

# SEXUAL HARASSMENT COMPLAINT PROCEDURE FOR STUDENTS

Policy Code:

1745

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The board takes seriously all complaints of discrimination. Students and parents are encouraged to submit any complaints of discrimination on any prohibited basis (except sexual harassment) through the grievance procedure established in board policy 1740/4010. The process provided in this policy is available for students who believe that they may have been sexually harassed.

## A. INFORMAL RESOLUTION

The board acknowledges that reports of harassment, including sexual harassment, 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 appropriate personnel must notify the complainant of his or her option to request formal procedures at any time and must make a copy of this policy and other relevant policies available. In those circumstances where informal procedures fail or are inappropriate or where the complainant requests formal procedures, the complaints will be investigated promptly, impartially and thoroughly according to the following procedure.

## B. DEFINITIONS

*Accused harasser:* the employee, student or visitor alleged to have harassed the complainant.

*Complainant:* the parent and/or student reporting a complaint that the student was harassed.

*Days:* 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. After May 1, time limits will consist of all weekdays (Monday - Friday) so that the matter may be resolved before the close of the school term or as soon thereafter as possible.

*Investigator:* The school official responsible for investigating and responding to the complaint (which may be the principal, the superintendent, or his designee).

## C. TIMELINESS OF PROCESS

The number of days indicated at each level should be considered a maximum and every effort

should be made to expedite the process.

Failure by the investigator at any step to communicate a decision within the specified time limit will permit the complainant to appeal the complaint to the next step unless the investigator has notified the complainant of the delay and the reason for the delay, such as the complexity of the investigation or report. The investigator will make reasonable efforts to keep the complainant apprised of progress being made during any period of delay. Delays are not permitted that interfere with the exercise of any legal rights.

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

#### **D. GENERAL REQUIREMENTS**

1. No reprisals of any kind will be taken by the board or by an employee of the school district against any complainant or other student or employee on account of his or her participation in a complaint filed and decided pursuant to this policy.
2. All meetings and hearings conducted pursuant to this policy will be private.
3. The board and school district will consider requests to hear complaints as a group, but the board and officials have the discretion to respond individually to complainants.
4. The complainant may have a representative, including an attorney, at any stage of the complaint.

#### **E. PROCESS FOR COMPLAINT**

##### Reporting Complaint

1. A complaint must be filed as soon as possible but no longer than 30 days after disclosure or discovery of the facts giving rise to the complaint. For a complaint submitted after 30 days which claims a violation, misapplication or misinterpretation of state or federal law, including discrimination, the superintendent or designee will determine whether the complaint will be investigated after considering factors such as the reason for the delay; the extent of the delay; the effect of the delay on the ability of the school district to investigate and respond to the complaint; and whether

the investigation of the complaint is necessary to meet any legal obligations. However, students and parents should recognize that delays in reporting may significantly impair the ability of the school district to investigate and respond effectively to such complaints.

2. A parent or student should report complaints of harassment to any of the following individuals:
  - principal or assistant principal at the school attended by the student;
  - the school counselors; or
  - The Title IX coordinator. (See policy 1710 regarding coordinators for further information.)
3. Any employee, including a teacher or counselor, who has reason to believe that a student may have been harassed, including any employee who has witnessed possible harassment or has received reports by the victim or other individual, will notify the principal immediately unless the principal is the accused harasser, in which case the employee will notify the superintendent. The principal or the superintendent will promptly investigate any reports and take appropriate action. The process provided in the policy will be used if at any time a complaint is made by a parent or student. All reports and resolutions, regardless of whether this policy is used, will be maintained in accordance with policy 1710.
4. If the accused harasser is a student or visitor, the principal will respond to the complaint and investigate (hereinafter referred to as the investigator). If the accused harasser is an employee, the principal will notify the superintendent immediately of the complaint.
5. If the accused harasser is an employee, the superintendent or his or her designee will respond to the complaint and investigate (hereinafter referred to as the investigator).
6. The investigator will notify the superintendent immediately of the complaint.
7. The investigator will explain the process of investigation to the complainant and inquire as to any proposed corrective action.

