

Descriptor Code:
1.7200/4.3501/7.1512

Descriptor Term:
DISCRIMINATION, HARASSMENT AND BULLYING
COMPLAINT PROCEDURES

Legal References: Age Discrimination in Employment Act of 1967, 29 U.S.C. 621 et seq.; Americans With Disabilities Act, 42 U.S.C. 12134, 28 C.F.R. pt. 35; Family Educational Rights and Privacy Act, 20 U.S.C. 1232g; Rehabilitation Act of 1973, 29 U.S.C. 705(20), -794, 34 C.F.R. pt. 104; Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq., 34 C.F.R. pt. 100; Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e et seq., 29 C.F.R. pt. 1604; Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 et seq., 34 C.F.R. pt. 106; *Racial Incidents and Harassment Against Students at Educational Institutions: Investigative Guidance*, U.S. Department of Education, Office for Civil Rights (1994); *Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties*, U.S. Department of Education, Office for Civil Rights (2001); Gebser v. Lago Vista Independent School District, 524 U.S. 274, (1998); Davis v. Monroe County Board of Education, 526 U.S. 629 (1999); State Board of Education Policy SS-A-007

Cross References: 1.7100 Prohibition Against Discrimination, Harassment and Bullying; 4.3600 Code of Student Conduct; 7.1600 Employee-Student Relations,

The board takes seriously all complaints of unlawful discrimination, harassment and bullying. The process provided in this policy is designed and is available for those individuals who believe that they may have been discriminated against, bullied or harassed in violation of this policy. Individuals who have witnessed or have reliable information that another person has been subject to unlawful discrimination, harassment or bullying also should report such violations to a school system official responsible for investigating such complaints.

A. Definitions

1. "Alleged Perpetrator"

The alleged perpetrator is the individual alleged to have discriminated against, harassed or bullied the complainant.

2. "Complaint"

A complaint is an oral or written notification made by a person who believes he/she is the victim of unlawful discrimination, harassment or bullying.

3. "Complainant"

The complainant is the person making or reporting a complaint that he/she or another person was harassed.

4. "Days"

Days are the working days, exclusive of Saturdays, Sundays, vacation days or holidays, as set forth in the school calendar. In counting days, the first day will be the first full working day following receipt of the complaint. When a complaint is submitted on or after May 1, time limits will consist of all weekdays (Monday–Friday), regardless of vacation days or holidays, so that the matter may be resolved before the close of the school term or as soon thereafter as possible.

5. "Investigative Report"

The investigative report is a written account of the findings of the investigation conducted in response to a complaint.

6. "Investigator"

The investigator is the school official responsible for investigating and responding to the Complaint.

7. "Report"

A report is an oral or written notification that an individual, other than the reporter is a suspected perpetrator or victim of unlawful discrimination, harassment or bullying.

8. "Harassment," "Bullying," "Discrimination," "Sexual Harassment" and Gender-based Harassment" are defined in policy 1.7100.

B. Reporting by Employees or Other Third Parties

1. Mandatory Reporting by School Employees

Any employee who witnessed or who has reliable information or reason to believe that an individual may have been discriminated against, harassed or bullied in violation of policy 1.7100 must report the offense immediately to an appropriate individual. An employee who does not promptly report possible discrimination, harassment or bullying shall be subject to disciplinary action.

2. Reporting by Other Third Parties

All members of the school community, including students, parents, volunteers and visitors, are also strongly encouraged to report any act that may constitute an incident of discrimination, harassment or bullying.

3. Anonymous Reporting

Reports of discrimination, harassment or bullying may be made anonymously but formal disciplinary action may not be taken solely on the basis of an anonymous report.

4. Investigation of Reports

Reports of discrimination, harassment or bullying shall be investigated sufficiently to determine whether further action under this policy or otherwise is necessary, and school officials shall take such action as appropriate under the circumstances. At the option of the alleged victim, the report may be treated as a complaint by the alleged victim under

this policy.

