

OFFICE THE ~~SUPERINTENDENT~~DIRECTOR

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REVISED GUIDELINE – VOL. 26, NO. 1

ANTI-HARASSMENT

Relevant Definitions

~~"School Corporation community" includes students, administrators, teachers, staff, and all other school personnel, including Board members, agents, volunteers, contractors or other persons subject to the control and supervision of the School Board.~~

~~"Third parties" include, but are not limited to, guests and/or visitors on School Corporation property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with, the Board, and other individuals who come in contact with members of the School Corporation community at school-related events/activities (whether on or off School Corporation property).~~

~~"Sexual Harassment" has the same definition as set forth in the policy of the Board as reflective of the definition set forth in Title VII of the Civil Rights Act of 1964, and Title IX of the Education Amendments of 1972.~~

~~"Harassment on the basis of race, color, national origin, religion, or disability" have the same definitions as set forth in the policy of the Board.~~

Prohibited Behavior

- A. Conduct constituting sexual harassment may take different forms, including, but not limited to, the following:

1. **Verbal:**

The making of offensive written or oral sexual innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, threats, or propositions toward or by a fellow staff member, student, or other person associated with the Corporation, or third parties.

2. **Nonverbal:**

Causing the placement of offensive sexually suggestive objects, pictures, or graphic commentaries in the school environment or the making of offensive sexually suggestive or insulting gestures, sounds, leering, whistling, and the like to or by a fellow staff member, student, or other person associated with the Corporation, or third parties.

3. **Physical Contact:**

Threatening or causing unwanted touching, contact, or attempts at same, including patting, pinching, brushing the body, or coerced sexual activity with or by a fellow staff member, student, or other person associated with the Corporation, or third parties. With respect to students, the question of whether or not physical contact is unwanted or consensual is irrelevant where such contact is engaged in by Corporation employees or other adult members of the ~~School Corporation~~Career Center community.

- B. Conduct constituting harassment on the basis of race, color, national origin, religion, disability, or genetic information may take different forms, including, but not limited to, the following:

1. **Verbal:**

The making of offensive written or oral innuendoes, comments, jokes, insults, threats, or disparaging remarks concerning a person's race, color, national origin, religious beliefs, disability, or genetic information.

2. **Nonverbal:**

Placing offensive objects, pictures, or graphic commentaries in the school environment or making insulting or threatening gestures based upon a person's race, color, national origin, religious beliefs, disability, or genetic information.

3. **Physical:**

Any intimidating or disparaging action such as hitting, pushing, shoving, hissing, or spitting on or by a fellow staff member, student, or other person associated with the Corporation, or third parties, based upon the person's race, color, national origin, religious beliefs, disability, or genetic information.

C. Examples of inappropriate boundary invasions include, but are not limited to the following:

1. hugging, kissing, or other physical contact with a student
2. telling sexual jokes to students
3. engaging in talk containing sexual innuendo or banter with students
4. talking about sexual topics that are not related to curriculum
5. showing pornography to a student
6. taking an undue interest in a student (i.e. having a "special friend" or a "special relationship")
7. initiating or extending contact with students beyond the school day for personal purposes
8. using e-mail, text-messaging, ~~or~~ websites, or other social media services to discuss personal topics or interests with students

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9. giving students rides in the staff member's personal vehicle or taking students on personal outings without administrative approval
10. invading a student's privacy (e.g. walking in on the student in the bathroom, locker-room, asking about bra sizes or previous sexual experiences)
11. going to a student's home for non-educational purposes
12. inviting students to the staff member's home without proper chaperones (i.e. another staff member or parent of student)
13. giving gifts or money to a student for no legitimate educational purpose
14. accepting gifts or money from a student for no legitimate educational purpose
15. being overly "touchy" with students
16. favoring certain students by inviting them to come to the classroom at non-class times
17. getting a student out of class to visit with the staff member
18. providing advice to or counseling a student regarding a personal problem (i.e. problems related to sexual behavior, substance abuse, mental or physical health, and/or family relationships, etc.), unless properly licensed and authorized to do so
19. talking to a student about problems that would normally be discussed with adults (i.e. marital issues)
20. being alone with a student behind closed doors without a legitimate educational purpose
21. telling a student "secrets" and having "secrets" with a student

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22. other similar activities or behavior:

(+) _____

(+) _____

(+) _____

Anti-Harassment Complaint Coordinators

The following individuals shall serve as "Anti-Harassment Complaint Coordinators" for the School Corporation, hereinafter referred to as the "Complaint Coordinators."

