

Book	Policy Manual
Section	ADMINISTRATION CHANGES.UPDATE TO POLICY.AUG.2021
Title	Copy of Nondiscrimination/Anti-Harassment Policies Update - January 2021 Revised NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY
Code	po1422.revision
Status	
Adopted	December 16, 2013
Last Revised	December 17, 2018

1422 - **NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY**

The Board of Education does not discriminate on the basis of race, color, national origin, sex (including sexual orientation and transgender identity), disability, age, religion, military status, ancestry, genetic information (collectively, "Protected Classes"), or any other legally protected category, in its programs and activities, including employment opportunities.

Definitions:

Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.

Complainant is the individual who alleges, or is alleged, to have been subjected to unlawful discrimination/retaliation, regardless of whether the person files a formal complaint or is pursuing an informal resolution to the alleged discrimination/retaliation.

Respondent is the individual who has been alleged to have engaged in unlawful discrimination/retaliation, regardless of whether the Reporting Party files a formal complaint or is seeking an informal resolution to the alleged discrimination/retaliation.

School District community means students and Board employees (i.e., administrators, and professional and classified staff), as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

Third Parties include, but are not limited to, guests and/or visitors on School District 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 District community at school-related events/activities (whether on or off District property).

Day(s): Unless expressly stated otherwise, the term "day" or "days" as used in this policy means a business day(s) (i.e., a day(s) that the Board office is open for normal operating hours, Monday - Friday, excluding State-recognized holidays).

For purposes of this policy, "military status" refers to a person's status in the uniformed services, which includes the performance of duty, on a voluntary basis, or involuntary basis, in a uniformed service including active duty, active duty for training, initial active duty for training, inactive duty for training, and full-time National Guard duty. It also includes the period of time for which a person is absent from employment for the purpose of an examination to determine the fitness of the person to perform any such duty as listed above.

District Compliance Officers

The Board designates the following individuals to serve as the District's "Compliance Officers" (also known as "Civil Rights Coordinators") (hereinafter referred to as the "COs").

[DRAFTING NOTE: Neola suggests the Board ~~School Districts are advised to~~ appoint both a male and a female CO in order to provide ~~complainants~~ Complainants with the option to report their concerns to an individual of the gender with which they feel most comfortable. The COs may also serve as the District's Section 504 Compliance Officer/ADA Coordinator and Title IX Coordinator. Additionally, by appointing two (2) COs, there should always be a CO available to investigate a claim of discrimination /retaliation that pertains to the other CO.]

Clay Frye Kris Kowalski

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The names, titles, and contact information of these individuals will be published annually on the School District's web site (.) and:

- A. ☒ in the staff handbooks.
- B. ☐ in the School District Annual Report to the public.
- C. ☐ ~~on the School District's web site.~~
- D. ☐ on each individual school's web site.
- E. ☐ in the School District's calendar.
- F. ☐ _____.

The COs are responsible for coordinating the District's efforts to comply with applicable Federal and State laws and regulations, including the District's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination/retaliation or denial of equal access. The COs shall also verify that proper notice of nondiscrimination for Title II of the Americans with Disabilities Act (as amended), Title VI and Title VII of the Civil Rights Act of 1964, ~~Title IX of the Education Amendment Act of 1972,~~ Section 504 of the Rehabilitation Act of 1973 (as amended), and the Age Discrimination in Employment Act of 1975 is provided to staff members and the general public. ☐ Any sections of the District's collectively-bargained, negotiated agreements dealing with hiring, promotion, and tenure need to contain a statement of nondiscrimination similar to that in the Board's statement above. In addition, any gender-specific terms should be eliminated from such contracts. **[END OF OPTION]** A copy of each of the Acts and regulations on which this notice is available upon request from the CO. ~~based may be found in the CO's office.~~

Reports and Complaints of Unlawful Discrimination and Retaliation

Employees are required to ~~encouraged to promptly~~ report incidents of unlawful discrimination and/or retaliation to an administrator, supervisor, or other District-level official so that the Board may address the conduct. Any administrator, supervisor, or other District-level ~~employee or~~ official who receives such a report ~~complaint~~ shall file it with the CO ☐ ~~at his/her first convenience (.)~~ within two (2) ~~school~~ days.

Employees who believe they have been unlawfully discriminated/retaliated against are entitled to utilize the complaint process set forth below. Initiating a complaint, whether formally or informally, will not adversely affect the Complainant's ~~complainant's~~ employment. While there are no time limits for initiating complaints under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

The COs will be available during regular school/work hours to discuss concerns related to unlawful discrimination/retaliation. COs shall accept reports ~~complaints~~ of unlawful discrimination/retaliation directly from any member of the School District community or a Third Party, ~~or receive reports that are initially filed with another Board employee.~~ visitor to the District, 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, a CO will begin either an informal or formal process (depending on the request of the person alleging the discrimination/retaliation or the nature of the alleged discrimination/retaliation). Upon receipt of a report of alleged discrimination/retaliation, the CO will contact the Complainant and begin either an informal or formal complaint process (depending on the Complainant's request and the nature of the alleged discrimination/retaliation), or the CO will designate a specific individual to conduct such a process. The CO will provide a copy of this policy to the Complainant and the Respondent. ~~any person who files a complaint.~~ In the case of a formal complaint, the CO will prepare recommendations for the Superintendent or oversee the preparation of such recommendations by a designee. All members of the School District community must report incidents of discrimination/retaliation that are reported to them to the CO within two (2) business days of learning of the incident/conduct.

Any Board employee who directly observes unlawful discrimination/retaliation is obligated, in accordance with this policy, to report such observations to one of the COs within two (2) business days. Additionally, any Board employee who observes an act of unlawful discrimination/retaliation is expected to intervene to stop the misconduct, unless circumstances make such an intervention dangerous, in which case the staff member should immediately notify other Board employees and/or local law enforcement officials, as necessary, to stop the misconduct. Thereafter, the CO or designee must contact the employee Complainant within two (2) business days to advise ~~him/her~~ of the Board's intent to investigate the alleged wrongdoing.

Investigation and Complaint Procedure (See Form 1422 F2)

Except for sex discrimination and/or Sexual Harassment that is covered by Policy 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities, any employee who alleges to have been ~~Any employee who believes that s/he has been~~ subjected to unlawful discrimination or retaliation may seek resolution of the ~~his/her~~ complaint through the procedures described below. The formal complaint procedures involve an investigation of the individual's claims of discrimination/retaliation and a process for rendering a decision regarding whether the charges are substantiated.

Due to the sensitivity surrounding complaints of unlawful discrimination or retaliation, timelines are flexible for initiating the complaint process; however, individuals are encouraged ~~should make every effort~~ to file a complaint within thirty (30) calendar days after the conduct occurs. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) business days of the complaint being received).

The procedures set forth below are not intended to interfere with the rights of any individual to pursue a complaint of unlawful discrimination or retaliation with the United States Department of Education Office for Civil Rights, the Ohio Civil Rights Commission ("OCRC") or Equal Employment Opportunity Commission ("EEOC").

Informal Complaint Procedure

The goal of the informal complaint procedure is to promptly stop ~~stop quickly~~ inappropriate behavior and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for an employee who alleges ~~unlawful discrimination or retaliation.~~ ~~believes s/he has been unlawfully discriminated or retaliated against.~~ This informal procedure is not required as a precursor to the filing of a formal complaint. The informal process is only available in those circumstances where the Complainant and the Respondent mutually ~~parties (the alleged target of the discrimination/retaliation and individual(s) alleged to have engaged in the discrimination)~~ agree to participate in it.

The Complainant ~~Employees who believe that they have been unlawfully discriminated/retaliated against~~ may proceed immediately to the formal complaint process and individuals who participate in ~~seek resolution through~~ the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process.

All complaints involving a District employee or any other adult member of the School District community and ~~against~~ a student will be formally investigated.

As an initial course of action, if a Complainant feels comfortable and safe ~~an individual feels that s/he is being unlawfully discriminated/retaliated against and s/he is able and feels safe~~ doing so, the individual should tell or otherwise inform the Respondent that ~~person who engaged in~~ the allegedly discriminatory/retaliatory conduct that it is inappropriate and must stop. The Complainant ~~complainant individual~~ should address the alleged misconduct as soon after it occurs as possible. The COs are available to support and counsel the Complainant ~~individuals~~ when taking this initial step or to intervene on behalf of the individual if requested to do so. A Complainant ~~An individual~~ who is uncomfortable or unwilling to directly approach the Respondent about the ~~inappropriate conduct may file~~ ~~inform the person who allegedly engaged in the unlawful misconduct of his/her concerns is not~~

~~prohibited from otherwise filing~~ an informal or a formal complaint. In addition, with regard to certain types of unlawful discrimination ~~(e.g., sex discrimination), such as sexual discrimination,~~ the CO may advise against the use of the informal complaint process.

~~An individual who believes s/he has been unlawfully discriminated/retaliated against~~ A Complainant who alleges unlawful discrimination/retaliation may make an informal complaint, either orally or in writing: 1) to a building administrator; 2) directly to one of the COs; and/or 3) to the Superintendent or other District-level employee.

All informal complaints must be reported to one of the COs who will either facilitate an informal resolution as described below, or appoint another individual to facilitate an informal resolution.

The School District's informal complaint procedure is designed to provide the Complainant ~~employees who believe they are being unlawfully discriminated/retaliated against~~ with a range of options aimed at bringing about a prompt resolution of their concerns. Depending upon the nature of the complaint and the wishes of the Complainant, ~~individual claiming unlawful discrimination/retaliation,~~ informal resolution may involve, but not be limited to, one or more of the following:

- A. Advising the Complainant ~~individual~~ about how to communicate ~~his/her~~ concerns to the Respondent, ~~person who allegedly engaged in the discriminatory/retaliatory behavior,~~
- B. Distributing a copy of Policy 1422 - Non-Discrimination and Equal Employment Opportunity-a reminder to the individuals in the school building or office where the Respondent ~~individual whose behavior is being questioned~~ works.
- C. If both parties agree, the CO may arrange and facilitate a meeting or mediation between the Complainant and the Respondent to work out a mutual resolution. ~~between the individual claiming discrimination/retaliation and the individual accused of engaging in the misconduct to work out a mutual resolution.~~

While there are no set time limits within which an informal complaint must be resolved, the CO or designee is directed will exercise his/her authority to attempt to resolve all informal complaints within fifteen (15) business days of receiving the informal complaint. If the Complainant is ~~Parties who are~~ dissatisfied with ~~the results of~~ the informal complaint process, the Complainant may proceed to file a formal complaint and, as stated above, either party ~~parties~~ may request that the informal process be terminated at any time to move to the formal complaint process.

Formal Complaint Procedure

If a complaint is not resolved through the informal complaint process, if one of the parties requested that the informal complaint process be terminated to move to the formal complaint process, or if the Complainant, from the outset, elects to file a formal complaint, or the Compliance Officer(s) determines the allegations are not appropriate for resolution through the informal process, ~~individual elects to file a formal complaint initially,~~ the formal complaint process shall be implemented.

A Complainant ~~An individual who believes s/he has been subjected to unlawful discrimination/retaliation (hereinafter referred to as the "Complainant"),~~ may file a formal complaint, either orally or in writing, with a Director, the CO, Superintendent, or other District official-level employee. Due to the sensitivity surrounding complaints of unlawful discrimination and retaliation, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a formal complaint within thirty (30) calendar days after the conduct occurs. If a Complainant informs a Director, Superintendent, or other District official-level employee, either orally or in writing, about any complaint of discrimination/retaliation, that employee must report such information to the CO within two (2) business days.

Throughout the course of the process, the CO should keep the parties reasonably informed of the status of the investigation and the decision-making process.

All formal complaints must include the following information to the extent known it is available: the identity of the Respondent ~~individual believed to have engaged in, or be engaging in, the discriminatory/retaliatory conduct~~; a detailed description of the facts upon which the complaint is based (i.e., when, where, and what occurred); a list of potential witnesses; and the resolution sought by the Complainant.

If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the CO shall ask for such details in an oral interview. Thereafter, the CO will prepare a written summary of the oral interview, and the Complainant will be asked to verify the accuracy of the reported charge by signing the document.

Upon receiving a formal complaint, the CO will consider whether any action should be taken in the investigatory phase to protect the Complainant from further discrimination or retaliation, including, but not limited to, a change of work assignment or schedule for the Complainant and/or the Respondent, ~~person who allegedly engaged in the misconduct.~~ In making such a determination, the CO should consult the Complainant to assess whether the individual agrees with his/her agreement to the proposed action. If the

Complainant is unwilling to consent to the proposed change, the CO may still take whatever actions ~~deemed~~s/he deems appropriate in consultation with the Superintendent.

Within two (2) business days of receiving the complaint, the CO or designee will initiate a formal investigation to determine whether the Complainant has been subjected to unlawful discrimination/retaliation.

Simultaneously, the CO will inform the ~~Respondent that a formal individual alleged to have engaged in the discriminatory or retaliatory 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 provided with a copy of any relevant policies and/or administrative guidelines, including Policy 1422 - Non-Discrimination and Equal Employment Opportunity. The Respondent must also be informed of the opportunity to submit a written response to the complaint within five (5) business days.

Although certain cases may require additional time, the CO or a designee will attempt to complete an investigation into the allegations of discrimination/retaliation within fifteen (15) business 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 presented by the Complainant, Respondent, or any other witness that is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the CO or the designee shall prepare and deliver a written report to the Superintendent that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful discrimination/retaliation as provided in Board policy and State and Federal law as to whether the Respondent has engaged in unlawful discrimination/retaliation of the Complainant. ~~Complainant has been subjected to unlawful discrimination/retaliation.~~ The CO's recommendations must be based upon the totality of the circumstances. In determining if discrimination or retaliation occurred, a preponderance of evidence standard will be used. ~~()~~ The CO may consult with the Board's legal counsel before finalizing the report to the Superintendent.

Absent extenuating circumstances, within five (5) business days of receiving the report of the CO or the designee, the Superintendent must either issue a ~~written final~~ decision regarding whether the charges have 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.

If the Superintendent determines the Respondent engaged in unlawful discrimination/retaliation toward the Complainant, the Superintendent ~~Complainant was subjected to unlawful discrimination/retaliation, she/he~~ must identify what corrective action will be taken to stop, remedy, and prevent the recurrence of the discrimination/retaliation. The corrective action should be reasonable, timely, age-appropriate, and effective, and tailored to the specific situation.

☒ The decision of the Superintendent shall be final.

OR

☐ ~~A Complainant or Respondent who is dissatisfied with the final decision of the Superintendent may appeal through a signed written statement to the Board within five (5) business days of the party's his/her receipt of the Superintendent's final decision. The written statement of appeal must be submitted to the Treasurer/CFO.~~

~~In an attempt to resolve the complaint, the Board shall meet with the concerned parties and their representatives within twenty (20) business days of the receipt of such an appeal. A copy of the Board's disposition of the appeal shall be sent to each concerned party within ten (10) business days of this meeting. The decision of the Board will be final.~~

[END OF OPTIONS]

The Board reserves the right to investigate and resolve a complaint or report of unlawful discrimination/retaliation regardless of whether the employee alleging the unlawful discrimination/retaliation pursues the complaint. The Board also reserves the right to

have the formal complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Board or its designee.

The ~~parties~~ **Complainant** may be represented, at ~~their~~ **his/her** own cost, at any of the above-described meetings/hearings.

The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights, the filing of charges with local law enforcement, or the filing of a civil action in court. Use of this internal complaint process is not a prerequisite to the pursuit of other remedies. ~~The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights or the filing of a court case. Use of this internal complaint procedure is not a prerequisite to the pursuit of other remedies.~~

Privacy/Confidentiality

The ~~School~~ District will employ all reasonable efforts to protect the rights of the Complainant, the Respondent(s), and the witnesses as much as possible, consistent with the Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. All records generated under the terms of this policy shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. Additionally, the Respondent must be provided the Complainant's identity. ~~All Complainants proceeding through the formal investigation process will be advised that their identities may be disclosed to the Respondent(s).~~

During the course of a formal investigation, the CO or designee will instruct each person who is interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of an investigation is expected not to disclose to third parties any information that is learned or provided ~~s/he learns and/or provides~~ during the course of the investigation.

Sanctions and Monitoring

The Board shall vigorously enforce its prohibitions against unlawful discrimination /retaliation by taking appropriate action reasonably calculated to stop and prevent further misconduct. While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s). When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter. In those cases where unlawful discrimination/retaliation is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s).

Where the Board becomes aware that a prior remedial action has been taken against an employee, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its recurrence, and remedy its effect.

Retaliation

Retaliation against a person who makes a report or files a complaint alleging unlawful harassment/retaliation or participates as a witness in an investigation is prohibited. Neither the Board nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made unlawful by any Federal or State civil rights law, or because that individual made a report, formal complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy.

Retaliation against a person for making a report of discrimination, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

~~Retaliation against a person who makes a report or files a complaint alleging unlawful discrimination/retaliation, or participates as a witness in an investigation is prohibited. Specifically, the Board will not retaliate against, coerce, intimidate, threaten or interfere with any individual because the person opposed any act or practice made unlawful by any Federal or State civil rights law, or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under those laws, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws.~~

Education and Training

In support of this policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Superintendent ~~or designee~~ shall provide appropriate information to all members of the School District community related to the implementation of this policy and shall provide training for District students and staff where appropriate. All training, as well as all information provided regarding the Board's policy and discrimination in general, will be age and content appropriate.

Retention of Investigatory Records and Materials

The Compliance Officer(s) is responsible for overseeing retention of all records that must be maintained pursuant to this policy. All individuals charged with conducting investigations under this policy shall retain all documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and/or received as part of an investigation, which may include but not be limited to:

- A. all written reports/allegations/complaints/grievances/statements/responses pertaining to an alleged violation of this policy;
- B. any narratives that memorialize oral reports/allegations/ complaints/grievances/statements/responses pertaining to an alleged violation of this policy;
- C. any documentation that memorializes the actions taken by District personnel or individuals contracted or appointed by the Board to fulfill its responsibilities related to the investigation and/or the District's response to the alleged violation of this policy;
- D. written witness statements;
- E. narratives, notes from, or audio, video, or digital recordings of witness interviews/statements;
- F. e-mails, texts, or social media posts that directly relate to or constitute evidence pertaining to an alleged violation of this policy (i.e., not after-the-fact commentary about or media coverage of the incident);
- G. notes or summaries prepared contemporaneously by the investigator in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.), but not including transitory notes whose content is otherwise memorialized in other documents;
- H. written disciplinary sanctions issued to students or employees and other documentation that memorializes oral disciplinary sanctions issued to students or employees for violations of this policy;
- I. dated written determinations/reports (including summaries of relevant exculpatory and inculpatory evidence) and other documentation that memorializes oral notifications to the parties concerning the outcome of the investigation, including any consequences imposed as a result of a violation of this policy;
- J. documentation of any supportive interim measures offered and/or provided to the Complainant and/or the Respondent, ~~complainants and/or the alleged perpetrators~~, including no contact orders issued to both parties, the dates the no contact orders were issued, and the dates the parties acknowledged receipt of the no contact orders;
- K. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects;
- L. copies of the Board policy and/or procedures/guidelines used by the District to conduct the investigation, and any documents used by the District at the time of the alleged violation to communicate the Board's expectations to students and staff with respect to the subject of this policy (e.g., Student Codes of Conduct and/or Employee Handbooks ~~or Codes of Conduct~~);
- M. copies of any documentation that memorializes any formal or informal resolutions to the alleged discrimination or harassment;

[DRAFTING NOTE: The following options should be selected if the District concludes that the following items are not adequately encompassed in the preceding paragraphs.]

- N. ~~(-) documentation of any training provided to District personnel related to this policy, including but not limited to, notification of the prohibitions and expectations of staff set forth in this policy and the role and responsibility of all District personnel involved in enforcing this policy, including their duty to report alleged violations of this policy and/or conducting an investigation of an alleged violation of this policy;~~ **[REMINDER: Documentation of training should be maintained regardless of whether there is an investigation of an alleged violation of this policy. It is best practice to maintain a log of all staff members who participate in a training, along with the date, time and location of the**

training, and a copy of the materials reviewed and/or presented during the training.}]

- O. ~~(-) documentation that any rights or opportunities that the District made available to one party during the investigation were made available to the other party on equal terms;~~
- P. ~~(-) copies of any notices sent to the alleged Respondent perpetrator/responding party of the allegations constituting a potential violation of this policy;~~
- Q. ~~(-) copies of any notices sent to the complainant and alleged perpetrator in advance of any interview or hearing; copies of any notices sent to the Complainant and the Respondent in advance of any interview, meeting, or hearing;~~
- R. ~~(-) copies of any documentation or evidence used during informal and formal disciplinary meetings and hearings, including the investigation report, and any written responses submitted by the Complainant or the Respondent, complainant or the alleged perpetrator;~~

The documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal (e.g., FERPA, ADA) and/or State law (e.g., R.C. 3319.321) – e.g., student records and confidential medical records.

The documents, ESI, and electronic media (as defined in Policy 8315) created or received as part of an investigation shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, and Policy 8330 for not less than three (3) years, but longer if required by the District's records retention schedule.

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Legal

R.C. 4112.01, 4112.02

A.C. 3301-35-03(A)

Fourteenth Amendment, U.S. Constitution

20 U.S.C. Section 1681, Title IX of Education Amendment Act

20 U.S.C. Section 1701 et seq., Equal Educational Opportunities Act of 1974

20 U.S.C. Section 7905, Boy Scouts of America Equal Access Act

42 U.S.C. 6101 et seq., Age Discrimination Act of 1975

42 U.S.C. 12101 et seq., The Americans with Disabilities Act of 1990, as amended

34 C.F.R. Part 110 (7/27/93)

42 U.S.C., 2000e, et seq., Civil Rights Act of 1964

42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act

29 U.S.C. 701 et seq., Rehabilitation Act of 1973, as amended

29 C.F.R. Part 1635

Book	Policy Manual
Section	ADMINISTRATION CHANGES.UPDATE TO POLICY.AUG.2021
Title	Copy of Nondiscrimination/Anti-Harassment Policies Update - January 2021 Revised SECTION 504/ADA PROHIBITION AGAINST DISABILITY DISCRIMINATION IN EMPLOYMENT
Code	po1623.revision
Status	
Adopted	December 19, 2012
Last Revised	May 21, 2018

1623 - **SECTION 504/ADA PROHIBITION AGAINST DISABILITY DISCRIMINATION IN EMPLOYMENT**

The Board of Education prohibits discrimination against any employee or applicant based upon his/her disability. As such, the Board will not engage in employment practices or adopt policies that discriminate on the basis of disability, or otherwise discriminate against qualified individuals with disabilities in regard to job application procedures, the hiring, advancement or discharge of employees, employee compensation, job training, or other terms, conditions and privileges of employment. The Board further will not limit, segregate or classify applicants or employees in any way that adversely affects their opportunities or status because of disability. Additionally, the Board will not participate in any contractual or other relationships that have the effect of subjecting qualified individuals with disabilities who are applicants or employees to discrimination on the basis of disability.

"An individual with a disability" means a person who has, had a record of, or is regarded as having, a physical or mental impairment that substantially limits one or more major life activities. Major life activities are functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, eating, sleeping, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, sitting, reaching, interacting with others, and working.

Major life activities also include the operation of a major bodily function, including, but not limited to, functions of the immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, hemic, lymphatic, musculoskeletal and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.

An impairment that is episodic in nature or in remission is considered a disability if it would substantially limit a major life activity when active.

The determination of whether an impairment substantially limits a major life activity must be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, equipment or appliances, low-vision devices (defined as devices that magnify, enhance, or otherwise augment a visual image, but not including ordinary eyeglasses or contact lenses), prosthetics (including limbs and devices), hearing aid(s) and cochlear implant(s) or other implantable hearing devices, mobility devices, oxygen therapy equipment or supplies, use of assistive technology, reasonable accommodations or "auxiliary aids or services," learned behavioral or adaptive neurological modifications, psychotherapy, behavioral therapy, or physical therapy.

A qualified person with a disability means the individual satisfies the requisite skill, experience, education and other job-related requirements of the employment position such individual holds or desires and, with or without reasonable accommodation, can perform the essential functions of the job in question.

The Board will provide a reasonable accommodation to a qualified individual who has an actual disability or who has a record of a disability, unless the accommodation would impose an undue hardship on the operation of the District's program and/or activities. A reasonable accommodation is not required for an individual who is merely regarded as having a disability.

Compliance Officer(s)

The Board designates the following individual(s) to serve as the District's 504 Compliance Officer(s)/ADA Coordinator(s) (hereinafter referred to as the "District Compliance Officer(s)").

[DRAFTING NOTE: Neola suggests the Board appoint School Districts may want to consider appointing both a male and a female District Compliance Officer in order to provide complainants with the option to report their concerns to an individual of the gender with which they feel most comfortable. Additionally, by appointing two (2) District Compliance

Officers, there should always be a Compliance Officer available to investigate a claim that pertains to the other Compliance Officer.]

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Director of Operations
(School District Title)

419-347-7744, ext. 42202
(Telephone Number)

27 Ryan Road, Shelby, OH 44875
(Office Address)

frye.claykowalski.kris@pioneerctc.edu
(E-mail Address)

(Name)

(School District Title)

(Telephone Number)

(Office Address)

(E-mail Address)

The names, titles, and contact information of these individuals will be published annually on the School District's web site () and:

- A. ☒ in the staff handbooks.
- B. ☐ in the School District Annual Report to the public.
- C. ☐ on the School District's web site.
- D. ☐ on each individual school's web site.
- E. ☐ in the School District's calendar.
- F. ☐ _____.

The District Compliance Officer(s) ☒ is ☐ are **[END OF OPTION]** responsible for coordinating the District's efforts to comply with and fulfill its responsibilities under Section 504 and Title II of the Americans with Disabilities Act, as amended ("ADA"). A copy of Section 504 and the ADA, including copies of their implementing regulations, may be obtained from the District Compliance Officer(s).

The District Compliance Officer(s) will oversee the investigation of any complaints of discrimination based on disability, which may be filed pursuant to the Board's adopted internal complaint procedure, and will attempt to resolve such complaints. The Board will provide for the prompt and equitable resolution of complaints alleging violations of Section 504/ADA. See below.

Training

The District Compliance Officer(s) will also oversee the training of employees in the District so that all employees understand their rights and responsibilities under Section 504 and the ADA, and are informed of the Board's policies, administrative guidelines and practices with respect to fully implementing and complying with the requirements of Section 504/ADA.

The Board will provide in-service training and consultation to staff responsible for the education of persons with disabilities, as necessary and appropriate.

Facilities

No qualified person with a disability will, because the District's facilities are inaccessible to or unusable by persons with disabilities, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which Section 504/ADA applies.

For facilities constructed or altered after June 3, 1977, the District will comply with applicable accessibility standards. For those existing facilities constructed prior to June 3, 1977, the District is committed to operating its programs and activities so that they are readily accessible to persons with disabilities.

Notice

Notice of the Board's policy on nondiscrimination in employment practices and the identity of the District's Compliance Officer(s) will be published on the District's website and posted throughout the District, and included~~published~~ in the District's recruitment statements or general information publications.

Complaint Procedures

If a person believes that s/he has been discriminated against on the basis of his/her disability, the person may utilize the following complaint procedures as a means of reaching, at the lowest possible administrative level, a prompt and equitable resolution of the matter.

In accordance with Section 504 of the Rehabilitation Act of 1973 and its implementing regulations ("Section 504"), employees will be notified of their right to file an internal complaint regarding an alleged violation, misinterpretation or misapplication of Section 504. In addition, employees will be notified of their right to file a complaint with the U.S. Department of Education's Office for Civil Rights.

Internal complaints must be put in writing and must identify the specific circumstances or areas of dispute that have given rise to the complaint, and offer possible solutions to the dispute. The complaint must be filed with a District Compliance Officer within the time limits specified below. The District's Compliance Officer is available to assist individuals in filing a complaint.

Unless expressly stated otherwise, the term "day" or "days" as used in this policy means business day(s) (i.e., a day(s) that the Board office is open for normal operating hours, Monday – Friday, excluding State-recognized holidays).

Internal Complaint Procedure

The following internal complaint procedure is available to employees for the prompt and equitable resolution of complaints alleging discrimination based upon disability. This complaint procedure is not available to unsuccessful applicants. Use of the internal complaint procedure is not a prerequisite to the pursuit of other remedies, including the filing of a complaint with the U.S. Department of Education's Office for Civil Rights.

- A. An employee with a complaint based on alleged discrimination on the basis of disability may first discuss the problem with the District Compliance Officer.
- B. If the informal discussion does not resolve the matter, or if the employee skips Step A, the individual may file a formal written complaint with the District Compliance Officer. The written complaint must contain the name and address of the individual or representative filing the complaint, be signed by the complainant or someone authorized to sign for the complainant, describe the alleged discriminatory action in sufficient detail to inform the District Compliance Officer of the nature and date of the alleged violation, and propose a resolution. The complaint must be filed within thirty (30) calendar days of the circumstances or event giving rise to the complaint, unless the time for filing is extended by the District Compliance Officer for good cause.
- C. The District Compliance Officer will conduct an independent investigation of the matter (which may or may not include a hearing). This complaint procedure contemplates informal, but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to present witnesses and other evidence relevant to the complaint. The District Compliance Officer will provide the complainant with a written disposition of the complaint within ten (10) ~~work~~ days. If no decision is rendered within ten (10) ~~work~~ days, or the decision is unsatisfactory in the opinion of the complainant, the employee may file, in writing, an appeal with the Superintendent. The District Compliance Officer shall maintain the District's files and records relating to the complaint.
- D. The Superintendent will, within ten (10) ~~work~~ days of receiving the written appeal, conduct a hearing with all parties involved in an attempt to resolve the complaint.

The Superintendent will render his/her decision within ten (10) ~~work~~ days of the hearing.

- E. The employee may be represented, at his/her own cost, at any of the above-described meetings/hearings.
- F. The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights or the filing of a court case. Use of this internal complaint procedure is not a prerequisite to the pursuit of other remedies.

If it is determined that the ~~C~~complainant was subjected to unlawful discrimination, the CO must identify what corrective action will be taken to stop, remedy, and prevent the recurrence of the discrimination/retaliation. The corrective action should be reasonable, timely, age-appropriate and effective, and tailored to the specific situation.

OCR Complaint

At any time, if an employee believes that s/he has been subjected to discrimination based upon his/her disability in violation of Section 504 or the ADA, the individual may file a complaint with the U.S. Department of Education's Office for Civil Rights ("OCR"). The OCR can be reached at:

U.S. Department of Education
Office for Civil Rights
Cleveland Office
1350 Euclid Avenue
Suite 325
Cleveland, Ohio 44115
(216) 522-4970
FAX: (216) 522-2573
TDD: (216) 522-4944
E-mail: OCR.Cleveland@ed.gov
Web: <http://www.ed.gov/ocr>

Retaliation

~~Retaliation against a person who makes a report or files a complaint alleging unlawful discrimination, or participates as a witness in an investigation, is prohibited. Specifically, the Board will not discriminate/retaliate against, coerce, intimidate, threaten or interfere with any individual because the person opposed any act or practice made unlawful by Section 504 or the ADA, or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under those laws, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws.~~

Retaliation against a person who makes a report or files a complaint alleging unlawful harassment/retaliation or participates as a witness in an investigation is prohibited. Neither the Board nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made unlawful by any Federal or State civil rights law, or because that individual made a report, formal complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy.

Retaliation against a person for making a report of discrimination, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

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Legal

29 C.F.R. Part 1630

29 U.S.C. 794, Section 504 Rehabilitation Act of 1973, as amended

34 C.F.R. Part 104

42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended

Book	Policy Manual
Section	ADMINISTRATION CHANGES.UPDATE TO POLICY.AUG.2021
Title	Nondiscrimination/Anti-Harassment Policies Update - January 2021 Revised ANTI-HARASSMENT
Code	po1662.revision
Status	
Adopted	December 16, 2013
Last Revised	December 17, 2018

1662 - ANTI-HARASSMENT

General Policy Statement

It is the policy of the Board of Education to maintain an education and work environment that is free from all forms of unlawful harassment, including sexual harassment. This commitment applies to all School District operations, programs, and activities. All students, administrators, teachers, staff, and all other school personnel share responsibility for avoiding, discouraging, and reporting any form of unlawful harassment. This policy applies to unlawful conduct occurring on school property, or at another location if such conduct occurs during an activity sponsored by the Board.

The Board will vigorously enforce its prohibition against discriminatory harassment based on race, color, national origin, sex (including sexual orientation and transgender identity), disability, age, religion, ancestry, or genetic information (collectively, "Protected Classes") that are protected by Federal civil rights laws (hereinafter referred to as "unlawful harassment"), and encourages those within the School District community as well as Third Parties ~~third parties~~, who feel aggrieved to seek assistance to rectify such problems. The Board will investigate all allegations of harassment and in those cases where unlawful harassment is substantiated, the Board will take immediate steps to end the harassment, prevent its reoccurrence, and remedy its effects. Individuals who are found to have engaged in unlawful harassment will be subject to appropriate disciplinary action.

[] The District will offer counseling services to any person found to have been subjected to unlawful harassment, and, where appropriate, the person(s) who committed the unlawful harassment.

~~For purposes of this policy, "School District community" means students, administrators, and professional and classified staff, as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.~~

~~For purposes of this policy, "third parties" include, but are not limited to, guests and/or visitors on School District 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 District community at school-related events/activities (whether on or off School District property).~~

Other Violations of the Anti-Harassment Policy

The Board will also take immediate steps to impose disciplinary action on individuals engaging in any of the following prohibited acts:

- A. Retaliating against a person who has made a report or filed a complaint alleging unlawful harassment, or who has participated as a witness in a harassment investigation.
- B. Filing a malicious or knowingly false report or complaint of unlawful harassment.
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of harassment, when responsibility for reporting and/or investigating unlawful harassment charges comprises part of one's supervisory duties.

Definitions

Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.

Complainant is the individual who alleges, or is alleged, to have been subjected to unlawful harassment, regardless of whether the person files a formal complaint or is pursuing an informal resolution to the alleged harassment.

Respondent is the individual who has been alleged to have engaged in unlawful harassment, regardless of whether the Reporting Party files a formal complaint or is seeking an informal resolution to the alleged harassment.

School District community means students and Board employees (i.e., administrators, and professional and classified staff), as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

Third Parties include, but are not limited to, guests and/or visitors on School District 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 District community at school-related events/activities (whether on or off District property).

Day(s): Unless expressly stated otherwise, the term "day" or "days" as used in this policy means business day(s) (i.e., a day(s) that the Board office is open for normal operating hours, Monday – Friday, excluding State-recognized holidays).

Bullying

Bullying rises to the level of unlawful harassment when one or more persons systematically and chronically inflict physical hurt or psychological distress on one (1) or more students or employees and that bullying is based upon one (1) or more Protected Classes, that is, characteristics that are protected by Federal civil rights laws. It is defined as any unwanted and repeated written, verbal, or physical behavior, including any threatening, insulting, or dehumanizing gesture, by an adult or student, that is severe or pervasive enough to create an intimidating, hostile, or offensive educational or work environment; cause discomfort or humiliation; or unreasonably interfere with the individual's school or work performance or participation; and may involve:

- A. teasing;
- B. threats;
- C. intimidation;
- D. stalking;
- E. cyberstalking;
- F. cyberbullying;
- G. physical violence;
- H. theft;
- I. sexual, religious, or racial harassment;
- J. public humiliation; or
- K. destruction of property.

"Harassment" means any threatening, insulting, or dehumanizing gesture, use of technology, or written, verbal or physical conduct directed against a student or school employee that:

- A. places a student or school employee in reasonable fear of harm to his/her person or damage to his/her property;
- B. has the effect of substantially interfering with a student's educational performance, opportunities, or benefits, or an employee's work performance; or
- C. has the effect of substantially disrupting the orderly operation of a school.

Sexual Harassment

~~Pursuant to~~ For purposes of this policy and consistent with Title VII of the Civil Rights Act of 1964, ~~and Title IX of the Educational Amendments of 1972,~~ "sexual harassment" is defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- A. Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment, or status in a class, educational program, or activity.
- B. Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual.
- C. Such conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity.

Sexual harassment may involve the behavior of a person of ~~any~~ either gender against a person of the same or ~~another~~ opposite gender.

Sexual Harassment covered by Policy 2266 - Nondiscrimination on the Basis of Sex Education Programs or Activities is not included in this policy. Allegations of such conduct shall be addressed solely by Policy 2266.

Prohibited acts that constitute sexual harassment under this policy may take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

- A. Unwelcome sexual propositions, invitations, solicitations, and flirtations.
- B. Unwanted physical and/or sexual contact.
- C. Threats or insinuations that a person's employment, wages, academic grade, promotion, classroom work or assignments, academic status, participation in athletics or extra-curricular programs, activities, or events, or other conditions of employment or education may be adversely affected by not submitting to sexual advances.
- D. Unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, profanity, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls.
- E. Sexually suggestive objects, pictures, graffiti, ~~videos~~ tapes, posters, audio recordings or literature, placed in the work or educational environment, that may reasonably ~~which may~~ embarrass or offend individuals.
- F. Unwelcome and inappropriate touching, patting, or pinching; () obscene gestures.
- G. Asking about, or telling about, sexual fantasies, sexual preferences, or sexual activities.
- H. Speculations about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history.
- I. Giving unwelcome personal gifts such as lingerie that suggests the desire for a romantic relationship.
- J. Leering or staring at someone in a sexual way, such as staring at a person's breasts, buttocks, or groin.
- K. A pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or humiliation to another.
- L. ~~Remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history.~~
- M. In the context of employees, consensual sexual relationships where such relationship leads to favoritism of a subordinate employee with whom the superior is sexually involved and where such favoritism adversely affects other employees or otherwise creates a hostile work environment.
- N. Inappropriate boundary invasions by a District employee or other adult member of the School District community into a student's personal space and personal life.

- O. Verbal, nonverbal or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature.

Not all behavior with sexual connotations constitutes unlawful sexual harassment. Sex-based or gender-based conduct must be sufficiently severe, pervasive, and persistent such that it adversely affects, limits, or denies an individual's employment or education, or such that it creates a hostile or abusive employment or educational environment.

[DRAFTING NOTE: Sexual conduct/relationships with students by District employees or any other adult member of the School District community is prohibited, and any teacher, administrator, coach, or other school authority who engages in sexual conduct with a student may also be guilty of the criminal charge of "sexual battery" as set forth in Ohio Revised Code 2907.03. The issue of consent is irrelevant in regard to such criminal charge and/or with respect to the application of this policy to District employees or other adult members of the School District community.]

Race/Color Harassment

Prohibited racial harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race or color and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references relative to racial customs.

Religious (Creed) Harassment

Prohibited religious harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's religion or creed and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's religious tradition, clothing, or surnames, and/or involves religious slurs.