#### Investigation

1. The investigator will impartially, promptly and thoroughly investigate the complaint. The investigator will interview (1) the student who is the victim of the alleged

harassment; (2) the accused harasser; and (3) any other individuals, including other possible victims of harassment, who may have relevant information.

2. Information will 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 district. Any complaints withdrawn to protect confidentiality still will be recorded in accordance with board policy 1710.
3. In assessing whether the conduct complained of was sexual harassment, the investigator will give consideration of all factual information, the totality of the circumstances, the context in which the alleged incidents occurred, the age and maturity of the complainant and, if the alleged harasser is a student, also the age and maturity of the alleged harasser.

#### Investigator's Report

1. The investigator will make a written report of the findings of the investigation. The investigator will notify the complainant of the results of the investigation within 15 days of receiving the complaint, unless additional time is necessary to conduct an impartial, thorough investigation. The report will specify:
  - whether the complaint was substantiated;
  - whether the alleged offender violated relevant law or board policy by his or her actions (regardless of whether the complaint as submitted is substantiated); and
  - if the investigator determines that sexual harassment has occurred, the investigator also will specify:
    - reasonable, timely, age-appropriate effective corrective action intended to end the harassment and prevent it from reoccurring;
    - as needed, reasonable steps to address the effects of the harassment on the complainant; and
    - as needed, reasonable steps to protect the complainant from retaliation as a result of communicating the complaint.

Information regarding disciplinary action imposed on the accused harasser will not be given to the complainant unless the information relates directly to the complainant (e.g., an order requiring the student harasser not to have contact with the complainant).

2. The investigator will submit the full report and investigative findings to the Title IX coordinator.
3. If the corrective steps involve actions outside the scope of the investigator's responsibilities, the superintendent also will be notified so that responsibility for the corrective steps can be delegated to the appropriate individual.
4. The accused harasser will be informed of the results of the investigation in regard to whether the complaint was substantiated, whether the accused harasser violated relevant law or board policies by his or her actions, and what, if any, disciplinary actions or consequences will be imposed upon the accused harasser in accordance with board policy. The accused harasser may appeal any disciplinary action or consequences in accordance with board policy and law.

#### Appeal of Investigator's Report

1. If the complainant is not satisfied with the results of the investigation, the complainant may appeal the matter to the Title IX coordinator within five days of receiving the investigator's response. The Title IX coordinator will review the investigation and make any further investigation necessary and provide a written response within ten days unless additional time is necessary to complete an investigation. If the corrective steps involve actions outside the scope of the Title IX coordinator's responsibilities, the superintendent also will be notified so that responsibility for the corrective steps can be delegated to the appropriate individual.
2. If the student is dissatisfied with the Title IX coordinator's response, the complainant may appeal the decision to the superintendent. The appeal must be in writing within five days of receiving the Title IX coordinator's response. The superintendent may review the documents, conduct any further investigation necessary or any other steps the superintendent determines to be appropriate in order to respond to the complaint. The superintendent will provide a written response within 10 days after receiving the complaint, unless further investigation is necessary.
3. If the student is dissatisfied with the superintendent's response, the complainant may appeal the decision to the board within five days of receiving the superintendent's response. The board may review the documents, direct any further investigation be conducted before making a determination, or any other steps the board determines to be appropriate in order to respond to the complaint. The board will hold a hearing pursuant to board policy 2500 upon request of the complainant or in the board's

discretion. The board will provide a written response within 30 days after receiving the complaint, unless further investigation is necessary or the hearing necessitates that more time be taken to respond.

**F. RECORDS**

Records will be maintained as required by policy 1710.

Legal References: Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.*, 34 C.F.R. pt. 106; Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g; Office of Civil Rights, Sexual Harassment Guidance: Harassment of Students by School Employees, Students or Third Parties, 62 Fed. Reg. 12,034 (1997)

Cross References: Prohibition Against Discrimination and Harassment (policy 1710), Sexual Harassment Defined (policy 1736), Student and Parent Grievance Procedure (policy 1740/4010), Hearings Before the Board (policy 2500), Anti-Social Behavior (policy 4330)

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