~~[NOTE: School Corporations are advised to appoint both a male and a female coordinator in order to provide Complainants options for reporting to an individual of the gender with which they feel most comfortable. In addition, the Complaint Coordinators may also serve as the Corporation's 504 and Title IX Coordinators.]~~

(Name ~~optional~~)

(Name ~~optional~~)

(School Corporation Title)

(School Corporation Title)

(Telephone Number)

(Telephone Number)

(Office Address)

(Office Address)

(E-mail Address)

(E-mail Address)

~~The Complaint Coordinators will be available during regular school/work hours to discuss concerns related to unlawful harassment, to assist members of the School Corporation community and third parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede informally on behalf of the member of the School Corporation community or third party in those instances where concerns have not resulted in the filing of a formal complaint and where all parties are in agreement to participate in an informal process. However, all complaints of harassment involving a Corporation employee or other adult member of the School Corporation community against a student will be formally investigated.~~

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~~Complaint Coordinators shall accept complaints of unlawful harassment directly from any member of the School Corporation community or a visitor to the Corporation, or receive complaints that are initially filed with a school building administrator. Upon receipt of a complaint either directly or through a school building administrator, the Complaint Coordinator will begin a formal investigation process or the Complaint Coordinator will designate a specific individual to conduct such a process. The Complaint Coordinator will prepare recommendations for the Superintendent or will oversee the preparation of such recommendations by a designee. All members of the School Corporation community must report incidents of harassment that are reported to them to the Complaint Coordinator () as soon as possible () within _____ calendar days of learning of the incident.~~

Investigation and Complaint Procedure (see Form 5517-F1)

~~Any member of the School Corporation community or third party who believes that s/he has been subjected to unlawful harassment may seek resolution of his/her complaint through either the informal or formal procedures as described below. While there are no time limits for initiating a complaint of harassment, individuals should make every effort to file a complaint as soon as possible after the harassing conduct occurs. The investigation procedures are established to provide a prompt and equitable process for resolving complaints of unlawful harassment.~~

Informal Complaint Procedure

~~The goal of the informal complaint procedure is to stop inappropriate behavior and to investigate and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for a member of the School Corporation community or third party who believes s/he has been unlawfully harassed. This informal procedure is not required as a precursor to the filing of a formal complaint and will only be utilized where the parties (alleged target of harassment and alleged harasser(s)) agree to participate in such process. However, all complaints of harassment involving a Corporation employee will be formally investigated, as will complaints against any other adult where a student is involved.~~

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~~As an initial course of action, if a member of the School Corporation community or third party feels that s/he is being unlawfully harassed and s/he is able and feels safe doing so, the individual should tell or otherwise inform the harasser that the conduct is unwelcome and must stop. The complaining individual should address the allegedly harassing conduct as soon after it occurs as possible. The Complaint Coordinator is available to support and counsel individuals when taking this initial step or to intervene on behalf of the individual if requested to do so. An individual who is uncomfortable or unwilling to inform the harasser of his/her complaint is not prohibited from otherwise filing an informal or a formal complaint.~~

~~A member of the School Corporation community or third party who believes s/he has been unlawfully harassed may make an informal complaint, either orally or in writing: (1) to a building administrator in the building where the individual is employed; (2) to a building administrator in the building where the student attends; (3) to the Superintendent if the individual is not employed in or attending a specific school building; and/or (4) to the Complaint Coordinator. All informal complaints must be reported to the Complaint Coordinator who will either facilitate an informal resolution as described below on his/her own, or appoint another individual to facilitate an informal resolution.~~

~~The School Corporation's informal complaint procedure is designed to provide members of the School Corporation community and third parties who believe they are being unlawfully harassed with a range of options designed to bring about a resolution of their concerns. Depending upon the nature of the complaint and the wishes of the member of the School Corporation community or third party claiming unlawful harassment, informal resolution may involve, but not be limited to, one or more of the following:~~