National Origin/Ancstry Harassment

Prohibited national origin/ancestry harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's national origin or ancestry and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's national origin or ancestry, such as negative comments regarding customs, manner of speaking, language, surnames, or ethnic slurs.

Disability Harassment

Prohibited disability harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's disability and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's ~~disability~~~~disabling condition~~, such as negative comments about speech patterns, movement, physical impairments or defects/appearances, or the like. Such harassment may further occur where conduct is directed at or pertains to a person's genetic information.

Anti-Harassment Compliance Officers

The following individual(s) shall serve as the District's Anti-Harassment Compliance Officer(s) (hereinafter, "the Compliance Officer(s)"):

[DRAFTING NOTE: Neola suggests the Board appoint both a male and a female Compliance Officer in order to provide Complainants with the option to report their concerns to an individual of the gender with which they feel most comfortable. The same individual(s) assigned to serve as Compliance Officer(s) may also be assigned to serve as the District's Section 504 Compliance Officer(s) /ADA Coordinator(s) and/or Title IX Coordinator(s). Additionally, by appointing two (2) Compliance Officers, there should also be a Compliance Officer available to investigate a claim of harassment that pertains to the other Compliance Officer.]

Clay Frye Kris Kowalski
(Name)

 (School District Title)

 (Telephone Number)

 (Office Address)

 (E-mail Address)

 (Name)

 (School District Title)

 (Telephone Number)

 (Office Address)

 (E-mail Address)

The names, titles, and contact information of these individuals will be published annually on the District's web site () and:

- A. ☒ in the parent and staff handbooks.
- B. ☐ in the School District Annual Report to the public
- C. ☐ in the School District's calendar.
- D. ☐ _____.

The Compliance Officer(s) ☒ is ☐ are responsible for coordinating the District's efforts to comply with applicable Federal and State laws and regulations, including the District's duty to address in a prompt and equitable manner any inquiries or complaints regarding harassment.

The Compliance Officer(s) will be available during regular school/work hours to discuss concerns related to unlawful harassment, to assist students, other members of the District community, and third parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede informally on behalf of the individual 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.

Compliance Officers shall accept reports of unlawful harassment directly from any member of the School District community or a Third Party or receive reports that are initially filed with an administrator, supervisor, or other District-level official. Upon receipt of a report of alleged harassment, the Compliance Officer(s) will contact the Complainant and begin either an informal or formal complaint process (depending on the request of the Complainant or the nature of the alleged harassment), or the Compliance Officer(s) will designate a specific individual to conduct such a process. The Compliance Officer(s) will provide a copy of this policy to the Complainant and Respondent. In the case of a formal complaint, the Compliance Officer(s) will prepare recommendations for the Superintendent or will oversee the preparation of such recommendations by a designee. All Board employees must report incidents of harassment that are reported to them to the Compliance Officer within two (2) days of learning of the incident.

Any Board employee who directly observes unlawful harassment is obligated, in accordance with this policy, to report such observations to the Compliance Officer(s) within two (2) days. Additionally, any Board employee who observes an act of unlawful harassment is expected to intervene to stop the harassment, unless circumstances make such an intervention dangerous, in which case the staff member should immediately notify other Board employees and/or local law enforcement officials, as necessary, to stop the harassment. Thereafter, the Compliance Officer(s) or designee must contact the Complainant, if age eighteen (18) or older, or Complainant's parents/guardians if the Complainant is under the age eighteen (18), within two (2) days to advise of the Board's intent to investigate the alleged wrongdoing.

Reports and Complaints of Harassing Conduct

Members of the School District community, ~~which includes all staff, and third parties~~ along with Third Parties are encouraged to promptly report incidents of harassing conduct to an administrator, supervisor or other School District official so that the Board may address the conduct before it becomes severe, pervasive, or persistent. Any administrator, supervisor, or other District official who receives such a ~~report~~ complaint shall file it with the ~~District's Anti-Harassment~~ Compliance Officer within two (2) days of receiving the report of harassment, at his/her first convenience.

Members of the School District community ~~or third parties~~ and Third Parties who believe they have been unlawfully harassed by another member of the School District community or a ~~Third Party~~ third party are entitled to utilize the Board's complaint process that is set forth below. Initiating a complaint, whether formally or informally, will not adversely affect the ~~Complainant's~~ complainant's employment or participation in educational or extra-curricular programs. While there are no time limits for initiating complaints of harassment under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

If, during an investigation of alleged bullying, aggressive behavior and/or harassment in accordance with Policy 5517.01 - Bullying and Other Forms of Aggressive Behavior, the Director believes that the reported misconduct may have created a hostile work environment and may have constituted unlawful discriminatory harassment based on a Protected Class, the Director shall report the act of bullying, aggressive behavior and/or harassment to ~~the one of the Anti-Harassment~~ Compliance Officers who shall investigate the allegation in accordance with this policy. If the alleged harassment involves Sexual Harassment as defined by Policy 2266, the matter will be handled in accordance with the grievance process and procedures outlined in Policy 2266. While the Compliance Officer investigates the allegation, or the matter is being addressed pursuant to Policy 2266, the Director shall suspend ~~the his/her~~ Policy 5517.01 investigation to await the Compliance Officer's written report or the determination of responsibility pursuant to Policy 2266. The Compliance Officer shall keep the Director informed of the status of the Policy 1662 investigation and provide the Director ~~him/her~~ with a copy of the resulting written report. Likewise, the Title IX Coordinator will provide the Director with the determination of responsibility that results from the Policy 2266 grievance process.

Anti-Harassment Compliance Officers

The Board designates the following individuals to serve as "Anti-Harassment Compliance Officers" for the District. They are hereinafter referred to as the "Compliance Officers".

{NOTE: School Districts are advised to appoint both a male and a female Compliance Officer in order to provide Complainants with the option to report their concerns to an individual of the gender with which they feel most comfortable. The Compliance Officers may also serve as the District's Section 504 and Title IX Coordinators.}

{Name}

{School District Title}

{Telephone Number}

{Office Address}

{E-mail Address}

{Name}

{School District Title}

{Telephone Number}

{Office Address}

{E-mail Address}

The names, titles, and contact information of these individuals will be published annually:

- ~~()~~ in the parent and staff handbooks.
- ~~()~~ in the School District Annual Report to the public.
- ~~()~~ on the School District's web site.
- ~~()~~ on each individual school's web site.

E. ~~(-) in the School District's calendar.~~

F. ~~(-) _____.~~

~~The Compliance Officers will be available during regular school/work hours to discuss concerns related to unlawful harassment, to assist students, other members of the District community, and third parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede informally on behalf of the individual 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. Compliance Officers shall accept complaints of unlawful harassment directly from any member of the School District community or a visitor to the District, 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, a Compliance Officer will begin either an informal or formal process (depending on the request of the person alleging the harassment or the nature of the alleged harassment), or the Compliance Officer will designate a specific individual to conduct such a process. In the case of a formal complaint, the Compliance Officer will prepare recommendations for the Superintendent or will oversee the preparation of such recommendations by a designee. All members of the School District community must report incidents of harassment that are reported to them to the Compliance Officer within two (2) business days of learning of the incident.~~

~~Any Board employee who directly observes unlawful harassment of a student is obligated, in accordance with this policy, to report such observations to one of the Compliance Officers within two (2) business days. Additionally, any Board employee who observes an act of unlawful harassment is expected to intervene to stop the harassment, unless circumstances make such an intervention dangerous, in which case the staff member should immediately notify other Board employees and/or local law enforcement officials, as necessary, to stop the harassment. Thereafter, the Compliance Officer or designee must contact the student, if age eighteen (18) or older, or the student's parents if under the age eighteen (18), within two (2) business days to advise s/he/them of the Board's intent to investigate the alleged misconduct, including the obligation of the Compliance Officer or designee to conduct an investigation following all the procedures outlined for a formal complaint.~~

Investigation and Complaint Procedure (See Form 1662 F1)

~~Except for Sexual Harassment that is covered by Policy 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities, any~~Any employee or other member of the School District community or ~~Third Party~~third-party (e.g., visitor to the District) who believes that ~~they have~~s/he has been subjected to unlawful harassment or retaliation may seek resolution of ~~the~~his/her complaint through ~~the procedures described below. The formal complaint process involves an investigation of the Complainant's claims of harassment or retaliation and a process for rendering a decision regarding whether the charges are substantiated, either the informal or formal procedures as described below. Further, a process for investigating claims of harassment or retaliation and a process for rendering a decision regarding whether the claim of legally prohibited harassment or retaliation, was substantiated are set forth below.~~

Due to the sensitivity surrounding complaints of unlawful harassment or retaliation, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) ~~calendar~~ days after the conduct occurs while the facts are known and potential witnesses are available. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) business days of the complaint being received).

The ~~informal and formal~~ procedures set forth below are not intended to interfere with the rights of any individual to pursue a complaint of unlawful harassment or retaliation with the United States Department of Education Office for Civil Rights, the Ohio Civil Rights Commission ("OCRC") ~~and/or~~ Equal Employment Opportunity Commission ("EEOC").

Informal Complaint Procedure

The goal of the informal complaint procedure is ~~promptly~~ 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 student, other member of the School District community, or ~~Third Party who alleges unlawful harassment or retaliation, third-party who believes s/he has been unlawfully harassed or retaliated against.~~ This informal procedure is not required as a precursor to the filing of a formal complaint. ~~The informal process is only available in those circumstances where the Complainant and the Respondent mutually agree to participate in it, and will only be utilized where the parties (alleged target of harassment and alleged harasser(s)) agree to participate in such process.~~

~~The Complainant~~Employees, other members of the School District community, or third parties who believe that they have been ~~unlawfully harassed or retaliated against~~ may proceed immediately to the formal complaint process and individuals who seek resolution through the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process.

~~All complainants involving a District employee, any other adult member of the School District community, or a Third Party and a student will be formally investigated. However, all complaints of harassment involving a District employee, any other adult member of the School District community, or a third party against a student will be formally investigated. Similarly, any allegations of sexual violence will be formally investigated.~~

As an initial course of action, if a Complainant feels comfortable and safe in ~~an individual 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 Respondent that the alleged harassing harasser that the conduct is unwelcome inappropriate and must stop. ~~Such direct communication should not be utilized in circumstances involving sexual violence.~~ The Complainant/complaining individual should address the allegedly harassing conduct as soon after it occurs as possible. The Compliance Officers are available to support and counsel individuals when taking this initial step or to intervene on behalf of the Complainant individual if requested to do so. A Complainant ~~An individual~~ who is uncomfortable or unwilling to directly approach the Respondent about the alleged inappropriate conduct may file ~~inform the harasser of his/her complaint is not prohibited from otherwise filing~~ an informal or a formal complaint. In addition, with regard to certain types of unlawful harassment, such as sexual harassment, the Compliance Officer may advise against the use of the informal complaint process.

A Complainant ~~An individual who believes s/he has been unlawfully harassed~~ may make an informal complaint, either orally or in writing: 1) to a teacher, other employee, or building administrator; 2) directly to one of the Compliance Officers; and/or 3) to the Superintendent or other District-level employee.

All informal complaints must be reported to one of the Compliance Officers who will either facilitate an informal resolution as described below ~~on his/her own~~, or appoint another individual to facilitate an informal resolution.

The Board's School District's informal complaint procedure is designed to provide employees, other members of the School District community, or 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 Complainant individual claiming unlawful harassment, informal resolution may involve, but not be limited to, one or more of the following:

- A. Advising the Complainant individual about how to communicate the unwelcome nature of the behavior to the Respondent/alleged harasser.
- B. Distributing a copy of this/the anti-harassment policy as a reminder to the individuals in the school building or office where the Respondent works or attends. ~~individual whose behavior is being questioned works or attends.~~
- C. If both parties agree, the Compliance Officer may arrange and facilitate a meeting or mediation between the Complainant and the Respondent to work out a mutual resolution. ~~between the individual claiming harassment and the individual accused of harassment to work out a mutual resolution. Such a meeting is not appropriate in circumstances involving sexual violence.~~

While there are no set time limits within which an informal complaint must be resolved, the Compliance Officer ~~/or designee is directed will exercise his/her authority~~ to attempt to resolve all informal complaints within fifteen (15) business days of receiving the informal complaint. If the Complainant is ~~Parties who are~~ dissatisfied with the ~~results of the~~ informal complaint process, the Complainant may proceed to file a formal complaint and, as stated above, either party/parties may request that the informal process be terminated at any time to move to the formal complaint process.

Formal Complaint Procedure

If a complaint is not resolved through the informal complaint process, if one of the parties has requested that the informal complaint process be terminated to move to the formal complaint process, or the Complainant, from the outset, elects to file a formal complaint, or the CO determines the allegations are not appropriate for resolution through the informal process, ~~if the individual elects to file a formal complaint initially~~, the formal complaint process shall be implemented.

The Complainant ~~An individual who believes s/he has been subjected to offensive conduct/harassment/retaliation hereinafter referred to as the "Complainant"~~, may file a formal complaint, either orally or in writing, with a teacher, Director, the Compliance Officer, Superintendent, or other District official employee. Due to the sensitivity surrounding complaints of unlawful harassment and retaliation, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a formal complaint within thirty (30) ~~calendar~~ days after the conduct occurs while the facts are known and potential witnesses are available. If a Complainant informs a teacher, Director, Superintendent, or other District official employee, either orally or in writing, about any complaint of harassment or retaliation, that employee must report such information to the Compliance Officer ~~or designee~~ within two (2) business days.

Throughout the course of the process, the Compliance Officer should keep the parties reasonably informed of the status of the investigation and the decision-making process.

All formal complaints must include the following information to the extent known it is available: the identity of the Respondent individual believed to have engaged in, or be engaging in, offensive conduct/harassment/retaliation; a detailed description of the facts upon which the complaint is based (i.e., when, where, and what occurred); a list of potential witnesses; and the resolution sought by the Complainant.

If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the Compliance Officer shall ask for such details in an oral interview. Thereafter, the Compliance Officer will prepare a written summary of the oral interview, and the Complainant will be asked to verify the accuracy of the reported charge by signing the document.

Upon receiving a formal complaint, the Compliance Officer 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 work assignment or schedule for the Complainant and/or the ~~Respondent/alleged harasser~~. In making such a determination, the Compliance Officer should consult the Complainant to assess ~~whether the individual agrees with his/her agreement to~~ the proposed action. If the Complainant is unwilling to consent to the proposed change, the Compliance Officer may still take whatever actions ~~deemed/s/he deems~~ appropriate in consultation with the Superintendent.

Within two (2) business days of receiving the complaint, the Compliance Officer ~~/or a~~ designee will initiate a formal investigation to determine whether the Complainant has been subjected to offensive conduct/harassment/retaliation. ~~(-) A~~ The Director will not conduct an investigation unless directed to do so by the Compliance Officer.

Simultaneously, the Compliance Officer will inform the ~~Respondent that a formal individual alleged to have engaged in the harassing or retaliatory 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 provided with a copy of any relevant ~~policies and/or~~ administrative guidelines, including the Board's Anti-Harassment Policy. The Respondent must also be informed of the opportunity to submit a written response to the complaint within five (5) business days.

Although certain cases may require additional time, the Compliance Officer ~~/or a~~ designee will attempt to complete an investigation into the allegations of harassment/retaliation within fifteen (15) business 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 presented by the Complainant, Respondent, or any other witness that is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the Compliance Officer or the designee shall prepare and deliver a written report to the Superintendent that 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 subjected to unlawful harassment. The Compliance Officer's recommendations must be based upon the totality of the circumstances, ~~including the ages and maturity levels of those involved~~. In determining if discriminatory harassment or retaliation occurred, a preponderance of evidence standard will be used. ~~(-) The~~ Compliance Officer may consult with the Board's legal counsel before finalizing the report to the Superintendent.

Absent extenuating circumstances, within five (5) business days of receiving the report of the Compliance Officer ~~/or the~~ designee, the Superintendent must either issue a ~~final written~~ decision regarding whether 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.

OR

~~(-) A Complainant or Respondent who is dissatisfied with the final decision of the Superintendent may appeal through a signed written statement to the Board within five (5) business days of the party's his/her receipt of the Superintendent's final decision. The written statement of appeal must be submitted to the Treasurer/CFO.~~

~~In an attempt to resolve the complaint, the Board shall meet with the concerned parties and their representative within twenty (20) business days of the receipt of such an appeal. A copy of the Board's disposition of the appeal shall be sent to each concerned party within ten (10) business days of this meeting. The decision of the Board will be final.~~

[END OF OPTIONS]

The Board reserves the right to investigate and resolve a complaint or report of unlawful harassment/retaliation regardless of whether the member of the School District community or Third Party~~third-party~~ alleging the unlawful harassment/retaliation pursues the complaint. The Board also reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Board or its designee.

The parties may be represented, at their own cost, at any of the above-described meetings/hearings.

The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights, the filing of charges with local law enforcement, or the filing of a civil action in court. Use of this internal complaint process is not a prerequisite to the pursuit of other remedies.

Privacy/Confidentiality

The ~~School~~ District will employ all reasonable efforts to protect the rights of the Complainant, the Respondent~~individual(s) against whom the complaint is filed~~, and the witnesses as much as possible, consistent with the Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. All records generated under the terms of this policy and related administrative guidelines shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. Additionally, the Respondent must be provided the Complainant's identity.~~All Complainants proceeding through the formal investigation process will be advised that their identities may be disclosed to the Respondent.~~

During the course of a formal investigation, the Compliance Officer/~~or his/her~~ designee will instruct all members of the School District 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 is learned or provided~~s/he learns or that s/he provides~~ during the course of the investigation.

Sanctions and Monitoring

The Board shall vigorously enforce its prohibitions against unlawful harassment/retaliation by taking appropriate action reasonably calculated to stop the harassment and prevent further such harassment. While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s). When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter,~~including the ages and maturity levels of those involved~~. In those cases where unlawful harassment is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s).

Where the Board becomes aware that a prior remedial action has been taken against a member of the School District community, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its recurrence, and remedy its effects.

Retaliation

Retaliation against a person who makes a report or files a complaint alleging unlawful harassment/retaliation or participates as a witness in an investigation is prohibited. Neither the Board nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made unlawful by any Federal or State civil rights law, or because that individual made a report, formal complaint testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy.

Retaliation against a person from making a report of discrimination, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in imposition of disciplinary sanction/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

~~Any act of retaliation against a person who has made a report or filed a complaint alleging unlawful harassment, or who has participated as a witness in a harassment investigation is prohibited.~~

Allegations Constituting Criminal Conduct: Child Abuse/Sexual Misconduct

State law requires any school teacher or school employee who knows or suspects that a child with a disability under the age of twenty-one (21) or that a child under the age of eighteen (18) has suffered or faces a threat of suffering a physical or mental wound, disability or condition of a nature that reasonably indicates abuse or neglect of a child to immediately report that knowledge or suspicion to the county children's services agency. If, during the course of a harassment investigation, the Compliance Officer 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.

State law defines certain contact between a teacher and a student as "sexual battery." If the Compliance Officer or a designee has reason to believe that the Complainant has been the victim of criminal conduct as defined in Ohio's Criminal Code, such knowledge should be immediately reported to local law enforcement.

Any reports made to a county children's services agency or to local law enforcement shall not terminate the Compliance Officer or a designee's obligation and responsibility to continue to investigate a complaint of harassment. While the Compliance Officer 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.

Allegations Involving Conduct Unbecoming the Teaching Profession/Suspension

The Superintendent will report to the Ohio Department of Education, on forms provided for that purpose, matters of misconduct on the part of licensed professional staff members convicted of sexual battery, and will, in accordance with Policy 8141, suspend such employee from all duties that concern or involve the care, custody, or control of a child during the pendency of any criminal action for which that person has been arrested, summoned and/or indicted in that regard.

Education and Training

In support of this Anti-Harassment Policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Superintendent ~~or designee~~ shall provide appropriate information to all members of the School District community related to the implementation of this policy and shall provide training for District students and staff where appropriate. All training, as well as all information provided regarding the Board's policy and harassment in general, will be age and content appropriate.

Retention of Investigatory Records and Materials

The Compliance Officer(s) is responsible for overseeing retention of all records that must be maintained pursuant to this policy. All individuals charged with conducting investigations under this policy shall retain all documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and/or received as part of an investigation, which may include but not be limited to:

- A. all written reports/allegations/complaints/grievances/statements/responses pertaining to an alleged violation of this policy;
- B. any narratives that memorialize oral reports/allegations/complaints/grievances/statements/responses pertaining to an alleged violation of this policy;
- C. any documentation that memorializes the actions taken by District personnel or individuals contracted or appointed by the Board to fulfill its responsibilities related to the investigation and/or the District's response to the alleged violation of this policy;
- D. written witness statements;
- E. narratives, notes from, or audio, video, or digital recordings of witness interviews/statements;
- F. e-mails, texts, or social media posts that directly relate to or constitute evidence pertaining to an alleged violation of this policy (i.e., not after-the-fact commentary about or media coverage of the incident);
- G. notes or summaries prepared contemporaneously by the investigator in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.), but not including transitory notes whose content is otherwise memorialized in other documents;
- H. written disciplinary sanctions issued to students or employees and other documentation that memorializes oral disciplinary sanctions issued to students or employees for violations of this policy;
- I. dated written determinations/reports (including summaries of relevant exculpatory and inculpatory evidence) and other documentation that memorializes oral notifications to the parties concerning the outcome of the investigation, including any consequences imposed as a result of a violation of this policy;

- J. documentation of any ~~supportive~~interim measures offered and/or provided to the Complainant and/or the Respondent, ~~complainants and/or the alleged perpetrators~~; including no contact orders issued to both parties, the dates the no contact orders were issued, and the dates the parties acknowledged receipt of the no contact orders;
- K. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects;
- L. copies of the Board policy and/or procedures/guidelines used by the District to conduct the investigation, and any documents used by the District at the time of the alleged violation to communicate the Board's expectations to students and staff with respect to the subject of this policy (e.g., Student Code of Conduct and/or Employee Handbooks ~~or Codes of Conduct~~);
- M. copies of any documentation that memorializes any formal or informal resolutions to the alleged discrimination or harassment;

[DRAFTING NOTE: The following options should be selected if the district concludes that the following items are not adequately encompassed in the preceding paragraphs.]

- N. ~~()~~ documentation of any training provided to District personnel related to this policy, including but not limited to, notification of the prohibitions and expectations of staff set forth in this policy and the role and responsibility of all District personnel involved in enforcing this policy, including their duty to report alleged violations of this policy and/or conducting an investigation of an alleged violation of this policy; **[REMINDER: Documentation of training should be maintained regardless of whether there is an investigation of an alleged violation of this policy. It is best practice to maintain a log of all staff members who participate in a training, along with the date, time and location of the training, and a copy of the materials reviewed and/or presented during the training.]**
- O. ~~()~~ documentation that any rights or opportunities that the District made available to one party during the investigation were made available to the other party on equal terms;
- P. ~~()~~ copies of any notices sent to the alleged perpetrator/responding party of the allegations constituting a potential violation of this policy;
- Q. ~~()~~ copies of any notices sent to the Complainant and the Respondent in advance of any interview, meeting, or hearing;
- R. ~~()~~ copies of any documentation or evidence used during informal and formal disciplinary meetings and hearings, including the investigation report, and any written responses submitted by the Complainant or the Respondent, ~~complainant or the alleged perpetrator~~.

The documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal (e.g., FERPA, ADA) and/or State law (e.g., R.C. 3319.321) – e.g., student records and confidential medical records.

The documents, ESI, and electronic media (as defined in Policy 8315) created or received as part of an investigation shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, and Policy 8330 for not less than three (3) years, but longer if required by the District's records retention schedule.

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Legal

R.C. 4112.02

20 U.S.C. 1400 et seq., The Individuals with Disabilities Education Improvement Act of 2004 (IDEIA)

20 U.S.C. 1681 et seq.

29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967

29 U.S.C. 794, Rehabilitation Act of 1973, as amended

29 C.F.R. Part 1635

29 U.S.C. 6101, The Age Discrimination Act of 1975

42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended

42 U.S.C. 2000d et seq.

42 U.S.C. 2000e et seq.

42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act

42 U.S.C. 1983

National School Boards Association Inquiry and Analysis - May 2008

Book	Policy Manual
Section	ADMINISTRATION CHANGES.UPDATE TO POLICY.AUG.2021
Title	Copy of Nondiscrimination/Anti-Harassment Policies Update - January 2021 Revised NONDISCRIMINATION AND ACCESS TO EQUAL EDUCATIONAL OPPORTUNITY
Code	po2260.revision
Status	
Adopted	December 19, 2012
Last Revised	December 17, 2018

2260 - **NONDISCRIMINATION AND ACCESS TO EQUAL EDUCATIONAL OPPORTUNITY**

Any form of discrimination or harassment can be devastating to an individual's academic progress, social relationship and/or personal sense of self-worth. As such, the Board of Education does not discriminate on the basis of race, color, national origin, sex (including sexual orientation or ~~trans~~gender identity), disability, age (except as authorized by law), religion, military status, ancestry, or genetic information (collectively, "Protected Classes") in its educational programs or activities.

The Board also does not discriminate on the basis of Protected Classes in its employment policies and practices as they relate to students, and does not tolerate harassment of any kind.

Equal educational opportunities shall be available to all students, without regard to the Protected Classes, age (unless age is a factor necessary to the normal operation or the achievement of any legitimate objective of the program/activity), place of residence within the boundaries of the District, or social or economic background, to learn through the curriculum offered in this District. Educational programs shall be designed to meet the varying needs of all students.

In order to achieve the aforesaid goal, the Superintendent shall:

A. Curriculum Content

review current and proposed courses of study and textbooks to detect any bias based upon the Protected Classes; ascertaining whether or not supplemental materials, singly or taken as a whole, fairly depict the contribution of both genders, various races, ethnic groups, etc. toward the development of human society;

B. Staff Training

develop an ongoing program of in-service training for school personnel designed to identify and solve problems of bias based upon the Protected Classes in all aspects of the program;

C. Student Access

1. review current and proposed programs, activities, facilities, and practices to verify that all students have equal access thereto and are not segregated on the basis of the Protected Classes in any duty, work, play, classroom, or school practice, except as may be permitted under State and Federal laws and regulations;
2. verify that facilities are made available, in accordance with Board Policy 7510 - Use of District Premises, for non-curricular student activities that are initiated by parents or other members of the community, including but not limited to any group officially affiliated with the Boy Scouts of America or any other youth group listed in Title 36 of the United States Code as a patriotic society;

D. District Support

verify that like aspects of the District program receive like support as to staff size and compensation, purchase and maintenance of facilities and equipment, access to such facilities and equipment, and related matters;

E. Student Evaluation

verify that tests, procedures, and guidance and counseling materials, which are designed to evaluate student progress, rate aptitudes, analyze personality, or in any manner establish or tend to establish a category by which a student may be judged, are not differentiated or stereotyped on the basis of the Protected Classes.

Definitions:

Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.

Complainant is the individual who alleges, or is alleged, to have been subjected to unlawful discrimination/retaliation, regardless of whether the person files a formal complaint or is pursuing an informal resolution to the alleged discrimination/retaliation.

Respondent is the individual who has been alleged to have engaged in unlawful discrimination/retaliation, regardless of whether the Reporting Party files a formal complaint or is seeking an informal resolution to the alleged discrimination/retaliation.

School District community means students and Board employees (i.e., administrators, and professional and classified staff), as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

Third Parties include, but are not limited to, guests and/or visitors on School District 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 District community at school-related events/activities (whether on or off District property).

Day(s): Unless expressly stated otherwise, the term "day" or "days" as used in this policy means a business day(s) (i.e., a day(s) that the Board office is open for normal operating hours, Monday - Friday, excluding State-recognized holidays).

District Compliance Officers

The Board designates the following individuals to serve as the District's "Compliance Officers" (also known as "Civil Rights Coordinators") (hereinafter referred to as the "COs").

[NOTE: **Neola suggests the Board School Districts are advised to** appoint both a male and a female CO in order to provide **C**omplainants with the option to report their concerns to an individual of the gender with which they feel most comfortable. The COs may also serve as the District's Section 504 Compliance Officer/ADA Coordinator and Title IX Coordinator. Additionally, by appointing two (2) COs, there should always be a CO available to investigate a claim of discrimination that pertains to the other CO.]

Clay Frye Kris Kowalski
(Name)

Director of Operations
(School District Title)

419-347-7744, ext. 42202
(Telephone Number)

27 Ryan Road, Shelby, OH 44875
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frye.claykowalski.kris@pioneerctc.edu
(E-mail Address)

(Name)

(School District Title)

(Telephone Number)

 (Office Address)

 (E-mail Address)

The names, titles, and contact information of these individuals will be published annually on the School District's web site (.) and:

- A. ☒ in the parent/student and staff handbooks.
- B. ☐ in the ~~School District Annual Report to the public.~~
- C. ☐ ~~on the School District's web site.~~
- D. ☐ ~~on each individual school's web site.~~
- E. ☐ in the ~~School District's calendar.~~
- F. ☐ _____.

The COs are responsible for coordinating the District's efforts to comply with applicable Federal and State laws and regulations, including the District's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination, retaliation or denial of equal access. The COs shall also verify that proper notice of nondiscrimination for Title II of the Americans with Disabilities Act (as amended), Title VI and VII of the Civil Rights Act of 1964, ~~Title IX of the Education Amendment Act of 1972~~, Section 504 of the Rehabilitation Act of 1973 (as amended), and the Age Discrimination Act of 1975 is provided to students, their parents, staff members, and the general public. A copy of each of the Acts and regulations on which this notice is based may be found in the CO's office.

The Superintendent shall annually attempt to identify children with disabilities, ages 3-22, who reside in the District but do not receive public education. ~~In addition, s/he shall establish procedures to identify students who are Limited English Proficient (LEP), including immigrant children and youth, to assess their ability to participate in District programs, and develop and administer a program that meets the English language and academic needs of these students. This program shall include procedures for student placement, services, evaluation, and exit guidelines and shall be designed to provide students with effective instruction that leads to academic achievement and timely acquisition of proficiency in English. As a part of this program, the District will evaluate the progress of students in achieving English language proficiency in the areas of listening, speaking, reading and writing, on an annual basis (see AG 2260F).~~

The Board is committed to educating (or providing for the education of) each qualified person with a disability with persons who are not disabled to the maximum extent appropriate. Generally, the District will place a person with a disability in the regular educational environment unless it is demonstrated that the education of the person in the regular environment, even with the use of supplementary aids and services cannot be achieved satisfactorily. If the Board operates a separate class or facility that is identifiable as being for persons with disabilities, the facility, program, and activities and services must be comparable to the facilities, programs, and activities and services offered to students without a disability.

In addition, the Superintendent shall establish procedures to identify students who are Limited English Proficient (LEP), including immigrant children and youth, to assess their ability to participate in District programs, and develop and administer a program that meets the English language and academic needs of these students. This program shall include procedures for student placement, services, evaluation, and exit guidelines and shall be designed to provide students with effective instruction that leads to academic achievement and timely acquisition of proficiency in English. As a part of this program, the District will evaluate the progress of students in achieving English language proficiency in the areas of listening, speaking, reading and writing, on an annual basis (see AG 2260F). The Superintendent is responsible for verifying that a concentration of students who are Limited English Proficient (LEP) in one (1) or more programs is not the result of discrimination.

Reports and Complaints of Unlawful Discrimination and Retaliation

Students and Board employees are required, and all other members of the School District community and Third Parties are encouraged to promptly report incidents of unlawful discrimination and/or retaliation to a teacher, administrator, supervisor, or other District official so that the Board may address the conduct. Any teacher, administrator, supervisor, or other District employee or official who receives such a complaint shall file it with the CO ~~(-) at his/her first convenience (-)~~ within two (2) ~~school~~ days.

Members of the School District community, which includes students or Third Parties, who believe they have been unlawfully discriminated/retaliated against are entitled to utilize the complaint process set forth below. Initiating a complaint, whether formally or informally, will not adversely affect the Complainant's ~~complainin individual's~~ employment or participation in educational or extra-

curricular programs. While there are no time limits for initiating complaints under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

If, during an investigation of alleged bullying, aggressive behavior and/or harassment in accordance with Policy 5517.01 - Bullying and Other Forms of Aggressive Behavior, the Director believes that the reported misconduct may constitute unlawful discrimination based on a Protected Class, the Director shall report the act to one of the COs who shall investigate the allegation in accordance with this policy. While the CO investigates the allegation, the Director shall suspend ~~the his/her~~ Policy 5517.01 investigation to await the CO's written report. The CO shall keep the Director informed of the status of the Policy 2260 investigation and provide ~~the~~ Director ~~him/her~~ with a copy of the resulting written report.

The COs will be available during regular school/work hours to discuss concerns related to unlawful discrimination/retaliation. COs shall accept ~~reports/complaints~~ of unlawful discrimination/retaliation directly from any member of the School District community or a ~~Third Party, or receive reports that are initially filed with another Board employee, visitor to the District, or receive complaints that are initially filed with a school building administrator. Upon receipt of a~~ report of alleged discrimination/retaliation, the CO will contact the Complainant and begin either an informal or formal complaint process (depending on the Complainant's request and the nature of the alleged discrimination/retaliation), ~~complaint either directly or through a school building administrator, a CO will begin either an informal or formal process (depending on the request of the person alleging the discrimination/retaliation or the nature of the alleged discrimination/retaliation),~~ or the CO will designate a specific individual to conduct such a process. The CO will provide a copy of this policy to ~~the Complainant and the Respondent, any person who files a complaint.~~ In the case of a formal complaint, the CO will prepare recommendations for the Superintendent or oversee the preparation of such recommendations by a designee. All members of the School District community must report incidents of discrimination/retaliation that are reported to them to the CO within two (2) ~~business~~ days of learning of the incident/conduct.

Any Board employee who directly observes unlawful discrimination/retaliation of a student is obligated, in accordance with this policy, to report such observations to one of the COs within two (2) business days. Additionally, any Board employee who observes an act of unlawful discrimination/retaliation is expected to intervene to stop the misconduct, unless circumstances make such an intervention dangerous, in which case the staff member should immediately notify other Board employees and/or local law enforcement officials, as necessary, to stop the misconduct. Thereafter, the CO ~~or~~ designee must contact the ~~Complainant~~ student, if age eighteen (18) or older, or the ~~Complainant's~~ student's parents/guardians if the ~~Complainant~~ student is under the age eighteen (18), within two (2) ~~school~~ days to advise ~~s/he/them~~ of the Board's intent to investigate the alleged wrongdoing.

Investigation and Complaint Procedure

Except for sex discrimination and/or Sexual Harassment that is covered by Policy 2266 – Nondiscrimination on the Basis of Sex in Education Programs or Activities, any student who alleges to have been ~~Any student who believes that s/he has been~~ subjected to unlawful discrimination or retaliation may seek resolution of ~~the his/her~~ complaint through the procedures described below. The formal complaint procedures involve an investigation of the individual's claims of discrimination/retaliation and a process for rendering a decision regarding whether the charges are substantiated.

Due to the sensitivity surrounding complaints of unlawful discrimination or retaliation, timelines are flexible for initiating the complaint process; however, individuals are encouraged ~~should make every effort~~ to file a complaint within thirty (30) ~~calendar~~ days after the conduct occurs. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) business days of the complaint being received).

The procedures set forth below are not intended to interfere with the rights of a student to pursue a complaint of unlawful discrimination or retaliation with the United States Department of Education Office for Civil Rights ("OCR"). The Cleveland Office of the OCR can be reached at 1350 Euclid Avenue, Suite 325, Cleveland, Ohio 44115; Telephone: (216) 522-4970; Fax: (216) 522-2573; TDD: (216) 522-4944; E-mail: ocr.cleveland@ed.gov; Web: <http://www.ed.gov/ocr>.

Informal Complaint Procedure

The goal of the informal complaint procedure is to ~~promptly/quickly~~ stop inappropriate behavior and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for a student who alleges unlawful discrimination or retaliation, ~~believes s/he has been unlawfully discriminated or retaliated against.~~ This informal procedure is not required as a precursor to the filing of a formal complaint.

The informal process is only available in those circumstances where the Complainant and the Respondent mutually ~~parties (the alleged target of the discrimination and individual(s) alleged to have engaged in the discrimination)~~ agree to participate in it.

The Complainant ~~Students who believe that they have been unlawfully discriminated/retaliated against~~ may proceed immediately to the formal complaint process and individuals who participate in ~~seek resolution through~~ the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process.

All complaints involving a District employee or any other adults when taking this initial step or to intervene on behalf of the individual if requested to do so. A Complainant ~~An individual~~ who is uncomfortable or unwilling to directly approach the Respondent

about the inappropriate conduct may file inform the person who allegedly engaged in the unlawful conduct of his/her concerns is not prohibited from otherwise filing an informal or a formal complaint. In addition, with regard to certain types of unlawful discrimination (e.g., sex discrimination), ~~such as sexual discrimination,~~ the CO may advise against the use of the informal complaint process.

As an initial course of action, if a Complainant feels comfortable and safe ~~student feels that s/he is being unlawfully discriminated/retaliated against and s/he is able and feels safe~~ doing so, the individual should tell or otherwise inform the Respondent that the alleged harassing person who engaged in the allegedly discriminatory/retaliatory conduct that it is inappropriate unwelcome and must stop. The Complainant complaining individual should address the alleged-allegedly harassing misconduct conduct as soon after it occurs as possible. The COs Compliance Officers are available to support and counsel individuals when taking this initial step or to intervene on behalf of the Complainant individual if requested to do so. An individual A Complainant who is uncomfortable or unwilling to directly approach the Respondent about the alleged inappropriate conduct may file ~~inform the person who allegedly engaged in the unlawful conduct of his/her concerns is not prohibited from otherwise filing~~ an informal or a formal complaint. In addition, with regard to certain types of unlawful harassment discrimination, such as sexual ~~discrimination,~~ harassment the CO Compliance Officer may advise against the use of the informal complaint process.

~~A student who believes s/he has been unlawfully discriminated/retaliated against~~ A Complainant who alleges unlawful discrimination/retaliation may make an informal complaint, either orally or in writing: 1) to a teacher, other employee, or building administrator in the school the student attends; 2) to the Superintendent or other District-level employee; and/or 3) directly to one of the COs.

All informal complaints must be reported to one of the COs who will either facilitate an informal resolution as described below, or appoint another individual to facilitate an informal resolution.

