

The Board takes seriously all complaints of discrimination. Students and parents are encouraged to submit any complaints of discrimination on the basis of race, religion, national origin, disability, or sex (except sexual harassment) through the appeals procedure established in Board policy 4-18. The process provided in this policy is available for students who believe that they may have been sexually harassed.

A. Definitions

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

Complainant: the parent, student, or staff member 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, assistant superintendent, the Title IX coordinator, or another designated school official).

Sexual Harassment: Sexual harassment is one form of harassment. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when under circumstances described in policy 4-7a. Examples of sexual harassment include, but are not limited to, deliberate, unwelcomed touching of a sexual nature or that takes on sexual connotations; suggestions or demands for sexual involvement accompanied by implied or covert promises of preferential treatment or threats; pressure for sexual activity; continued or repeated offensive sexual flirtations, advances or propositions; continued or repeated verbal remarks about an individual's body; sexually degrading words or gestures used toward an individual or to describe an individual; and the display in the work place of sexually suggestive objects or pictures.

B. Timeliness of Process

The number of days indicated at each level should be considered a maximum. 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 that interfere with exercise of any legal rights are not permitted.

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

C. General Requirements

1. No reprisals or disciplinary action 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/her participation in the investigation of a complaint filed and decided pursuant to this policy, unless the complainant or participating student or employee knows or has reason to believe the report is false or knowingly provides false information.
2. All meetings and hearings conducted pursuant to this policy will be private.
3. The Board and school district will consider request to hear complaints from a group, but the Board and officials have the discretion to respond to complainants individually.
4. The complainant or accused harasser may have a representative, including an attorney, at any stage of the complaint.

D. Process for Complaint

1. Reporting Complaint

- a. 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.
- b. A parent, student, volunteer or visitor should report any incidents that may constitute harassment to any of the following individuals:
 - principal or assistant principal at the school attended by the student;

- the assistant superintendent for human resources, or the Title IX coordinator. (See policy 4-7 Prohibition Against Discrimination and Harassment regarding coordinators for further information.)
 - Complaints may also be filed with: Office for Civil Rights, US Department of Education, 4000 Maryland Avenue, SW, Washington, DC 20202-1475
- c. A student does not have to report an incident of harassment to trigger an investigation if a school official knows or, in the exercise of reasonable care, should have known about the harassment. 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 or other school employee is the accused harasser, in which case the employee will notify the Superintendent. An employee who fails to report possible harassment of a student may be subject to disciplinary action and/or legal action. The principal or superintendent/designee 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. Failure to appropriately investigate and/or address claims of sexual harassment will result in disciplinary action. All reports and resolutions, regardless of whether this policy is used, will be maintained in accordance with policy (See policy 4-7 Prohibition Against Discrimination and Harassment.)
- d. If the accused harasser is a student or visitor, the principal will respond to the complaint and investigate. If the accused harasser is an employee, the principal will notify the assistant superintendent for human resources immediately of the complaint.
- e. If the accused harasser is an employee, the assistant superintendent for human resources/designee will respond to the complaint and investigate.
- f. The investigator will notify the Title IX coordinator immediately of the complaint.
- g. The investigator will explain the process of investigation to the complainant and inquire as to any proposed corrective action.
- h. Reports of harassment may be made anonymously but formal disciplinary action may not be taken solely on the basis of an anonymous report.

2. Investigation

- a. The investigator will impartially, promptly, and thoroughly investigate the complaint regardless of the alleged victim's willingness to cooperate. The investigator will interview (1) the complainant; (2) the

- accused harasser; (3) individual identified as witnesses by the complainant or alleged harasser, and (4) any other individuals, including other possible victims of harassment, who may have relevant information.
- b. There shall be no face to face confrontations between complainant and accused harasser(s).
 - c. The complaint and investigation will be kept confidential to the extent possible. 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 (See policy 4-7 Prohibition Against Discrimination and Harassment).
 - d. In assessing whether the conduct complained of was sexual harassment, the investigation will consider all factual information, the context in which the alleged incidents occurred, the age and maturity of the complainant, and other relevant circumstances. If the alleged harasser is a student, the investigator also will consider the age and maturity of the alleged harasser.
 - e. The investigator will report to appropriate law enforcement if it appears that laws have been violated.

3. Investigator's Report

The investigator will make a written report of the findings of the investigation. The investigator will notify the complainant, in writing, of the outcome of the investigation within 15 days of receiving the complaint, unless additional time is necessary to conduct an impartial, thorough investigation. At the close of the investigation the complainant will be notified the investigation was conducted, completed and appropriate action was taken.

Information regarding conditions of behavior 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 and if the accused harasser will be out of school for a period of time).

- a. The investigator will submit the full report and investigative findings to the Title IX coordinator. The report will specify:
 - 1. whether the complaint was substantiated;
 - 2. whether the accused offender violated relevant law or Board policy by his/her actions (regardless of whether the complaint as submitted is substantiated); and

3. 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,
 - whether law enforcement has been notified.
 - b. 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.
 - c. The accused harasser will be informed in writing 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 the provisions below and law. The filing of an appeal by the alleged harasser does not preclude school officials from taking appropriate action to address the alleged harassment.
4. Appeal Of Investigator's Report
- a. If the complainant or accused harasser is dissatisfied with the results of the investigation, an appeal may be made in writing to the Title IX coordinator within five calendar 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 authority, the Superintendent also will be notified so that responsibility for taking the corrective steps can be delegated to the appropriate individual.
 - b. If the complainant or accused harasser is dissatisfied with the Title IX coordinator's response, an appeal of the decision may be made to the Superintendent. The appeal must be made in writing within five calendar days of receiving the Title IX coordinator's response. The Superintendent may review the documents, conduct any further investigation necessary or take 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 appeal, unless further investigation is necessary.
- c. If the complainant or accused harasser is dissatisfied with the Superintendent's response, an appeal of the decision may be made 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 take any other steps the Board determines to be appropriate in order to respond.

The Board will hold a hearing pursuant to Board Policy 4-18 upon request of the complainant or accused harasser and at the Board's discretion. The Board will provide a written response within 30 calendar days after receiving the complaint, unless further investigation is necessary or the hearing necessitates that more time be taken to respond.

E. Records

Records will be maintained as required by policy (See policy 4-7 Prohibition Against Discrimination and Harassment).

F. Students will receive this policy on an annual basis.

LEGAL REF.: Family Educational Rights and Privacy Act, 20 U.S.C. 1232g; Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq; 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"; *Burlington v. Ellerth*, 524 U.S. 742 (1998); *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998); N.C.G.S. 115C-335; *Davis v. Monroe County Board of Education*, 526 U.S. 629 (1999), *Gebser v. Lago Vista Independent School District*, 524 U.S. 274 (1998), "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).

CROSS REF.: Board Policy 3-6, Staff-Student Relations
Board Policy 4-3a, Code of Student Conduct for Elementary Schools
Board Policy 4-3b, Code of Student Conduct for Middle/High Schools
Board Policy 4-7, Prohibition Against Discrimination and Harassment
Board Policy 4-7a, Sexual Harassment Defined
Board Policy 4-18, Appeals Policy

SEXUAL HARASSMENT COMPLAINT PROCEDURE FOR STUDENTS 4-7b

UNION COUNTY BOARD OF EDUCATION

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