C. Process for Complaint

1. Reporting Complaint

- a. Any individual who believes that he/she has been discriminated against, harassed or bullied is strongly encouraged to file a complaint orally or in writing to any of the following individuals:
 - 1) principal or assistant principal of the school attended at which either the alleged perpetrator or alleged victim attends school or is employed;
 - 2) an immediate supervisor if the individual making the complaint or the alleged victim is an employee;
 - 3) the assistant superintendent for human resources if the alleged perpetrator or alleged victim is an employee of the school system or the superintendent if the alleged perpetrator is the assistant superintendent of human resources;
 - 4) the director of student services if the alleged perpetrator or alleged victim is a student;
 - 5) the Title IX coordinator for claims of sex discrimination or sexual harassment; or
 - 6) the Section 504 coordinator or the ADA coordinator for claims of discrimination on the basis of a disability.

2. Time Period for Filing a Complaint.

A complaint should be filed as soon as possible but no later than 30 days after disclosure or discovery of the facts giving rise to the complaint. Complaints submitted after the thirty (30) day period will be investigated; however, students and parents should recognize that delays in reporting may significantly impair the ability of the school system and officials to investigate and respond effectively to such complaints.

3. Informal Resolution

The board acknowledges that many complaints may be addressed informally through such methods as conferences or mediation, and the board encourages the use of such procedures to the extent possible. If an informal process is used, the principal or other designated personnel must (1) notify the complainant that he/she has the option to request formal procedures at any time and (2) make a copy of this policy and other relevant policies available to the complainant. In those circumstances in which informal procedures fail or are inappropriate or in which the complainant requests formal procedures, the complaints will be investigated promptly, impartially and thoroughly according to the procedures outlined in this policy.

4. Initiating the Investigation

Whoever receives a complaint shall immediately notify the appropriate investigator who shall respond to the complaint and investigate. The investigator of a complaint shall be determined as follows:

- a. If the alleged incident occurred under the jurisdiction of the principal, the

investigator is the principal or his/her designee, unless the alleged perpetrator is the principal, another employee of the system, the assistant superintendent for human resources, the superintendent or a member of the board.

- b. If the alleged perpetrator is another employee, the principal or his/her designee shall conduct the investigation in consultation with the assistant superintendent for human resources or designee.
- c. If the alleged perpetrator is the principal, then the assistant superintendent for human resources is the investigator.
- d. If the alleged incident occurred outside of the jurisdiction of a principal, the assistant superintendent for human resources or his/her designee is the investigator unless the alleged perpetrator is the assistant superintendent for human resources, the superintendent or a member of the board.
- e. If the alleged perpetrator is the assistant superintendent for human resources, then the superintendent is the investigator.
- f. If the alleged perpetrator is the superintendent, then the board attorney is the investigator. In this case, whoever receives such a complaint shall immediately notify the assistant superintendent for human resources who shall then notify the board chair. The board chair shall then direct the board attorney to respond to the complaint and investigate.
- g. If the alleged perpetrator is a member of the board, the board attorney is the investigator. In this case, whoever receives such a complaint shall immediately notify the superintendent who shall then direct the board attorney to respond to the complaint and investigate. Unless the board chair is the alleged perpetrator, the superintendent shall also notify the board chair of the complaint.

5. Conducting the Investigation

- a. The investigator is responsible for determining whether the alleged act(s) constitutes a violation of policy 1.7100. In so doing, the investigator shall impartially, promptly and thoroughly investigate the complaint. The investigator shall interview (1) the complainant; (b) the alleged perpetrator; and (c) any other individuals, including other possible victims, who may have relevant information.
- b. Information may be shared only with individuals who need the information in order to appropriately investigate and address the complaint. Any requests by the complainant for confidentiality will be evaluated within the context of the legal responsibilities of the school system. Any complaints withdrawn to protect confidentiality will be recorded in accordance with policy 1.7100.
- c. The investigator shall review the factual information gathered through the investigation to determine whether the alleged conduct constitutes discrimination, harassment or bullying giving consideration to all factual information, the context in which the alleged incidents occurred, the age and maturity of the complainant and alleged perpetrator, and other relevant circumstances.