The School District's informal complaint procedure is designed to provide the Complainant ~~students who believe they are being unlawfully discriminated/retaliated against~~ with a range of options aimed at bringing about a prompt resolution of their concerns. Depending upon the nature of the complaint and the Complainant's wishes, ~~wishes of the student claiming unlawful discrimination/retaliation,~~ informal resolution may involve, but not be limited to, one or more of the following:

- A. Advising the Complainant student about how to communicate ~~his/her~~ concerns to the Respondent ~~person who allegedly engaged in the discriminatory/retaliatory behavior.~~
- B. Distributing a copy of Policy 2260 - Non-Discrimination and Access to Equal Educational Opportunity ~~as a reminder~~ to the individuals in the school building or office where the Respondent individual whose behavior is being questioned works or attends.
- C. If both parties agree, the CO may arrange and facilitate a meeting or mediation between the Complainant and the Respondent to work out a mutual resolution. ~~between the student claiming discrimination/retaliation and the individual accused of engaging in the misconduct to work out a mutual resolution.~~

While there are no set time limits within which an informal complaint must be resolved, the CO or designee is directed will exercise ~~his/her authority~~ to attempt to resolve all informal complaints within fifteen (15) business days of receiving the informal complaint. If the Complainant is ~~Parties who are~~ dissatisfied with ~~the results of~~ the informal complaint process, the Complainant may proceed to file a formal complaint and, as stated above, either party parties may request that the informal process be terminated at any time to move to the formal complaint process.

Formal Complaint Procedure

If a complaint is not resolved through the informal complaint process, if one of the parties requested that the informal complaint process be terminated to move to the formal complaint process, or if the Complainant, from the outset, elects to file a formal complaint, or the Compliance Officer(s) determines the allegations are not appropriate for resolution through the informal process, ~~student elects to file a formal complaint initially,~~ the formal complaint process shall be implemented.

The Complainant ~~A student who believes s/he has been subjected to unlawful discrimination/retaliation (hereinafter referred to as the "Complainant")~~ may file a formal complaint, either orally or in writing, with a teacher, Director, or other District official employee at the student's school, the CO, Superintendent, or another District official employee who works at another school or at the District level. Due to the sensitivity surrounding complaints of unlawful discrimination, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a formal complaint within thirty (30) ~~calendar~~ days after the conduct occurs. If a Complainant informs a teacher, Director, or other District official employee at the student's school, Superintendent, or other District employee, either orally or in writing, about any complaint of discrimination/retaliation, that employee must report such information to the CO within two (2) business days.

Throughout the course of the process, the CO should keep the parties reasonably informed of the status of the investigation and the decision-making process.

All formal complaints must include the following information to the extent known it is available: the identity of the Respondent ~~individual believed to have engaged in, or be engaging in; the discriminatory/retaliatory conduct~~; a detailed description of the facts upon which the complaint is based (i.e., when, where, and what occurred); a list of potential witnesses; and the resolution sought by the Complainant.

If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the CO shall ask for such details in an oral interview. Thereafter, the CO will prepare a written summary of the oral interview, and the Complainant will be asked to verify the accuracy of the reported charge by signing the document.

Upon receiving a formal complaint, the CO will consider whether any action should be taken in the investigatory phase to protect the Complainant from further discrimination or retaliation, including, but not limited to, a change of work assignment or schedule for the Complainant and/or the Respondent ~~person alleged to have engaged in the misconduct~~. In making such a determination, the CO should consult the Complainant to assess whether the individual agrees with his/her agreement to the proposed action. If the Complainant is unwilling to consent to the proposed change, the CO may still take whatever actions deemed ~~he deems~~ appropriate in consultation with the Superintendent.

Within two (2) business days of receiving the complaint, the CO or designee will initiate a formal investigation to determine whether the Complainant has been subjected to unlawful discrimination/retaliation. ~~↔~~ The ~~A~~ Director will not conduct an investigation unless directed to do so by the CO.

Simultaneously, the CO will inform the Respondent that a formal ~~individual alleged to have engaged in the discriminatory or retaliatory 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 provided with a copy of any relevant policies and/or administrative guidelines, including Policy 2260 - Non-Discrimination and Access to Equal Educational Opportunity. The Respondent must also be informed of the opportunity to submit a written response to the complaint within five (5) business days.

Although certain cases may require additional time, the CO or designee will attempt to complete an investigation into the allegations of discrimination/retaliation within fifteen (15) business 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 presented by the Complainant, Respondent, or any other witness that is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the CO or designee shall prepare and deliver a written report to the Superintendent that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful discrimination/retaliation as provided in Board policy and State and Federal law as to whether the Respondent has engaged in unlawful discrimination/retaliation of the Complainant ~~Complainant has been subjected to unlawful discrimination/retaliation~~. The CO's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. In determining if unlawful discrimination or retaliation occurred, a preponderance of evidence standard will be used. ~~↔~~ The CO may consult with the Board's legal counsel before finalizing the report to the Superintendent.

Absent extenuating circumstances, within five (5) business days of receiving the report of the CO or designee, the Superintendent must either issue a written final decision regarding whether the charges have 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) days. At the conclusion of the additional investigation, the Superintendent shall issue a final written decision as described above.

If the Superintendent determines the Respondent engaged in unlawful discrimination/retaliation toward the Complainant, the Superintendent ~~Complainant was subjected to unlawful discrimination/retaliation, she/he~~ must identify what corrective action will be taken to stop, remedy, and prevent the recurrence of the discrimination/retaliation. The corrective action should be reasonable, timely, age-appropriate and effective, and tailored to the specific situation.

☒ The decision of the Superintendent shall be final.

OR

~~[] A Complainant or Respondent who is dissatisfied with the final decision of the Superintendent may appeal through a signed written statement to the Board within five (5) business days of the party's his/her receipt of the Superintendent's final decision. The written statement of appeal must be submitted to the Treasurer/CFO.~~

~~In an attempt to resolve the complaint, the Board shall meet with the concerned parties and their representatives within twenty (20) business days of the receipt of such an appeal. A copy of the Board's disposition of the appeal shall be sent to each concerned party within ten (10) business days of this meeting. The decision of the Board will be final.~~

[END OF OPTIONS]

The Board reserves the right to investigate and resolve a complaint or report of unlawful discrimination/retaliation regardless of whether the student alleging the unlawful discrimination/retaliation pursues the complaint. The Board also reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Board or its designee.

The ~~parties~~Complainant may be represented, at ~~their~~his/her own cost, at any of the above-described meetings/hearings.

~~The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights, the filing of charges with local law enforcement, or the filing of a civil action in court. Use of this internal complaint process is not a prerequisite to the pursuit of other remedies. The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a Complaint with the Office for Civil Rights or the filing of a court case. Use of this internal complaint procedure is not a prerequisite to the pursuit of other remedies.~~

Privacy/Confidentiality

The ~~School~~ District will employ all reasonable efforts to protect the rights of the Complainant, the Respondent(s), and the witnesses as much as possible, consistent with the Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. All records generated under the terms of this policy shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. Additionally, the Respondent must be provided the Complainant's identity.~~All Complainants proceeding through the formal investigation process will be advised that their identities may be disclosed to the Respondent(s).~~

During the course of a formal investigation, the CO or designee will instruct each person who is interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of an investigation is expected not to disclose to third parties any information that is learned or provided~~s/he learns and/or provides~~ during the course of the investigation.

Sanctions and Monitoring

The Board shall vigorously enforce its prohibitions against unlawful discrimination/retaliation by taking appropriate action reasonably calculated to stop and prevent further misconduct. While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s). When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the ages and maturity levels of those involved. In those cases where unlawful discrimination/retaliation is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s).

Where the Board becomes aware that a prior remedial action has been taken against a member of the School District community, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its reoccurrence, and remedy its effects.

Retaliation

Retaliation against a person who makes a report or files a complaint alleging unlawful harassment/retaliation or participates as a witness in an investigation is prohibited. Neither the Board nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made unlawful by any Federal or State civil rights law, or because that individual made a report, formal complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy.

Retaliation against a person for making a report of discrimination, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

~~Retaliation against a person who makes a report or files a complaint alleging unlawful discrimination, or participates as a witness in an investigation is prohibited. Specifically, the Board will not retaliate against, coerce, intimidate, threaten or interfere with any individual because the person opposed any act or practice made unlawful by any Federal or State civil rights law, or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under those laws, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws.~~

Education and Training

In support of this policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Superintendent ~~or designee~~ shall provide appropriate information to all members of the School District community related to the implementation of this policy and shall provide training for District students and staff where appropriate. All training, as well as all information, provided regarding the Board's policy and discrimination in general, will be age and content appropriate.

Retention of Investigatory Records and Materials

The Compliance Officer(s) is responsible for overseeing retention of all records that must be maintained pursuant to this policy. All individuals charged with conducting investigations under this policy must retain all information, documents, electronically stored information, and electronic media (as defined in Policy 8315) created and received as part of an investigation, which may include, but not be limited to:

- A. all written reports/allegations/complaints/grievances/statements/responses pertaining to an alleged violation of this policy;
- B. any narratives that memorialize oral reports/allegations/complaints/grievances/statements/responses pertaining to an alleged violation of this policy;
- C. any documentation that memorializes the actions taken by District personnel or individuals contracted or appointed by the Board to fulfill its responsibilities related to the investigation and/or the District's response to the alleged violation of this policy;
- D. written witness statements;
- E. narratives, notes from, or audio, video, or digital recordings of witness interviews/statements;
- F. e-mails, texts, or social media posts that directly relate to or constitute evidence pertaining to an alleged violation of this policy (i.e., not after-the-fact commentary about or media coverage of the incident);
- G. notes or summaries prepared contemporaneously by the investigator in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.), but not including transitory notes whose content is otherwise memorialized in other documents;
- H. written disciplinary sanctions issued to students or employees and other documentation that memorializes oral disciplinary sanctions issued to students or employees for violations of this policy;
- I. dated written determinations/reports (including summaries of relevant exculpatory and inculpatory evidence) and other documentation that memorializes oral notifications to the parties concerning the outcome of the investigation, including any consequences imposed as a result of a violation of this policy;
- J. documentation of any ~~supportive/interim~~ measures offered and/or provided to the Complainant and/or the Respondent, ~~complainants and/or the alleged perpetrators~~, including no contact orders issued to both parties, the dates the no contact orders were issued, and the dates the parties acknowledged receipt of the no contact orders;
- K. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects;
- L. copies of the Board policy and/or procedures/guidelines used by the District to conduct the investigation, and any documents used by the District at the time of the alleged violation to communicate the Board's expectations to students and staff with

respect to the subject of this policy (e.g., Student Code of Conduct and/or Employee Handbooks ~~or Codes of Conduct~~);

- M. copies of any documentation that memorializes any formal or informal resolutions to the alleged discrimination or harassment;

[DRAFTING NOTE: The following options should be selected if the District concludes that the following items are not adequately encompassed in the preceding paragraphs.]

- N. ~~() documentation of any training provided to District personnel related to this policy, including but not limited to, notification of the prohibitions and expectations of staff set forth in this policy and the role and responsibility of all District personnel involved in enforcing this policy, including their duty to report alleged violations of this policy and/or conducting an investigation of an alleged violation of this policy; [REMINDER: Documentation of training should be maintained regardless of whether there is an investigation of an alleged violation of this policy. It is best practice to maintain a log of all staff members who participate in a training, along with the date, time and location of the training, and a copy of the materials reviewed and/or presented during the training.]~~
- O. ~~() documentation that any rights or opportunities that the District made available to one party during the investigation were made available to the other party on equal terms;~~
- P. ~~() copies of any notices sent to the alleged perpetrator/responding party of the allegations constituting a potential violation of this policy;~~
- Q. ~~() copies of any notices sent to the Complainant and the Respondent ~~complainant and alleged perpetrator~~ in advance of any interview, meeting, or hearing;~~
- R. ~~() copies of any documentation or evidence used during informal and formal disciplinary meetings and hearings, including the investigation report, and any written responses submitted by the Complainant or the Respondent ~~complainant or the alleged perpetrator~~;~~

The information, documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).

These investigative records and materials created or received as part of an investigation shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, and Policy 8330 for not less than three (3) years, but longer if required by the District's records retention schedule.

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Legal

A.C. 3301-35-02(A)

R.C. 3301.0711, 3302.01, 3302.03, 3313.61, 3313.611, 3313.612, 3317.03

Fourteenth Amendment, U.S. Constitution

20 U.S.C. Section 1681, Title IX of Education Amendment Act

20 U.S.C. Section 1701 et seq., Equal Educational Opportunities Act of 1974

20 U.S.C. Section 7905, Boy Scouts of America Equal Access Act

29 U.S.C. Section 794, Rehabilitation Act of 1973, as amended

42 U.S.C. Section 2000 et seq., Civil Rights Act of 1964

42 U.S.C. Section 2000ff et seq., The Genetic Information Nondiscrimination Act

42 U.S.C. 6101 et seq., Age Discrimination Act of 1975

42 U.S.C. 12101 et seq., The Americans with Disabilities Act of 1990, as amended

29 C.F.R. Part 1635

34 C.F.R. Part 110 (7/27/93)

Vocational Education Program Guidelines for Eliminating Discrimination and Denial of Services, Department of Education, Office of Civil Rights, March 1979

Book	Policy Manual
Section	ADMINISTRATION CHANGES.UPDATE TO POLICY.AUG.2021
Title	Copy of Vol. 39, No. 2 - January 2021 Revised SECTION 504/ADA PROHIBITION AGAINST DISCRIMINATION BASED ON DISABILITY
Code	po2260.01.revision
Status	
Adopted	December 19, 2012
Last Revised	May 21, 2018

2260.01 - SECTION 504/ADA PROHIBITION AGAINST DISCRIMINATION BASED ON DISABILITY

Pursuant to Section 504 of the Rehabilitation Act of 1973 ("Section 504"), the Americans with Disabilities Act of 1990, as amended ("ADA"), and the implementing regulations (collectively "Section 504/ADA"), no otherwise qualified individual with a disability shall, solely by reason of his/her disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. The Board of Education does not discriminate in admission or access to, or participation or treatment in its programs or activities. As such, the Board's policies and practices will not discriminate against students with disabilities and the Board will make its facilities, programs, and activities accessible to qualified individuals with disabilities. ~~will make accessible to qualified individuals with disabilities its facilities, programs, and activities.~~ No discrimination will be knowingly permitted against any individual with a disability on the sole basis of that disability in any of the programs, activities, policies, and/or practices in the District.

"An individual with a disability" means a person who has, had a record of, or is regarded as having, a physical or mental impairment that substantially limits one or more major life activities. Major life activities are functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, eating, sleeping, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

Major life activities also include the operation of a major bodily function, including, but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

An impairment that is episodic in nature or in remission is considered a disability if it would substantially limit a major life activity when active.

The determination of whether an impairment substantially limits a major life activity must be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, equipment or appliances, low-vision devices (not including ordinary eyeglasses or contact lenses), prosthetics (including limbs and devices), hearing aids and cochlear implants or other implantable hearing devices, mobility devices, oxygen therapy equipment or supplies, assistive technology, reasonable accommodations or auxiliary aids or services, or learned behavioral or adaptive neurological modifications.

With respect to public preschool, elementary and secondary educational services, a qualified person with a disability means a disabled person:

- A. who is of an age during which nondisabled persons are provided educational services;
- B. who is of any age during which it is mandatory under Ohio law to provide educational services to disabled persons; or
- C. to whom the State is required to provide a free appropriate public education pursuant to the Individuals with Disabilities Education Improvement Act (IDEIA).

With respect to vocational education services, a qualified person with a disability means a person with a disability ~~disabled person~~ who meets the academic and technical standards requisite to admission or participation in the vocational program or activity. The Board will not deny a student with disabilities access to its vocational education programs or courses due to architectural and/or equipment barriers, or because the student needs related aids or services to receive an appropriate education.

Compliance Officer(s)

The Board designates the following individual(s) to serve as the District's 504 Compliance Officer(s)/ADA Coordinator(s) (hereinafter referred to as the "District Compliance Officer(s)").

[DRAFTING NOTE: ~~School Districts may want to consider appointing~~ Neola suggests the Board appoint both a male and a female District Compliance Officer in order to provide complainants with the option to report their concerns to an individual of the gender with which they feel most comfortable. Additionally, by appointing two (2) District Compliance Officers, there should always be a Compliance Officer available to investigate a claim that pertains to the other Compliance Officer.]

Clay Frye Kris Kowalski
(Name)

Director of Operations
(School District Title)

419-347-7744, ext. 42202
(Telephone Number)

27 Ryan Road, Shelby, OH 44875
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Shannon Sprang
(Name)

Supervisor, Academics/Student Services
(School District Title)

419-347-7744
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sprang.shannon@pioneerctc.edu
(E-mail Address)

The name(s), title(s), and contact information of this/these individual(s) will be published annually on the School District's web site () and:

- A. ☒ in the parent/student and staff handbooks.
- B. ☐ in the ~~School District Annual Report to the public.~~
- C. ☐ ~~on the School District's web site.~~
- D. ☐ ~~on each individual school's web site.~~
- E. ☐ ~~in the School District's calendar.~~
- F. ☐ _____.

Building Directors shall serve as Building Section 504/ADA Compliance Officer(s) ("Building Compliance Officers").

The District Compliance Officer(s) () is () are responsible for coordinating the District's efforts to comply with and fulfill its responsibilities under Section 504 and Title II of the ADA. A copy of Section 504 and the ADA, including copies of their implementing regulations, may be obtained from the District Compliance Officer.

The District Compliance Officer(s) will oversee the investigation of any complaints of discrimination based on disability, which may be filed pursuant to the Board's adopted internal complaint procedure, and will attempt to resolve such complaints.

The Board will provide for the prompt and equitable resolution of complaints alleging violations of Section 504/ADA. See below. The Board will further establish and implement a system of procedural safeguards in accordance with Section 504, including the right to an impartial due process hearing. See AG 2260.01B.

Training

The District Compliance Officer(s) will also oversee the training of employees in the District so that all employees understand their rights and responsibilities under Section 504 and the ADA, and are informed of the Board's policies, administrative guidelines and practices with respect to fully implementing and complying with the requirements of Section 504/ADA.

The Board will provide in-service training and consultation to staff responsible for the education of persons with disabilities, as necessary and appropriate.

Facilities

No qualified person with a disability will, because the District's facilities are inaccessible to or unusable by persons with disabilities, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which Section 504/ADA applies.

For facilities constructed or altered after June 3, 1977, the District will comply with applicable accessibility standards. For those existing facilities constructed prior to June 3, 1977, the District is committed to operating its programs and activities so that they are readily accessible to persons with disabilities. This includes, but is not limited to, providing accommodations to persons with disabilities who desire access to their child's educational program or meetings pertinent thereto. Programs and activities will be designed and scheduled so that the location and nature of the facility or area will not deny a student with a disability the opportunity to participate on the same basis as students without disabilities.

Education

The Board is committed to identifying, evaluating, and providing a free appropriate public education (FAPE) to students within its jurisdiction who have a physical or mental impairment that substantially limits one or more major life activities, regardless of the nature or severity of their disabilities.

An appropriate education may include regular or special education and related aids and services to accommodate the unique needs of students with disabilities. For students with disabilities~~disabled students~~ who are not eligible for specially designed instruction under the IDEA, the special education and related aids and services (including accommodations/modifications/interventions) they need in order to have their needs met as adequately as the needs of nondisabled students are met, shall be delineated, along with their placement, in a Section 504 Plan (Form 2260.01A F13). Parents/guardians/custodians ("parents") are invited and encouraged to participate fully in the evaluation process and development of a Section 504 Plan. The quality of education services provided to students with disabilities will be equal to the quality of services provided to students without disabilities.

The Board is committed to educating (or providing for the education of) each qualified person with a disability who resides within the District with persons who are not disabled to the maximum extent appropriate. Generally, the District will place a person with a disability in the regular educational environment unless it is demonstrated that the education of the person in the regular environment, even with the use of supplementary aids and services cannot be achieved satisfactorily. If the District places a person in a setting other than the regular educational environment, it shall take into account the proximity of the alternate setting to the person's home. If the Board operates a separate class or facility that is identifiable as being for persons with disabilities, the facility, program, and activities and services must be comparable to the facilities, programs, and activities and services offered to students without a disability.

The Board will provide non-academic extracurricular services and activities in such a manner as is necessary to afford qualified persons with disabilities an equal opportunity for participation in such services and activities. Non-academic and extracurricular services and activities may include counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the District, referrals to agencies that provide assistance to persons with disabilities, and employment of students. In providing or arranging for the provision of meals and recess periods, and non-academic and extracurricular services and activities, including those listed above, the District will verify that persons with disabilities participate with persons without disabilities in such services and activities to the maximum extent appropriate.

Notice

Notice of the Board's policy on nondiscrimination in education practices and the identity of the District's Compliance Officer(s) will be published on the District's website and posted throughout the District and included~~published~~ in the District's recruitment statements or general information publications.

Complaint Procedures

If a person believes that s/he has been discriminated against on the basis of his/her disability, the person may utilize the following complaint procedures as a means of reaching, at the lowest possible administrative level, a prompt and equitable resolution of the matter.

In accordance with Section 504 of the Rehabilitation Act of 1973 and its implementing regulations ("Section 504"), parents and students will be notified of their right to file an internal complaint regarding an alleged violation, misinterpretation or misapplication of Section 504. In addition, students and their parents will be notified of their right to file a complaint with the U.S. Department of Education's Office for Civil Rights. Finally, students and parents will be advised of their right to request a due process hearing before an Impartial Hearing Officer (IHO) regarding the identification, evaluation or educational placement of persons with disabilities, and their right to examine relevant education records.

Internal complaints and requests for due process hearings must be put in writing and must identify the specific circumstances or areas of dispute that have given rise to the complaint or the request for a hearing, and offer possible solutions to the dispute. The complaint or request for due process hearing must be filed with a District Compliance Officer within specified time limits. The District's Compliance Officer is available to assist individuals in filing a complaint or request.

Unless expressly stated otherwise, the term "day" or "days" as used in this policy means business day(s) (i.e., a day(s) that the Board office is open for normal operating hours, Monday – Friday, excluding State-recognized holidays).

Internal Complaint Procedures

An internal complaint may be filed by a student and/or parent. A student and/or parent may initiate the internal complaint procedure when s/he/they believe that a violation, misapplication or misinterpretation of Section 504 has occurred. Additionally, the following procedure may be used for any disagreement with respect to actions regarding the identification, evaluation, or educational program or placement of students who are identified as disabled or believed to be disabled pursuant to Section 504, and are not eligible under the IDEIA, except in the case of disciplinary actions where the provisions of the Student Code of Conduct apply. Use of the internal complaint procedure is not a prerequisite to the pursuit of other remedies, including the filing of a complaint with the U.S. Department of Education's Office for Civil Rights or requesting a due process hearing.

Step 1

Investigation by the Building Compliance Officer: A student or parent may initiate an investigation by filing a written internal complaint with the Building Compliance Officer. The complaint should fully describe the circumstances giving rise to the dispute and how the child is adversely affected. The complaint must be filed as soon as possible, but not longer than thirty (30) calendar days after disclosure of the facts giving rise to the complaint. The Building Compliance Officer shall conduct an impartial investigation of the complaint. As part of the investigation, the Building Compliance Officer shall permit the complainant to present witnesses and other evidence in support of the complaint. The investigation shall be completed within fifteen (15) ~~school~~ days of the written complaint being filed. The Building Compliance Officer will notify the complainant in writing of his/her decision.

Step 2

Appeal to the District Compliance Officer: If the complaint is not resolved satisfactorily at Step 1, the student or parent may appeal the Building Compliance Officer's decision in writing to the District Compliance Officer. The appeal must be made within five (5) school days following receipt of the Building Compliance Officer's decision. The District Compliance Officer will review the case, may conduct an informal hearing, and will notify all parties in writing of his/her decision within ten (10) ~~school~~ days of receiving the appeal.

Step 3

If the complaint is not resolved satisfactorily at Step 2, the student or parent may request a due process hearing, provided the complaint involves an issue related to the identification, evaluation, or placement of the student.

If it is determined that the Complainant was subjected to unlawful discrimination, the Building and District Compliance Officers ~~COs~~ must identify what corrective action will be taken to stop, remedy, and prevent the recurrence of the discrimination/retaliation. The corrective action should be reasonable, timely, age-appropriate and effective, and tailored to the specific situation.

OCR Complaint

At any time, if a student or parent believes that s/he has been subjected to discrimination based upon his/her disability in violation of Section 504 or the ADA, the individual may file a complaint with the U.S. Department of Education's Office for Civil Rights ("OCR"). The OCR can be reached at:

U.S. Department of Education
 Office for Civil Rights
 Cleveland Office
 1350 Euclid Avenue, Suite 325
 Cleveland, Ohio 44115
 (216) 522-4970
 FAX: (216) 522-2573
 TDD: (216) 522-4944
 E-mail: OCR.Cleveland@ed.gov
 Web: <http://www.ed.gov/ocr>

Except in extraordinary circumstances, the OCR does not review the result of individual placement and other educational decisions, so long as the District complies with the "process" requirements of Subpart D of Section 504.

Retaliation

~~Retaliation against a person who makes a report or files a complaint alleging unlawful discrimination, or participates as a witness in an investigation, is prohibited. Specifically, the Board will not retaliate against, coerce, intimidate, threaten or interfere with any individual because the person opposed any act or practice made unlawful by Section 504 or the ADA, or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under those laws, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws.~~

Retaliation against a person who makes a report or files a complaint alleging unlawful discrimination/retaliation or participates as a witness in an investigation is prohibited. Neither the Board nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made unlawful by Section 504 or the ADA, or because that individual made a report, formal complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy.

Retaliation against a person for making a report of discrimination, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

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Legal	29 U.S.C. 794, Section 504 Rehabilitation Act of 1973, as amended
	34 C.F.R. Part 104
	42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended

Book	Policy Manual
Section	ADMINISTRATION CHANGES.UPDATE TO POLICY.AUG.2021
Title	Copy of Vol. 39, No. 2 - January 2021 Revised NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES
Code	po2266.revision
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Adopted	July 20, 2020

2266 - NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES

Introduction

The Board of Education of the Pioneer Career and Technology Center School District (hereinafter referred to as "the Board" or "the District") does not discriminate on the basis of sex (including sexual orientation or gender identity), in its education programs or activities, and is required by Title IX of the Education Amendments Act of 1972, and its implementing regulations, not to discriminate in such a manner. The requirement not to discriminate in its education program or activity extends to admission and employment. **[DRAFTING NOTE: In the new Title IX regulations, the term "admission" refers to admission to postsecondary institutions (i.e., institutions of graduate higher education, institutions of undergraduate higher education, institutions of professional education, and institutions of vocational education); thus, if a K-12 school does not operate a vocational program (e.g., a school or institution that has as its primary purpose preparation of students to pursue a technical, skilled, or semiskilled occupation or trade, or to pursue study in a technical field, whether or not the school or institution offers certificates, diplomas, or degrees and whether or not it offers fulltime study), the K-12 school does not officially need to include "admission and" in the preceding sentence (and where that phrase is used throughout this policy); Neola, however, has elected to include it because all K-12 schools "enroll" students and often the term "enroll" is viewed as synonymous with the term "admit." Since K-12 schools cannot discriminate when enrolling students into the education programs or activities that they operate, it seems appropriate to include the term "admission."]** The Board is committed to maintaining an education and work environment that is free from discrimination based on sex, including sexual harassment.

The Board prohibits Sexual Harassment that occurs within its education programs and activities. When the District has actual knowledge of Sexual Harassment in its education program or activity against a person in the United States, it shall promptly respond in a manner that is not deliberately indifferent.

Pursuant to its Title IX obligations, the Board is committed to eliminating Sexual Harassment and will take appropriate action when an individual is determined responsible for violating this policy. Board employees, students, third-party vendors and contractors, guests, and other members of the School District community who commit Sexual Harassment are subject to the full range of disciplinary sanctions set forth in this policy. The Board will provide persons who have experienced Sexual Harassment ongoing remedies as reasonably necessary to restore or preserve access to the District's education programs and activities.

Coverage

This policy applies to Sexual Harassment that occurs within the District's education programs and activities and that is committed by a member of the School District community or a Third Party.

This policy does not apply to Sexual Harassment that occurs off school grounds, in a private setting, and outside the scope of the District's education programs and activities; such Sexual Misconduct/Sexual Activity may be prohibited by the Student Code of Conduct if committed by a student, or by Board policies and administrative guidelines, applicable State and/or Federal laws (→ ~~and/or Employee/Administrator Handbook(s)~~ **[END OF OPTION]** if committed by a Board employee.

Consistent with the U.S. Department of Education's implementing regulations for Title IX, this policy does not apply to Sexual Harassment that occurs outside the geographic boundaries of the United States, even if the Sexual Harassment occurs in the District's education programs or activities. Sexual Harassment that occurs outside the geographic boundaries of the United States is governed by the Student Code of Conduct if committed by a student, or by Board policies and administrative guidelines, applicable State and/or Federal laws (→ ~~and/or Employee/Administrator Handbook(s)~~ **[END OF OPTION]** if committed by a Board employee.

Definitions

Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.

Sexual Harassment: "Sexual Harassment" means conduct on the basis of sex that satisfies one or more of the following:

- A. A Board employee conditioning the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct (often called "quid pro quo" harassment);
- B. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, **and** objectively offensive that it effectively denies a person equal access to the District's education program or activity; or
- C. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)A(v), or "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

"Sexual assault" means any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent, and the "nonforcible" sex offenses of Incest and Statutory Rape. Sexual assault includes rape, sodomy, sexual assault with an object, fondling, incest, and statutory rape.

1. ~~[DRAFTING NOTE: Select Option 1 or Option 2. While Neola is comfortable with Option 2, given that offenses 2 (sodomy) and 3 (sexual assault with an object) pick up parts of Option 1 that are not included in Option 2, Neola suggests the Board consult with its local legal counsel concerning which definition of "Rape" to adopt. By way of background, Option 1 represents the definition of "Rape" that is required by the Clery Act's regulations—i.e., the definition contained in the Summary Reporting System ("SRS") of the FBI's Uniform Crime Reporting ("UCR") Program. Unfortunately, the SRS is being faded out effective January 2021; at that time, the SRS is being replaced by the National Incident-Based Reporting System (NIBRS), which contains a different definition of "Rape"—i.e., the definition contained in Option 2. Additionally, it is relevant to note that the definitions of the remaining sexual assault offenses are already derived from the NIBRS's definitions. If a Board selects Option 1, it may be necessary to later update the policy to a new definition of "Rape" (i.e., the one contained in Option 2) once the SRS is retired. Alternatively, a Board could include both definitions to hopefully minimize the need to amend this policy—even on a technical amendment basis—so soon after it is adopted. If a Board elects to include both definitions, it should include the following parentheticals: (a) at the end of Option 1: "(effective until the FBI retires the Summary Reporting System, which is scheduled for January 2021)"; and (b) at the end of Option 2: "(effective upon retirement of the Summary Reporting System, which is scheduled for January 2021)."]~~

~~[] [OPTION 1] Rape is penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity. Attempted rape is included. [END OF OPTION 1]~~

~~[] [OPTION 2] Rape is the carnal knowledge of a person (i.e., penetration, no matter how slight, of the genital or anal opening of a person), without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity. [END OF OPTION 2]~~

2. Sodomy is oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
3. Sexual Assault with an Object is using an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity. An "object" or "instrument" is anything used by the offender other than the offender's genitalia.
4. Fondling is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
5. Incest is nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by State law.

6. Statutory Rape is **nonforcible** sexual intercourse with a person who is under the statutory age of consent as defined by State law.
7. Consent refers to words or actions that a reasonable person would understand as agreement to engage in the sexual conduct at issue. A person may be incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity. A person who is incapacitated is not capable of giving consent. **[DRAFTING NOTE: The Title IX regulations do not require the Board to adopt a particular definition of "consent," but it is advisable to adopt a definition because "consent" is an element of each of the first four terms listed above. Since there are a number of different definitions of consent from which to choose, the Board should consult its local legal counsel concerning selecting a specific definition of consent that represents its position on the topic; the investigator(s) and decision-maker(s) will then uniformly apply the adopted definition.]**
8. Incapacitated refers to the state where a person does not understand and/or appreciate the nature or fact of sexual activity due to the effect of drugs or alcohol consumption, medical condition, disability, or due to a state of unconsciousness or sleep. **[DRAFTING NOTE: Depending on the definition of "consent" that the Board adopts, it may be necessary to define "incapacitated" in the policy. If it is not defined in the policy, it should certainly be defined in the Administrative Guideline; even if defined in the policy, the Administrative Guideline provides an opportunity to expand on the concept of "consent" and what the Board means by the term "incapacitated."]**

D. "Domestic violence" includes felony or misdemeanor crimes of violence committed by:

1. a current or former spouse or intimate partner of the victim;
2. a person with whom the victim shares a child in common;
3. a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
4. a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime occurred; or
5. any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime occurred.

E. "Dating violence" means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

F. "Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to – (1) fear for the person's safety or the safety of others; or (2) suffer substantial emotional distress.

Complainant: "Complainant" means an individual who is alleged to be the victim of conduct that could constitute Sexual Harassment.

Respondent: "Respondent" means an individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment.

Formal Complaint: "Formal Complaint" means a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that the District investigate the allegation(s) of Sexual Harassment. At the time of filing a Formal Complaint with the District, a Complainant must be participating in or attempting to participate in the District's education program or activity. A "document filed by a complainant" means a document or electronic submission (such as by electronic mail or through an online portal that the Board provides for this purpose) that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or a party to the Formal Complaint and must not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

Actual Knowledge: "Actual knowledge" means notice of Sexual Harassment or allegations of Sexual Harassment to the District's Title IX Coordinator, or any District official who has authority to institute corrective measures on behalf of the Board, or any Board employee. The mere ability or obligation to report Sexual Harassment or to inform a student about how to report Sexual Harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the District. "Notice" includes, but is not limited to, a report of Sexual Harassment to the Title IX Coordinator. This standard is not met when the only District official with actual knowledge is the Respondent.

Supportive Measures: "Supportive measures" means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to the District's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the District's educational environment, or deter Sexual Harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, school/campus escort services, mutual restrictions of contact between the parties, changes in work locations), leaves of absence, increased security and monitoring of certain areas of the campus (including school buildings and facilities), () referral to Employee Assistance Program **[END OF OPTION]**, and other similar measures.

Education Program or Activity: "Education program or activity" refers to all operations of the District, including but not limited to in-person and online educational instruction, employment, extracurricular activities, athletics, performances, and community engagement and outreach programs. The term applies to all activity that occurs on school grounds or on other property owned or occupied by the Board. It also includes locations, events and circumstances that take place off-school property/grounds over which the Board exercises substantial control over both the Respondent and the context in which the Sexual Harassment occurs.

School District community: "School District community" refers to students and Board employees (i.e., administrators, and professional and classified staff), as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

Third Parties: "Third Parties" include, but are not limited to, guests and/or visitors on School District 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 District community at school-related events/activities (whether on or off District property).

Inculpatory Evidence: "Inculpatory evidence" is evidence that tends to establish a Respondent's responsibility for alleged Sexual Harassment.

Exculpatory Evidence: "Exculpatory evidence" is evidence that tends to clear or excuse a Respondent from allegations of Sexual Harassment.

Day(s): Unless expressly stated otherwise, the term "day" or "days" as used in this policy means business day(s) (i.e., a day(s) that the Board office is open for normal operating hours, Monday – Friday, excluding State-recognized holidays).

Eligible Student: "Eligible Student" means a student who has reached eighteen (18) years of age or is attending an institution of postsecondary education.

Title IX Coordinator(s)

The Board designates and authorizes the following individual(s) to oversee and coordinate its efforts to comply with Title IX and its implementing regulations:

[DRAFTING NOTE: Neola suggests the Board consider appointing both a male and a female Title IX Coordinator. The Board must list either the Name or Title of the Title IX Coordinator; while the Board may list both the Name and Title, Neola suggests that the Board consider only listing the Title in this policy (so it does not need to revise/amend its policy whenever there is a change in the actual person(s) holding the designated position(s)), but list both the Name and Title in the requisite postings (e.g., website) and publications (e.g., handbooks) () and in the Administrative Guideline.]

Clay Frye-Kris Kowalski
(Name)

Director of Operations
(School District Title)

419-347-7744, ext. 42202
(Telephone Number)

27 Ryan Road, Shelby, OH 44875
(Office Address)

frye.claykowalski.kris@pioneerctc.edu
(E-mail Address)

{Name}

{School District Title}

{Telephone Number}

{Office Address}

(E-mail Address)

The Title IX Coordinator shall report directly to the Superintendent. Questions about this policy should be directed to the Title IX Coordinator.

The Superintendent shall notify applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, Board employees, and all unions or professional organizations holding collective bargaining or professional agreements with the Board of the following information:

The Board of the Pioneer Career and Technology Center School District does not discriminate on the basis of sex in its education program or activity, and is required by Title IX and its implementing regulations not to discriminate in such a manner. The requirement not to discriminate in its education program or activity extends to admission and employment. The District's Title IX Coordinator(s) is/are:

Clay Frye Kris Kowalski

(Name)

Director of Operations

(School District Title)

419-347-7744, ext. 42202

(Telephone Number)

27 Ryan Road, Shelby, OH 44875

(Office Address)

frye.claykowalski.kris@pioneerctc.edu

(E-mail Address)

{Name}

{School District Title}

{Telephone Number}

{Office Address}

{E-mail Address}

Any inquiries about the application of Title IX and its implementing regulations to the District may be referred to the Title IX Coordinator(s), the Assistant Secretary for the U.S. Department of Education's Office for Civil Rights, or both.

The Board has adopted a grievance process and procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that is prohibited by Title IX and/or its implementing regulations. The grievance process and procedures are included in Policy 2266 – Nondiscrimination on the Basis of Sex in Education Programs or Activities, which is

available at: **[insert the web address at which Policy 2266 can be found; or insert a hyperlink tied to the title of the policy]** The grievance process and procedures specifically address how to report or file a complaint of sex discrimination, how to report or file a formal complaint of Sexual Harassment, and how the District will respond.

The Superintendent shall also prominently display the Title IX Coordinator's(s') contact information – including name(s) and/or title(s), phone number(s), office address(es), and e-mail address(es) – and this policy on the District's website and in each handbook or catalog that the Board makes available to applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, Board employees, and all unions or professional organizations holding collective bargaining or professional agreements.

Grievance Process and Procedures

The Board is committed to promptly and equitably resolving student and employee complaints alleging Sexual Harassment. The District's response to allegations of Sexual Harassment will treat Complainants and Respondents equitably, including providing supportive measures to the Complainant and Respondent, as appropriate, and following this Grievance Process before imposition of any disciplinary sanctions or other actions, other than supportive measures, against the Respondent.

The Title IX Coordinator(s), along with any investigator(s), decision-maker(s), or any person(s) designated to facilitate an informal resolution process, shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

If a determination of responsibility for Sexual Harassment is made against the Respondent, the Board will provide remedies to the Complainant. The remedies will be designed to restore or preserve equal access to the District's education program or activity. Potential remedies include, but are not limited to, individualized services that constitute supportive measures. Remedies may also be disciplinary or punitive in nature and may burden the Respondent.