- ~~A. Advising the member of the School Corporation community or third party about how to communicate the unwelcome nature of the behavior to the alleged harasser.~~
- ~~B. Distributing a copy of the Anti Harassment Policy as a reminder to the individuals in the school building or office where the individual whose behavior is being questioned works or attends.~~
- ~~C. If both parties agree, the Complaint Coordinator may arrange and facilitate a meeting between the member of the School Corporation community or third party claiming harassment and the individual accused of harassment to work out a mutual resolution.~~

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~~While there are no set time limits within which an informal complaint must be resolved, the Complaint Coordinator will exercise his/her authority to attempt to resolve all informal complaints within two (2) weeks of receiving the informal complaint. Those members of the School Corporation community or third parties who are dissatisfied with the results of the informal complaint process may proceed to file a formal complaint.~~

~~All materials generated, as part of the informal complaint process will be retained by the Complaint Coordinator in accordance with the Board's records retention policy.~~

Formal Complaint Procedure

~~If a complaint is not resolved through the informal complaint process, or if the member of the School Corporation community or third party elects to file a formal complaint initially, the formal complaint process shall be implemented.~~

~~A member of the School Corporation community or third party who believes s/he has been subjected to offensive conduct/harassment hereinafter referred to as the "Complainant," may file a formal complaint, either orally or in writing with the Complaint Coordinator. If a Complainant informs any other employee of the School Corporation, either orally or in writing, about any complaint of harassment, that employee must immediately report such information to the Complaint Coordinator; thereafter the Complaint Coordinator must contact the Complainant to determine whether the Complainant wishes to file a formal or an informal Complaint.~~

~~Throughout the course of the process, the Complaint Coordinator should keep the Complainant informed of the status of the investigation and the decision making process.~~

~~All formal complaints must include the following information to the extent it is available: the identity of the individual believed to have engaged in, or be engaging in, offensive conduct/harassment; a detailed description of the facts upon which the complaint is based; a list of potential witnesses; and, identification of the resolution which the Complainant seeks.~~

~~If the Complainant is unwilling to provide a written statement including the information set forth above, the Complaint Coordinator shall ask for such details in an oral interview. Thereafter the Complaint Coordinator will prepare a written summary of the oral interview which will be presented to the Complainant for verification by signature.~~

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~~Upon receiving a formal complaint, the Complaint Coordinator will consider whether any action should be taken in the investigatory phase to protect the Complainant from further harassment or retaliation including but not limited to, a change of job assignment or a change of class schedule. In making such a determination, the Complaint Coordinator should consult the Complainant to assess his/her agreement to any action deemed appropriate. If the Complainant is unwilling to consent to any change which is deemed appropriate by the Complaint Coordinator, the Complaint Coordinator may still take whatever actions s/he deem appropriate in consultation with the Superintendent.~~

~~Within two (2) business days of receiving a formal complaint, the Complaint Coordinator will inform the individual alleged to have engaged in the harassing conduct, hereinafter referred to as the "Respondent," that a complaint has been received. The Respondent will be informed about the nature of the allegations and a copy of these Administrative Guidelines and the Board Anti-Harassment Policy shall be provided to the Respondent at that time. The Respondent must also be informed of the opportunity to submit a written response to the complaint within five (5) business days.~~

~~Within two (2) business days of receiving the complaint, the Complaint Coordinator or a designee will initiate a formal investigation to determine whether the Complainant has been subject to offensive conduct/harassment.~~

~~Although certain cases may require additional time, the Complaint Coordinator or a designee will attempt to complete an investigation into the allegations of harassment within fourteen (14) calendar days of receiving the formal complaint. The investigation will include:~~

- ~~A. interviews with the Complainant;~~
- ~~B. interviews with the Respondent;~~
- ~~C. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations;~~
- ~~D. consideration of any documentation or other information, which is reasonably believed to be relevant to the allegations.~~

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Investigation and Complaint Procedure

In determining whether the alleged conduct constitutes a violation of Policy 5517,
the ~~Corporation will consider~~ following factors will be considered:

- A. the nature of the behavior;
- B. how often the conduct occurred;
- C. whether there were past incidents or past continuing patterns of behavior;
- D. the relationship between the parties involved;
- E. the race, **color**, national origin, sex, religion, age and/or disability of the victim, and in case of genetic information harassment, the genetic information of the student victim;
- F. the identity of the perpetrator, including whether the perpetrator was in a position of power over the person allegedly subjected to harassment;
- G. the number of alleged harasser(s);
- H. the age of the alleged harasser(s);
- I. where the harassment occurred;
- J. whether there have been other incidents in the school involving the same or other individuals;
- K. whether the conduct adversely affected the person's work or education performance or environment;
- L. the context in which the alleged incidents occurred;
- M. whether or not speech or expression that is alleged to constitute harassment is protected by the First Amendment to the United States Constitution; and

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- N. whether a particular action or incident constitutes a violation of Policy 5517 requires a determination based on all the facts and surrounding circumstances.

~~At the conclusion of the investigation, the Complaint Coordinator or the designee shall prepare and deliver a written report to the Superintendent which summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful harassment as provided in Board policy and State and Federal law as to whether the Complainant has been subject to unlawful harassment. The Complaint Coordinator's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved.~~

~~Absent extenuating circumstances, within five (5) business days of receiving the report of the Complaint Coordinator or the designee, the Superintendent must either issue a final decision regarding whether or not the complaint of harassment has been substantiated or request further investigation. A copy of the Superintendent's final decision will be delivered to both the Complainant and the Respondent.~~

~~If the Superintendent requests additional investigation, the Superintendent must specify the additional information that is to be gathered, and such additional investigation must be completed within five (5) business days. At the conclusion of the additional investigation, the Superintendent must issue a final written decision as described above.~~

~~{+} The decision of the Superintendent shall be final.~~

~~{+} A Complainant or Respondent who is dissatisfied with the final decision of the Superintendent may appeal to the Board by filing a written notice of appeal with the Superintendent within ten (10) business days of the date of the Superintendent's final decision.~~

~~{+} Upon receipt of a notice of appeal of the final decision of the Superintendent, the Board shall meet in executive session at its next regularly scheduled meeting, which is scheduled to occur at least ten (10) days after the Superintendent's receipt of the appeal notice, to review the matter. Following the executive session, the Board will affirm or reject the final decision of the Superintendent. The decision of the Board will be final.~~

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Confidentiality

~~The School Corporation will make all reasonable efforts to protect the rights of the Complainant and the Respondent. The School Corporation will respect the privacy of the Complainant, the Respondent, and all witnesses in a manner consistent with the School Corporation's legal obligations under State and Federal law. Confidentiality cannot be guaranteed however. All Complainants proceeding through the formal investigation process should be advised that their identities may be disclosed to the Respondent.~~

~~During the course of a formal investigation, the Complaint Coordinator or his/her designee will instruct all members of the School Corporation community and third parties who are interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of a harassment investigation is expected not to disclose any information that s/he learns or that s/he provides during the course of the investigation.~~

~~All public records created as a part of an investigation of a complaint of harassment will be maintained by the Complaint Coordinator in accordance with the Board's records retention policy. Any records which are considered student records in accordance with the *Family Educational Rights and Privacy Act* will be maintained in a manner consistent with the provisions of the Federal and State law.~~

Allegations Constituting Criminal Conduct: Child Abuse/Sexual Misconduct

~~State law requires any school teacher or school employee who knows or suspects that a child under the age of eighteen (18) is a victim of child abuse or neglect to immediately report that knowledge or suspicion to the school principal or Superintendent, who must notify the local child protection service. If, during the course of a harassment investigation, the Complaint Coordinator or a designee has reason to believe or suspect that the alleged conduct reasonably indicates abuse or neglect of the Complainant, a report of such knowledge must be made in accordance with State law and Board Policy.~~

~~If the Complaint Coordinator or a designee has reason to believe that the Complainant has been the victim of criminal conduct as defined under Indiana law, such knowledge should be reported to local law enforcement.~~

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~~Any reports made to the local child protection service or to local law enforcement shall not terminate the Complaint Coordinator's or a designee's obligation and responsibility to continue to investigate a complaint of harassment. While the Complaint Coordinator or a designee may work cooperatively with outside agencies to conduct concurrent investigations, in no event shall the harassment investigation be inhibited by the involvement of outside agencies without good cause after consultation with the Superintendent.~~

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