6. Investigative Report

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- a. The investigator shall make and submit a written investigative report of the findings of the investigation to the superintendent and shall notify the complainant of the results of the investigation within fifteen (15) days of receiving the complaint, unless additional time is necessary to conduct an impartial, thorough investigation. The investigator shall also specify in the report whether the complaint was substantiated, whether the alleged perpetrator violated law or board policy by his or her actions (regardless of whether submitted is substantiated) and, if so, shall also specify
 - 1) reasonable, timely, age-appropriate effective corrective action intended end the harassment and prevent it from recurring;
 - 2) as needed, reasonable steps to address the effects of the discrimination, harassment or bullying on the complainant; and
 - 3) as needed, reasonable steps to protect the complainant from retaliation as a result of communicating the complaint.
 - b. Information regarding specific disciplinary action imposed on the alleged perpetrator(s) will not be given to the complainant unless the information relates directly to the complainant (e.g., an order requiring the perpetrator not to have contact with the complainant).
 - c. If the investigator determines that the complaint was substantiated, the perpetrator(s) shall be subject to discipline or other corrective steps as described in board policy. If the corrective steps involve actions outside the scope of the investigator's authority, the superintendent also shall be notified so that responsibility for taking the corrective steps may be delegated to the appropriate individual.
 - d. Each alleged perpetrator will be provided with a written summary of the results of the investigation in regard to whether the complaint was substantiated, whether the alleged perpetrator violated relevant law or board policies by his/her actions, and what, if any, disciplinary actions or consequences will be imposed upon the alleged perpetrator in accordance with board policy. The alleged perpetrator may appeal any disciplinary action or consequences in accordance with board policy and law. However, an appeal of disciplinary action by the alleged perpetrator does not preclude school officials from taking appropriate action to address the discrimination, harassment or bullying.

7. Appeal of Investigative Report

- a. If the complainant is not satisfied with the results of the investigative report, the complainant may appeal the decision to the superintendent, provided, however, if the alleged perpetrator is the assistant superintendent for human resources or the superintendent, the complainant may appeal directly to the board in accordance with the procedure described herein. The request for appeal must be submitted in writing within five (5) days of receiving the investigative report. The superintendent may review the investigation, documents and report, conduct or undertake any further investigation necessary or take any other steps the

superintendent determines to be appropriate in order to respond to the complaint. The superintendent shall provide a written response to the complainant within ten (10) days, unless additional time is necessary to complete an investigation.

- b. If the complainant is dissatisfied with the superintendent's response, he/she may appeal the decision to the board in writing within five (5) days of receiving the superintendent's response. The board may review the documents, direct any further investigation to be conducted if necessary before making a determination, and take any other steps the board determines to be appropriate in order to respond to the complaint. Upon request of the complainant, the board shall hold a hearing pursuant to policy 2.5000, Hearings Before the Board. The board shall provide a written response within thirty (30) days after receiving the appeal request, unless further investigation is necessary or the hearing necessitates that more time be taken to respond.

D. Timeliness of Process

The number of days indicated at each step of the process should be considered a maximum. Every effort should be made to expedite the process.

If any school official charged with investigating the complaint or reviewing the investigation fails at any step in the process to communicate a decision within the specified time limit, the complainant will be entitled to appeal the complaint to the next step unless the official has notified the complainant of the delay and the reason for the delay, such as the complexity of the investigation, review or report. The school official shall make reasonable efforts to keep the complainant apprised of progress being made during any period of delay. Delays that interfere with the exercise of any legal rights are not permitted.

Failure by the complainant at any step in the process to appeal a complaint to the next step within the specified time limit will be considered an acceptance of the decision at that step unless the complainant has notified the investigator of a delay and the reason for the delay and the investigator has consented in writing to the delay.

E. General Requirements

- a. No reprisals or retaliation of any kind will be taken by the board or by an employee of the school system against the complainant or other individual on account of his/her filing a complaint or report or participating in an investigation of a complaint or report filed and decided pursuant to this policy, unless the complainant or participating individual knows
or
has reason to believe that the report is false or knowingly provides false information.
- b. All meetings and hearings conducted pursuant to this policy shall be private.
- c. The board and school system officials shall consider requests to hear complaints from a group, but the board and officials have the discretion to respond to complainants individually.
- d. The complainant may be represented by an advocate, including an attorney, at any meeting with school system officials.

F. Records

Records will be maintained as required by policy 1.7100.