Report of Sexual Discrimination/Harassment

Any person may report sex discrimination, including Sexual Harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or Sexual Harassment), in person, by mail, by telephone, or by electronic mail, using the Title IX Coordinator's(s') contact information listed above, or by any other means that results in the Title IX Coordinator receiving the person's oral or written report. Reports may be made at any time (including during non-business hours), by using the telephone number(s) or electronic mail address(es), or by mail to the office address(es), listed for the Title IX Coordinator(s). ~~(-) Anonymous reports may be submitted using [] the online reporting form posted at [insert the web address for the reporting form, or insert a hyperlink tied to the phrase "online reporting form" [or] () the hotline reporting number ([insert phone number])].~~

Students, Board members, and Board employees are required, and other members of the School District community, and Third Parties) are encouraged, to report allegations of sex discrimination or Sexual Harassment promptly to the/a Title IX Coordinator or to any Board employee, who will in turn notify the/a Title IX Coordinator. **[DRAFTING NOTE: All Board employees are mandatory reporters pursuant to the Title IX regulations. Existing policy, however, also requires students and Board members to report any information they have concerning allegations of sex discrimination or Sexual Harassment. Neola suggests that the Board continue this additional requirement in this policy, along with the language encouraging other individuals to make such reports; this will coincide with similar requirements that are imposed on Board members and students in other nondiscrimination and anti-harassment policies. If the Board decides it does not want to go beyond the scope of the regulations for purposes of this policy, it should replace the first sentence of this paragraph with either of the following: "Board employees are required to report allegations of sex discrimination or Sexual Harassment promptly to the Title IX Coordinator." OR "Board employees are required, and other members of the School District community and Third Parties are encouraged, to report allegations of sex discrimination or Sexual Harassment promptly to the/a Title IX Coordinator or to any Board employee, who in turn will notify the/a Title IX Coordinator."]** Reports can be made orally or in writing and should be as specific as possible. The person making the report should, to the extent known, identify the alleged victim(s), perpetrator(s), and witness(es), and describe in detail what occurred, including date(s), time(s), and location(s).

If a report involves allegations of Sexual Harassment by or involving the Title IX Coordinator, the person making the report should submit it to the Superintendent, or another Board employee who, in turn, will notify the Superintendent of the report. The Superintendent will then serve in place of the Title IX Coordinator for purposes of addressing that report of Sexual Harassment. **[DRAFTING NOTE: If the Superintendent is the Title IX Coordinator, substitute "Board President" in place of "Superintendent."]**

The Board does business with various vendors, contractors, and other third-parties who are not students or employees of the Board. Notwithstanding any rights that a given vendor, contractor, or third-party Respondent may have under this policy, the Board retains the right to limit any vendor's, contractor's, or third-party's access to school grounds for any reason. The Board further retains all rights it enjoys by contract or law to terminate its relationship with any vendor, contractor, or third-party irrespective of any process or outcome under this policy.

A person may file criminal charges simultaneously with filing a Formal Complaint. A person does not need to wait until the Title IX investigation is completed before filing a criminal complaint. Likewise, questions or complaints relating to Title IX may be filed with the U.S. Department of Education's Office for Civil Rights at any time.

Any allegations of Sexual Misconduct/Sexual Activity not involving Sexual Harassment will be addressed through the procedures outlined in Board policies ~~(-) and/or administrative guidelines,~~ **[END OF OPTION]** the applicable Student Code of Conduct, applicable collective bargaining agreement, and/or Employee/Administrator Handbook.

Because the Board is considered to have actual knowledge of Sexual Harassment or allegations of Sexual Harassment if any Board employee has such knowledge, and because the Board must take specific actions when it has notice of Sexual Harassment or allegations of Sexual Harassment, a Board employee who has independent knowledge of or receives a report involving allegations of sex discrimination and/or Sexual Harassment must notify the/a Title IX Coordinator within two (2) days of learning the information or receiving the report. **DRAFTING NOTE: The regulations do not specify within how many days the Board employee must notify the Title IX Coordinator of receiving a report of Sexual Harassment; Neola suggests "two (2) days". Alternatively, the Board could make this language more open-ended – e.g., "** * * must immediately/promptly notify the/a Title IX Coordinator of such information or report."]** The Board employee must also comply with mandatory reporting responsibilities pursuant to R.C. 2151.412 and Policy 8462 – Student Abuse and Neglect, if applicable. If the Board employee's knowledge is based on another individual bringing the information to the Board employee's attention and the reporting individual submitted a written complaint to the Board employee, the Board employee must provide the written complaint to the Title IX Coordinator.

If a Board employee fails to report an incident of Sexual Harassment of which the Board employee is aware, the Board employee may be subject to disciplinary action, up to and including termination.

When a report of Sexual Harassment is made, the Title IX Coordinator shall promptly (i.e., within two (2) days **DRAFTING NOTE: The regulations do not define "promptly" or otherwise specify within how many days the contact has to be made; Neola suggests "two (2) days".]** of the Title IX Coordinator's receipt of the report of Sexual Harassment) contact the Complainant (including the parent/guardian if the Complainant is under 18 years of age or under guardianship) to discuss the availability of supportive measures, consider the Complainant's wishes with respect to supportive measures, inform the Complainant of the availability of supportive measures with or without the filing of a Formal Complaint, and explain to the Complainant the process for filing a Formal Complaint. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. Any supportive measures provided to the Complainant or Respondent shall be maintained as confidential, to the extent that maintaining such confidentiality will not impair the ability of the District to provide the supportive measures.

Emergency Removal: Subject to limitations and/or procedures imposed by State and/or Federal law, the District may remove a student Respondent from its education program or activity on an emergency basis after conducting an individualized safety and risk analysis. The purposes of the individualized safety and risk analysis is to determine whether the student Respondent poses an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment that justifies removal. If the District determines the student Respondent poses such a threat, it will so notify the student Respondent and the student Respondent will have an opportunity to challenge the decision immediately following the removal. See Policy 5610 – Removal, Suspension, Expulsion, and Permanent Exclusion of Student, Policy 5610.03 – Emergency Removal of Students, and Policy 5611 – Due Process Rights. **[DRAFTING NOTE: The Board may substitute "Superintendent" or "Title IX Coordinator" in place of "District" in the first sentence. Alternatively, the Superintendent could designate, through the administrative guideline, one or more administrators, including the Title IX Coordinator, to make emergency removal decisions after conducting the individualized safety and risk analysis. In Ohio, emergency removals may only be imposed in the manner delineated in ORC 3313.66. Additionally, emergency removals must be conducted in compliance with the Individuals with Disabilities Education Improvement Act and/or Section 504 of the Rehabilitation Act of 1973.]**

If the Respondent is a non-student employee, the District may place the Respondent on administrative leave during the pendency of the grievance process.

For all other Respondents, including other members of the School District community and Third Parties, the Board retains broad discretion to prohibit such persons from entering onto its school grounds and other properties at any time and for any reason, whether after receiving a report of Sexual Harassment or otherwise.

Formal Complaint of Sexual Harassment

A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information set forth above ~~(-) and by _____~~ **DRAFTING NOTE: The Board may set forth additional method(s) by which a Formal Complaint may be filed (e.g., online portal submission).]** If a Formal Complaint involves allegations of Sexual Harassment by or involving the Title IX Coordinator, the Complainant should submit the Formal Complaint to the Superintendent, who will designate another person to serve in place of the Title IX Coordinator for the limited purpose of implementing the grievance process and procedures with respect to that Formal Complaint. **[DRAFTING NOTE: If the**

Superintendent is the Title IX Coordinator, substitute "Board President" in place of "Superintendent" in the preceding sentence.]

When the Title IX Coordinator receives a Formal Complaint or signs a Formal Complaint, the District will follow its Grievance Process and Procedures, as set forth herein. Specifically, the District will undertake an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence – and provide that credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness.

It is a violation of this policy for a Complainant(s), Respondent(s), and/or witness(es) to knowingly making false statements or knowingly submitting false information during the grievance process, including intentionally making a false report of Sexual Harassment or submitting a false Formal Complaint. The Board will not tolerate such conduct, which is a violation of the Student Code of Conduct () and the Employee/Administrator Handbook. **[DRAFTING NOTE: The Board should confirm/verify that its Student Code of Conduct and any Employee/Administrator Handbook(s) include a prohibition against intentionally making a false report, submitting a false Formal Complaint, or making a false statement or submitting false information during a Title IX grievance process. Such misconduct should be a sanctionable offense pursuant to the Student Code of Conduct and Employee/Administrator Handbook(s).]**

The Respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

Timeline

The District will seek to conclude the grievance process, including resolving any appeals, within sixty (60) days of receipt of the Formal Complaint. **[DRAFTING NOTE: The Title IX regulations do not specify a deadline for completing the grievance process; Neola suggests sixty (60) days (i.e., twelve (12) weeks) based on the following considerations: (1) within two (2) days of receipt of the Formal Complaint, the Title IX Coordinator sends requisite notice to parties; (2) two (2) weeks (fourteen (14) calendar days) to investigate (remember the need for advance written notice to a party and adequate time for the party to prepare before any interviews/hearings/meetings; time for parties to present witnesses (including expert witnesses) and other inculpatory or exculpatory evidence); (3) at the conclusion of the investigation and before finalizing the investigative report, two (2) weeks (a minimum of ten (10) calendar days) for the parties to review the evidence and submit their feedback; (4) up to a week (i.e., seven (7) calendar days) for the investigator to consider such feedback and prepare the investigative report; (4) two (2) week (a minimum of ten (10) calendar days) for the parties to review the investigative report and submit questions and receive answers to questions submitted to parties and witnesses (if the Board permits hearings, the hearing cannot occur until the Complainant and Respondent have had a minimum of ten (10) calendar days to review the investigative report); (5) a week (i.e., seven (7) calendar days) for the decision-maker(s) to prepare the decision; (6) up to a week (Neola suggests three to five calendar days) for the parties to review the decision and submit a notice of appeal; (7) a week (seven (7) calendar days) for the parties to submit their written statements in support of or in opposition to the appeal; and (8) a week (seven (7) calendar days) for the appeal decision-maker(s) to prepare a final decision. Any informal resolution process could impact this schedule. Given this fairly aggressive timeline, the Board may want to remove the appeal process from this timeline – i.e., delete the phrase ", including resolving any appeals," from the sentence, which would allow more time for potential use of the informal resolution process. Further, the preceding schedule does not provide time for a hearing that could further extend the timeline needed to complete the grievance process.]**

If the Title IX Coordinator offers informal resolution processes, the informal resolution processes may not be used by the Complainant or Respondent to unduly delay the investigation and determination of responsibility. The timeline, however, may be subject to a temporary delay of the grievance process or a limited extension for good cause with written notice to the Complainant and the Respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; and the need for language assistance or accommodation of disabilities. **[DRAFTING NOTE: The Board should consult with its local legal counsel on a case-by-case basis to determine whether there may be other reasons/good cause for a delay or extension of time – e.g., the complexity and severity of the matter, or school breaks.]** () The Title IX Coordinator will provide the parties with reasonable updates on the status of the grievance process.

Upon receipt of a Formal Complaint, the Title IX Coordinator will provide written notice of the following to the parties who are known:

- A. Notice of the Board's grievance process, including any informal resolution processes;
- B. Notice of the allegations of misconduct that potentially constitutes Sexual Harassment as defined in this policy, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting Sexual Harassment, and the date and location of the alleged incident, if known. The written notice must:

1. include a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the grievance process;
2. inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence.
3. inform the parties of any provision in the Student Code of Conduct (x), this policy, ~~(-) and/or Employee/Administrator Handbook~~ **[DRAFTING NOTE: While the Title IX regulations only reference "code of conduct" Neola suggests that the Board reference other applicable documents that expressly prohibit an individual from making false statements or knowingly submitting false information as part of the grievance process]** that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

[DRAFTING NOTE: The Title IX regulations do not define "upon receipt" or otherwise specify within how many days the notice must be sent; Neola suggests the Title IX Coordinator send the notice within "two (2) days" of receipt of the Formal Complaint; this suggestion is memorialized in the corresponding Administrative Guideline. Please note, however, that it could be argued that the notice should be sent sooner. Regardless, the Title IX Coordinator should have a template notice form available that can be quickly completed with the requisite information after receipt of the Formal Complaint.]

If, during the course of the investigation, the investigator becomes aware of allegations about the Complainant or Respondent that are not included in the original notice provided to the parties, the investigator will notify the Title IX Coordinator and the Title IX Coordinator will decide whether the investigator should investigate the additional allegations; if the Title IX Coordinator decides to include the new allegations as part of the investigation, the Title IX Coordinator will provide notice of the additional allegations to the parties whose identities are known.

Dismissal of a Formal Complaint

The District shall investigate the allegations in a Formal Complaint, unless the conduct alleged in the Formal Complaint:

- A. would not constitute Sexual Harassment (as defined in this policy) even if proved;
- B. did not occur in the District's education program or activity; or
- C. did not occur against a person in the United States.

If one of the preceding circumstances exist, the Title IX Coordinator shall dismiss the Formal Complaint. If the Title IX Coordinator dismisses the Formal Complaint due to one of the preceding reasons, the District may still investigate and take action with respect to such alleged misconduct pursuant to another provision of an applicable code of conduct, Board policy, and/or Employee/Administrator Handbook.

The Title IX Coordinator may dismiss a Formal Complaint, or any allegations therein, if at any time during the investigation ~~(-) or hearing~~ **[DRAFTING NOTE: Select this option if the Board permits hearings.]:**

- A. a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;
- B. the Respondent is no longer enrolled in the District or employed by the Board; or
- C. specific circumstances prevent the District from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

If the Title IX Coordinator dismisses a Formal Complaint or allegations therein, the Title IX Coordinator must promptly send written notice of the dismissal and the reason(s) therefor simultaneously to the parties.

Consolidation of Formal Complaints

The Title IX Coordinator may consolidate Formal Complaints as to allegations of Sexual Harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of Sexual Harassment arise out of the same facts or circumstances.

Where a grievance process involves more than one Complainant or more than one Respondent, references in this policy to the singular "party," "Complainant," or "Respondent" include the plural, as applicable.

[DRAFTING NOTE: The Board may adopt provisions, rules, or practices other than those required by the Title IX regulations as part of its grievance process for handling Formal Complaints of Sexual Harassment, provided they apply equally to both parties and do not violate the language in the regulations. The Board should discuss this option with its local legal counsel.]

Informal Resolution Process

Under no circumstances shall a Complainant be required as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, to waive any right to an investigation and adjudication of a Formal Complaint of Sexual Harassment. Similarly, no party shall be required to participate in an informal resolution process.

If a Formal Complaint is filed, the Title IX Coordinator may offer to the parties an informal resolution process. If the parties mutually agree to participate in the informal resolution process, the Title IX Coordinator shall designate a trained individual to facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication. The informal resolution process may be used at any time prior to the decision-maker(s) reaching a determination regarding responsibility.

If the Title IX Coordinator is going to propose an informal resolution process, the Title IX Coordinator shall provide to the parties a written notice disclosing:

- A. the allegations;
- B. the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a Formal Complaint arising from the same allegations; and
- C. any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

Any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the Formal Complaint.

Before commencing the informal resolution process, the Title IX Coordinator shall obtain from the parties their voluntary, written consent to the informal resolution process.

During the pendency of the informal resolution process, the investigation and adjudication processes that would otherwise occur have stayed and all related deadlines are suspended.

The informal resolution process is not available to resolve allegations that a Board employee ~~()~~ or another adult member of the School District community or Third Party **[END OF OPTION]** sexually harassed a student. **[DRAFTING NOTE: The Title IX regulations prohibit the use of an informal resolution process when the allegations involve a Board employee sexually harassing a student; Neola suggests that it also may not be appropriate to use informal resolution processes when a Third Party is alleged to have sexually harassed a student. Since this is not a requirement, it is offered as an option. If the optional language is not selected, the Board retains the discretion to use informal resolution processes as may be determined appropriate by the Title IX Coordinator on a case-by-case basis.]**

☒ **[X]** The informal resolution process is not available to resolve allegations involving a sexual assault involving a student Complainant and a student Respondent. **[DRAFTING NOTE: While this language is not required by the Title IX regulations, Neola suggests the Board select this option because of the severity of this type of Sexual Harassment.]**

Investigation of a Formal Complaint of Sexual Harassment

In conducting the investigation of a Formal Complaint and throughout the grievance process, the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility is on the District, not the parties.

In making the determination of responsibility, the decision-maker(s) is(are) directed to use the ☒ **[X]** preponderance of the evidence standard ~~() clear and convincing evidence standard. The decision maker(s) is charged with considering the totality of all available evidence, from all relevant sources.~~

[DRAFTING NOTE: Neola suggests the Board adopts the "preponderance of the evidence standard." The preponderance of the evidence standard is an equitable standard of proof and the legal standard by which most civil lawsuits, including civil rights claims, are adjudicated in the United States. This standard requires the decision-maker(s) to

determine that there is a greater than fifty percent (50%) likelihood (i.e., it is more probable/likely than not) that the Respondent engaged in the alleged Sexual Harassment. The “clear and convincing evidence standard,” on the other hand, is a higher standard of evidence, in which the District would need to show to the decision-maker(s) that the truth of the allegations is highly probable (i.e., that the contention is substantially more likely to be true than untrue). Some argue that using the clear and convincing standard may skew the playing field toward the Respondent by enhancing protection for the Respondent at the expense of the Complainant. The same standard of evidence must be applied for Formal Complaints against students as is applied to Formal Complaints against employees, and the same standard of evidence must be used for all Formal Complaints of Sexual Harassment.]

The District is not permitted to access, consider, disclose, or otherwise use a party’s records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional’s or paraprofessional’s capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the party provides the District with voluntary, written consent to do so; if a student party is not an Eligible Student, the District must obtain the voluntary, written consent of a parent.

Similarly, the investigator(s) and decision-maker(s) may not require, allow, rely upon or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege in writing.

As part of the investigation, the parties have the right to:

- A. present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence; and
- B. have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. The District may not limit the choice or presence of an advisor for either the Complainant or Respondent in any meeting or grievance proceeding.

~~(-) The District establishes the following restrictions, which apply equally to both parties, regarding the extent to which an advisor may participate in the proceedings:~~

[DRAFTING NOTE: The Board should consult with its local legal counsel concerning any restrictions it may want to place on an advisor’s participation in the proceedings, including rules of decorum. This topic is also addressed in Administrative Guideline 2266.]

☒ Board Policy 2461 – Recording of District Meetings Involving Students and/or Parents controls whether a person is allowed to audio record or video record any meeting or grievance proceeding.

Neither party shall be restricted in their ability to discuss the allegations under investigation or to gather and present relevant evidence.

The District will provide to a party whose participation is invited or expected written notice of the date, time, location, participants, and purpose of all ~~(-) hearings,~~ **[DRAFTING NOTE: Select this option if the Board permits hearings.]** investigative interviews, or other meetings, with sufficient time for the party to prepare to participate. ☒ The investigator(s) and decision-maker(s) must provide a minimum of one (1) days’ notice with respect to investigative interviews and other meetings ~~(-) and _____ days’ notice with respect to hearings~~ **[END OF OPTION]. [DRAFTING NOTE: The Board should consult with its local legal counsel concerning whether to set a minimum amount of advance notice – i.e., define “sufficient time”; Neola suggests a minimum of three (3) days’ advanced notice for hearings and one (1) day’s advanced notice for investigative interviews and other meetings.]**

Both parties shall have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the District does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation.

Prior to completion of the investigative report, the ☒ investigator ~~(-) Title IX Coordinator~~ will send to each party and the party’s advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties will have at least ten (10) calendar days to submit a written response, which the investigator will consider prior to completion of the investigative

report. **[DRAFTING NOTE: The Board should select the following option if it provides for a hearing before the decision-maker] ()** The District will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross examination.

At the conclusion of the investigation, the investigator shall create an investigative report that fairly summarizes relevant evidence and send the report to each party and the party's advisor, if any, for their review and written response. The investigator will send the investigative report in an electronic format or a hard copy, at least ten (10) calendar days prior to **[DRAFTING NOTE: Select one of the following two options. The Board should select the second option if it is providing a hearing or permitting the decision-maker(s) to decide whether to conduct a hearing on a case-by-case basis.]**

☒ the decision-maker(s) issuing a determination regarding responsibility.

~~() a hearing or the decision-maker(s) issuing a determination regarding responsibility.~~

Determination of Responsibility

The Title IX Coordinator shall appoint a decision-maker(s) to issue a determination of responsibility. The decision-maker(s) cannot be the same person(s) as the Title IX Coordinator(s) or the investigator(s).

[DRAFTING NOTE: The Board may, but need not, provide for a hearing before the decision-maker(s) reaches a determination of responsibility. Neola suggests that the Board not provide for a hearing. If the Board decides not to provide for a hearing, the Board should select OPTION 1; if the Board elects to provide a hearing or to provide the decision-maker(s) with the discretion to conduct a hearing on a case-by-case basis, the Board should select OPTION 2. Additionally, if the Board operates a vocational program [see the Drafting Note contained in the first paragraph of the Introduction for a definition of "vocational program"], Neola suggests that the Board consult its local legal counsel concerning whether it must provide for a live hearing related to Formal Complaints involving parties associated with the vocational program. If the Board determines, in consultation with its legal counsel, that it must provide for a live hearing, it should select Option E of OPTION 2, at least with respect to Formal Complaints involving parties involved in the vocational program (i.e., it does not need to provide for a live hearing for its regular K-12 education programs and activities that it operates.)]

☒ OPTION 1

After the investigator sends the investigative report to the parties and the decision-maker(s), and before the decision-maker(s) reaches a determination regarding responsibility, the decision-maker(s) will afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. The decision-maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant.

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent. The decision-maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant.

[END OF OPTION 1]

~~[] OPTION 2~~

~~After the investigator sends the investigative report to the parties and the decision-maker(s), and prior to the decision-maker(s) issuing a determination of responsibility, the decision-maker(s) () may () will conduct a hearing.~~

[DRAFTING NOTE: Select Option A or Option B. If the Board selects "may," it should select Option A; if it selects "will," it should select Option B.]

~~[] Option A~~

~~If the decision-maker(s) decides not to conduct a hearing, the decision-maker(s) will state in writing the reason for not conducting a hearing and provide that explanation to the parties. Additionally, before the decision-maker(s) reaches a determination regarding responsibility, the decision-maker(s) will afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. The decision-maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant.~~

~~If the decision-maker(s) elects to conduct a hearing, the hearing will proceed as follows:~~

[END OF OPTION A]

[] Option B

The hearing will proceed as follows:

[END OF OPTION B]

[DRAFTING NOTE: Select Option C or Option D or Option E; Neola suggests Option C]

[] Option C

At the hearing, the decision maker(s) will allow each party or each party's advisor to submit relevant questions to the decision maker(s) who will ask the questions to the other party and any witnesses. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the decision maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. Only relevant cross-examination and other questions, including follow-up questions and questions challenging credibility, will be permitted. Such cross-examination and questioning at the live hearing shall be conducted orally and in real time.

[] If a party does not have an advisor present at the live hearing, the District will provide, without fee or charge to that party, an advisor of the District's choice, who may be, but is not required to be, an attorney, to submit questions on behalf of that party.

[END OF OPTION C]

[] Option D

Prior to commencing the hearing, the decision maker(s) will decide whether to allow each party's advisor to ask questions directly of the other party and any witnesses, or instead to have the questions submitted to the decision maker(s) who will ask the other party and any witnesses the questions.

If the decision maker(s) permits each party's advisor to ask the other party and any witnesses relevant questions and follow-up questions, including questions challenging credibility, such cross-examination at the hearing will be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally. If the decision maker(s) permit each party's advisor to ask questions directly to the other party and any witnesses, the decision maker(s) shall not restrict the extent to which advisors may participate in the hearing.

If, on the other hand, the decision maker(s) decides to have each party's advisor (or the party, if the party does not have an advisor) submit relevant questions to the decision maker(s), the decision maker will ask the questions to the other party and any witnesses. Such cross-examination at the hearing will be conducted orally and in real time by the decision maker(s) based upon questions submitted by a party's advisor or the party.

Only relevant cross-examination and other questions may be asked of a party or witness. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the decision maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

If the decision maker(s) permits the parties' advisors to ask the questions directly, and a party does not have an advisor present at the live hearing, the District will provide, without fee or charge to that party, an advisor of the District's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.

[] If the decision maker(s) decides not to have the parties' advisors ask the questions directly, and a party does not have an advisor present at the hearing, the District will provide, without fee or charge to that party, an advisor of the District's choice, who may be, but is not required to be, an attorney, to submit questions on behalf of that party.

[END OF OPTION D]

[] Option E

At the hearing, the decision maker(s) shall permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally; notwithstanding anything to the contrary in this policy, the decision maker shall not restrict the extent to which advisors may participate in the hearing.

Only relevant cross-examination and other questions may be asked of a party or witness. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the decision maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

If a party does not have an advisor present at the hearing, the District will provide, without fee or charge to that party, an advisor of the District's choice, who may be, but is not required to be, an attorney, to conduct cross examination on behalf of that party.

[END OF OPTION E]

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

If a party or witness does not submit to cross examination at the hearing, the decision-maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the decision-maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the hearing or refusal to answer cross examination or other questions.

Hearings may be conducted with all parties physically present in the same geographic location or, at the discretion of the ~~()~~ decision-maker(s) ~~()~~ Title IX Coordinator(s), any or all parties, witnesses, and other participants may appear at the hearing virtually, with technology enabling participants simultaneously to see and hear each other. At the request of either party, the decision-maker shall provide for the hearing to occur with the parties located in separate rooms with technology enabling the decision-maker(s) and parties to simultaneously see and hear the party or witness answering questions. The District will create an audio or audiovisual recording, or transcript, of any hearing and make it available to the parties for inspection and review.

[END OF OPTION 2]

Determination regarding responsibility: The decision-maker(s) will issue a written determination regarding responsibility. To reach this determination, the decision-maker(s) must apply the ☒ preponderance of the evidence standard ~~() clear and convincing evidence standard.~~ **[DRAFTING NOTE: Be sure to select the evidence standard selected previously (i.e., above).]**

The written determination will include the following content:

- A. identification of the allegations potentially constituting Sexual Harassment pursuant to this policy;
- B. a description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, [and] methods used to gather other evidence, ☒ and hearings held; **[DRAFTING NOTE: The Board should only select this option if it permits hearings.]**
- C. findings of fact supporting the determination;
- D. conclusions regarding the application of the applicable code of conduct to the facts;
- E. a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the decision-maker(s) is recommending that the District impose on the Respondent(s), and whether remedies designed to restore or preserve equal access to the District's education program or activity should be provided by the District to the Complainant(s); and
- F. the procedures and permissible bases for the Complainant(s) and Respondent(s) to appeal.

The following disciplinary sanctions/consequences may be imposed on a student Respondent who is determined responsible for violating this policy (i.e., engaging in Sexual Harassment):

A. Informal Discipline

- 1. ☒ writing assignments;
- 2. ☒ changing of seating or location;
- 3. ☒ pre-school, ☒ lunchtime, ☒ after-school detention;
- 4. ☒ in-school discipline;

5. ☒ Saturday school;

B. Formal Discipline

1. suspension of bus riding/transportation privileges;
2. removal from co-curricular and/or extra-curricular activity(ies), including athletics;
3. emergency removal;
4. suspension for up to ten (10) school days;
5. expulsion for up to eighty (80) school days or the number of school days remaining in a semester, whichever is greater;
6. expulsion for up to one (1) year;
7. permanent exclusion; and
8. any other sanction authorized by the Student Code of Conduct.

If the decision-maker(s) determines the student Respondent is responsible for violating this policy (i.e., engaging in Sexual Harassment), the decision-maker(s) will recommend appropriate remedies, including disciplinary sanctions/consequences. The Title IX Coordinator will notify the Superintendent of the recommended remedies, so an authorized administrator can consider the recommendation(s) and implement an appropriate remedy(ies) in compliance with Policy 5600 – Student Discipline, Policy 5605 – Suspension/Expulsion of Students with Disabilities, Policy 5610 – Removal, Suspension, Expulsion, and Permanent Exclusion of Students, Policy 5601.01 – Permanent Exclusion of Nondisabled Students, Policy 5610.02 – In-School Discipline, Policy 5610.03 – Emergency Removal of Students, Policy 5610.04 – Suspension of Bus Riding/Transportation Privileges, Policy 5610.05 – Prohibition from Extra-Curricular Activities, and Policy 5611 – Due Process Rights. Discipline of a student Respondent must comply with the applicable provisions of the Individuals with Disabilities Education Improvement Act (IDEA) and/or Section 504 of the Rehabilitation Act of 1972, and their respective implementing regulations.

The following disciplinary sanctions/consequences may be imposed on an employee Respondent who is determined responsible for violating this policy (i.e., engaging in Sexual Harassment):

- A. ☒ oral or written warning;
- B. ☒ written reprimands;
- C. ☒ performance improvement plan;
- D. ☒ required counseling;
- E. ☒ required training or education;
- F. ☒ demotion;
- G. ☒ suspension with pay;
- H. suspension without pay;
- I. termination, and any other sanction authorized by any applicable Employee/Administrator Handbook and/or collective bargaining agreement.

If the decision-maker(s) determines the employee Respondent is responsible for violating this policy (i.e., engaging in Sexual Harassment), the decision-maker(s) will recommend appropriate remedies, including disciplinary sanctions/consequences. The Title IX Coordinator will notify the Superintendent of the recommended remedies, so an authorized administrator can consider the recommendation(s) and implement an appropriate remedy(ies) in compliance with applicable due process procedures, whether statutory or contractual. **[DRAFTING NOTE: The Board should review applicable policy(ies)/administrative guidelines/employee handbooks to determine whether changes are needed to stated timelines related to imposition of discipline as result of possible delays caused by the Board's obligation to follow this grievance process and procedures; likewise, the Board may need to discuss with union representatives how implementation of this grievance**

process and procedures may impact any disciplinary provisions contained in applicable collective bargaining (e.g., timelines, permitted attendees at investigative interviews, etc.).]

Discipline of an employee will be implemented in accordance with Federal and State law, Board policy, and applicable provisions of any relevant collective bargaining agreement.

The following disciplinary sanctions/consequences may be imposed on a non-student/non-employee member of the School District community or Third Party who is determined responsible for violating this policy (i.e., engaging in Sexual Harassment):

- A. ☒ oral or written warning;
- B. ☒ suspension or termination/cancellation of the Board's contract with the third-party vendor or contractor;
- C. ☒ mandatory monitoring of the third-party while on school property and/or while working/interacting with students;
- D. ☒ restriction/prohibition on the third-party's ability to be on school property; and
- E. any combination of the same.

If the decision-maker(s) determines the third-party Respondent is responsible for violating this policy (i.e., engaging in Sexual Harassment), the decision-maker(s) will recommend appropriate remedies, including imposition of sanctions. The Title IX Coordinator will notify the Superintendent of the recommended remedies, so appropriate action can be taken.

The decision-maker(s) will provide the written determination to the Title IX Coordinator who will provide the written determination to the parties simultaneously.

In ultimately, imposing a disciplinary sanction/consequence, the Superintendent will consider the severity of the incident, previous disciplinary violations (if any), and any mitigating circumstances.

The District's resolution of a Formal Complaint ordinarily will not be impacted by the fact that criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

At any point in the grievance process and procedures, the Superintendent may involve local law enforcement and/or file criminal charges related to allegations of Sexual Harassment that involve a sexual assault.

The Title IX Coordinator is responsible for effective implementation of any remedies.

Appeal

Both parties have the right to file an appeal from a determination regarding responsibility, or from the Title IX Coordinator's dismissal of a Formal Complaint or any allegations therein, on the following bases:

- A. Procedural irregularity that affected the outcome of the matter (e.g., material deviation from established procedures);
- B. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- C. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant(s) or Respondent(s) that affected the outcome of the matter.

[DRAFTING NOTE: The Board may insert additional grounds on which an appeal may be filed.]

- D. ~~(-) The recommended remedies (including disciplinary sanctions/consequences) are unreasonable in light of the findings of fact (i.e., the nature and severity of the Sexual Harassment).~~
- E. ~~(-) _____~~

~~[-] The Complainant(s) may not challenge the ultimate disciplinary sanction/consequence that is imposed.~~

Any party wishing to appeal the decision-maker(s)'s determination of responsibility, or the Title IX Coordinator's dismissal of a Formal Complaint or any allegations therein, must submit a written appeal to the Title IX Coordinator within 3 (5) days after receipt of the decision-maker(s)'s determination of responsibility or the Title IX Coordinator's dismissal of a Formal Complaint

or any allegations therein. **[DRAFTING NOTE: If the Board indicated above an intent to ordinarily complete the grievance process, including any appeal, within sixty (60) days of receipt of the Formal Complaint, Neola suggests that the deadline for submitting a written appeal be set at "within () three (3) () five (5) days" of the appealing party's receipt of the decision-maker(s') determination of responsibility.]**

Nothing herein shall prevent the Superintendent from ~~implementing appropriate remedies, however, excluding imposing any remedy,~~ **including** disciplinary sanction, while the appeal is pending.

As to all appeals, the Title IX Coordinator will notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties.

The decision-maker(s) for the appeal shall not be the same person(s) as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator(s). The decision-maker(s) for the appeal shall not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant(s) or Respondent(s) and shall receive the same training as required of other decision-makers.

Both parties shall have a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome.

[DRAFTING NOTE: Select OPTION 1, OPTION 2, OPTION 3, or OPTION 4.]

[OPTION 1] The decision-maker(s) for the appeal shall determine when each party's written statement is due. **[END OF OPTION 1]**

~~**[OPTION 2]** The parties' written statements in support of, or challenging, the determination of responsibility must be submitted within ____ days after the Title IX Coordinator provides notice to the non-appealing party of the appeal. **[END OF OPTION 2]**~~

~~**[OPTION 3]** The appealing party's written statement must be submitted within ____ days after the Title IX Coordinator receives notice of the appeal. The other party's written statement must be submitted within ____ days after the Title IX Coordinator provides that party a copy of the appealing party's written statement. () The appealing party will have ____ days to submit a rebuttal to the other party's written statement. **[DRAFTING NOTE: Neola does not suggest that the Board select this extra option.] **[END OF OPTION 3]****~~

~~**[OPTION 4]** Specifically, the appealing party must submit with the notice of appeal a written statement challenging the determination of responsibility. The nonappealing party shall have up to ____ days after receipt of the appealing party's written statement to submit his/her written statement in support of the determination of responsibility. **[END OF OPTION 4]**~~

[DRAFTING NOTE: If the Board indicated above an intent to ordinarily complete the grievance process, including any appeal, within sixty (60) days of receipt of the Formal Complaint, Neola suggests that the deadline for both parties to submit a written statement pursuant to OPTION 2 be set at "within five (5) days" of the Title IX Coordinator providing notice to the non-appealing party of the appeal. If the Board selects OPTION 3, Neola suggests that the party's respective written statements be submitted within three (3) days of the triggering event (i.e., submission of the notice of appeal for the appealing party, and receipt of the appealing party's written statement for the nonappealing party), and if the Board selects the extra option in OPTION 3, Neola suggests the appealing party only have two (2) days after receipt of the non-appealing party's written statement to submit the rebuttal. Alternatively, in order to expedite the appeal, the Board could select OPTION 4 and require the appealing party to submit his/her written statement challenging the determination of responsibility at the same time s/he submits his/her notice of appeal. The nonappealing party would then be permitted to submit a written statement in support of the determination of responsibility within the same number of days that the appealing party had to submit the notice of appeal/statement challenging the determination of responsibility (e.g., three or five days, depending on the appeal deadline selected above).]

The decision-maker(s) for the appeal shall issue a written decision describing the result of the appeal and the rationale for the result. The original decision-maker(s') determination of responsibility will stand if the appeal request is not filed in a timely manner or the appealing party fails to show clear error and/or a compelling rationale for overturning or modifying the original determination. The written decision will be provided to the Title IX Coordinator who will provide it simultaneously to both parties. The written decision will be issued within 5 days of when the parties' written statements were submitted. **[DRAFTING NOTE: If the Board indicated above an intent to ordinarily complete the grievance process, including any appeal, within sixty (60) days of receipt of the Formal Complaint, Neola suggests that the deadline for the decision-maker(s) of the appeal to issue the final decision be set at "within five (5) days" of the date the parties submitted their written statements, or the date a last written statement is submitted pursuant to Option 3 or Option 4.]**

The determination of responsibility associated with a Formal Complaint, including any recommendations for remedies/disciplinary sanctions, becomes final when the time for filing an appeal has passed or, if an appeal is filed, at the point when the decision-maker(s) for the appeal's decision is delivered to the Complainant and the Respondent. (x) No further review beyond the appeal is permitted.

Retaliation

Neither the Board nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, its implementing regulations, or this policy, or because the individual made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or Sexual Harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or Formal Complaint of Sexual Harassment, for the purpose of interfering with any right or privilege secured by Title IX, its implementing regulations, or this policy, constitutes retaliation. Retaliation against a person for making a report of Sexual Harassment, filing a Formal Complaint, or participating in an investigation () and/or hearing **[DRAFT NOTE: Select this option if the Board permits hearings.]**, is a serious violation of this policy that can result in imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Complaints alleging retaliation may be filed according to the grievance procedures set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy shall not constitute retaliation, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

Confidentiality

The District will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a Formal Complaint of Sexual Harassment, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder (i.e., the District's obligation to maintain confidentiality shall not impair or otherwise affect the Complainant's and Respondent's receipt of the information to which they are entitled related to the investigative record and determination of responsibility).

Application of the First Amendment

The Board will construe and apply this policy consistent with the First Amendment to the U.S. Constitution () and the principles of academic freedom as set forth in the applicable collective bargaining agreement. In no case will a Respondent be found to have committed Sexual Harassment based on expressive conduct that is protected by the First Amendment () and/or the principles of academic freedom specified in the Board's collective bargaining agreement with its teachers.

Training

The District's Title IX Coordinator, along with any investigator(s), decision-maker(s), or person(s) designated to facilitate an informal resolution process, must receive training on:

- A. the definition of Sexual Harassment (as that term is used in this policy);
- B. the scope of the District's education program or activity;
- C. how to conduct an investigation and implement the grievance process () that includes hearings, **[DRAFTING NOTE: Select this option if the Board permits hearings.]** appeals and informal resolution processes, as applicable; and
- D. how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interests, and bias.

[X] All Board employees will be trained concerning their legal obligation to report Sexual Harassment to the Title IX Coordinator. This training will include practical information about how to identify and report Sexual Harassment. **[DRAFTING NOTE: While the Title IX regulations do not specifically require this training, it is critical that the Board train all of the employees concerning this legal obligation since the Board will be considered to have "actual knowledge" of Sexual Harassment if any Board employee has notice of such conduct.]**

Recordkeeping

As part of its response to alleged violations of this policy, the District shall create, and maintain for a period of seven (7) calendar years, records of any actions, including any supportive measures, taken in response to a report or Formal Complaint of Sexual Harassment. In each instance, the District shall document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the District's education program or activity. If the District does not provide a Complainant with supportive measures, then the District will document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the District in the future from providing additional explanations or detailing additional measures taken.

