

Harassment/Discrimination

Fayette County Public Schools desires to be a welcoming and inclusive environment for all students, staff, and visitors. It is the expectation of Fayette County Public Schools that all District schools and work places are safe and free from harassment and discrimination of all forms, including on the basis of race, color, and national origin. Students, staff, and visitors are expected to treat all individuals with respect during school, after school, and during school sponsored activities. Staff and students are encouraged to immediately report incidents of harassment/discrimination. The District will promptly investigate formal and informal complaints.

DEFINITION

Discrimination is when an individual is treated differently or unfairly based upon a protected class. Protected classes include race, color, national or ethnic origin, age, religion, sex (including sexual orientation or gender identity), political affiliation, veteran status, and disability.

Harassment generally involves a pattern of behavior that causes an individual to feel unwelcome or uncomfortable, and is based upon an above-mentioned protected class. Harassing conduct may take many forms, including verbal, written, or electronically sent statements. It also includes any conduct that may be physically threatening, harmful, or humiliating to an individual. Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Harassment creates a hostile environment when the conduct is severe or pervasive so as to interfere with or limit a student, employee, or visitor’s ability to participate in or benefit from the services, activities, or opportunities offered by a District school.

The provisions in 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 on the basis of race, color, national origin, age, religion sex (including sexual orientation or gender identity), genetic information, political affiliation, veteran status, or disability is prohibited at all times on school property and off school grounds during school-sponsored activities in both academic and nonacademic settings. Settings where harassment/discrimination is forbidden include but are not limited to school classrooms, school hallways, buses, field trips, recess, athletic competitions, and all district offices.

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

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. Derogatory nicknames, slurs, intimidation, name calling, ridicule or mockery, insults, put downs, stereotyping, demeaning stories, jokes, or pictures relating to any of the protected classes listed in the definition of harassment/discrimination contained in this policy;
2. Treating someone differently, or less favorably based upon a protected class;

(CONTINUED)

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PROHIBITED CONDUCT (CONTINUED)

3. Unwanted touching, sexual advances, requests for sexual favors, spreading sexual rumors or instances involving sexual violence;
4. Causing a student to believe that he or she must submit to unwelcome sexual conduct in order to participate in a school program or activity or that an educational decision will be based on whether or not the student 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 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
7. Destroying or damaging an individual's property based on any of the protected classes.

DISCIPLINARY ACTION

Students who engage in harassment/discrimination of an employee or another student on the basis of any of the areas mentioned above shall be subject to disciplinary action, including but not limited to suspension and expulsion.

Failure by employees to report a suspected violation of this policy or to otherwise follow this policy and related procedures, or failure by the Superintendent or designee to report a suspected violation as directed or initiate an investigation of alleged harassment/discrimination by students or District employees, as required by this policy to follow approved procedures, or to take corrective action shall be cause for disciplinary action.

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, inform their Principal, who shall provide a form for the student to complete and then immediately notify the Compliance Officer. Complaints of harassment/discrimination, whether verbal or written, shall lead to a documented investigation and a written report.

1. Informal complaints should be addressed with an individual's Principal or school designee; and
2. Formal complaints should be filed with one of the District Compliance Officers: (859) 381-4223. lindsay.wright@fayette.kyschools.us.

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

The Superintendent shall provide for the following:

1. Investigation Procedures for Informal and Formal Complaint Resolution:
 - a. Informal Resolution:

Harassment/Discrimination**GUIDELINES (CONTINUED)**

- Many problems may be solved by an informal meeting. A complainant must discuss their complaints in a prompt manner with their Principal. Students and parents/guardians are encouraged to first discuss their concerns with their Principal;
 - The Complainant and Principal shall meet to discuss the complaint with the objective of arriving at a mutually satisfactory resolution. The Complainant should expect a decision at the end of the informal meeting(s), not later than five (5) days; and
 - If the matter is not resolved to the satisfaction of the Complainant, then within five (5) days of the informal decision, the Complainant may file a formal written complaint and submit it to the Compliance Officer.
- b. Formal Resolution:
- The Complainant may file a written complaint with the Compliance Officer. If an informal resolution has been sought, the written complaint shall be filed within five (5) days of the disposition at the informal level;
 - The investigation will include documentary, testimonial evidence, and statements the Compliance Officer deems necessary. It will also include impartial, confidential interviews of the involved parties; and
 - The Compliance Officer shall conduct a complete and fair investigation of the complaint in a timely manner. Should the investigation continue beyond 30 work days, the Compliance Officer will notify the Complainant of the anticipated date that the investigation will be completed.
- c. The Compliance Officer will notify the parties that the legal standard used to determine whether harassment or discrimination exists is preponderance of the evidence.
- d. All investigators of harassment and discrimination complaints, including the Compliance Officer shall be impartial, and shall conduct adequate and reliable investigations.

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

1. Annual dissemination of written policy to all staff and students.
2. Age-appropriate training during the first month of school to include an explanation of prohibited behavior and the necessity for prompt reporting of alleged harassment/discrimination; and
3. Development of alternate methods of filing complaints for individuals with disabilities and others who may need accommodation.
4. The Superintendent or designee shall maintain a record of all harassment complaints, investigative activities, outcomes, and remedies for monitoring purposes:

Harassment/Discrimination**GUIDELINES (CONTINUED)**

5. All harassment and discrimination complaints, whether formal or informal, shall be shared with the Compliance Officer, no later than five (5) days after receipt. At the conclusion of an informal or formal complaint review, district Principal/Supervisors or designee shall notify the Compliance Officer, in writing, of the steps taken to review and address the complaint. The Compliance Officer will be the record keeper of all district harassment and discrimination complaints for annual maintenance and review; and
6. An offer of counseling or academic services to anyone subjected to harassment on the basis of race, color, or national origin and where appropriate, to the harasser;
7. The Superintendent or designee shall utilize immediate and appropriate measure to remedy and prevent reoccurrence of harassment/discrimination if revealed during an investigation.
8. Those steps may include but are not limited to: disciplinary action, separation of individuals, counseling services, providing appropriate training for the parties involved in the complaint, and defining future steps to further prevent the harassment/discrimination.

Student handbooks shall include information to assist individuals in reporting alleged harassment/discrimination.

NOTIFICATIONS

Within twenty-four (24) hours of receiving a serious allegation of harassment/discrimination, District personnel shall attempt to notify parents/guardians 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.¹

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 in writing any part of the findings and corrective actions to the Superintendent.

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. Retaliatory behavior could result in disciplinary action.

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

Upon the resolution of allegations, the Superintendent shall take steps to protect employees and students against retaliation.

FALSE COMPLAINTS

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.

REFERENCES:

¹KRS 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

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

Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, 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 (1998)

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

42 U.S.C. 2000d, et. seq., Civil Rights Act of 1964, Title VI

Dear Colleague Letter on Harassment and Bullying from Assistant Secretary for Civil Rights for the United States Department of Education (2010)

42 U.S.C. 794, Section 504 of the Rehabilitation Act of 1973

42 USC 12131 et. seq., American with Disabilities Act of 1990 (Title II)

Dear Colleague Letter on Harassment and Bullying from Assistant Secretary for Civil Rights for the United States Department of Education (2010)

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

RELATED POLICIES:

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