacy and anonymity of all parties involved.

Appeal

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

If a supervisory staff member is an alleged party in the harassment/discrimination complaint, provision shall be made for addressing the complaint to a higher level of authority.

Failure by employees to report, notify, and/or initiate an investigation of alleged harassment/discrimination as required by this policy or to take corrective action shall be cause for disciplinary action.

Retaliation Prohibited

No one shall retaliate against an employee or student because s/he submits a grievance, assists or participates in an investigation, proceeding, or hearing regarding the charge of harassment/discrimination of an individual or because s/he has opposed language or conduct that violates this policy.

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, 03.113, 03.1325 and/or 09.422.

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References:

1[KRS 158.156](http://policy.ksba.org//DocumentManager.aspx?requestarticle=/KRS/158-00/156.pdf&requesttype=krs); 42 USC 2000e, Civil Rights Act of 1964, Title VII; KRS Chapter 344

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

Genetic Information Nondiscrimination Act of 2008

Age Discrimination Act, 42 U.S.C. 6101-6107; 34 C.F.R. 110.25

Bostock v. Clayton County, Georgia 140 S.Ct. 1731 (2020)

Related Policies:

03.113; 03.1325; 03.16; 09.2211; 09.422; 09.42811

Adopted/Amended: \_\_/\_\_/2021

Order #: \_\_