The District shall maintain for a period of seven (7) calendar years the following records:

- A. each Sexual Harassment investigation including any determination regarding responsibility ~~(-) and any audio or audiovisual recording or transcript that is made of any hearing~~ **[DRAFTING NOTE: Select this option if the Board permits live hearings.]**, any disciplinary sanctions recommended and/or imposed on the Respondent(s), and any remedies provided to the Complainant(s) designed to restore or preserve equal access to the District's education program or activity
- B. any appeal and the result therefrom
- C. any informal resolution and the result therefrom, and
- D. all materials used to train Title IX Coordinators, investigators, decisionmakers, and any person who facilitates an informal resolution process.

The District will make its training materials publicly available on its website. ~~(-) If a person is unable to access the District's website, the Title IX Coordinator will make the training materials available upon request for inspection by members of the public.~~

Outside Appointments, Dual Appointments, and Delegations

The Board retains discretion to appoint suitably qualified persons who are not Board employees to fulfill any function of the Board under this policy, including, but not limited to, Title IX Coordinator, investigator, decision-maker, decision-maker for appeals, facilitator of informal resolution processes, and advisor.

The Board also retains discretion to appoint two or more persons to jointly fulfill the role of Title IX Coordinator, investigator, decision-maker, decision-maker for appeals, facilitator of informal resolution processes, and advisor.

The Superintendent may delegate functions assigned to a specific Board employee under this policy, including but not limited to the functions assigned to the Title IX Coordinator, investigator, decision-maker, decision-maker for appeals, facilitator of informal resolution processes, and advisor, to any suitably qualified individual and such delegation may be rescinded by the Superintendent at any time.

[DRAFTING NOTE: The following option expressly sets forth authority that the Board has regardless of whether it is included in this policy, but is offered for those boards of education that may want to affirmatively communicate to/address these issues for readers of this policy.]

☒ Discretion in Application

The Board retains discretion to interpret and apply this policy in a manner that is not clearly unreasonable, even if the Board's interpretation or application differs from the interpretation of any specific Complainant and/or Respondent.

Despite the Board's reasonable efforts to anticipate all eventualities in drafting this policy, it is possible unanticipated or extraordinary circumstances may not be specifically or reasonably addressed by the express policy language, in which case the Board retains discretion to respond to the unanticipated or extraordinary circumstance in a way that is not clearly unreasonable.

The provisions of this policy are not contractual in nature, whether in their own right, or as part of any other express or implied contract. Accordingly, the Board retains discretion to revise this policy at any time, and for any reason. The Board may apply policy revisions to an active case provided that doing so is not clearly unreasonable.

Legal

R.C. 3313.207/208/209, 5104

20 U.S.C. 1681 et seq., Title IX of the Education Amendments of 1972 (Title IX)

20 U.S.C. 1400 et seq., The Individuals with Disabilities Education Improvement Act of 2004 (IDEIA)

42 U.S.C. 2000c et seq., Title IV of the Civil Rights Act of 1964

42 U.S.C. 2000d et seq.

42 U.S.C. 2000e et seq.

42 U.S.C. 1983

34 C.F.R. Part 106

OCR's Revised Sexual Harassment Guidance (2001)

20 U.S.C. 1092(F)(6)(A)(v)

34 U.S.C. 12291(a)(10)

34 U.S.C. 12291(a)(8)

34 U.S.C. 12291(a)(30)

Book	Policy Manual
Section	ADMINISTRATION CHANGES.UPDATE TO POLICY.AUG.2021
Title	Copy of Nondiscrimination/Anti-Harassment Policies Update - January 2021 Revised NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY
Code	po3122.revision
Status	
Adopted	December 16, 2013
Last Revised	December 17, 2018

3122 - **NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY**

The Board of Education does not discriminate on the basis of race, color, national origin, sex (including sexual orientation and ~~trans~~gender identity), disability, age, religion, military status, ancestry, genetic information (collectively, "Protected Classes"), or any other legally protected category, in its programs and activities, including employment opportunities.

Definitions:

Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.

Complainant is the individual who alleges, or is alleged, to have been subjected to unlawful discrimination/retaliation, regardless of whether the person files a formal complaint or is pursuing an informal resolution to the alleged discrimination/retaliation.

Respondent is the individual who has been alleged to have engaged in unlawful discrimination/retaliation, regardless of whether the Reporting Party files a formal complaint or is seeking an informal resolution to the alleged discrimination/retaliation.

School District community means students and Board employees (i.e., administrators, and professional and classified staff), as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

Third Parties include, but are not limited to, guests and/or visitors on School District 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 District community at school-related events/activities (whether on or off District property).

Day(s): Unless expressly stated otherwise, the term "day" or "days" as used in this policy means a business day(s) (i.e., a day(s) that the Board office is open for normal operating hours, Monday - Friday, excluding State-recognized holidays).

For purposes of this policy, "military status" refers to a person's status in the uniformed services, which includes the performance of duty, on a voluntary basis, or involuntary basis, in a uniformed service including active duty, active duty for training, initial active duty for training, inactive duty for training, and full-time National Guard duty. It also includes the period of time for which a person is absent from employment for the purpose of an examination to determine the fitness of the person to perform any such duty as listed above.

District Compliance Officers

The Board designates the following individuals to serve as the District's "Compliance Officers" (also known as "Civil Rights Coordinator") (hereinafter referred to as the "COs").

[DRAFTING NOTE: Neola suggests the Board ~~School Districts are advised to~~ appoint both a male and a female CO in order to provide ~~complainants~~ Complainants with the option to report their concerns to an individual of the gender with which they feel most comfortable. The COs may also serve as the District's Section 504 Compliance Officer/ADA Coordinator and Title IX Coordinator. Additionally, by appointing two COs, there should always be a CO available to investigate a claim of discrimination/retaliation that pertains to the other CO.]

Clay Frye Kris Kowalski

(Name)

Director of Operations

(School District Title)

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(Name)

(School District Title)

(Telephone Number)

(Office Address)

(E-mail Address)

The names, titles, and contact information of these individuals will be published annually on the School District's web site () and:

- A. ☒ in the staff handbooks.
- B. ☐ in the ~~School District Annual Report to the public.~~
- C. ☐ ~~on the School District's web site.~~
- D. ☐ ~~on each individual school's web site.~~
- E. ☐ ~~in the School District's calendar.~~
- F. ☐ _____.

The COs are responsible for coordinating the District's efforts to comply with applicable Federal and State laws and regulations, including the District's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination, retaliation or denial of equal access. The COs shall also verify that proper notice of nondiscrimination for Title II of the Americans with Disabilities Act (as amended), Title VI and Title VII of the Civil Rights Act of 1964, ~~Title IX of the Education Amendment Act of 1972,~~ Section 504 of the Rehabilitation Act of 1973 (as amended), and the Age Discrimination in Employment Act of 1975 is provided to staff members and the general public. () Any sections of the District's collectively-bargained, negotiated agreements dealing with hiring, promotion, and tenure need to contain a statement of nondiscrimination similar to that in the Board's statement above. In addition, any gender-specific terms should be eliminated from such contracts. [END OF OPTION] A copy of each of the Acts and regulations on which this notice is available upon request from the CO, ~~based may be found in the CO's office.~~

Reports and Complaints of Unlawful Discrimination and Retaliation

Employees are required to ~~encouraged to promptly~~ report incidents of unlawful discrimination and/or retaliation to an administrator, supervisor, or other District-level official so that the Board may address the conduct. Any administrator, supervisor, or other District-level ~~employee or~~ official who receives such a report ~~complaint~~ shall file it with the CO ~~() at his/her first convenience ()~~ within two (2) ~~school~~ days.

Employees who believe they have been unlawfully discriminated/retaliated against are entitled to utilize the complaint process set forth below. Initiating a complaint, whether formally or informally, will not adversely affect the Complainant's complaining

~~individual's~~ employment. While there are no time limits for initiating complaints under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

The COs will be available during regular school/work hours to discuss concerns related to unlawful discrimination/retaliation. COs shall accept ~~reports~~~~complaints~~ of unlawful discrimination/retaliation directly from any member of the School District community or a ~~Third Party, or receive reports that are initially filed with another Board employee.~~ ~~visitor to the District, 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, a CO will begin either an informal or formal process (depending on the request of the person alleging the discrimination/retaliation or the nature of the alleged discrimination/retaliation). Upon receipt of a report of alleged discrimination/retaliation, the CO will contact the Complainant and begin either an informal or formal complaint process (depending on the Complainant's request and the nature of the alleged discrimination/retaliation), or the CO will designate a specific individual to conduct such a process. The CO will provide a copy of this policy to ~~the Complainant and the Respondent.~~ ~~any person who files a complaint.~~ In the case of a formal complaint, the CO will prepare recommendations for the Superintendent or oversee the preparation of such recommendations by a designee. All members of the School District community must report incidents of discrimination/retaliation that are reported to them to the CO within two (2) business days of learning of the incident/conduct.

Any Board employee who directly observes unlawful discrimination/retaliation is obligated, in accordance with this policy, to report such observations to one of the COs within two (2) business days. Additionally, any Board employee who observes an act of unlawful discrimination/retaliation is expected to intervene to stop the misconduct, unless circumstances make such an intervention dangerous, in which case the staff member should immediately notify other Board employees and/or local law enforcement officials, as necessary, to stop the misconduct. Thereafter, the CO or designee must contact the ~~employee~~ Complainant within two (2) business days to advise ~~him/her~~ of the Board's intent to investigate the alleged wrongdoing.

Investigation and Complaint Procedure (See Form 3122 F2)

Except for sex discrimination and/or Sexual Harassment that is covered by Policy 2266 - Nondiscrimination on the Basis of Sex Education Programs or Activities, any employee who alleges to have been ~~Any employee who believes that s/he has been~~ subjected to unlawful discrimination or retaliation may seek resolution of ~~the his/her~~ complaint through the procedures described below. The formal complaint procedures involve an investigation of the individual's claims of discrimination/retaliation and a process for rendering a decision regarding whether the charges are substantiated.

Due to the sensitivity surrounding complaints of unlawful discrimination or retaliation, timelines are flexible for initiating the complaint process; however, individuals are encouraged~~should make every effort~~ to file a complaint within thirty (30) calendar days after the conduct occurs. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) business days of the complaint being received).

The procedures set forth below are not intended to interfere with the rights of any individual to pursue a complaint of unlawful discrimination or retaliation with the United States Department of Education Office for Civil Rights, the Ohio Civil Rights Commission ("OCRC") or Equal Employment Opportunity Commission ("EEOC").

Informal Complaint Procedure

The goal of the informal complaint procedure is to promptly stop~~quickly stop~~ inappropriate behavior and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for an employee who alleges unlawful discrimination or retaliation. ~~believes s/he has been unlawfully discriminated or retaliated against.~~ This informal procedure is not required as a precursor to the filing of a formal complaint. The informal process is only available in those circumstances where the Complainant and the Respondent mutually~~parties (the alleged target of the discrimination/retaliation and individual(s) alleged to have engaged in the discrimination)~~ agree to participate in it.

The Complainant~~Employees who believe that they have been unlawfully discriminated/retaliated against~~ may proceed immediately to the formal complaint process and individuals who participate in~~seek resolution through~~ the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process.

All complaints involving a District employee or any other adult member of the School District community and~~against~~ a student will be formally investigated.

As an initial course of action, if a Complainant feels comfortable and safe~~an individual feels that s/he is being unlawfully discriminated/retaliated against and s/he is able and feels safe~~ doing so, the individual should tell or otherwise inform the Respondent that~~person who engaged in~~ the allegedly discriminatory/retaliatory conduct that it is inappropriate and must stop. The Complainant~~complaining individual~~ should address the alleged misconduct as soon after it occurs as possible. The COs are available to support and counsel the Complainant~~individuals~~ when taking this initial step or to intervene on behalf of the individual if requested to do so. A Complainant~~An individual~~ who is uncomfortable or unwilling to directly approach the Respondent about the~~inappropriate conduct may file~~ inform the person who allegedly engaged in the unlawful misconduct of his/her concerns is not

~~prohibited from otherwise filing~~ an informal or a formal complaint. In addition, with regard to certain types of unlawful discrimination ~~(e.g., sex discrimination), such as sexual discrimination,~~ the CO may advise against the use of the informal complaint process.

~~An individual who believes s/he has been unlawfully discriminated/retaliated against~~ A Complainant who alleges unlawful discrimination/retaliation may make an informal complaint, either orally or in writing: 1) to a building administrator; 2) directly to one of the COs; and/or 3) to the Superintendent or other District-level employee.

All informal complaints must be reported to one of the COs who will either facilitate an informal resolution as described below, or appoint another individual to facilitate an informal resolution.

The School District's informal complaint procedure is designed to provide ~~the Complainant~~ ~~employees who believe they are being unlawfully discriminated/retaliated against~~ with a range of options aimed at bringing about a prompt resolution of their concerns. Depending upon the nature of the complaint and the wishes of the ~~Complainant, individual claiming unlawful discrimination/retaliation,~~ informal resolution may involve, but not be limited to, one or more of the following:

- A. Advising the ~~Complainant individual~~ about how to communicate ~~his/her~~ concern to the ~~Respondent, person who allegedly engaged in the discriminatory/retaliatory behavior,~~
- B. Distributing a copy of Policy 3122 - Non-Discrimination ~~and Equal Employment Opportunity as a reminder~~ to the individuals in the school building or office where the ~~Respondent individual whose behavior is being questioned~~ works.
- C. If both parties agree, the CO may arrange and facilitate a meeting ~~or mediation between the Complainant and the Respondent to work out a mutual resolution, between the individual claiming discrimination/retaliation and the individual accused of engaging in the misconduct to work out a mutual resolution.~~

While there are no set time limits within which an informal complaint must be resolved, the CO or designee ~~is directed will exercise his/her authority~~ to attempt to resolve all informal complaints within fifteen (15) business days of receiving the informal complaint. ~~If the Complainant is~~ Parties who are dissatisfied with ~~the results of~~ the informal complaint process, ~~the Complainant~~ may proceed to file a formal complaint and, as stated above, ~~either party parties~~ may request that the informal process be terminated at any time to move to the formal complaint process.

Formal Complaint Procedure

If a complaint is not resolved through the informal complaint process, if one of the parties requested that the informal complaint process be terminated to move to the formal complaint process, or if the ~~Complainant, from the outset, elects to file a formal complaint, or the Compliance Officer(s) determines the allegations are not appropriate for resolution through the informal process, individual elects to file a formal complaint initially,~~ the formal complaint process shall be implemented.

~~A Complainant~~ An individual who believes s/he has been subjected to unlawful discrimination/retaliation (hereinafter referred to as the "Complainant"), may file a formal complaint, either orally or in writing, with a Director, the CO, Superintendent, or other District ~~official level employee~~. Due to the sensitivity surrounding complaints of unlawful discrimination and retaliation, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a ~~formal~~ complaint within thirty (30) calendar days after the conduct occurs. If a Complainant informs a Director, Superintendent, or other District ~~official level employee~~, either orally or in writing, about any complaint of discrimination or retaliation, that employee must report such information to the CO within two (2) business days.

Throughout the course of the process, the CO should keep the parties ~~reasonably~~ informed of the status of the investigation and the decision-making process.

All formal complaints must include the following information to the extent ~~known it is available~~: the identity of the ~~Respondent individual believed to have engaged in, or be engaging in; the discriminatory/retaliatory conduct~~; a detailed description of the facts upon which the complaint is based ~~(i.e., when, where, and what occurred)~~; a list of potential witnesses; and the resolution sought by the Complainant.

If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the CO shall ask for such details in an oral interview. Thereafter, the CO will prepare a written summary of the oral interview, and the Complainant will be asked to verify the accuracy of the reported charge by signing the document.

Upon receiving a formal complaint, the CO will consider whether any action should be taken in the investigatory phase to protect the Complainant from further discrimination or retaliation, including, but not limited to, a change of work assignment or schedule for the Complainant and/or the ~~Respondent, person who allegedly engaged in the misconduct.~~ In making such a determination, the CO should consult the Complainant to assess ~~whether the individual agrees with his/her agreement to~~ the proposed action. If the

Complainant is unwilling to consent to the proposed change, the CO may still take whatever actions s/he ~~deemed~~deems appropriate in consultation with the Superintendent.

Within two (2) business days of receiving the complaint, the CO or designee will initiate a formal investigation to determine whether the Complainant has been subjected to unlawful discrimination/retaliation.

Simultaneously, the CO will inform the ~~Respondent that a formal individual alleged to have engaged in the discriminatory or retaliatory 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 provided with a copy of any relevant policies and/or administrative guidelines, including Policy 3122 - Non-Discrimination and Equal Employment Opportunity. The Respondent must also be informed of the opportunity to submit a written response to the complaint within five (5) business days.

Although certain cases may require additional time, the CO or a designee will attempt to complete an investigation into the allegations of discrimination/retaliation within fifteen (15) business 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 presented by the Complainant, Respondent, or any other witness that is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the CO or the designee shall prepare and deliver a written report to the Superintendent that summarizes the evidence gathered during the investigation and provide recommendations based on the evidence and the definition of unlawful discrimination/retaliation as provided in Board policy and State and Federal law as to whether the Respondent has engaged in unlawful discrimination/retaliation of the Complainant.~~Complainant has been subjected to unlawful discrimination/retaliation.~~ The CO's recommendations must be based upon the totality of the circumstances. In determining if discrimination or retaliation occurred, a preponderance of evidence standard will be used. ~~(-)~~ The CO may consult with the Board's legal counsel before finalizing the report to the Superintendent.

Absent extenuating circumstances, within five (5) business days of receiving the report of the CO or the designee, the Superintendent must either issue a written final decision regarding whether the charges have 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.

If the Superintendent determines the Respondent engaged in unlawful discrimination/retaliation toward the Complainant, the Superintendent~~Complainant was subjected to unlawful discrimination/retaliation, s/he~~ must identify what corrective action will be taken to stop, remedy, and prevent the recurrence of the discrimination/retaliation. The corrective action should be reasonable, timely, age-appropriate, and effective, and tailored to the specific situation.

☒ The decision of the Superintendent shall be final.

OR

~~(-)~~ A Complainant or Respondent who is dissatisfied with the final decision of the Superintendent may appeal through a signed written statement to the Board within five (5) business days of ~~the party's his/her~~ receipt of the Superintendent's ~~final~~ decision. The written statement of appeal must be submitted to the Treasurer/CFO.

~~In an attempt to resolve the complaint, the Board shall meet with the concerned parties and their representatives within twenty (20) business days of the receipt of such an appeal. A copy of the Board's disposition of the appeal shall be sent to each concerned party within ten (10) business days of this meeting. The decision of the Board will be final.~~

[END OF OPTIONS]

The Board reserves the right to investigate and resolve a complaint or report of unlawful discrimination/retaliation regardless of whether the employee alleging the misconduct pursues the complaint. The Board also reserves the right to have the formal

complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Board or its designee.

The ~~parties~~ **Complainant** may be represented, at ~~their~~ **his/her** own cost, at any of the above-described meetings/hearings.

The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights, the filing of charges with local law enforcement, or the filing of a civil action in court. Use of this internal complaint process is not a prerequisite to the pursuit of other remedies. ~~The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights or the filing of a court case. Use of this internal complaint procedure is not a prerequisite to the pursuit of other remedies.~~

Privacy/Confidentiality

The ~~School~~ District will employ all reasonable efforts to protect the rights of the Complainant, the Respondent(s), and the witnesses as much as possible, consistent with the Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. All records generated under the terms of this policy shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. Additionally, the Respondent must be provided the Complainant's identity. ~~All Complainants proceeding through the formal investigation process will be advised that their identities may be disclosed to the Respondent(s).~~

During the course of a formal investigation, the CO or designee will instruct each person who is interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of an investigation is expected not to disclose to third parties any information that is learned or provided ~~s/he learns and/or provides~~ during the course of the investigation.

Sanctions and Monitoring

The Board shall vigorously enforce its prohibitions against unlawful discrimination by taking appropriate action reasonably calculated to stop and prevent further misconduct. While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s). When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter. In those cases where unlawful discrimination/retaliation is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s).

Where the Board becomes aware that a prior remedial action has been taken against an employee, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its recurrence, and remedy its effect.

Retaliation

Retaliation against a person who makes a report or files a complaint alleging unlawful harassment/retaliation or participates as a witness in an investigation is prohibited. Neither the Board nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made unlawful by any Federal or State civil rights law, or because that individual made a report, formal complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy.

Retaliation against a person for making a report of discrimination, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

~~Retaliation against a person who makes a report or files a complaint alleging unlawful discrimination/retaliation, or participates as a witness in an investigation is prohibited. Specifically, the Board will not retaliate against, coerce, intimidate, threaten or interfere with any individual because the person opposed any act or practice made unlawful by any Federal or State civil rights law, or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under those laws, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws.~~

Education and Training

In support of this policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Superintendent ~~or designee~~ shall provide appropriate information to all members of the School District community related to the implementation of this policy and shall provide training for District students and staff where appropriate. All training, as well as all information provided regarding the Board's policy and discrimination in general, will be age and content appropriate.

Retention of Investigatory Records and Materials

The Compliance Officer(s) is responsible for overseeing retention of all records that must be maintained pursuant to this policy. All individuals charged with conducting investigations under this policy shall retain all documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and/or received as part of an investigation, which may include but not be limited to:

- A. all written reports/allegations/complaints/grievances/statements/responses pertaining to an alleged violation of this policy;
- B. any narratives that memorialize oral reports/allegations/complaints/grievances/statements/responses pertaining to an alleged violation of this policy;
- C. any documentation that memorializes the actions taken by District personnel or individuals contracted or appointed by the Board to fulfill its responsibilities related to the investigation and/or the District's response to the alleged violation of this policy;
- D. written witness statements;
- E. narratives, notes from, or audio, video, or digital recordings of witness interviews/statements;
- F. e-mails, texts, or social media posts that directly relate to or constitute evidence pertaining to an alleged violation of this policy (i.e., not after-the-fact commentary about or media coverage of the incident);
- G. notes or summaries prepared contemporaneously by the investigator in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.), but not including transitory notes whose content is otherwise memorialized in other documents;
- H. written disciplinary sanctions issued to students or employees and other documentation that memorializes oral disciplinary sanctions issued to students or employees for violations of this policy;
- I. dated written determinations/reports (including summaries of relevant exculpatory and inculpatory evidence) and other documentation that memorializes oral notifications to the parties concerning the outcome of the investigation, including any consequences imposed as a result of a violation of this policy;
- J. documentation of any supportive interim measures offered and/or provided to the Complainant and/or the Respondent, ~~complainants and/or the alleged perpetrators~~, including no contact orders issued to both parties, the dates the no contact orders were issued, and the dates the parties acknowledged receipt of the no contact orders;
- K. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects;
- L. copies of the Board policy and/or procedures/guidelines used by the District to conduct the investigation, and any documents used by the District at the time of the alleged violation to communicate the Board's expectations to students and staff with respect to the subject of this policy (e.g., Student Codes of Conduct and/or Employee Handbooks ~~or Codes of Conduct~~);
- M. copies of any documentation that memorializes any formal or informal resolutions to the alleged discrimination or harassment;

[DRAFTING NOTE: The following options should be selected if the District concludes that the following items are not adequately encompassed in the preceding paragraphs.]

- N. ~~(-) documentation of any training provided to District personnel related to this policy, including but not limited to, notification of the prohibitions and expectations of staff set forth in this policy and the role and responsibility of all District personnel involved in enforcing this policy, including their duty to report alleged violations of this policy and/or conducting an investigation of an alleged violation of this policy;~~ **[REMINDER: Documentation of training should be maintained regardless of whether there is an investigation of an alleged violation of this policy. It is best practice to maintain a log of all staff members who participate in a training, along with the date, time and location of the**

training, and a copy of the materials reviewed and/or presented during the training.}]

- O. ~~(-) documentation that any rights or opportunities that the District made available to one party during the investigation were made available to the other party on equal terms;~~
- P. ~~(-) copies of any notices sent to the alleged Respondent perpetrator/responding party of the allegations constituting a potential violation of this policy;~~
- Q. ~~(-) copies of any notices sent to the complainant and alleged perpetrator in advance of any interview or hearing~~ copies of any notices sent to the Complainant and the Respondent in advance of any interview, meeting, or hearing;
- R. ~~(-) copies of any documentation or evidence used during informal and formal disciplinary meetings and hearings, including the investigation report, and any written responses submitted by the Complainant or the Respondent~~ complainant or the alleged perpetrator.

The documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal (e.g., FERPA, ADA) and/or State law (e.g., R.C. 3319.321) – e.g., student records and confidential medical records.

The documents, ESI, and electronic media (as defined in Policy 8315) created or received as part of an investigation shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, and Policy 8330 for not less than three (3) years, but longer if required by the District's records retention schedule.

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Legal

R.C. 4112.01, 4112.02

A.C. 3301-35-03(A)

Fourteenth Amendment, U.S. Constitution

20 U.S.C. Section 1681, Title IX of Education Amendment Act

20 U.S.C. Section 1701 et seq., Equal Educational Opportunities Act of 1974

20 U.S.C. Section 7905, Boy Scouts of America Equal Access Act

42 U.S.C. 6101 et seq., Age Discrimination Act of 1975

42 U.S.C. 12101 et seq., The Americans with Disabilities Act of 1990, as amended

34 C.F.R. Part 110 (7/27/93)

42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act

42 U.S.C., 2000e, et seq., Civil Rights Act of 1964

29 U.S.C. 701 et seq., Rehabilitation Act of 1973, as amended

29 C.F.R. Part 1635

Book	Policy Manual
Section	ADMINISTRATION CHANGES.UPDATE TO POLICY.AUG.2021
Title	Copy of Nondiscrimination/Anti-Harassment Policies Update - January 2021 Revised SECTION 504/ADA PROHIBITION AGAINST DISABILITY DISCRIMINATION IN EMPLOYMENT
Code	po3123.revision
Status	
Adopted	January 15, 2015
Last Revised	May 21, 2018

3123 - SECTION 504/ADA PROHIBITION AGAINST DISABILITY DISCRIMINATION IN EMPLOYMENT

The Board of Education prohibits discrimination against any employee or applicant based upon his/her disability. As such, the Board will not engage in employment practices or adopt policies that discriminate on the basis of disability, or otherwise discriminate against qualified individuals with disabilities in regard to job application procedures, the hiring, advancement or discharge of employees, employee compensation, job training, or other terms, conditions and privileges of employment. The Board further will not limit, segregate or classify applicants or employees in any way that adversely affects their opportunities or status because of disability. Additionally, the Board will not participate in any contractual or other relationships that have the effect of subjecting qualified individuals with disabilities who are applicants or employees to discrimination on the basis of disability.

"An individual with a disability" means a person who has, had a record of, or is regarded as having, a physical or mental impairment that substantially limits one or more major life activities. Major life activities are functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, eating, sleeping, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, sitting, reaching, interacting with others, and working.

Major life activities also include the operation of a major bodily function, including, but not limited to, functions of the immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, hemic, lymphatic, musculoskeletal and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.

An impairment that is episodic in nature or in remission is considered a disability if it would substantially limit a major life activity when active.

The determination of whether an impairment substantially limits a major life activity must be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, equipment or appliances, low-vision devices (defined as devices that magnify, enhance, or otherwise augment a visual image, but not including ordinary eyeglasses or contact lenses), prosthetics (including limbs and devices), hearing aid(s) and cochlear implant(s) or other implantable hearing devices, mobility devices, oxygen therapy equipment or supplies, use of assistive technology, reasonable accommodations or "auxiliary aids or services," learned behavioral or adaptive neurological modifications, psychotherapy, behavioral therapy, or physical therapy.

A qualified person with a disability means the individual satisfies the requisite skill, experience, education and other job-related requirements of the employment position such individual holds or desires and, with or without reasonable accommodation, can perform the essential functions of the job in question.

The Board will provide a reasonable accommodation to a qualified individual who has an actual disability or who has a record of a disability, unless the accommodation would impose an undue hardship on the operation of the District's program and/or activities. A reasonable accommodation is not required for an individual who is merely regarded as having a disability.

Compliance Officer(s)

The Board designates the following individual(s) to serve as the District's 504 Compliance Officer(s)/ADA Coordinator(s) (hereinafter referred to as the "District Compliance Officer(s)").

[DRAFTING NOTE: Neola suggests the Board appoint School Districts may want to consider appointing both a male and a female District Compliance Officer in order to provide complainants with the option to report their concerns to an individual of the gender with which they feel most comfortable. Additionally, by appointing two (2) District Compliance

The Board will provide in-service training and consultation to staff responsible for the education of persons with disabilities, as necessary and appropriate.

Facilities

No qualified person with a disability will, because the District's facilities are inaccessible to or unusable by persons with disabilities, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which Section 504/ADA applies.

For facilities constructed or altered after June 3, 1977, the District will comply with applicable accessibility standards. For those existing facilities constructed prior to June 3, 1977, the District is committed to operating its programs and activities so that they are readily accessible to persons with disabilities.

Notice

Notice of the Board's policy on nondiscrimination in employment practices and the identity of the District's Compliance Officer(s) will be published on the District's website and posted throughout the District, and included~~published~~ in the District's recruitment statements or general information publications.

Complaint Procedures

If a person believes that s/he has been discriminated against on the basis of his/her disability, the person may utilize the following complaint procedures as a means of reaching, at the lowest possible administrative level, a prompt and equitable resolution of the matter.

In accordance with Section 504 of the Rehabilitation Act of 1973 and its implementing regulations ("Section 504"), employees will be notified of their right to file an internal complaint regarding an alleged violation, misinterpretation or misapplication of Section 504. In addition, employees will be notified of their right to file a complaint with the U.S. Department of Education's Office for Civil Rights.

Internal complaints must be put in writing and must identify the specific circumstances or areas of dispute that have given rise to the complaint, and offer possible solutions to the dispute. The complaint must be filed with a District Compliance Officer within the time limits specified below. The District's Compliance Officer is available to assist individuals in filing a complaint.

Unless expressly stated otherwise, the term "day" or "days" as used in this policy means business day(s) (i.e., a day(s) that the Board office is open for normal operating hours, Monday – Friday, excluding State-recognized holidays).

Internal Complaint Procedure

The following internal complaint procedure is available to employees for the prompt and equitable resolution of complaints alleging discrimination based upon disability. This complaint procedure is not available to unsuccessful applicants. Use of the internal complaint procedure is not a prerequisite to the pursuit of other remedies, including the filing of a complaint with the U.S. Department of Education's Office for Civil Rights.

- A. An employee with a complaint based on alleged discrimination on the basis of disability may first discuss the problem with the District Compliance Officer.
- B. If the informal discussion does not resolve the matter, or if the employee skips Step A, the individual may file a formal written complaint with the District Compliance Officer. The written complaint must contain the name and address of the individual or representative filing the complaint, be signed by the complainant or someone authorized to sign for the complainant, describe the alleged discriminatory action in sufficient detail to inform the District Compliance Officer of the nature and date of the alleged violation, and propose a resolution. The complaint must be filed within thirty (30) calendar days of the circumstances or event giving rise to the complaint, unless the time for filing is extended by the District Compliance Officer for good cause.
- C. The District Compliance Officer will conduct an independent investigation of the matter (which may or may not include a hearing). This complaint procedure contemplates informal, but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to present witnesses and other evidence relevant to the complaint. The District Compliance Officer will provide the complainant with a written disposition of the complaint within ten (10) ~~work~~ days. If no decision is rendered within ten (10) ~~work~~ days, or the decision is unsatisfactory in the opinion of the complainant, the employee may file, in writing, an appeal with the Superintendent. The District Compliance Officer shall maintain the District's files and records relating to the complaint.
- D. The Superintendent will, within ten (10) ~~work~~ days of receiving the written appeal, conduct a hearing with all parties involved in an attempt to resolve the complaint.

The Superintendent will render his/her decision within ten (10) ~~work~~ days of the hearing.

E. The employee may be represented, at his/her own cost, at any of the above-described meetings/hearings.

F. The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights or the filing of a court case. Use of this internal complaint procedure is not a prerequisite to the pursuit of other remedies.

If it is determined that the complainant was subjected to unlawful discrimination, the CO must identify what corrective action will be taken to stop, remedy, and prevent the recurrence of the discrimination/retaliation. The corrective action should be reasonable, timely, age-appropriate and effective, and tailored to the specific situation.

OCR Complaint

At any time, if an employee believes that s/he has been subjected to discrimination based upon his/her disability in violation of Section 504 or the ADA, the individual may file a complaint with the U.S. Department of Education's Office for Civil Rights ("OCR"). The OCR can be reached at:

U.S. Department of Education
Office for Civil Rights
Cleveland Office
1350 Euclid Avenue
Suite 325
Cleveland, Ohio 44115
(216) 522-4970
FAX: (216) 522-2573
TDD: (216) 522-4944
E-mail: OCR.Cleveland@ed.gov
Web: <http://www.ed.gov/ocr>

Retaliation

~~Retaliation against a person who makes a report or files a complaint alleging unlawful discrimination, or participates as a witness in an investigation, is prohibited. Specifically, the Board will not discriminate/retaliate against, coerce, intimidate, threaten or interfere with any individual because the person opposed any act or practice made unlawful by Section 504 or the ADA, or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under those laws, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws.~~

Retaliation against a person who makes a report or files a complaint alleging unlawful harassment/retaliation or participates as a witness in an investigation is prohibited. Neither the Board nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made unlawful by any Federal or State civil rights law, or because that individual made a report, formal complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy.

Retaliation against a person for making a report of discrimination, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

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Legal

29 C.F.R. Part 1630

29 U.S.C. 794, Section 504 Rehabilitation Act of 1973, as amended

34 C.F.R. Part 104

42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended

Book	Policy Manual
Section	ADMINISTRATION CHANGES.UPDATE TO POLICY.AUG.2021
Title	Copy of Nondiscrimination/Anti-Harassment Policies Update - January 2021 Revised ANTI-HARASSMENT
Code	po3362.revisions
Status	
Adopted	December 19, 2012
Last Revised	December 17, 2018

3362 - ANTI-HARASSMENT

General Policy Statement

It is the policy of the Board of Education to maintain an education and work environment that is free from all forms of unlawful harassment, including sexual harassment. This commitment applies to all School District operations, programs, and activities. All students, administrators, teachers, staff, and all other school personnel share responsibility for avoiding, discouraging, and reporting any form of unlawful harassment. This policy applies to unlawful conduct occurring on school property, or at another location if such conduct occurs during an activity sponsored by the Board.

The Board will vigorously enforce its prohibition against discriminatory harassment based on race, color, national origin, sex (including sexual orientation and transgender identity), disability, age, religion, ancestry, or genetic information (collectively, "Protected Classes") that are protected by Federal civil rights laws (hereinafter referred to as "unlawful harassment"), and encourages those within the School District community as well as third parties, who feel aggrieved to seek assistance to rectify such problems. The Board will investigate all allegations of harassment and in those cases where unlawful harassment is substantiated, the Board will take immediate steps to end the harassment, prevent its reoccurrence, and remedy its effects. Individuals who are found to have engaged in unlawful harassment will be subject to appropriate disciplinary action.

~~[-] The District will offer counseling services to any person found to have been subjected to unlawful harassment, and, where appropriate, the person(s) who committed the unlawful harassment.~~

~~For purposes of this policy, "School District community" means students, administrators, and professional and classified staff, as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.~~

~~For purposes of this policy, "third parties" include, but are not limited to, guests and/or visitors on School District 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 District community at school-related events/activities (whether on or off School District property).~~

Other Violations of the Anti-Harassment Policy

The Board will also take immediate steps to impose disciplinary action on individuals engaging in any of the following prohibited acts:

- A. Retaliating against a person who has made a report or filed a complaint alleging unlawful harassment, or who has participated as a witness in a harassment investigation.
- B. Filing a malicious or knowingly false report or complaint of unlawful harassment.
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of harassment, when responsibility for reporting and/or investigating unlawful harassment charges comprises part of one's supervisory duties.

Definitions

Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.

Complainant is the individual who alleges, or is alleged, to have been subjected to unlawful harassment, regardless of whether the person files a formal complaint or is pursuing an informal resolution to the alleged harassment.

Respondent is the individual who has been alleged to have engaged in unlawful harassment, regardless of whether the Reporting Party files a formal complaint or is seeking an informal resolution to the alleged harassment.

School District community means students and Board employees (i.e., administrators, and professional and classified staff), as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

Third Parties include, but are not limited to, guests and/or visitors on School District 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 District community at school-related events/activities (whether on or off District property).

Day(s): Unless expressly stated otherwise, the term "day" or "days" as used in this policy means business day(s) (i.e., a day(s) that the Board office is open for normal operating hours, Monday – Friday, excluding State-recognized holidays).

Bullying

Bullying rises to the level of unlawful harassment when one or more persons systematically and chronically inflict physical hurt or psychological distress on one (1) or more students or employees and that bullying is based upon one (1) or more Protected Classes, that is, characteristics that are protected by Federal civil rights laws. It is defined as any unwanted and repeated written, verbal, or physical behavior, including any threatening, insulting, or dehumanizing gesture, by an adult or student, that is severe or pervasive enough to create an intimidating, hostile, or offensive educational or work environment; cause discomfort or humiliation; or unreasonably interfere with the individual's school or work performance or participation; and may involve:

- A. teasing;
- B. threats;
- C. intimidation;
- D. stalking;
- E. cyberstalking;
- F. cyberbullying;
- G. physical violence;
- H. theft;
- I. sexual, religious, or racial harassment;
- J. public humiliation; or
- K. destruction of property.

"Harassment" means any threatening, insulting, or dehumanizing gesture, use of technology, or written, verbal or physical conduct directed against a student or school employee that:

- A. places a student or school employee in reasonable fear of harm to his/her person or damage to his/her property;
- B. has the effect of substantially interfering with a student's educational performance, opportunities, or benefits, or an employee's work performance; or
- C. has the effect of substantially disrupting the orderly operation of a school.

Sexual Harassment

~~Pursuant to~~ For purposes of this policy and consistent with Title VII of the Civil Rights Act of 1964, ~~and Title IX of the Educational Amendments of 1972,~~ "sexual harassment" is defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- A. Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment, or status in a class, educational program, or activity.
- B. Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual.
- C. Such conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity.

Sexual harassment may involve the behavior of a person of ~~any~~ ~~either~~ gender against a person of the same or ~~another~~ ~~opposite~~ gender.

Sexual Harassment covered by Policy 2266 - Nondiscrimination on the Basis of Sex Education Programs or Activities is not included in this policy. Allegations of such conduct shall be addressed solely by Policy 2266.

