

SEXUAL HARASSMENT COMPLAINT PROCEDURE FOR EMPLOYEES

Policy Code:

1755

The board takes seriously all complaints of discrimination. Any employee with a complaint of discrimination or harassment, other than sexual harassment, is encouraged to notify school officials and seek either an informal resolution or submit a grievance in accordance with policy 1750/7220, Grievance Procedure for Employees.

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 school official responding to the complaint 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: employee complaining of being sexually harassed.

Days: The working days, exclusive of Saturdays, Sundays, vacation days or holidays, as set forth in the aggrieved employee's employment calendar. In counting days, the first day will be the first full working day following receipt of the grievance. When a grievance is submitted on or 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 superintendent or other designated school official).

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 official at any step to communicate a decision within the specified time limit will permit the grievant to appeal the grievance to the next step unless the official has notified the grievant of the delay and the reason for the delay, such as the complexity of the investigation or report. The official will make reasonable efforts to keep the grievant apprised of progress being made during any period of delay. Delays may not impermissibly interfere with the exercise of any legal rights.

Failure by the grievant 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 grievant has notified the official of a delay, the reason for the delay and the official 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 party in interest or other 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 grievances from a group of grievants, but the board and officials have the discretion to respond to individual complainants.
4. The complainant may have a representative, including an attorney, at any stage of the complaint.
5. Should, in the judgement of the superintendent or designee, the investigation or processing of any complaint require the absence of the complainant and/or representative from regular work assignments, such absences will be excused without loss of pay or benefits.

E. PROCESS FOR COMPLAINT**Reporting Complaint**

1. An employee or job applicant who believes he or she has been sexually harassed may make a complaint orally or in writing with any of the following:
 - immediate supervisor; or
 - the superintendent

A grievance must be filed as soon as possible but no longer than 30 days after disclosure or discovery of the facts giving rise to the grievance. For a grievance 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 grievance 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. Any supervisor who receives a sexual harassment complaint, or has reason to believe an employee is being sexually harassed should notify the superintendent immediately.

Investigation

1. Upon receiving notification of a harassment complaint, the superintendent will authorize and supervise the investigation of the complaint and/or investigate the complaint (hereinafter referred to as the investigator).
2. The investigator will impartially, promptly and thoroughly investigate the complaint. The investigator will interview (1) the complainant; (2) the accused harasser; and (3) any other persons the investigator has reason to believe may have relevant knowledge concerning the complaint.
3. Information will be shared only with individuals who need the information in order to appropriately investigate and address the complaint.

4. The investigation will review the factual information gathered through the investigation to determine whether the alleged conduct constitutes harassment giving consideration to all factual information, the totality of the circumstances, including the nature of the verbal, physical, visual or sexual conduct, and the context in which the alleged incidents occurred.

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 to the complainant will specify:
 - a. whether the complaint was substantiated;
 - b. whether the accused harasser violated relevant law or board policy by his or her actions (regardless of whether the complaint as submitted is substantiated); and
 - c. if the investigator determines that sexual harassment has occurred, the investigator also will specify:
 - reasonable, timely, effective corrective action intended to end the harassment;
 - if needed, reasonable steps to address the effects of the harassment on the complainant; and
 - if 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 accused harasser not to have contact with the complainant).

2. The investigator will submit the full report and investigative findings to the superintendent.
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 board policy or law (regardless of whether the complaint was substantiated), 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

1. If the complainant is dissatisfied with the investigator's report, the complainant may appeal the report to the superintendent. The appeal must be in writing within five days of receiving the investigator's report. 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.
2. If the complainant is dissatisfied with the superintendent's response, the complainant may appeal the decision to the board within five calendar 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 in accordance with board policy 2500 upon the request of the complainant or at 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 VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e *et seq.*; Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.*, 34 C.F.R. pt. 106; Equal Employment Opportunity Commission's "Final Amendment Guidelines on Discrimination Because of Sex"

Cross References: Prohibition Against Discrimination and Harassment (policy 1710), Sexual Harassment Defined (policy 1736), Grievance Procedure for Employees (policy 1750/7220), Hearings Before the Board (policy 2500)

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