Prohibited acts that constitute sexual harassment under this policy may take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

- A. Unwelcome sexual propositions, invitations, solicitations, and flirtations.
- B. Unwanted physical and/or sexual contact.
- C. Threats or insinuations that a person's employment, wages, academic grade, promotion, classroom work or assignments, academic status, participation in athletics or extra-curricular programs, activities, or events, or other conditions of employment or education may be adversely affected by not submitting to sexual advances.
- D. Unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, profanity, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls.
- E. Sexually suggestive objects, pictures, graffiti, ~~videos~~ ~~tapes~~, posters, audio recordings or literature, placed in the work or educational environment, that may reasonably ~~which may~~ embarrass or offend individuals.
- F. Unwelcome and inappropriate touching, patting, or pinching; ~~(-) obscene gestures.~~
- G. Asking about, or telling about, sexual fantasies, sexual preferences, or sexual activities.
- H. Speculations about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history.
- I. Giving unwelcome personal gifts such as lingerie that suggest the desire for a romantic relationship.
- J. Leering or staring at someone in a sexual way, such as staring at a person's breasts, buttocks, or groin.
- K. A pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or humiliation to another.
- L. ~~Remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history.~~
- M. In the context of employees, consensual sexual relationships where such relationship leads to favoritism of a subordinate employee with whom the superior is sexually involved and where such favoritism adversely affects other employees or otherwise creates a hostile work environment.
- N. Inappropriate boundary invasions by a District employee or other adult member of the School District community into a student's personal space and personal life.

- O. Verbal, nonverbal or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature.

Not all behavior with sexual connotations constitutes unlawful sexual harassment. Sex-based or gender-based conduct must be sufficiently severe, pervasive, and persistent such that it adversely affects, limits, or denies an individual's employment or education, or such that it creates a hostile or abusive employment or educational environment.

[DRAFTING NOTE: Sexual conduct/relationships with students by District employees or any other adult member of the School District community is prohibited, and any teacher, administrator, coach, or other school authority who engages in sexual conduct with a student may also be guilty of the criminal charge of "sexual battery" as set forth in R.C. 2907.03. The issue of consent is irrelevant in regard to such criminal charge and/or with respect to the application of this policy to District employees or other adult members of the School District community.]

Race/Color Harassment

Prohibited racial harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race or color and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references relative to racial customs.

Religious (Creed) Harassment

Prohibited religious harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's religion or creed and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's religious tradition, clothing, or surnames, and/or involves religious slurs.

National Origin/Ancstry Harassment

Prohibited national origin/ancestry harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's national origin or ancestry and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's national origin or ancestry, such as negative comments regarding customs, manner of speaking, language, surnames, or ethnic slurs.

Disability Harassment

Prohibited disability harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's disability and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's ~~disability~~**disabling condition**, such as negative comments about speech patterns, movement, physical impairments or defects/appearances, or the like. Such harassment may further occur where conduct is directed at or pertains to a person's genetic information.

Anti-Harassment Compliance Officers

The following individual(s) shall serve as the District's Anti-Harassment Compliance Officer(s) (hereinafter, "the Compliance Officer(s)"):

[DRAFTING NOTE: Neola suggests the Board appoint both a male and a female Compliance Officer in order to provide Complainants with the option to report their concerns to an individual of the gender with which they feel most comfortable. The same individual(s) assigned to serve as Compliance Officer(s) may also be assigned to serve as the District's Section 504 Compliance Officer(s) /ADA Coordinator(s) and/or Title IX Coordinator(s). Additionally, by appointing two (2) Compliance Officers, there should also be a Compliance Officer available to investigate a claim of harassment that pertains to the other Compliance Officer.]

Clay Frye Kris Kowalski
(Name)

 (School District Title)

 (Telephone Number)

 (Office Address)

 (E-mail Address)

 (Name)

 (School District Title)

 (Telephone Number)

 (Office Address)

 (E-mail Address)

The names, titles, and contact information of these individuals will be published annually on the School District's web site () and:

- A. ☒ in the parent and staff handbooks.
- B. ☐ in the School District Annual Report to the public.
- C. ☐ on each individual school's web site.
- D. ☐ in the School District's calendar.
- E. ☐ _____.

The Compliance Officer(s) () is () are responsible for coordinating the District's efforts to comply with applicable Federal and State laws and regulations, including the District's duty to address in a prompt and equitable manner any inquiries or complaints regarding harassment.

The Compliance Officer(s) will be available during regular school/work hours to discuss concerns related to unlawful harassment, to assist students, other members of the District community, and third parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede informally on behalf of the individual 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.

Compliance Officers shall accept reports of unlawful harassment directly from any member of the School District community or a Third Party or receive reports that are initially filed with an administrator, supervisor, or other District-level official. Upon receipt of a report of alleged harassment, the Compliance Officer(s) will contact the Complainant and begin either an informal or formal complaint process (depending on the request of the Complainant or the nature of the alleged harassment), or the Compliance Officer(s) will designate a specific individual to conduct such a process. The Compliance Officer(s) will provide a copy of this policy to the Complainant and Respondent. In the case of a formal complaint, the Compliance Officer(s) will prepare recommendations for the Superintendent or will oversee the preparation of such recommendations by a designee. All Board employees must report incidents of harassment that are reported to them to the Compliance Officer within two (2) days of learning of the incident.

Any Board employee who directly observes unlawful harassment is obligated, in accordance with this policy, to report such observations to the Compliance Officer(s) within two (2) days. Additionally, any Board employee who observes an act of unlawful harassment is expected to intervene to stop the harassment, unless circumstances make such an intervention dangerous, in which case the staff member should immediately notify other Board employees and/or local law enforcement officials, as necessary, to stop

the harassment. Thereafter, the Compliance Officer(s) or designee must contact the Complainant, if age eighteen (18) or older, or Complainant's parents/guardians if the Complainant is under the age eighteen (18), within two (2) days to advise of the Board's intent to investigate the alleged wrongdoing.

Reports and Complaints of Harassing Conduct

Members of the School District community, ~~which includes all staff, and third parties~~ along with Third Parties are encouraged to promptly report incidents of harassing conduct to an administrator, supervisor or other School District official so that the Board may address the conduct before it becomes severe, pervasive, or persistent. Any administrator, supervisor, or other District official who receives such a report/complaint shall file it with the ~~District's Anti-Harassment~~ Compliance Officer within two (2) days of receiving the report of harassment, at his/her first convenience.

Members of the School District community ~~or third parties and Third Parties~~ who believe they have been unlawfully harassed by another member of the School District community or a ~~Third Party~~~~third party~~ are entitled to utilize the Board's complaint process that is set forth below. Initiating a complaint, whether formally or informally, will not adversely affect the ~~Complainant's~~~~complaining individual's~~ employment or participation in educational or extra-curricular programs. While there are no time limits for initiating complaints of harassment under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

If, during an investigation of alleged bullying, aggressive behavior and/or harassment in accordance with Policy 5517.01 - Bullying and Other Forms of Aggressive Behavior, the Director believes that the reported misconduct may have created a hostile work environment and may have constituted unlawful discriminatory harassment based on a Protected Class, the Director shall report the act of bullying, aggressive behavior and/or harassment to ~~the one of the Anti-Harassment~~ Compliance Officer(s) who shall investigate the allegation in accordance with this policy. If the alleged harassment involves Sexual Harassment as defined by Policy 2266, the matter will be handled in accordance with the grievance process and procedures outlined in Policy 2266. While the Compliance Officer investigates the allegation, or the matter is being addressed pursuant to Policy 2266, the Director shall suspend ~~the his/her~~ Policy 5517.01 investigation to await the Compliance Officer's written report or the determination of responsibility pursuant to Policy 2266. The Compliance Officer shall keep the Director informed of the status of the Policy 3362 investigation and provide the Director him/her with a copy of the resulting written report. Likewise, the Title IX Coordinator will provide the Director with the determination of responsibility that results from the Policy 2266 grievance process.

Anti-Harassment Compliance Officers

The Board designates the following individuals to serve as "Anti Harassment Compliance Officers" for the District. They are hereinafter referred to as the "Compliance Officers":

~~[NOTE: School Districts are advised to appoint both a male and a female Compliance Officer in order to provide Complainants with the option to report their concerns to an individual of the gender with which they feel most comfortable. The Compliance Officers may also serve as the District's Section 504 and Title IX Coordinators.]~~

(Name)

~~(School District Title)~~~~(Telephone Number)~~

~~(Office Address)~~

~~(E-mail Address)~~

(Name)

~~(School District Title)~~

~~(Telephone Number)~~

~~(Office Address)~~

~~(E mail Address)~~

~~The names, titles, and contact information of these individuals will be published annually.~~

- A. ~~() in the parent and staff handbooks.~~
- B. ~~() in the School District Annual Report to the public.~~
- C. ~~() on the School District's web site.~~

D. ~~(-) on each individual school's web site.~~

E. ~~(-) in the School District's calendar.~~

F. ~~(-) _____.~~

~~The Compliance Officers will be available during regular school/work hours to discuss concerns related to unlawful harassment, to assist students, other members of the District community, and third parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede informally on behalf of the individual 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. Compliance Officers shall accept complaints of unlawful harassment directly from any member of the School District community or a visitor to the District, 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, a Compliance Officer will begin either an informal or formal process (depending on the request of the person alleging the harassment or the nature of the alleged harassment), or the Compliance Officer will designate a specific individual to conduct such a process. In the case of a formal complaint, the Compliance Officer will prepare recommendations for the Superintendent or will oversee the preparation of such recommendations by a designee. All members of the School District community must report incidents of harassment that are reported to them to the Compliance Officer within two (2) business days of learning of the incident.~~

~~Any Board employee who directly observes unlawful harassment of a student is obligated, in accordance with this policy, to report such observations to one of the Compliance Officers within two (2) business days. Additionally, any Board employee who observes an act of unlawful harassment is expected to intervene to stop the harassment, unless circumstances make such an intervention dangerous, in which case the staff member should immediately notify other Board employees and/or local law enforcement officials, as necessary, to stop the harassment. Thereafter, the Compliance Officer or designee must contact the student, if age eighteen (18) or older, or the student's parents if under the age eighteen (18), within two (2) business days to advise s/he/them of the Board's intent to investigate the alleged misconduct, including the obligation of the Compliance Officer or designee to conduct an investigation following all the procedures outlined for a formal complaint.~~

Investigation and Complaint Procedure (See Form 3362 F1)

~~Except for Sexual Harassment that is covered by Policy 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities, any~~Any employee or other member of the School District community or ~~Third Party~~third-party (e.g., visitor to the District) who believes that ~~they have~~s/he has been subjected to unlawful harassment or retaliation may seek resolution of ~~the~~his/her complaint through ~~the procedures described below. The formal complaint process involves an investigation of the Complainant's claims of harassment or retaliation and a process for rendering a decision regarding whether the charges are substantiated, either the informal or formal procedures as described below. Further, a process for investigating claims of harassment or retaliation and a process for rendering a decision regarding whether the claim of legally prohibited harassment or retaliation was substantiated are set forth below.~~

Due to the sensitivity surrounding complaints of unlawful harassment, or retaliation timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) ~~calendar~~ days after the conduct occurs while the facts are known and potential witnesses are available. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) business days of the complaint being received).

The ~~informal and formal~~ procedures set forth below are not intended to interfere with the rights of any individual to pursue a complaint of unlawful harassment or retaliation with the United States Department of Education Office for Civil Rights, the Ohio Civil Rights Commission ("OCRC") ~~and~~or Equal Employment Opportunity Commission ("EEOC").

Informal Complaint Procedure

The goal of the informal complaint procedure is ~~promptly~~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 student, other member of the School District community, or ~~Third Party who alleges unlawful harassment or retaliation, third-party who believes s/he has been unlawfully harassed or retaliated against.~~ This informal procedure is not required as a precursor to the filing of a formal complaint. ~~The informal process is only available in those circumstances where the Complainant and the Respondent mutually agree to participate in it, and will only be utilized where the parties (alleged target of harassment and alleged harasser(s)) agree to participate in such process.~~

~~The Complainant~~Employees, other members of the School District community, or third parties who believe that they have been ~~unlawfully harassed or retaliated against~~ may proceed immediately to the formal complaint process and individuals who seek resolution through the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process.

~~All complainants involving a District employee, any other adult member of the School District community, or a Third Party and a student will be formally investigated. However, all complaints of harassment involving a District employee, any other adult member of~~

~~the School District community, or a third party against a student will be formally investigated. Similarly, any allegations of sexual violence will be formally investigated.~~

As an initial course of action, if a Complainant feels comfortable and safe ~~an individual 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 Respondent that the alleged harassing ~~harasser that the~~ conduct is unwelcome and must stop. ~~Such direct communication should not be utilized in circumstances involving sexual violence.~~ The Complainant ~~complaining individual~~ should address the allegedly harassing conduct as soon after it occurs as possible. The Compliance Officers are available to support and counsel individuals when taking this initial step or to intervene on behalf of the Complainant ~~individual~~ if requested to do so. A Complainant ~~An individual~~ who is uncomfortable or unwilling to directly approach the Respondent about the alleged inappropriate conduct may file ~~inform the harasser of his/her complaint is not prohibited from otherwise filing~~ an informal or a formal complaint. In addition, with regard to certain types of unlawful harassment, such as sexual harassment, the Compliance Officer may advise against the use of the informal complaint process.

A Complainant ~~An individual who believes s/he has been unlawfully harassed~~ may make an informal complaint, either orally or in writing: 1) to a teacher, other employee, or building administrator; 2) directly to one of the Compliance Officers; and/or 3) to the Superintendent or other District-level employee.

All informal complaints must be reported to one of the Compliance Officers who will either facilitate an informal resolution as described below ~~on his/her own~~, or appoint another individual to facilitate an informal resolution.

The Board's ~~School District's~~ informal complaint procedure is designed to provide employees, other members of the School District community, or 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 Complainant ~~individual claiming unlawful harassment~~, informal resolution may involve, but not be limited to, one or more of the following:

- A. Advising the Complainant ~~individual~~ about how to communicate the unwelcome nature of the behavior to the Respondent ~~alleged harasser~~.
- B. Distributing a copy of this ~~the anti-harassment~~ policy as a reminder to the individuals in the school building or office where the Respondent works or attends. ~~individual whose behavior is being questioned works or attends.~~
- C. If both parties agree, the Compliance officer may arrange and facilitate a meeting or mediation between the Complainant and the Respondent to work out a mutual resolution. ~~between the student claiming harassment and the individual accused of harassment to work out a mutual resolution. Such a meeting is not appropriate in circumstances involving sexual harassment.~~

While there are no set time limits within which an informal complaint must be resolved, the Compliance Officer ~~/or designee~~ is directed ~~will exercise his/her authority~~ to attempt to resolve all informal complaints within fifteen (15) business days of receiving the informal complaint. If the Complainant is ~~Parties who~~ dissatisfied with the results of the ~~results of the~~ informal complaint process, the Complainant ~~may~~ may proceed to file a formal complaint. And, as stated above, either party ~~parties~~ may request that the informal process be terminated at any time to move to the formal complaint process.

Formal Complaint Procedure

If a complaint is not resolved through the informal complaint process, if one of the parties has requested that the informal complaint process be terminated to move to the formal complaint process, or the Complainant, from the outset, elects to file a formal complaint, or the CO determines the allegations are not appropriate for resolution through the informal process, ~~if the individual elects to file a formal complaint initially~~, the formal complaint process shall be implemented.

The Complainant ~~An individual who believes s/he has been subjected to offensive conduct/harassment/retaliation hereinafter referred to as the "Complainant"~~, may file a formal complaint, either orally or in writing, with a teacher, Director, the Compliance Officer, Superintendent, or other District official ~~employee~~. Due to the sensitivity surrounding complaints of unlawful harassment and retaliation, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a formal complaint within thirty (30) ~~calendar~~ days after the conduct occurs while the facts are known and potential witnesses are available. If a Complainant informs a teacher, Director, Superintendent, or other District official ~~employee~~, either orally or in writing, about any complaint of harassment or retaliation, that employee must report such information to the Compliance Officer ~~or designee~~ within two (2) business days.

Throughout the course of the process, the Compliance Officer should keep the parties reasonably informed of the status of the investigation and the decision-making process.

All formal complaints must include the following information to the extent known ~~it is available~~: the identity of the Respondent ~~individual believed to have engaged in, or be engaging in, offensive conduct/harassment/retaliation~~; a detailed

description of the facts upon which the complaint is based (i.e., when, where, and what occurred); a list of potential witnesses; and the resolution sought by the Complainant.

If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the Compliance Officer shall ask for such details in an oral interview. Thereafter, the Compliance Officer will prepare a written summary of the oral interview, and the Complainant will be asked to verify the accuracy of the reported charge by signing the document.

Upon receiving a formal complaint, the Compliance Officer 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 work assignment or schedule for the Complainant and/or the Respondent/alleged harasser. In making such a determination, the Compliance Officer should consult the Complainant to assess whether the individual agrees with his/her agreement to the proposed action. If the Complainant is unwilling to consent to the proposed change, the Compliance Officer may still take whatever actions deemed s/he deems appropriate in consultation with the Superintendent.

Within two (2) business days of receiving the complaint, the Compliance Officer/~~or a~~ designee will initiate a formal investigation to determine whether the Complainant has been subjected to offensive conduct/harassment/retaliation. ~~(-) A~~ The Director will not conduct an investigation unless directed to do so by the Compliance Officer.

Simultaneously, the Compliance Officer will inform the Respondent that a formal individual alleged to have engaged in the harassing or retaliatory 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 provided with a copy of any relevant policies and/or administrative guidelines, including the Board's Anti-Harassment policy. The Respondent must also be informed of the opportunity to submit a written response to the complaint within five (5) business days.

Although certain cases may require additional time, the Compliance Officer/~~or a~~ designee will attempt to complete an investigation into the allegations of harassment/retaliation within fifteen (15) business 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 presented by the Complainant, Respondent, or any other witness that is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the Compliance Officer or the designee shall prepare and deliver a written report to the Superintendent that 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 subjected to unlawful harassment. The Compliance Officer's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. In determining if discriminatory harassment or retaliation occurred, a preponderance of evidence standard will be used. ~~(-) The~~ Compliance Officer may consult with the Board's legal counsel before finalizing the report to the Superintendent.

Absent extenuating circumstances, within five (5) business days of receiving the report of the Compliance Officer/~~or the~~ designee, the Superintendent must either issue a final written decision regarding whether 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.

OR

~~[-] A Complainant or Respondent who is dissatisfied with the final decision of the Superintendent may appeal through a signed written statement to the Board within five (5) business days of the party's his/her receipt of the Superintendent's final decision. The written statement of appeal must be submitted to the Treasurer/CFO.~~

~~In an attempt to resolve the complaint, the Board shall meet with the concerned parties and their representatives within twenty (20) business days of the receipt of such an appeal. A copy of the Board's disposition of the appeal shall be sent to each concerned party within ten (10) business days of this meeting. The decision of the Board will be final.~~

[END OF OPTIONS]

The Board reserves the right to investigate and resolve a complaint or report of unlawful harassment/retaliation regardless of whether the member of the School District community or ~~Third Party~~~~third party~~ alleging the unlawful harassment/retaliation pursues the complaint. The Board also reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Board or its designee.

The parties may be represented, at their own cost, at any of the above-described meetings/hearings.

The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights, the filing of charges with local law enforcement, or the filing of a civil action in court. Use of this internal complaint process is not a prerequisite to the pursuit of other remedies.

Privacy/Confidentiality

The ~~School~~ District will employ all reasonable efforts to protect the rights of the Complainant, the ~~Respondent individual(s) against whom the complaint is filed,~~ and the witnesses as much as possible, consistent with the Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. All records generated under the terms of this policy and related administrative guidelines shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. ~~Additionally, the Respondent must be provided the Complainant's identity. All Complainants proceeding through the formal investigation process will be advised that their identities may be disclosed to the Respondent.~~

During the course of a formal investigation, the Compliance Officer~~/ or his/her~~ designee will instruct all members of the School District 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 is learned or provided~~s/he learns or that s/he provides~~ during the course of the investigation.

Sanctions and Monitoring

The Board shall vigorously enforce its prohibitions against unlawful harassment/retaliation by taking appropriate action reasonably calculated to stop the harassment and prevent further such harassment. While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s). When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the ages and maturity levels of those involved. In those cases where unlawful harassment is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s).

Where the Board becomes aware that a prior remedial action has been taken against a member of the School District community, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its recurrence, and remedy its effect.

Retaliation

Retaliation against a person who makes a report or files a complaint alleging unlawful harassment/retaliation or participates as a witness in an investigation is prohibited. Neither the Board nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made unlawful by any Federal or State civil right law, or because that individual made a report, formal complaint testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or the policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy.

Retaliation against a person for making a report of discrimination, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

~~Any act of retaliation against a person who has made a report or filed a complaint alleging unlawful harassment, or who has~~

~~participated as a witness in a harassment investigation is prohibited.~~

Allegations Constituting Criminal Conduct: Child Abuse/Sexual Misconduct

State law requires any school teacher or school employee who knows or suspects that a child with a disability under the age of twenty-one (21) or that a child under the age of eighteen (18) has suffered or faces a threat of suffering a physical or mental wound, disability or condition of a nature that reasonably indicates abuse or neglect of a child to immediately report that knowledge or suspicion to the county children's services agency. If, during the course of a harassment investigation, the Compliance Officer 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.

State law defines certain contact between a teacher and a student as "sexual battery." If the Compliance Officer or a designee has reason to believe that the Complainant has been the victim of criminal conduct as defined in Ohio's Criminal Code, such knowledge should be immediately reported to local law enforcement.

Any reports made to a county children's services agency or to local law enforcement shall not terminate the Compliance Officer or a designee's obligation and responsibility to continue to investigate a complaint of harassment. While the Compliance Officer 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.

Allegations Involving Conduct Unbecoming the Teaching Profession/Suspension

The Superintendent will report to the Ohio Department of Education, on forms provided for that purpose, matters of misconduct on the part of licensed professional staff members convicted of sexual battery, and will, in accordance with Policy 8141, suspend such employee from all duties that concern or involve the care, custody, or control of a child during the pendency of any criminal action for which that person has been arrested, summoned and/or indicted in that regard.

Education and Training

In support of this Anti-Harassment Policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Superintendent ~~or designee~~ shall provide appropriate information to all members of the School District community related to the implementation of this policy and shall provide training for District students and staff where appropriate. All training, as well as all information provided regarding the Board's policy and harassment in general, will be age and content appropriate.

Retention of Investigatory Records and Materials

The Compliance Officer(s) is responsible for overseeing retention of all records that must be maintained pursuant to this policy. All individuals charged with conducting investigations under this policy shall retain all documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and/or received as part of an investigation, which may include but not be limited to:

- A. all written reports/allegations/complaints/grievances/statements/responses pertaining to an alleged violation of this policy;
- B. any narratives that memorialize oral reports/allegations/complaints/grievances/statements/responses pertaining to an alleged violation of this policy;
- C. any documentation that memorializes the actions taken by District personnel or individuals contracted or appointed by the Board to fulfill its responsibilities related to the investigation and/or the District's response to the alleged violation of this policy;
- D. written witness statements;
- E. narratives, notes from, or audio, video, or digital recordings of witness interviews/statements;
- F. e-mails, texts, or social media posts that directly relate to or constitute evidence pertaining to an alleged violation of this policy (i.e., not after-the-fact commentary about or media coverage of the incident);
- G. notes or summaries prepared contemporaneously by the investigator in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.), but not including transitory notes whose content is otherwise memorialized in other documents;
- H. written disciplinary sanctions issued to students or employees and other documentation that memorializes oral disciplinary sanctions issued to students or employees for violations of this policy;

- I. dated written determinations/reports (including summaries of relevant exculpatory and inculpatory evidence) and other documentation that memorializes oral notifications to the parties concerning the outcome of the investigation, including any consequences imposed as a result of a violation of this policy;
- J. documentation of any supportive interim measures offered and/or provided to the Complainant and/or the Respondent, ~~complainants and/or the alleged perpetrators~~, including no contact orders issued to both parties, the dates the no contact orders were issued, and the dates the parties acknowledged receipt of the no contact orders;
- K. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects;
- L. copies of the Board policy and/or procedures/guidelines used by the District to conduct the investigation, and any documents used by the District at the time of the alleged violation to communicate the Board's expectations to students and staff with respect to the subject of this policy (e.g., Student Code of Conduct and/or Employee Handbooks ~~or Codes of Conduct~~);
- M. copies of any documentation that memorializes any formal or informal resolutions to the alleged discrimination or harassment;

[DRAFTING NOTE: The following options should be selected if the district concludes that the following items are not adequately encompassed in the preceding paragraphs.]

- N. ~~()~~ documentation of any training provided to District personnel related to this policy, including but not limited to, notification of the prohibitions and expectations of staff set forth in this policy and the role and responsibility of all District personnel involved in enforcing this policy, including their duty to report alleged violations of this policy and/or conducting an investigation of an alleged violation of this policy; **[REMINER: Documentation of training should be maintained regardless of whether there is an investigation of an alleged violation of this policy. It is best practice to maintain a log of all staff members who participate in a training, along with the date, time and location of the training, and a copy of the materials reviewed and/or presented during the training.]**
- O. ~~()~~ documentation that any rights or opportunities that the District made available to one party during the investigation were made available to the other party on equal terms;
- P. ~~()~~ copies of any notices sent to the alleged perpetrator/responding party of the allegations constituting a potential violation of this policy;
- Q. ~~()~~ copies of any notices sent to the Complainant and the Respondent ~~complainant and alleged perpetrator~~ in advance of any interview, meeting, or hearing;
- R. ~~()~~ copies of any documentation or evidence used during informal and formal disciplinary meetings and hearings, including the investigation report, and any written responses submitted by the Complainant or the Respondent, ~~complainant or the alleged perpetrator~~.

The documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal (e.g., FERPA, ADA) and/or State law (e.g., R.C. 3319.321) – e.g., student records and confidential medical records.

The documents, ESI, and electronic media (as defined in Policy 8315) created or received as part of an investigation shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, and Policy 8330 for not less than three (3) years, but longer if required by the District's records retention schedule.

Legal

R.C. 4112.02

20 U.S.C. 1400 et seq., The Individuals with Disabilities Education Improvement Act of 2004 (IDEIA)

20 U.S.C. 1681 et seq.

29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967

29 U.S.C. 794, Rehabilitation Act of 1973, as amended

29 C.F.R. Part 1635

29 U.S.C. 6101, The Age Discrimination Act of 1975

42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended

42 U.S.C. 2000d et seq.

42 U.S.C. 2000e et seq.

42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act

42 U.S.C. 1983

National School Boards Association Inquiry and Analysis - May 2008

Book	Policy Manual
Section	ADMINISTRATION CHANGES.UPDATE TO POLICY.AUG.2021
Title	Copy of Nondiscrimination/Anti-Harassment Policies Update - January 2021 Revised NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY
Code	po4122.revision
Status	
Adopted	December 16, 2013
Last Revised	December 17, 2018

4122 - **NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY**

The Board of Education does not discriminate on the basis of race, color, national origin, sex (including sexual orientation and transgender identity), disability, age, religion, military status, ancestry, genetic information (collectively, "Protected Classes"), or any other legally protected category, in its programs and activities, including employment opportunities.

Definitions:

Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.

Complainant is the individual who alleges, or is alleged, to have been subjected to unlawful discrimination/retaliation, regardless of whether the person files a formal complaint or is pursuing an informal resolution to the alleged discrimination/retaliation.

Respondent is the individual who has been alleged to have engaged in unlawful discrimination/retaliation, regardless of whether the Reporting Party files a formal complaint or is seeking an informal resolution to the alleged discrimination/retaliation.

School District community means students and Board employees (i.e., administrators, and professional and classified staff), as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

Third Parties include, but are not limited to, guests and/or visitors on School District 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 District community at school-related events/activities (whether on or off District property).

Day(s): Unless expressly stated otherwise, the term "day" or "days" as used in this policy means a business day(s) (i.e., a day(s) that the Board office is open for normal operating hours, Monday - Friday, excluding State-recognized holidays).

For purposes of this policy, "military status" refers to a person's status in the uniformed services, which includes the performance of duty, on a voluntary basis, or involuntary basis, in a uniformed service including active duty, active duty for training, initial active duty for training, inactive duty for training, and full-time National Guard duty. It also includes the period of time for which a person is absent from employment for the purpose of an examination to determine the fitness of the person to perform any such duty as listed above.

District Compliance Officers

The Board designates the following individuals to serve as the District's "Compliance Officers" (also known as "Civil Rights Coordinator") (hereinafter referred to as the "COs").

[DRAFTING NOTE: Neola suggests the Board School Districts are advised to appoint both a male and a female CO in order to provide complainants Complainants with the option to report their concerns to an individual of the gender with which they feel most comfortable. The COs may also serve as the District's Section 504 Compliance Officer/ADA Coordinator and Title IX Coordinator. Additionally, by appointing two COs, there should always be a CO available to investigate a claim of discrimination/retaliation that pertains to the other CO.]

Clay Frye Kris Kowalski

(Name)

Director of Operations

(School District Title)

419-347-7744, ext. 42202

(Telephone Number)

27 Ryan Rd., Shelby, OH 44875

(Office Address)

frye.claykewalski.kris@pioneerctc.edu

(E-mail Address)

(Name)

(School District Title)

(Telephone Number)

(Office Address)

(E-mail Address)

The names, titles, and contact information of these individuals will be published annually on the School District's web site () and:

- A. ☒ in the staff handbooks.
- B. ☐ in the School District Annual Report to the public.
- C. ☐ on the School District's web site.
- D. ☐ on each individual school's web site.
- E. ☐ in the School District's calendar.
- F. ☐ _____.

The COs are responsible for coordinating the District's efforts to comply with applicable Federal and State laws and regulations, including the District's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination, retaliation or denial of equal access. The COs shall also verify that proper notice of nondiscrimination for Title II of the Americans with Disabilities Act (as amended), Title VI and Title VII of the Civil Rights Act of 1964, ~~Title IX of the Education Amendment Act of 1972~~, Section 504 of the Rehabilitation Act of 1973 (as amended), and the Age Discrimination in Employment Act of 1975 is provided to staff members and the general public. () Any sections of the District's collectively-bargained, negotiated agreements dealing with hiring, promotion, and tenure need to contain a statement of nondiscrimination similar to that in the Board's statement above. In addition, any gender-specific terms should be eliminated from such contracts. [END OF OPTION] A copy of each of the Acts and regulations on which this notice is available upon request from the CO, based may be found in the CO's office.

Reports and Complaints of Unlawful Discrimination and Retaliation

Employees are required to ~~encouraged to promptly~~ report incidents of unlawful discrimination and/or retaliation to an administrator, supervisor, or other District-level official so that the Board may address the conduct. Any administrator, supervisor, or other District-level ~~employee or~~ official who receives such a report ~~complaint~~ shall file it with the CO ~~() at his/her first convenience ()~~ within two (2) ~~school~~ days.

Employees who believe they have been unlawfully discriminated/retaliated against are entitled to utilize the complaint process set forth below. Initiating a complaint, whether formally or informally, will not adversely affect the Complainant's complaining

~~individual's~~ employment. While there are no time limits for initiating complaints under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

The COs will be available during regular school/work hours to discuss concerns related to unlawful discrimination/retaliation. COs shall accept ~~reports~~~~complaints~~ of unlawful discrimination/retaliation directly from any member of the School District community or a ~~Third Party, or receive reports that are initially filed with another Board employee.~~ ~~visitor to the District, 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, a CO will begin either an informal or formal process (depending on the request of the person alleging the discrimination/retaliation or the nature of the alleged discrimination/retaliation). Upon receipt of a report of alleged discrimination/retaliation, the CO will contact the Complainant and begin either an informal or formal complaint process (depending on the Complainant's request and the nature of the alleged discrimination/retaliation), or the CO will designate a specific individual to conduct such a process. The CO will provide a copy of this policy to ~~the Complainant and the Respondent.~~ ~~any person who files a complaint.~~ In the case of a formal complaint, the CO will prepare recommendations for the Superintendent or oversee the preparation of such recommendations by a designee. All members of the School District community must report incidents of discrimination/retaliation that are reported to them to the CO within two (2) business days of learning of the incident/conduct.

Any Board employee who directly observes unlawful discrimination/retaliation is obligated, in accordance with this policy, to report such observations to one of the COs within two (2) business days. Additionally, any Board employee who observes an act of unlawful discrimination/retaliation is expected to intervene to stop the misconduct, unless circumstances make such an intervention dangerous, in which case the staff member should immediately notify other Board employees and/or local law enforcement officials, as necessary, to stop the misconduct. Thereafter, the CO or designee must contact the ~~employee~~ ~~Complainant~~ within two (2) business days to advise ~~him/her~~ of the Board's intent to investigate the alleged wrongdoing.

Investigation and Complaint Procedure (See Form 4122 F2)

~~Except for sex discrimination and/or Sexual Harassment that is covered by Policy 2266 - Nondiscrimination on the Basis of Sex Education Programs or Activities, any employee who alleges to have been~~ ~~Any employee who believes that s/he has been~~ subjected to unlawful discrimination or retaliation may seek resolution of ~~the his/her~~ complaint through the procedures described below. The formal complaint procedures involve an investigation of the individual's claims ~~of discrimination/retaliation~~ and a process for rendering a decision regarding whether the charges are substantiated.

Due to the sensitivity surrounding complaints of unlawful discrimination or retaliation, timelines are flexible for initiating the complaint process; however, individuals ~~are encouraged~~ ~~should make every effort~~ to file a complaint within thirty (30) calendar days after the conduct occurs. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) business days of the complaint being received).

The procedures set forth below are not intended to interfere with the rights of any individual to pursue a complaint of unlawful discrimination or retaliation with the United States Department of Education Office for Civil Rights, the Ohio Civil Rights Commission ("OCRC") or Equal Employment Opportunity Commission ("EEOC").

Informal Complaint Procedure

The goal of the informal complaint procedure is to ~~promptly stop~~ ~~quickly stop~~ inappropriate behavior and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for an employee who ~~alleges~~ ~~unlawful discrimination or retaliation.~~ ~~believes s/he has been unlawfully discriminated or retaliated against.~~ This informal procedure is not required as a precursor to the filing of a formal complaint. The informal process is only available in those circumstances where the ~~Complainant and the Respondent mutually~~ ~~parties (the alleged target of the discrimination/retaliation and individual(s) alleged to have engaged in the discrimination)~~ agree to participate in it.

~~The Complainant~~ ~~Employees who believe that they have been unlawfully discriminated/retaliated against~~ may proceed immediately to the formal complaint process and individuals who ~~participate in~~ ~~seek resolution through~~ the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process.

All complaints involving a District employee or any other adult member of the School District community ~~and~~ ~~against~~ a student will be formally investigated.

As an initial course of action, if ~~a Complainant feels comfortable and safe~~ ~~an individual feels that s/he is being unlawfully discriminated/retaliated against and s/he is able and feels safe~~ doing so, the individual should tell or otherwise inform the ~~Respondent that person who engaged in~~ the allegedly discriminatory/retaliatory conduct that it is inappropriate and must stop. The ~~Complainant~~ ~~complaining individual~~ should address the alleged misconduct as soon after it occurs as possible. The COs are available to support and counsel ~~the Complainant~~ ~~individuals~~ when taking this initial step or to intervene on behalf of the individual if requested to do so. ~~A Complainant~~ ~~An individual~~ who is uncomfortable or unwilling to ~~directly approach the Respondent about the~~ ~~inappropriate conduct may file~~ ~~inform the person who allegedly engaged in the unlawful misconduct of his/her concerns is not~~

~~prohibited from otherwise filing~~ an informal or a formal complaint. In addition, with regard to certain types of unlawful discrimination ~~(e.g., sex discrimination), such as sexual discrimination,~~ the CO may advise against the use of the informal complaint process.

~~An individual who believes s/he has been unlawfully discriminated/retaliated against~~ A Complainant who alleges unlawful discrimination/retaliation may make an informal complaint, either orally or in writing: 1) to a building administrator; 2) directly to one of the COs; and/or 3) to the Superintendent or other District-level employee.

All informal complaints must be reported to one of the COs who will either facilitate an informal resolution as described below, or appoint another individual to facilitate an informal resolution.

The School District's informal complaint procedure is designed to provide ~~the Complainant~~ ~~employees who believe they are being unlawfully discriminated/retaliated against~~ with a range of options aimed at bringing about a prompt resolution of their concerns. Depending upon the nature of the complaint and the wishes of the ~~Complainant, individual claiming unlawful discrimination/retaliation,~~ informal resolution may involve, but not be limited to, one or more of the following:

- A. Advising the ~~Complainant individual~~ about how to communicate ~~his/her~~ concern to the ~~Respondent, person who allegedly engaged in the discriminatory/retaliatory behavior,~~
- B. Distributing a copy of Policy 4122 - Non-Discrimination ~~and Equal Employment Opportunity as a reminder~~ to the individuals in the school building or office where the ~~Respondent individual whose behavior is being questioned~~ works.
- C. If both parties agree, the CO may arrange and facilitate a meeting ~~or mediation between the Complainant and the Respondent to work out a mutual resolution.~~ ~~between the individual claiming discrimination/retaliation and the individual accused of engaging in the misconduct to work out a mutual resolution.~~

While there are no set time limits within which an informal complaint must be resolved, the CO or designee ~~is directed~~ ~~will exercise his/her authority~~ to attempt to resolve all informal complaints within fifteen (15) business days of receiving the informal complaint. ~~If the Complainant is~~ ~~Parties who are~~ dissatisfied with ~~the results of~~ the informal complaint process, ~~the Complainant~~ may proceed to file a formal complaint and, as stated above, ~~either party~~ ~~parties~~ may request that the informal process be terminated at any time to move to the formal complaint process.

Formal Complaint Procedure

If a complaint is not resolved through the informal complaint process, if one of the parties requested that the informal complaint process be terminated to move to the formal complaint process, or if the ~~Complainant, from the outset, elects to file a formal complaint, or the Compliance Officer(s) determines the allegations are not appropriate for resolution through the informal process,~~ ~~individual elects to file a formal complaint initially,~~ the formal complaint process shall be implemented.

~~A Complainant~~ ~~An individual who believes s/he has been subjected to unlawful discrimination/retaliation (hereinafter referred to as the "Complainant"),~~ may file a formal complaint, either orally or in writing, with a Director, the CO, Superintendent, or other District ~~official-level employee~~. Due to the sensitivity surrounding complaints of unlawful discrimination and retaliation, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a ~~formal~~ complaint within thirty (30) calendar days after the conduct occurs. If a Complainant informs a Director Superintendent, or other District ~~official-level employee~~, either orally or in writing, about any complaint of discrimination or retaliation, that employee must report such information to the CO within two (2) business days.

Throughout the course of the process, the CO should keep the parties ~~reasonably~~ informed of the status of the investigation and the decision-making process.

All formal complaints must include the following information to the extent ~~known~~ ~~it is available~~: the identity of the ~~Respondent individual believed to have engaged in, or be engaging in; the discriminatory/retaliatory conduct~~; a detailed description of the facts upon which the complaint is based ~~(i.e., when, where, and what occurred)~~; a list of potential witnesses; and the resolution sought by the Complainant.

If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the CO shall ask for such details in an oral interview. Thereafter, the CO will prepare a written summary of the oral interview, and the Complainant will be asked to verify the accuracy of the reported charge by signing the document.

Upon receiving a formal complaint, the CO will consider whether any action should be taken in the investigatory phase to protect the Complainant from further discrimination or retaliation, including, but not limited to, a change of work assignment or schedule for the Complainant and/or the ~~Respondent, person who allegedly engaged in the misconduct.~~ In making such a determination, the CO should consult the Complainant to assess ~~whether the individual agrees with his/her agreement to~~ the proposed action. If the

Complainant is unwilling to consent to the proposed change, the CO may still take whatever actions s/he ~~deemed~~deems appropriate in consultation with the Superintendent.

Within two (2) business days of receiving the complaint, the CO or designee will initiate a formal investigation to determine whether the Complainant has been subjected to unlawful discrimination/retaliation.

Simultaneously, the CO will inform the ~~Respondent that a formal individual alleged to have engaged in the discriminatory or retaliatory 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 provided with a copy of any relevant policies and/or administrative guidelines, including Policy 4122 - Non-Discrimination and Equal Employment Opportunity. The Respondent must also be informed of the opportunity to submit a written response to the complaint within five (5) business days.

Although certain cases may require additional time, the CO or a designee will attempt to complete an investigation into the allegations of discrimination/retaliation within fifteen (15) business 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 presented by the Complainant, Respondent, or any other witness that is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the CO or the designee shall prepare and deliver a written report to the Superintendent that summarizes the evidence gathered during the investigation and provide recommendations based on the evidence and the definition of unlawful discrimination/retaliation as provided in Board policy and State and Federal law as to whether the Respondent has engaged in unlawful discrimination/retaliation of the Complainant.~~Complainant has been subjected to unlawful discrimination/retaliation.~~ The CO's recommendations must be based upon the totality of the circumstances. In determining if discrimination or retaliation occurred, a preponderance of evidence standard will be used. ~~(-)~~ The CO may consult with the Board's legal counsel before finalizing the report to the Superintendent.

Absent extenuating circumstances, within five (5) business days of receiving the report of the CO or the designee, the Superintendent must either issue a written final decision regarding whether the charges have 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.

If the Superintendent determines the Respondent engaged in unlawful discrimination/retaliation toward the Complainant, the Superintendent~~Complainant was subjected to unlawful discrimination/retaliation, s/he~~ must identify what corrective action will be taken to stop, remedy, and prevent the recurrence of the discrimination/retaliation. The corrective action should be reasonable, timely, age-appropriate, and effective, and tailored to the specific situation.

☒ The decision of the Superintendent shall be final.

OR

~~(-)~~ A Complainant or Respondent who is dissatisfied with the final decision of the Superintendent may appeal through a signed written statement to the Board within five (5) business days of ~~the party's his/her~~ receipt of the Superintendent's ~~final~~ decision. The written statement of appeal must be submitted to the Treasurer/CFO.

~~In an attempt to resolve the complaint, the Board shall meet with the concerned parties and their representatives within twenty (20) business days of the receipt of such an appeal. A copy of the Board's disposition of the appeal shall be sent to each concerned party within ten (10) business days of this meeting. The decision of the Board will be final.~~

[END OF OPTIONS]

The Board reserves the right to investigate and resolve a complaint or report of unlawful discrimination/retaliation regardless of whether the employee alleging the misconduct pursues the complaint. The Board also reserves the right to have the formal

complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Board or its designee.

The ~~parties~~ **Complainant** may be represented, at ~~their~~ **his/her** own cost, at any of the above-described meetings/hearings.

The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights, the filing of charges with local law enforcement, or the filing of a civil action in court. Use of this internal complaint process is not a prerequisite to the pursuit of other remedies. ~~The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights or the filing of a court case. Use of this internal complaint procedure is not a prerequisite to the pursuit of other remedies.~~

Privacy/Confidentiality

The ~~School~~ District will employ all reasonable efforts to protect the rights of the Complainant, the Respondent(s), and the witnesses as much as possible, consistent with the Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. All records generated under the terms of this policy shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. Additionally, the Respondent must be provided the Complainant's identity. ~~All Complainants proceeding through the formal investigation process will be advised that their identities may be disclosed to the Respondent(s).~~

During the course of a formal investigation, the CO or designee will instruct each person who is interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of an investigation is expected not to disclose to third parties any information that is learned or provided ~~s/he learns and/or provides~~ during the course of the investigation.

Sanctions and Monitoring

The Board shall vigorously enforce its prohibitions against unlawful discrimination by taking appropriate action reasonably calculated to stop and prevent further misconduct. While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s). When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter. In those cases where unlawful discrimination/retaliation is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s).

Where the Board becomes aware that a prior remedial action has been taken against an employee, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its recurrence, and remedy its effect.

Retaliation

Retaliation against a person who makes a report or files a complaint alleging unlawful harassment/retaliation or participates as a witness in an investigation is prohibited. Neither the Board nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made unlawful by any Federal or State civil rights law, or because that individual made a report, formal complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy.

Retaliation against a person for making a report of discrimination, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

~~Retaliation against a person who makes a report or files a complaint alleging unlawful discrimination/retaliation, or participates as a witness in an investigation is prohibited. Specifically, the Board will not retaliate against, coerce, intimidate, threaten or interfere with any individual because the person opposed any act or practice made unlawful by any Federal or State civil rights law, or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under those laws, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws.~~

Education and Training

In support of this policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Superintendent ~~or designee~~ shall provide appropriate information to all members of the School District community related to the implementation of this policy and shall provide training for District students and staff where appropriate. All training, as well as all information provided regarding the Board's policy and discrimination in general, will be age and content appropriate.

Retention of Investigatory Records and Materials

The Compliance Officer(s) is responsible for overseeing retention of all records that must be maintained pursuant to this policy. All individuals charged with conducting investigations under this policy shall retain all documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and/or received as part of an investigation, which may include but not be limited to:

- A. all written reports/allegations/complaints/grievances/statements/responses pertaining to an alleged violation of this policy;
- B. any narratives that memorialize oral reports/allegations/complaints/grievances/statements/responses pertaining to an alleged violation of this policy;
- C. any documentation that memorializes the actions taken by District personnel or individuals contracted or appointed by the Board to fulfill its responsibilities related to the investigation and/or the District's response to the alleged violation of this policy;
- D. written witness statements;
- E. narratives, notes from, or audio, video, or digital recordings of witness interviews/statements;
- F. e-mails, texts, or social media posts that directly relate to or constitute evidence pertaining to an alleged violation of this policy (i.e., not after-the-fact commentary about or media coverage of the incident);
- G. notes or summaries prepared contemporaneously by the investigator in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.), but not including transitory notes whose content is otherwise memorialized in other documents;
- H. written disciplinary sanctions issued to students or employees and other documentation that memorializes oral disciplinary sanctions issued to students or employees for violations of this policy;
- I. dated written determinations/reports (including summaries of relevant exculpatory and inculpatory evidence) and other documentation that memorializes oral notifications to the parties concerning the outcome of the investigation, including any consequences imposed as a result of a violation of this policy;
- J. documentation of any supportive interim measures offered and/or provided to the Complainant and/or the Respondent, ~~complainants and/or the alleged perpetrators~~, including no contact orders issued to both parties, the dates the no contact orders were issued, and the dates the parties acknowledged receipt of the no contact orders;
- K. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects;
- L. copies of the Board policy and/or procedures/guidelines used by the District to conduct the investigation, and any documents used by the District at the time of the alleged violation to communicate the Board's expectations to students and staff with respect to the subject of this policy (e.g., Student Codes of Conduct and/or Employee Handbooks ~~or Codes of Conduct~~);
- M. copies of any documentation that memorializes any formal or informal resolutions to the alleged discrimination or harassment;

[DRAFTING NOTE: The following options should be selected if the District concludes that the following items are not adequately encompassed in the preceding paragraphs.]

- N. ~~(-) documentation of any training provided to District personnel related to this policy, including but not limited to, notification of the prohibitions and expectations of staff set forth in this policy and the role and responsibility of all District personnel involved in enforcing this policy, including their duty to report alleged violations of this policy and/or conducting an investigation of an alleged violation of this policy;~~ **[REMINDER: Documentation of training should be maintained regardless of whether there is an investigation of an alleged violation of this policy. It is best practice to maintain a log of all staff members who participate in a training, along with the date, time and location of the**

training, and a copy of the materials reviewed and/or presented during the training.}]

- O. ~~(-) documentation that any rights or opportunities that the District made available to one party during the investigation were made available to the other party on equal terms;~~
- P. ~~(-) copies of any notices sent to the alleged Respondent perpetrator/responding party of the allegations constituting a potential violation of this policy;~~
- Q. ~~(-) copies of any notices sent to the complainant and alleged perpetrator in advance of any interview or hearing~~ copies of any notices sent to the Complainant and the Respondent in advance of any interview, meeting, or hearing;
- R. ~~(-) copies of any documentation or evidence used during informal and formal disciplinary meetings and hearings, including the investigation report, and any written responses submitted by the Complainant or the Respondent~~ complainant or the alleged perpetrator.

The documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal (e.g., FERPA, ADA) and/or State law (e.g., R.C. 3319.321) – e.g., student records and confidential medical records.

The documents, ESI, and electronic media (as defined in Policy 8315) created or received as part of an investigation shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, and Policy 8330 for not less than three (3) years, but longer if required by the District's records retention schedule.

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Legal	R.C. 4112.01, 4112.02
	A.C. 3301-35-03(A)
	Fourteenth Amendment, U.S. Constitution
	20 U.S.C. Section 1681, Title IX of Education Amendment Act
	20 U.S.C. Section 1701 et seq., Equal Educational Opportunities Act of 1974
	20 U.S.C. Section 7905, Boy Scouts of America Equal Access Act
	42 U.S.C. 6101 et seq., Age Discrimination Act of 1975
	42 U.S.C. 12101 et seq., The Americans with Disabilities Act of 1990, as amended
	34 C.F.R. Part 110 (7/27/93)
	42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act
	42 U.S.C., 2000e, et seq., Civil Rights Act of 1964
	29 U.S.C. 701 et seq., Rehabilitation Act of 1973, as amended
	29 C.F.R. Part 1635

Book	Policy Manual
Section	ADMINISTRATION CHANGES.UPDATE TO POLICY.AUG.2021
Title	Copy of Nondiscrimination/Anti-Harassment Policies Update - January 2021 Revised SECTION 504/ADA PROHIBITION AGAINST DISABILITY DISCRIMINATION IN EMPLOYMENT
Code	po4123.revision
Status	
Adopted	January 15, 2015
Last Revised	May 21, 2018

4123 - SECTION 504/ADA PROHIBITION AGAINST DISABILITY DISCRIMINATION IN EMPLOYMENT

The Board of Education prohibits discrimination against any employee or applicant based upon his/her disability. As such, the Board will not engage in employment practices or adopt policies that discriminate on the basis of disability, or otherwise discriminate against qualified individuals with disabilities in regard to job application procedures, the hiring, advancement or discharge of employees, employee compensation, job training, or other terms, conditions and privileges of employment. The Board further will not limit, segregate or classify applicants or employees in any way that adversely affects their opportunities or status because of disability. Additionally, the Board will not participate in any contractual or other relationships that have the effect of subjecting qualified individuals with disabilities who are applicants or employees to discrimination on the basis of disability.

"An individual with a disability" means a person who has, had a record of, or is regarded as having, a physical or mental impairment that substantially limits one or more major life activities. Major life activities are functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, eating, sleeping, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, sitting, reaching, interacting with others, and working.

Major life activities also include the operation of a major bodily function, including, but not limited to, functions of the immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, hemic, lymphatic, musculoskeletal and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.

An impairment that is episodic in nature or in remission is considered a disability if it would substantially limit a major life activity when active.

The determination of whether an impairment substantially limits a major life activity must be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, equipment or appliances, low-vision devices (defined as devices that magnify, enhance, or otherwise augment a visual image, but not including ordinary eyeglasses or contact lenses), prosthetics (including limbs and devices), hearing aid(s) and cochlear implant(s) or other implantable hearing devices, mobility devices, oxygen therapy equipment or supplies, use of assistive technology, reasonable accommodations or "auxiliary aids or services," learned behavioral or adaptive neurological modifications, psychotherapy, behavioral therapy, or physical therapy.

A qualified person with a disability means the individual satisfies the requisite skill, experience, education and other job-related requirements of the employment position such individual holds or desires and, with or without reasonable accommodation, can perform the essential functions of the job in question.

The Board will provide a reasonable accommodation to a qualified individual who has an actual disability or who has a record of a disability, unless the accommodation would impose an undue hardship on the operation of the District's program and/or activities. A reasonable accommodation is not required for an individual who is merely regarded as having a disability.

Compliance Officer(s)

The Board designates the following individual(s) to serve as the District's 504 Compliance Officer(s)/ADA Coordinator(s) (hereinafter referred to as the "District Compliance Officer(s)").

[DRAFTING NOTE: Neola suggests the Board appoints ~~School Districts may want to consider appointing~~ both a male and a female District Compliance Officer in order to provide complainants with the option to report their concerns to an individual of the gender with which they feel most comfortable. Additionally, by appointing two (2) District Compliance

Officers, there should always be a Compliance Officer available to investigate a claim that pertains to the other Compliance Officer.]

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(Telephone Number)

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The name(s), title(s), and contact information of this/these individual(s) will be published annually on the School District's web site () and:

- A. ☒ in the staff handbooks.
- B. ☐ in the School District Annual Report to the public.
- C. ☐ on the School District's web site.
- D. ☐ on each individual school's web site.
- E. ☐ in the School District's calendar
- F. ☐ _____.

The District Compliance Officer(s) () is () are responsible for coordinating the District's efforts to comply with and fulfill its responsibilities under Section 504 and Title II of the Americans with Disabilities Act, as amended ("ADA"). A copy of Section 504 and the ADA, including copies of their implementing regulations, may be obtained from the District Compliance Officer(s).

The District Compliance Officer(s) will oversee the investigation of any complaints of discrimination based on disability, which may be filed pursuant to the Board's adopted internal complaint procedure, and will attempt to resolve such complaints. The Board will provide for the prompt and equitable resolution of complaints alleging violations of Section 504/ADA. See below.

Training

The District Compliance Officer(s) will also oversee the training of employees in the District so that all employees understand their rights and responsibilities under Section 504 and the ADA, and are informed of the Board's policies, administrative guidelines and practices with respect to fully implementing and complying with the requirements of Section 504/ADA.

The Board will provide in-service training and consultation to staff responsible for the education of persons with disabilities, as necessary and appropriate.

Facilities

No qualified person with a disability will, because the District's facilities are inaccessible to or unusable by persons with disabilities, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which Section 504/ADA applies.

For facilities constructed or altered after June 3, 1977, the District will comply with applicable accessibility standards. For those existing facilities constructed prior to June 3, 1977, the District is committed to operating its programs and activities so that they are readily accessible to persons with disabilities.

Notice

Notice of the Board's policy on nondiscrimination in employment practices and the identity of the District's Compliance Officer(s) will be published on the District's website and posted throughout the District, and included~~published~~ in the District's recruitment statements or general information publications.

Complaint Procedures

If a person believes that s/he has been discriminated against on the basis of his/her disability, the person may utilize the following complaint procedures as a means of reaching, at the lowest possible administrative level, a prompt and equitable resolution of the matter.

In accordance with Section 504 of the Rehabilitation Act of 1973 and its implementing regulations ("Section 504"), employees will be notified of their right to file an internal complaint regarding an alleged violation, misinterpretation or misapplication of Section 504. In addition, employees will be notified of their right to file a complaint with the U.S. Department of Education's Office for Civil Rights.

Internal complaints must be put in writing and must identify the specific circumstances or areas of dispute that have given rise to the complaint, and offer possible solutions to the dispute. The complaint must be filed with a District Compliance Officer within the time limits specified below. The District's Compliance Officer is available to assist individuals in filing a complaint.

Unless expressly stated otherwise, the term "day" or "days" as used in this policy means business day(s) (i.e., a day(s) that the Board office is open for normal operating hours, Monday – Friday, excluding State-recognized holidays).

Internal Complaint Procedure

The following internal complaint procedure is available to employees for the prompt and equitable resolution of complaints alleging discrimination based upon disability. This complaint procedure is not available to unsuccessful applicants. Use of the internal complaint procedure is not a prerequisite to the pursuit of other remedies, including the filing of a complaint with the U.S. Department of Education's Office for Civil Rights.

- A. An employee with a complaint based on alleged discrimination on the basis of disability may first discuss the problem with the District Compliance Officer.
- B. If the informal discussion does not resolve the matter, or if the employee skips Step A, the individual may file a formal written complaint with the District Compliance Officer. The written complaint must contain the name and address of the individual or representative filing the complaint, be signed by the complainant or someone authorized to sign for the complainant, describe the alleged discriminatory action in sufficient detail to inform the District Compliance Officer of the nature and date of the alleged violation, and propose a resolution. The complaint must be filed within thirty (30) calendar days of the circumstances or event giving rise to the complaint, unless the time for filing is extended by the District Compliance Officer for good cause.
- C. The District Compliance Officer will conduct an independent investigation of the matter (which may or may not include a hearing). This complaint procedure contemplates informal, but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to present witnesses and other evidence relevant to the complaint. The District Compliance Officer will provide the complainant with a written disposition of the complaint within ten (10) ~~work~~ days. If no decision is rendered within ten (10) ~~work~~ days, or the decision is unsatisfactory in the opinion of the complainant, the employee may file, in writing, an appeal with the Superintendent. The District Compliance Officer shall maintain the District's files and records relating to the complaint.
- D. The Superintendent will, within ten (10) ~~work~~ days of receiving the written appeal, conduct a hearing with all parties involved in an attempt to resolve the complaint.

The Superintendent will render his/her decision within ten (10) ~~work~~ days of the hearing.

E. The employee may be represented, at his/her own cost, at any of the above-described meetings/hearings.

F. The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights or the filing of a court case. Use of this internal complaint procedure is not a prerequisite to the pursuit of other remedies.

If it is determined that the complainant was subjected to unlawful discrimination, the CO must identify what corrective action will be taken to stop, remedy, and prevent the recurrence of the discrimination/retaliation. The corrective action should be reasonable, timely, age-appropriate and effective, and tailored to the specific situation.

OCR Complaint

At any time, if an employee believes that s/he has been subjected to discrimination based upon his/her disability in violation of Section 504 or the ADA, the individual may file a complaint with the U.S. Department of Education's Office for Civil Rights ("OCR"). The OCR can be reached at:

U.S. Department of Education
Office for Civil Rights
Cleveland Office
1350 Euclid Avenue
Suite 325
Cleveland, Ohio 44115
(216) 522-4970
FAX: (216) 522-2573
TDD: (216) 522-4944
E-mail: OCR.Cleveland@ed.gov
Web: <http://www.ed.gov/ocr>

Retaliation

~~Retaliation against a person who makes a report or files a complaint alleging unlawful discrimination, or participates as a witness in an investigation, is prohibited. Specifically, the Board will not discriminate/retaliate against, coerce, intimidate, threaten or interfere with any individual because the person opposed any act or practice made unlawful by Section 504 or the ADA, or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under those laws, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws.~~

Retaliation against a person who makes a report or files a complaint alleging unlawful harassment/retaliation or participates as a witness in an investigation is prohibited. Neither the Board nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made unlawful by any Federal or State civil rights law, or because that individual made a report, formal complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy.

Retaliation against a person for making a report of discrimination, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

Legal

29 C.F.R. Part 1630

29 U.S.C. 794, Section 504 Rehabilitation Act of 1973, as amended

34 C.F.R. Part 104

42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended

Book	Policy Manual
Section	ADMINISTRATION CHANGES.UPDATE TO POLICY.AUG.2021
Title	Copy of Nondiscrimination/Anti-Harassment Policies Update - January 2021 Revised ANTI-HARASSMENT
Code	po4362.revision
Status	
Adopted	December 19, 2012
Last Revised	December 17, 2018

4362 - ANTI-HARASSMENT

General Policy Statement

It is the policy of the Board of Education to maintain an education and work environment that is free from all forms of unlawful harassment, including sexual harassment. This commitment applies to all School District operations, programs, and activities. All students, administrators, teachers, staff, and all other school personnel share responsibility for avoiding, discouraging, and reporting any form of unlawful harassment. This policy applies to unlawful conduct occurring on school property, or at another location if such conduct occurs during an activity sponsored by the Board.

The Board will vigorously enforce its prohibition against discriminatory harassment based on race, color, national origin, sex (including sexual orientation and transgender identity), disability, age, religion, ancestry, or genetic information (collectively, "Protected Classes") that are protected by Federal civil rights laws (hereinafter referred to as "unlawful harassment"), and encourages those within the School District community as well as ~~third parties~~, who feel aggrieved to seek assistance to rectify such problems. The Board will investigate all allegations of harassment and in those cases where unlawful harassment is substantiated, the Board will take immediate steps to end the harassment, prevent its reoccurrence, and remedy its effects. Individuals who are found to have engaged in unlawful harassment will be subject to appropriate disciplinary action.

~~[] The District will offer counseling services to any person found to have been subjected to unlawful harassment, and, where appropriate, the person(s) who committed the unlawful harassment.~~

~~For purposes of this policy, "School District community" means students, administrators, and professional and classified staff, as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.~~

~~For purposes of this policy, "third parties" include, but are not limited to, guests and/or visitors on School District 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 District community at school-related events/activities (whether on or off School District property).~~

Other Violations of the Anti-Harassment Policy

The Board will also take immediate steps to impose disciplinary action on individuals engaging in any of the following prohibited acts:

- A. Retaliating against a person who has made a report or filed a complaint alleging unlawful harassment, or who has participated as a witness in a harassment investigation.
- B. Filing a malicious or knowingly false report or complaint of unlawful harassment.
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of harassment, when responsibility for reporting and/or investigating unlawful harassment charges comprises part of one's supervisory duties.

Definitions

Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.

Complainant is the individual who alleges, or is alleged, to have been subjected to unlawful harassment, regardless of whether the person files a formal complaint or is pursuing an informal resolution to the alleged harassment.

Respondent is the individual who has been alleged to have engaged in unlawful harassment, regardless of whether the Reporting Party files a formal complaint or is seeking an informal resolution to the alleged harassment.

School District community means students and Board employees (i.e., administrators, and professional and classified staff), as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

Third Parties include, but are not limited to, guests and/or visitors on School District 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 District community at school-related events/activities (whether on or off District property).

Day(s): Unless expressly stated otherwise, the term "day" or "days" as used in this policy means business day(s) (i.e., a day(s) that the Board office is open for normal operating hours, Monday – Friday, excluding State-recognized holidays).

Bullying

Bullying rises to the level of unlawful harassment when one or more persons systematically and chronically inflict physical hurt or psychological distress on one (1) or more students or employees and that bullying is based upon one (1) or more Protected Classes, that is, characteristics that are protected by Federal civil rights laws. It is defined as any unwanted and repeated written, verbal, or physical behavior, including any threatening, insulting, or dehumanizing gesture, by an adult or student, that is severe or pervasive enough to create an intimidating, hostile, or offensive educational or work environment; cause discomfort or humiliation; or unreasonably interfere with the individual's school or work performance or participation; and may involve:

- A. teasing;
- B. threats;
- C. intimidation;
- D. stalking;
- E. cyberstalking;
- F. cyberbullying;
- G. physical violence;
- H. theft;
- I. sexual, religious, or racial harassment;
- J. public humiliation; or
- K. destruction of property.

"Harassment" means any threatening, insulting, or dehumanizing gesture, use of technology, or written, verbal or physical conduct directed against a student or school employee that:

- A. places a student or school employee in reasonable fear of harm to his/her person or damage to his/her property;
- B. has the effect of substantially interfering with a student's educational performance, opportunities, or benefits, or an employee's work performance; or
- C. has the effect of substantially disrupting the orderly operation of a school.

Sexual Harassment

~~Pursuant to~~ For purposes of this policy and consistent with Title VII of the Civil Rights Act of 1964, ~~and Title IX of the Educational Amendments of 1972,~~ "sexual harassment" is defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- A. Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment, or status in a class, educational program, or activity.
- B. Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual.
- C. Such conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity.

Sexual harassment may involve the behavior of a person of ~~any~~ either gender against a person of the same or ~~another~~ opposite gender.

Sexual Harassment covered by Policy 2266 - Nondiscrimination on the Basis of Sex Education Programs or Activities is not included in this policy. Allegations of such conduct shall be addressed solely by Policy 2266.

Prohibited acts that constitute sexual harassment under this policy may take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

- A. Unwelcome sexual propositions, invitations, solicitations, and flirtations.
- B. Unwanted physical and/or sexual contact.
- C. Threats or insinuations that a person's employment, wages, academic grade, promotion, classroom work or assignments, academic status, participation in athletics or extra-curricular programs, activities, or events, or other conditions of employment or education may be adversely affected by not submitting to sexual advances.
- D. Unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, profanity, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls.
- E. Sexually suggestive objects, pictures, graffiti, ~~videos~~ tapes, posters, audio recordings or literature, placed in the work or educational environment, that may reasonably ~~which may~~ embarrass or offend individuals.
- F. Unwelcome and inappropriate touching, patting, or pinching; () obscene gestures.
- G. Asking about, or telling about, sexual fantasies, sexual preferences, or sexual activities.
- H. Speculations about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history.
- I. Giving unwelcome personal gifts such as lingerie that suggest the desire for a romantic relationship.
- J. Leering or staring at someone in a sexual way, such as staring at a person's breasts, buttocks, or groin.
- K. A pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or humiliation to another.
- L. ~~Remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history.~~
- M. In the context of employees, consensual sexual relationships where such relationship leads to favoritism of a subordinate employee with whom the superior is sexually involved and where such favoritism adversely affects other employees or otherwise creates a hostile work environment.
- N. Inappropriate boundary invasions by a District employee or other adult member of the School District community into a student's personal space and personal life.

- O. Verbal, nonverbal or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature.

Not all behavior with sexual connotations constitutes unlawful sexual harassment. Sex-based or gender-based conduct must be sufficiently severe, pervasive, and persistent such that it adversely affects, limits, or denies an individual's employment or education, or such that it creates a hostile or abusive employment or educational environment.

[DRAFTING NOTE: Sexual conduct/relationships with students by District employees or any other adult member of the School District community is prohibited, and any teacher, administrator, coach, or other school authority who engages in sexual conduct with a student may also be guilty of the criminal charge of "sexual battery" as set forth in R.C. 2907.03. The issue of consent is irrelevant in regard to such criminal charge and/or with respect to the application of this policy to District employees or other adult members of the School District community.]

Race/Color Harassment

Prohibited racial harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race or color and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references relative to racial customs.

Religious (Creed) Harassment

Prohibited religious harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's religion or creed and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's religious tradition, clothing, or surnames, and/or involves religious slurs.

National Origin/Ancestry Harassment

Prohibited national origin/ancestry harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's national origin or ancestry and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's national origin or ancestry, such as negative comments regarding customs, manner of speaking, language, surnames, or ethnic slurs.

Disability Harassment

Prohibited disability harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's disability and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's ~~disability~~~~disabling condition~~, such as negative comments about speech patterns, movement, physical impairments or defects/appearances, or the like. Such harassment may further occur where conduct is directed at or pertains to a person's genetic information.

Anti-Harassment Compliance Officers

The following individual(s) shall serve as the District's Anti-Harassment Compliance Officer(s) (hereinafter, "the Compliance Officer(s)");

[DRAFTING NOTE: Neola suggests the Board appoint both a male and a female Compliance Officer in order to provide Complainants with the option to report their concerns to an individual of the gender with which they feel most comfortable. The same individual(s) assigned to serve as Compliance Officer(s) may also be assigned to serve as the District's Section 504 Compliance Officer(s) /ADA Coordinator(s) and/or Title IX Coordinator(s). Additionally, by appointing two (2) Compliance Officers, there should also be a Compliance Officer available to investigate a claim of harassment that pertains to the other Compliance Officer.]

Clay Frye Kris Kowalski
(Name)

Director of Operations
(School District Title)

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The names, titles, and contact information of these individuals will be published annually on the School District's web site () and:

- A. ☒ in the parent and staff handbooks.
- B. ☒ in the School District Annual Report to the public.
- C. ☒ on each individual school's web site.
- D. ☒ in the School District's calendar.
- E. ☒ _____.

The Compliance Officer(s) (X) is () are responsible for coordinating the District's efforts to comply with applicable Federal and State laws and regulations, including the District's duty to address in a prompt and equitable manner any inquiries or complaints regarding harassment.

The Compliance Officer(s) will be available during regular school/work hours to discuss concerns related to unlawful harassment, to assist students, other members of the District community, and third parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede informally on behalf of the individual 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.

Compliance Officers shall accept reports of unlawful harassment directly from any member of the School District community or a Third Party or receive reports that are initially filed with an administrator, supervisor, or other District-level official. Upon receipt of a report of alleged harassment, the Compliance Officer(s) will contact the Complainant and begin either an informal or formal complaint process (depending on the request of the Complainant or the nature of the alleged harassment), or the Compliance Officer(s) will designate a specific individual to conduct such a process. The Compliance Officer(s) will provide a copy of this policy to the Complainant and Respondent. In the case of a formal complaint, the Compliance Officer(s) will prepare recommendations for the Superintendent or will oversee the preparation of such recommendations by a designee. All Board employees must report incidents of harassment that are reported to them to the Compliance Officer within two (2) days of learning of the incident.

Any Board employee who directly observes unlawful harassment is obligated, in accordance with this policy, to report such observations to the Compliance Officer(s) within two (2) days. Additionally, any Board employee who observes an act of unlawful harassment is expected to intervene to stop the harassment, unless circumstances make such an intervention dangerous, in which case the staff member should immediately notify other Board employees and/or local law enforcement officials, as necessary, to stop

the harassment. Thereafter, the Compliance Officer(s) or designee must contact the Complainant, if age eighteen (18) or older, or Complainant's parents/guardians if the Complainant is under the age eighteen (18), within two (2) days to advise of the Board's intent to investigate the alleged wrongdoing.

Reports and Complaints of Harassing Conduct

Members of the School District community, ~~which includes all staff, and third parties~~ along with Third Parties are encouraged to promptly report incidents of harassing conduct to an administrator, supervisor or other School District official so that the Board may address the conduct before it becomes severe, pervasive, or persistent. Any administrator, supervisor, or other District official who receives such a ~~report~~ complaint shall file it with the ~~District's Anti-Harassment~~ Compliance Officer within two (2) days of receiving the report of harassment, at his/her first convenience.

Members of the School District community ~~or third parties~~ and Third Parties who believe they have been unlawfully harassed by another member of the School District community or a ~~Third Party~~ third party are entitled to utilize the Board's complaint process that is set forth below. Initiating a complaint, whether formally or informally, will not adversely affect the ~~Complainant's~~ complainant's ~~employment or participation in educational or extra-curricular programs.~~ While there are no time limits for initiating complaints of harassment under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

If, during an investigation of alleged bullying, aggressive behavior and/or harassment in accordance with Policy 5517.01 - Bullying and Other Forms of Aggressive Behavior, the Director believes that the reported misconduct may have created a hostile work environment and may have constituted unlawful discriminatory harassment based on a Protected Class, the Director shall report the act of bullying, aggressive behavior and/or harassment to ~~the one of the Anti-Harassment~~ Compliance Officer(s) who shall investigate the allegation in accordance with this policy. If the alleged harassment involves Sexual Harassment as defined by Policy 2266, the matter will be handled in accordance with the grievance process and procedures outlined in Policy 2266. While the Compliance Officer investigates the allegation, ~~or the matter is being addressed pursuant to Policy 2266,~~ the Director shall suspend ~~the his/her~~ Policy 5517.01 investigation to await the Compliance Officer's written report or the determination of responsibility pursuant to Policy 2266. The Compliance Officer shall keep the Director informed of the status of the Policy 4362 investigation and provide ~~the~~ him/her Director with a copy of the resulting written report. Likewise, the Title IX Coordinator will provide the Director with the determination of responsibility that results from the Policy 2266 grievance process.

~~Anti-Harassment Compliance Officers~~

~~The Board designates the following individuals to serve as "Anti-Harassment Compliance Officers" for the District. They are hereinafter referred to as the "Compliance Officers".~~

~~[NOTE: School Districts are advised to appoint both a male and a female Compliance Officer in order to provide Complainants with the option to report their concerns to an individual of the gender with which they feel most comfortable. The Compliance Officers may also serve as the District's Section 504 and Title IX Coordinators.]~~

~~(Name)~~

~~(School District Title)~~

~~(Telephone Number)~~

~~(Office Address)~~

~~(E-mail Address)~~

~~(Name)~~

~~(School District Title)~~

~~(Telephone Number)~~

~~(Office Address)~~

~~(E-mail Address)~~

~~The names, titles, and contact information of these individuals will be published annually:~~

- ~~A. () in the parent and staff handbooks.~~
- ~~B. () in the School District Annual Report to the public.~~
- ~~C. () on the School District's web site.~~

D. ~~(-) on each individual school's web site.~~

E. ~~(-) in the School District's calendar.~~

F. ~~(-) _____.~~

~~The Compliance Officers will be available during regular school/work hours to discuss concerns related to unlawful harassment, to assist students, other members of the District community, and third parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede informally on behalf of the individual 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. Compliance Officers shall accept complaints of unlawful harassment directly from any member of the School District community or a visitor to the District, 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, a Compliance Officer will begin either an informal or formal process (depending on the request of the person alleging the harassment or the nature of the alleged harassment), or the Compliance Officer will designate a specific individual to conduct such a process. In the case of a formal complaint, the Compliance Officer will prepare recommendations for the Superintendent or will oversee the preparation of such recommendations by a designee. All members of the School District community must report incidents of harassment that are reported to them to the Compliance Officer within two (2) business days of learning of the incident.~~

~~Any Board employee who directly observes unlawful harassment of a student is obligated, in accordance with this policy, to report such observations to one of the Compliance Officers within two (2) business days. Additionally, any Board employee who observes an act of unlawful harassment is expected to intervene to stop the harassment, unless circumstances make such an intervention dangerous, in which case the staff member should immediately notify other Board employees and/or local law enforcement officials, as necessary, to stop the harassment. Thereafter, the Compliance Officer or designee must contact the student, if age eighteen (18) or older, or the student's parents if under the age eighteen (18), within two (2) business days to advise s/he/them of the Board's intent to investigate the alleged misconduct, including the obligation of the Compliance Officer or designee to conduct an investigation following all the procedures outlined for a formal complaint.~~

Investigation and Complaint Procedure (See Form 4362 F1)

~~Except for Sexual Harassment that is covered by Policy 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities, any~~Any employee or other member of the School District community or ~~Third Party~~third-party (e.g., visitor to the District) who believes that ~~they have~~s/he has been subjected to unlawful harassment or retaliation may seek resolution of ~~the his/her~~ complaint through ~~the procedures described below. The formal complaint process involves an investigation of the Complainant's claims of harassment or retaliation and a process for rendering a decision regarding whether the charges are substantiated, either the informal or formal procedures as described below. Further, a process for investigating claims of harassment or retaliation and a process for rendering a decision regarding whether the claim of legally prohibited harassment or retaliation was substantiated are set forth below.~~

Due to the sensitivity surrounding complaints of unlawful harassment, or retaliation timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) ~~calendar~~ days after the conduct occurs while the facts are known and potential witnesses are available. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) business days of the complaint being received).

The ~~informal and formal~~ procedures set forth below are not intended to interfere with the rights of any individual to pursue a complaint of unlawful harassment or retaliation with the United States Department of Education Office for Civil Rights, the Ohio Civil Rights Commission ("OCRC") ~~and/or~~ Equal Employment Opportunity Commission ("EEOC").

Informal Complaint Procedure

The goal of the informal complaint procedure is ~~promptly~~ 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 student, other member of the School District community, or ~~Third Party who alleges unlawful harassment or retaliation, third-party who believes s/he has been unlawfully harassed or retaliated against.~~ This informal procedure is not required as a precursor to the filing of a formal complaint. ~~The informal process is only available in those circumstances where the Complainant and the Respondent mutually agree to participate in it, and will only be utilized where the parties (alleged target of harassment and alleged harasser(s)) agree to participate in such process.~~

~~The Complainant~~Employees, other members of the School District community, or third parties who believe that they have been unlawfully harassed or retaliated against may proceed immediately to the formal complaint process and individuals who seek resolution through the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process.

~~All complainants involving a District employee, any other adult member of the School District community, or a Third Party and a student will be formally investigated. However, all complaints of harassment involving a District employee, any other adult member of~~

~~the School District community, or a third party against a student will be formally investigated. Similarly, any allegations of sexual violence will be formally investigated.~~

As an initial course of action, if a Complainant feels comfortable and safe ~~in an individual 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 Respondent that the alleged harassing harasser that the ~~conduct is unwelcome and must stop. Such direct communication should not be utilized in circumstances involving sexual violence.~~ The Complainant/complaining individual should address the allegedly harassing conduct as soon after it occurs as possible. The Compliance Officers are available to support and counsel individuals when taking this initial step or to intervene on behalf of the Complainant individual if requested to do so. A Complainant ~~An individual~~ who is uncomfortable or unwilling to directly approach the Respondent about the alleged inappropriate conduct may file ~~inform the harasser of his/her complaint is not prohibited from otherwise filing~~ an informal or a formal complaint. In addition, with regard to certain types of unlawful harassment, such as sexual harassment, the Compliance Officer may advise against the use of the informal complaint process.

A Complainant ~~An individual who believes s/he has been unlawfully harassed~~ may make an informal complaint, either orally or in writing: 1) to a teacher, other employee, or building administrator; 2) directly to one of the Compliance Officers; and/or 3) to the Superintendent or other District-level employee.

All informal complaints must be reported to one of the Compliance Officers who will either facilitate an informal resolution as described below ~~on his/her own~~, or appoint another individual to facilitate an informal resolution.

The ~~Board's School District's~~ informal complaint procedure is designed to provide employees, other members of the School District community, or 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 Complainant individual claiming unlawful harassment, informal resolution may involve, but not be limited to, one or more of the following:

- A. Advising the Complainant individual about how to communicate the unwelcome nature of the behavior to the Respondent/alleged harasser.
- B. Distributing a copy of this/the anti-harassment policy as a reminder to the individuals in the school building or office where the Respondent works or attends. ~~individual whose behavior is being questioned works or attends.~~
- C. If both parties agree, the Compliance officer may arrange and facilitate a meeting or mediation between the Complainant and the Respondent to work out a mutual resolution. ~~between the student claiming harassment and the individual accused of harassment to work out a mutual resolution. Such a meeting is not appropriate in circumstances involving sexual harassment.~~

While there are no set time limits within which an informal complaint must be resolved, the Compliance Officer ~~/or designee is directed will exercise his/her authority~~ to attempt to resolve all informal complaints within fifteen (15) business days of receiving the informal complaint. If the Complainant is ~~Parties who~~ dissatisfied with the ~~results of the~~ informal complaint process, the Complainant may proceed to file a formal complaint. And, as stated above, either party/parties may request that the informal process be terminated at any time to move to the formal complaint process.

Formal Complaint Procedure

If a complaint is not resolved through the informal complaint process, if one of the parties has requested that the informal complaint process be terminated to move to the formal complaint process, or the Complainant, from the outset, elects to file a formal complaint, or the CO determines the allegations are not appropriate for resolution through the informal process, ~~if the individual elects to file a formal complaint initially,~~ the formal complaint process shall be implemented.

The Complainant ~~An individual who believes s/he has been subjected to offensive conduct/harassment/retaliation hereinafter referred to as the "Complainant";~~ may file a formal complaint, either orally or in writing, with a teacher, Director, the Compliance Officer, Superintendent, or other District official employee. Due to the sensitivity surrounding complaints of unlawful harassment and retaliation, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a formal complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. If a Complainant informs a teacher, Director, Superintendent, or other District official employee, either orally or in writing, about any complaint of harassment or retaliation, that employee must report such information to the Compliance Officer ~~or designee~~ within two (2) business days.

Throughout the course of the process, the Compliance Officer should keep the parties reasonably informed of the status of the investigation and the decision-making process.

All formal complaints must include the following information to the extent known it is available: the identity of the Respondent individual believed to have engaged in, or be engaging in, offensive conduct/harassment/retaliation; a detailed

description of the facts upon which the complaint is based (i.e., when, where, and what occurred); a list of potential witnesses; and the resolution sought by the Complainant.

If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the Compliance Officer shall ask for such details in an oral interview. Thereafter, the Compliance Officer will prepare a written summary of the oral interview, and the Complainant will be asked to verify the accuracy of the reported charge by signing the document.

Upon receiving a formal complaint, the Compliance Officer 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 work assignment or schedule for the Complainant and/or the ~~Respondent/alleged harasser~~. In making such a determination, the Compliance Officer should consult the Complainant to assess ~~whether the individual agrees with his/her agreement to~~ the proposed action. If the Complainant is unwilling to consent to the proposed change, the Compliance Officer may still take whatever actions ~~deemed s/he~~ ~~deems~~ appropriate in consultation with the Superintendent.

Within two (2) business days of receiving the complaint, the Compliance Officer/~~era~~ designee will initiate a formal investigation to determine whether the Complainant has been subjected to offensive conduct/harassment/retaliation. ~~(-)~~ A The Director will not conduct an investigation unless directed to do so by the Compliance Officer.

Simultaneously, the Compliance Officer will inform the Respondent that a formal ~~individual alleged to have engaged in the harassing or retaliatory 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 provided with a copy of any relevant policies and/or administrative guidelines, including the Board's Anti-Harassment policy. The Respondent must also be informed of the opportunity to submit a written response to the complaint within five (5) business days.

Although certain cases may require additional time, the Compliance Officer ~~Lera~~ designee will attempt to complete an investigation into the allegations of harassment/retaliation within fifteen (15) business 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 presented by the Complainant, Respondent, or any other witness that is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the Compliance Officer or the designee shall prepare and deliver a written report to the Superintendent that 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 subjected to unlawful harassment. The Compliance Officer's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. In determining if discriminatory harassment or retaliation occurred, a preponderance of evidence standard will be used. ~~(F)~~ The Compliance Officer may consult with the Board's legal counsel before finalizing the report to the Superintendent.

Absent extenuating circumstances, within five (5) business days of receiving the report of the Compliance Officer ~~or the~~ designee, the Superintendent must either issue a final written decision regarding whether 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.

[x] The decision of the Superintendent shall be final.

OR

~~[-] A Complainant or Respondent who is dissatisfied with the final decision of the Superintendent may appeal through a signed written statement to the Board within five (5) business days of the party's his/her receipt of the Superintendent's final decision. The written statement of appeal must be submitted to the Treasurer/CFO.~~

In an attempt to resolve the complaint, the Board shall meet with the concerned parties and their representatives within twenty (20) business days of the receipt of such an appeal. A copy of the Board's disposition of the appeal shall be sent to each ~~concerned~~ party within ten (10) business days of this meeting. The decision of the Board will be final.

[END OF OPTIONS]

The Board reserves the right to investigate and resolve a complaint or report of unlawful harassment/retaliation regardless of whether the member of the School District community or ~~Third Party~~ ~~third-party~~ alleging the unlawful harassment/retaliation pursues the complaint. The Board also reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Board or its designee.

The parties may be represented, at their own cost, at any of the above-described meetings/hearings.

The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights, the filing of charges with local law enforcement, or the filing of a civil action in court. Use of this internal complaint process is not a prerequisite to the pursuit of other remedies.

Privacy/Confidentiality

The ~~School~~ District will employ all reasonable efforts to protect the rights of the Complainant, the ~~Respondent individual(s) against whom the complaint is filed~~, and the witnesses as much as possible, consistent with the Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. All records generated under the terms of this policy and related administrative guidelines shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. Additionally, the Respondent must be provided the Complainant's identity. ~~All Complainants proceeding through the formal investigation process will be advised that their identities may be disclosed to the Respondent.~~

During the course of a formal investigation, the Compliance Officer ~~/or his/her~~ designee will instruct all members of the School District 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 is learned or provided ~~s/he learns or that s/he provides~~ during the course of the investigation.

Sanctions and Monitoring

The Board shall vigorously enforce its prohibitions against unlawful harassment/retaliation by taking appropriate action reasonably calculated to stop the harassment and prevent further such harassment. While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s). When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the ages and maturity levels of those involved. In those cases where unlawful harassment is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s).

Where the Board becomes aware that a prior remedial action has been taken against a member of the School District community, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its recurrence, and remedy its effect.

Retaliation

Retaliation against a person who makes a report or files a complaint alleging unlawful harassment/retaliation or participates as a witness in an investigation is prohibited. Neither the Board nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made unlawful by any Federal or State civil right law, or because that individual made a report, formal complaint testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or the policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy.

Retaliation against a person for making a report of discrimination, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

~~Any act of retaliation against a person who has made a report or filed a complaint alleging unlawful harassment, or who has~~

~~participated as a witness in a harassment investigation is prohibited.~~

Allegations Constituting Criminal Conduct: Child Abuse/Sexual Misconduct

State law requires any school teacher or school employee who knows or suspects that a child with a disability under the age of twenty-one (21) or that a child under the age of eighteen (18) has suffered or faces a threat of suffering a physical or mental wound, disability or condition of a nature that reasonably indicates abuse or neglect of a child to immediately report that knowledge or suspicion to the county children's services agency. If, during the course of a harassment investigation, the Compliance Officer 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.

State law defines certain contact between a teacher and a student as "sexual battery." If the Compliance Officer or a designee has reason to believe that the Complainant has been the victim of criminal conduct as defined in Ohio's Criminal Code, such knowledge should be immediately reported to local law enforcement.

Any reports made to a county children's services agency or to local law enforcement shall not terminate the Compliance Officer or a designee's obligation and responsibility to continue to investigate a complaint of harassment. While the Compliance Officer 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.

Allegations Involving Conduct Unbecoming the Teaching Profession/Suspension

The Superintendent will report to the Ohio Department of Education, on forms provided for that purpose, matters of misconduct on the part of licensed classified staff members convicted of sexual battery, and will, in accordance with Policy 8141, suspend such employee from all duties that concern or involve the care, custody, or control of a child during the pendency of any criminal action for which that person has been arrested, summoned and/or indicted in that regard.

Education and Training

In support of this Anti-Harassment Policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Superintendent ~~or designee~~ shall provide appropriate information to all members of the School District community related to the implementation of this policy and shall provide training for District students and staff where appropriate. All training, as well as all information provided regarding the Board's policy and harassment in general, will be age and content appropriate.

Retention of Investigatory Records and Materials

The Compliance Officer(s) is responsible for overseeing retention of all records that must be maintained pursuant to this policy. All individuals charged with conducting investigations under this policy shall retain all documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and/or received as part of an investigation, which may include but not be limited to:

- A. all written reports/allegations/complaints/grievances/statements/responses pertaining to an alleged violation of this policy;
- B. any narratives that memorialize oral reports/allegations/complaints/grievances/statements/responses pertaining to an alleged violation of this policy;
- C. any documentation that memorializes the actions taken by District personnel or individuals contracted or appointed by the Board to fulfill its responsibilities related to the investigation and/or the District's response to the alleged violation of this policy;
- D. written witness statements;
- E. narratives, notes from, or audio, video, or digital recordings of witness interviews/statements;
- F. e-mails, texts, or social media posts that directly relate to or constitute evidence pertaining to an alleged violation of this policy (i.e., not after-the-fact commentary about or media coverage of the incident);
- G. notes or summaries prepared contemporaneously by the investigator in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.), but not including transitory notes whose content is otherwise memorialized in other documents;
- H. written disciplinary sanctions issued to students or employees and other documentation that memorializes oral disciplinary sanctions issued to students or employees for violations of this policy;

- I. dated written determinations/reports (including summaries of relevant exculpatory and inculpatory evidence) and other documentation that memorializes oral notifications to the parties concerning the outcome of the investigation, including any consequences imposed as a result of a violation of this policy;
- J. documentation of any supportive interim measures offered and/or provided to the Complainant and/or the Respondent, ~~complainants and/or the alleged perpetrators~~, including no contact orders issued to both parties, the dates the no contact orders were issued, and the dates the parties acknowledged receipt of the no contact orders;
- K. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects;
- L. copies of the Board policy and/or procedures/guidelines used by the District to conduct the investigation, and any documents used by the District at the time of the alleged violation to communicate the Board's expectations to students and staff with respect to the subject of this policy (e.g., Student Code of Conduct and/or Employee Handbooks ~~or Codes of Conduct~~);
- M. copies of any documentation that memorializes any formal or informal resolutions to the alleged discrimination or harassment;

[DRAFTING NOTE: The following options should be selected if the district concludes that the following items are not adequately encompassed in the preceding paragraphs.]

- N. ~~(-) documentation of any training provided to District personnel related to this policy, including but not limited to, notification of the prohibitions and expectations of staff set forth in this policy and the role and responsibility of all District personnel involved in enforcing this policy, including their duty to report alleged violations of this policy and/or conducting an investigation of an alleged violation of this policy;~~ **[REMINDER: Documentation of training should be maintained regardless of whether there is an investigation of an alleged violation of this policy. It is best practice to maintain a log of all staff members who participate in a training, along with the date, time and location of the training, and a copy of the materials reviewed and/or presented during the training.]**
- O. ~~(-) documentation that any rights or opportunities that the District made available to one party during the investigation were made available to the other party on equal terms;~~
- P. ~~(-) copies of any notices sent to the alleged perpetrator/responding party of the allegations constituting a potential violation of this policy;~~
- Q. ~~(-) copies of any notices sent to the Complainant and the Respondent ~~complainant and alleged perpetrator~~ in advance of any interview, meeting, or hearing;~~
- R. ~~(-) copies of any documentation or evidence used during informal and formal disciplinary meetings and hearings, including the investigation report, and any written responses submitted by the Complainant or the Respondent ~~complainant or the alleged perpetrator~~.~~

The documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal (e.g., FERPA, ADA) and/or State law (e.g., R.C. 3319.321) – e.g., student records and confidential medical records.

The documents, ESI, and electronic media (as defined in Policy 8315) created or received as part of an investigation shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, and Policy 8330 for not less than three (3) years, but longer if required by the District's records retention schedule.

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Legal

R.C. 4112.02

20 U.S.C. 1400 et seq., The Individuals with Disabilities Education Improvement Act of 2004 (IDEIA)

20 U.S.C. 1681 et seq.

29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967

29 U.S.C. 794, Rehabilitation Act of 1973, as amended

29 C.F.R. Part 1635

29 U.S.C. 6101, The Age Discrimination Act of 1975

42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended

42 U.S.C. 2000d et seq.

42 U.S.C. 2000e et seq.

42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act

42 U.S.C. 1983

National School Boards Association Inquiry and Analysis - May 2008

Book	Policy Manual
Section	ADMINISTRATION CHANGES.UPDATE TO POLICY.AUG.2021
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Adopted	December 19, 2012
Last Revised	December 17, 2018

5517 - ANTI-HARASSMENT

General Policy Statement

It is the policy of the Board of Education to maintain an education and work environment that is free from all forms of unlawful harassment, including sexual harassment. This commitment applies to all School District operations, programs, and activities. All students, administrators, teachers, staff, and all other school personnel share responsibility for avoiding, discouraging, and reporting any form of unlawful harassment. This policy applies to unlawful conduct occurring on school property, or at another location if such conduct occurs during an activity sponsored by the Board.

The Board will vigorously enforce its prohibition against discriminatory harassment based on race, color, national origin, sex (including sexual orientation and transgender identity), disability, age (except as authorized by law), religion, ancestry, or genetic information (collectively, "Protected Classes") that are protected by Federal civil rights laws (hereinafter referred to as unlawful harassment), and encourages those within the School District community as well as ~~third parties~~, who feel aggrieved to seek assistance to rectify such problems. The Board will investigate all allegations of unlawful harassment and in those cases where unlawful harassment is substantiated, the Board will take immediate steps to end the harassment, prevent its reoccurrence, and remedy its effects. Individuals who are found to have engaged in unlawful harassment will be subject to appropriate disciplinary action.

~~[] The District will offer counseling services to any person found to have been subjected to unlawful harassment, and, where appropriate, the person(s) who committed the unlawful harassment.~~

~~For purposes of this policy, "School District community" means students, administrators, and professional and classified staff, as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.~~

~~For purposes of this policy, "third parties" include, but are not limited to, guests and/or visitors on School District 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 District community at school-related events/activities (whether on or off School District property).~~

Other Violations of the Anti-Harassment Policy

The Board will also take immediate steps to impose disciplinary action on individuals engaging in any of the following prohibited acts:

- A. Retaliating against a person who has made a report or filed a complaint alleging unlawful harassment, or who has participated as a witness in a harassment investigation.
- B. Filing a malicious or knowingly false report or complaint of unlawful harassment.
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of unlawful harassment, when responsibility for reporting and/or investigating harassment charges comprises part of one's supervisory duties.

Definitions

Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.

Complainant is the individual who alleges, or is alleged, to have been subjected to unlawful harassment, regardless of whether the person files a formal complaint or is pursuing an informal resolution to the alleged harassment.

Respondent is the individual who has been alleged to have engaged in unlawful harassment, regardless of whether the Reporting Party files a formal complaint or is seeking an informal resolution to the alleged harassment.

School District community means students and Board employees (i.e., administrators, and professional and classified staff), as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

Third Parties include, but are not limited to, guests and/or visitors on School District 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 District community at school-related events/activities (whether on or off District property).

Day(s): Unless expressly stated otherwise, the term "day" or "days" as used in this policy means business day(s) (i.e., a day(s) that the Board office is open for normal operating hours, Monday – Friday, excluding State-recognized holidays).

Bullying

Bullying rises to the level of unlawful harassment when one (1) or more persons systematically and chronically inflict physical hurt or psychological distress on one (1) or more students or employees and that bullying is based upon one (1) or more Protected Classes, that is, characteristics that are protected by Federal civil rights laws. It is defined as any unwanted and repeated written, verbal, or physical behavior, including any threatening, insulting, or dehumanizing gesture, by an adult or student, that is severe or pervasive enough to create an intimidating, hostile, or offensive educational or work environment; cause discomfort or humiliation; or unreasonably interfere with the individual's school or work performance or participation; and may involve:

- A. teasing;
- B. threats;
- C. intimidation;
- D. stalking;
- E. cyberstalking;
- F. cyberbullying;
- G. physical violence;
- H. theft;
- I. sexual, religious, or racial harassment;
- J. public humiliation; or
- K. destruction of property.

Harassment

Harassment means any threatening, insulting, or dehumanizing gesture, use of technology, or written, verbal or physical conduct directed against a student or school employee that:

- A. places a student or school employee in reasonable fear of harm to his/her person or damage to his/her property;
- B. has the effect of substantially interfering with a student's educational performance, opportunities, or benefits, or an employee's work performance; or
- C. has the effect of substantially disrupting the orderly operation of a school.

Sexual Harassment

~~Pursuant to~~ For purposes of this policy and consistent with Title VII of the Civil Rights Act of 1964 ~~and Title IX of the Educational Amendments of 1972~~, "sexual harassment" is defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- A. Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment, or status in a class, educational program, or activity.
- B. Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual.
- C. Such conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity.

Sexual harassment may involve the behavior of a person of ~~any~~either gender against a person of the same or ~~another~~opposite gender.

Sexual Harassment covered by Policy 2266 - Nondiscrimination on the Basis of Sex Education Programs or Activities is not included in this policy. Allegations of such conduct shall be addressed solely by Policy 2266.

Prohibited acts that constitute sexual harassment under this policy may take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

- A. Unwelcome sexual propositions, invitations, solicitations, and flirtations.
- B. Unwanted physical and/or sexual contact.
- C. Threats or insinuations that a person's employment, wages, academic grade, promotion, classroom work or assignments, academic status, participation in athletics or extra-curricular programs, activities, or events, or other conditions of employment or education may be adversely affected by not submitting to sexual advances.
- D. Unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, profanity, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls.
- E. Sexually suggestive objects, pictures, graffiti, ~~videos~~tapes, posters, audio recordings or literature, placed in the work or educational environment, that may reasonably ~~which may~~ embarrass or offend individuals.
- F. Unwelcome and inappropriate touching, patting, or pinching; () obscene gestures.
- G. Asking about, or telling about, sexual fantasies, sexual preferences, or sexual activities.
- H. Speculations about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history.
- I. Giving unwelcome personal gifts such as lingerie that suggests the desire for a romantic relationship.
- J. Leering or staring at someone in a sexual way, such as staring at a person's breasts, buttocks, or groin.
- K. A pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or humiliation to another.
- L. ~~Remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history.~~
- M. Inappropriate boundary invasions by a District employee or other adult member of the School District community into a student's personal space and personal life.

- N. Verbal, nonverbal or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature.

Not all behavior with sexual connotations constitutes unlawful sexual harassment. Sex-based or gender-based conduct must be sufficiently severe, pervasive, and persistent such that it adversely affects, limits, or denies an individual's employment or education, or such that it creates a hostile or abusive employment or educational environment, or such that it is intended to, or has the effect of, denying or limiting a student's ability to participate in or benefit from the educational program or activities.

[DRAFTING NOTE: Sexual conduct/relationships with students by District employees or any other adult member of the School District community is prohibited, and any teacher, administrator, coach, or other school authority who engages in sexual conduct with a student may also be guilty of the criminal charge of "sexual battery" as set forth in R.C. 2907.03. The issue of consent is irrelevant in regard to such criminal charge and/or with respect to the application of this policy to District employees or other adult members of the School District community.]

Race/Color Harassment

Prohibited racial harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race or color and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references relative to racial customs.

Religious (Creed) Harassment

Prohibited religious harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's religion or creed and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's religious tradition, clothing, or surnames, and/or involves religious slurs.

National Origin/Ancestry Harassment

Prohibited national origin/ancestry harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's national origin or ancestry and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's national origin or ancestry, such as negative comments regarding customs, manner of speaking, language, surnames, or ethnic slurs.

Disability Harassment

Prohibited disability harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's disability and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's ~~disability~~~~disabling condition~~, such as negative comments about speech patterns, movement, physical impairments or defects/appearances, or the like.

Anti-Harassment Compliance Officers

The following individual(s) shall serve as the District's Anti-Harassment Compliance Officer(s) (hereinafter, "the Compliance Officer(s)"):

[DRAFTING NOTE: Neola suggests the Board appoint both a male and a female Compliance Officer in order to provide Complainants with the option to report their concerns to an individual of the gender with which they feel most comfortable. The same individual(s) assigned to serve as Compliance Officer(s) may also be assigned to serve as the District's Section 504 Compliance Officer(s) /ADA Coordinator(s) and/or Title IX Coordinator(s). Additionally, by appointing two (2) Compliance Officers, there should also be a Compliance Officer available to investigate a claim of harassment that pertains to the other Compliance Officer.]

Clay Frye Kris Kowalski
(Name)

Director of Operations
(School District Title)

419-347-7744, ext. 42202
(Telephone Number)

27 Ryan Rd., Shelby, OH 44875
(Office Address)

frye.claykowalski.kris@pioneerctc.edu
(E-mail Address)

(Name)

(School District Title)

(Telephone Number)

(Office Address)

(E-mail Address)

The names, titles, and contact information of these individuals will be published annually on the School District's web site () and:

- A. (x) in the parent and staff handbooks.
- B. (-) in the School District Annual Report to the public.
- C. (-) on each individual school's web site.
- D. (-) in the School District's calendar.
- E. (-)

The Compliance Officer(s) (x) is (-) are responsible for coordinating the District's efforts to comply with applicable Federal and State laws and regulations, including the District's duty to address in a prompt and equitable manner any inquiries or complaints regarding harassment.

The Compliance Officer(s) will be available during regular school/work hours to discuss concerns related to unlawful harassment, to assist students, other members of the District community, and third parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede informally on behalf of the individual 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.

Compliance Officers shall accept reports of unlawful harassment directly from any member of the School District community or a Third Party or receive reports that are initially filed with an administrator, supervisor, or other District-level official. Upon receipt of a report of alleged harassment, the Compliance Officer(s) will contact the Complainant and begin either an informal or formal complaint process (depending on the request of the Complainant or the nature of the alleged harassment), or the Compliance Officer(s) will designate a specific individual to conduct such a process. The Compliance Officer(s) will provide a copy of this policy to the Complainant and Respondent. In the case of a formal complaint, the Compliance Officer(s) will prepare recommendations for the Superintendent or will oversee the preparation of such recommendations by a designee. All Board employees must report incidents of harassment that are reported to them to the Compliance Officer within two (2) days of learning of the incident.

Any Board employee who directly observes unlawful harassment is obligated, in accordance with this policy, to report such observations to the Compliance Officer(s) within two (2) days. Additionally, any Board employee who observes an act of unlawful harassment is expected to intervene to stop the harassment, unless circumstances make such an intervention dangerous, in which case the staff member should immediately notify other Board employees and/or local law enforcement officials, as necessary, to stop the harassment. Thereafter, the Compliance Officer(s) or designee must contact the Complainant, if age eighteen (18) or older, or

Complainant's parents/guardians if the Complainant is under the age eighteen (18), within two (2) days to advise of the Board's intent to investigate the alleged wrongdoing.

Reports and Complaints of Harassing Conduct

Students and all other members of the School District community along with Third Parties~~and third parties~~ are encouraged to promptly report incidents of harassing conduct to a teacher, administrator, supervisor, or other District official so that the Board may address the conduct before it becomes severe, pervasive, or persistent. Any teacher, administrator, supervisor, or other District employee or official who receives such a report~~complaint~~ shall file it with the ~~District's Anti Harassment~~ Compliance Officer within two (2) days of receiving the report of harassment. ~~(-) at his/her first convenience (-) within two (2) school days.~~

Members of the School District community and Third Parties, which includes students, or third parties who believe they have been unlawfully harassed are entitled to utilize the Board's complaint process that is set forth below. Initiating a complaint, whether formally or informally, will not adversely affect the Complainant's~~complaining individual's~~ employment or participation in educational or extra-curricular programs. While there are no time limits for initiating complaints of harassment under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

If, during an investigation of alleged bullying, aggressive behavior and/or harassment in accordance with Policy 5517.01 - Bullying and Other Forms of Aggressive Behavior, the Director believes that the reported misconduct may have created a hostile work environment and may have constituted unlawful discriminatory harassment based on a Protected Class, the Director shall report the act of bullying, aggressive behavior and/or harassment to the one of the Anti-Harassment Compliance Officers who shall investigate the allegation in accordance with this policy. If the alleged harassment involves Sexual Harassment as defined by Policy 2266, the matter will be handled in accordance with the grievance process and procedures outlined in Policy 2266. While the Compliance Officer investigates the allegation, or the matter is being addressed pursuant to Policy 2266, the Director shall suspend the his/her Policy 5517.01 investigation to await the Compliance Officer's written report or the determination of responsibility pursuant to Policy 2266. The Compliance Officer shall keep the Director informed of the status of the Policy 5517 investigation and provide the Director him/her with a copy of the resulting written report. Likewise, the Title IX Coordinator will provide the Director with the determination of responsibility that results from the Policy 2266 grievance process.

Anti-Harassment Compliance Officers

The Board designates the following individuals to serve as "Anti Harassment Compliance Officers" for the District. They are hereinafter referred to as the "Compliance Officers".

~~[NOTE: School Districts are advised to appoint both a male and a female Compliance Officer in order to provide Complainants with the option to report their concerns to an individual of the gender with which they feel most comfortable. The Compliance Officers may also serve as the District's Section 504 and Title IX Coordinators.]~~

~~(Name)~~

~~(School District Title)~~

~~(Telephone Number)~~

~~(Office Address)~~

~~(E-mail Address)~~

(Name) —

~~(School District Title)~~

~~(Telephone Number)~~

~~(Office Address)~~

~~(E mail Address)~~

~~The names, titles, and contact information of these individuals will be published annually.~~

- A. ~~(-) in the parent and staff handbooks.~~
- B. ~~(-) in the School District Annual Report to the public.~~
- C. ~~(-) on the School District's web site.~~

- D. ~~() on each individual school's web site.~~
- E. ~~() in the School District's calendar.~~
- F. ~~() _____.~~

~~The Compliance Officers will be available during regular school/work hours to discuss concerns related to unlawful harassment, to assist students, other members of the District community, and third parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede informally on behalf of the student, other member of the School District 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.~~

Compliance Officers shall accept complaints of unlawful harassment directly from any member of the School District community or a visitor to the District, or receive complaints that are initially filed within a school building administrator. Upon receipt of a complaint either directly or through a school building administrator, a Compliance Officer will begin either an informal or formal process (depending on the request of the person alleging the harassment or the nature of the alleged harassment), or the Compliance Officer will designate a specific individual to conduct such a process. In the case of a formal complaint, the Compliance Officer will prepare recommendations for the Superintendent or will oversee the preparation of such recommendations by a designee. All members of the School District community must report incidents of harassment that are reported to them to the Compliance Officer within two (2) business days of learning of the incident.

Any Board employee who directly observes unlawful harassment of a student is obligated, in accordance with this policy, to report such observations to one of the Compliance Officers within two (2) business days. Additionally, any Board employee who observes an act of unlawful harassment is expected to intervene to stop the harassment, unless circumstances make such an intervention dangerous, in which case the staff member should immediately notify other Board employees and/or local law enforcement officials, as necessary, to stop the harassment. Thereafter, the Compliance Officer or designee must contact the student, if age eighteen (18) or older, or the student's parents if under the age eighteen (18), within two (2) school days to advise s/he/them of the Board's intent to investigate the alleged misconduct, including the obligation of the Compliance Officer or designee to conduct an investigation following all the procedures outlined for a formal complaint.

Investigation and Complaint Procedure

Except for Sexual Harassment that is covered by Policy 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities, anyAny student who believes that they have ~~s/he has~~ been subjected to unlawful harassment may seek resolution of ~~the~~his/her complaint through the procedures described below. The formal complaint process involves an investigation of the Complainant's claims of harassment or retaliation and a process for rendering a decision regarding whether the charges are substantiated.~~either the informal or formal procedures as described below. Further, a process for investigating claims of harassment or retaliation and a process for rendering a decision regarding whether the claim of legally prohibited harassment or retaliation was substantiated are set forth below.~~

Due to the sensitivity surrounding complaints of unlawful harassment or retaliation, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) ~~calendar~~ days after the conduct occurs while the facts are known and potential witnesses are available. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) business days of the complaint being received).

The ~~informal and formal~~ procedures set forth below are not intended to interfere with the rights of a student to pursue a complaint of unlawful harassment or retaliation with the United States Department of Education Office for Civil Rights.

Informal Complaint Procedure

The goal of the informal complaint procedure is promptly 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 student who believes s/he has been unlawfully harassed or retaliated against. This informal procedure is not required as a precursor to the filing of a formal complaint. The informal process is only available in those circumstances where the Complainant and the Respondent mutually agree to participate in it.

Students who believe that they have been unlawfully harassed may initiate their complaint through this informal complaint process, but are not required to do so. The informal process is only available in those circumstances where the parties (alleged target of harassment and alleged harasser(s)) agree to participate in the informal process.

The Complainant ~~Students who believe that they have been unlawfully harassed~~ may proceed immediately to the formal complaint process and individuals who seek resolution through the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process.

All complainants involving a District employee, any other adult member of the School District community, or a Third Party and a student will be formally investigated. However, all complaints of harassment involving a District employee or any other adult member

~~of the School District community against a student will be formally investigated. Similarly, any allegations of sexual violence will be formally investigated.~~

As an initial course of action, if a Complainant feels comfortable and safe in ~~a student 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 Respondent that the alleged harassing ~~harasser that the~~ conduct is unwelcome and must stop. ~~Such direct communication should not be utilized in circumstances involving sexual violence.~~ The Complainant/complaining individual should address the allegedly harassing conduct as soon after it occurs as possible. The Compliance Officers are available to support and counsel individuals when taking this initial step or to intervene on behalf of the Complainant/individual if requested to do so. A Complainant/An individual who is uncomfortable or unwilling to directly approach the Respondent about the alleged inappropriate conduct may file ~~inform the harasser of his/her complaint is not prohibited from otherwise filing~~ an informal or a formal complaint. In addition, with regard to certain types of unlawful harassment, such as sexual harassment, the Compliance Officer may advise against the use of the informal complaint process.

A Complainant ~~A student who believes s/he has been unlawfully harassed~~ may make an informal complaint, either orally or in writing: 1) to a teacher, other employee, or building administrator in the school the student attends; 2) to the Superintendent or other District-level employee; and/or 3) directly to one of the Compliance Officers.

All informal complaints must be reported to one of the Compliance Officers who will either facilitate an informal resolution as described below ~~on his/her own~~, or appoint another individual to facilitate an informal resolution.

The ~~Board's~~ School District's informal complaint procedure is designed to provide students 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 Complainant/student claiming unlawful harassment, informal resolution may involve, but not be limited to, one or more of the following:

- A. Advising the Complainant/student about how to communicate the unwelcome nature of the behavior to the Respondent/alleged harasser.
- B. Distributing a copy of this/the anti-harassment policy as a reminder to the individuals in the school building or office where the Respondent works or attends. ~~individual whose behavior is being questioned works or attends.~~
- C. If both parties agree, the Compliance Officer may arrange and facilitate a meeting or mediation between the Complainant and the Respondent to work out a mutual resolution. ~~between the student claiming harassment and the individual accused of harassment to work out a mutual resolution. Such a meeting is not appropriate in circumstances involving sexual violence.~~

While there are no set time limits within which an informal complaint must be resolved, the Compliance Officer ~~/or designee is~~ directed ~~will exercise his/her authority~~ to attempt to resolve all informal complaints within fifteen (15) business days of receiving the informal complaint. If the Complainant is ~~Parties who are~~ dissatisfied with the results of the ~~results of the~~ informal complaint process, the Complainant may proceed to file a formal complaint. And, as stated above, either party/parties may request that the informal process be terminated at any time to move to the formal complaint process.

Formal Complaint Procedure

If a complaint is not resolved through the informal complaint process, if one of the parties has requested that the informal complaint process be terminated to move to the formal complaint process, or the Complainant, from the outset, elects to file a formal complaint, or the CO determines the allegations are not appropriate for resolution through the informal process, ~~if the student elects to file a formal complaint initially,~~ the formal complaint process shall be implemented.

The Complainant ~~A student who believes s/he has been subjected to offensive conduct/harassment/retaliation hereinafter referred to as the "Complainant";~~ may file a formal complaint, either orally or in writing, with a teacher, Director, or other District employee at the student's school, the Compliance Officer, Superintendent, or another District official/employee who works at another school or at the district level. Due to the sensitivity surrounding complaints of unlawful harassment, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a formal complaint within thirty (30) calendar ~~calendar~~ days after the conduct occurs while the facts are known and potential witnesses are available. If a Complainant informs a teacher, Director, or other District employee at the student's school, Superintendent, or other District official/employee, either orally or in writing, about any complaint of harassment, that employee must report such information to the Compliance Officer ~~or designee~~ within two (2) business days.

Throughout the course of the process, the Compliance Officer should keep the parties reasonably informed of the status of the investigation and the decision-making process.

All formal complaints must include the following information to the extent known/it is available: the identity of the Respondent/individual believed to have engaged in, or be engaging in, offensive conduct/harassment/retaliation; a detailed

description of the facts upon which the complaint is based (i.e., when, where, and what occurred); a list of potential witnesses; and the resolution sought by the Complainant.

If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the Compliance Officer shall ask for such details in an oral interview. Thereafter, the Compliance Officer will prepare a written summary of the oral interview, and the Complainant will be asked to verify the accuracy of the reported charge by signing the document.

Upon receiving a formal complaint, the Compliance Officer 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 work assignment or schedule for the Complainant and/or the Respondent ~~alleged harasser~~. In making such a determination, the Compliance Officer should consult the Complainant to assess whether the individual agrees with his/her agreement to the proposed action. If the Complainant is unwilling to consent to the proposed change, the Compliance Officer may still take whatever actions deemed ~~s/he deem~~ appropriate in consultation with the Superintendent.

Within two (2) business days of receiving the complaint, the Compliance Officer ~~/or a~~ designee will initiate a formal investigation to determine whether the Complainant has been subjected to offensive conduct/harassment/retaliation. ~~(→) A~~ The Director will not conduct an investigation unless directed to do so by the Compliance Officer.

Simultaneously, the Compliance Officer will inform the Respondent that a formal individual alleged to have engaged in the harassing or retaliatory 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 provided with a copy of any relevant policies and/or administrative guidelines, including the Board's Anti-Harassment policy. The Respondent must also be informed of the opportunity to submit a written response to the complaint within five (5) business days.

Although certain cases may require additional time, the Compliance Officer ~~/or a~~ designee will attempt to complete an investigation into the allegations of harassment/retaliation within fifteen (15) business 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 presented by the Complainant, Respondent, or any other witness that is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the Compliance Officer or the designee shall prepare and deliver a written report to the Superintendent that 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 subjected to unlawful harassment. The Compliance Officer's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. In determining if discriminatory harassment or retaliation occurred, a preponderance of evidence standard will be used. ~~(→)~~ The Compliance Officer may consult with the Board's legal counsel before finalizing the report to the Superintendent.

Absent extenuating circumstances, within ten (10) school days of receiving the report of the Compliance Officer ~~/or the~~ designee, the Superintendent must either issue a written final decision regarding whether 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 ten (10) school days. At the conclusion of the additional investigation, the Superintendent shall issue a final written decision as described above.

☒] The decision of the Superintendent shall be final.

OR

☐] A Complainant or Respondent who is dissatisfied with the final decision of the Superintendent may appeal through a signed written statement to the Board within five (5) business days of the party's his/her receipt of the Superintendent's final decision. The written statement of appeal must be submitted to the Treasurer/CFO.

~~In an attempt to resolve the complaint, the Board shall meet with the concerned parties and their representatives within twenty (20) business days of the receipt of such an appeal. A copy of the Board's disposition of the appeal shall be sent to each concerned party within ten (10) business days of this meeting. The decision of the Board will be final.~~

[END OF OPTIONS]

The Board reserves the right to investigate and resolve a complaint or report of unlawful harassment/retaliation regardless of whether the student alleging the unlawful harassment/retaliation pursues the complaint. The Board also reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Board or its designee.

The parties may be represented, at their own cost, at any of the above-described meetings/hearings.

The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights, the filing of charges with local law enforcement, or the filing of a civil action in court. Use of this internal complaint process is not a prerequisite to the pursuit of other remedies.

Privacy/Confidentiality

The ~~School~~ District will employ all reasonable efforts to protect the rights of the Complainant, the Respondent individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. All records generated under the terms of this policy and related administrative guidelines shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. Additionally, the Respondent must be provided the Complainant's identity. ~~All Complainants proceeding through the formal investigation process will be advised that their identities may be disclosed to the Respondent.~~

During the course of a formal investigation, the Compliance Officer ~~/or his/her~~ designee will instruct all members of the School District 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 is learned or provided ~~s/he learns or that s/he provides~~ during the course of the investigation.

Sanctions and Monitoring

The Board shall vigorously enforce its prohibitions against unlawful harassment/retaliation by taking appropriate action reasonably calculated to stop the harassment and prevent further such harassment. While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s). When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the ages and maturity levels of those involved. In those cases where unlawful harassment is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s).

Where the Board becomes aware that a prior remedial action has been taken against a member of the School District community, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its reoccurrence, and remedy its effects.

Retaliation

Retaliation against a person who makes a report or files a complaint alleging unlawful harassment/retaliation or participates as a witness in an investigation is prohibited. Neither the Board nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made unlawful by any Federal or State civil rights law, or because that individual made a report, formal complaint testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy.

Retaliation against a person from making a report of discrimination, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in imposition of disciplinary sanction/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

~~Any act of retaliation against a person who has made a report or filed a complaint alleging unlawful harassment, or who has participated as a witness in a harassment investigation is prohibited.~~

Allegations Constituting Criminal Conduct: Child Abuse/Sexual Misconduct

State law requires any school teacher or school employee who knows or suspects that a child with a disability under the age of twenty-one (21) or that a child under the age of eighteen (18) has suffered or faces a threat of suffering a physical or mental wound, disability or condition of a nature that reasonably indicates abuse or neglect of a child to immediately report that knowledge or suspicion to the county children's services agency. If, during the course of a harassment investigation, the Compliance Officer 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.

State law defines certain contact between a teacher and a student as "sexual battery." If the Compliance Officer or a designee has reason to believe that the Complainant has been the victim of criminal conduct as defined in Ohio's Criminal Code, such knowledge should be immediately reported to local law enforcement.

Any reports made to a county children's services agency or to local law enforcement shall not terminate the Compliance Officer or a designee's obligation and responsibility to continue to investigate a complaint of harassment. While the Compliance Officer 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.

Allegations Involving Conduct Unbecoming the Teaching Profession/Suspension

The Superintendent will report to the Ohio Department of Education, on forms provided for that purpose, matters of misconduct on the part of licensed professional staff members convicted of sexual battery, and will, in accordance with Policy 8141, suspend such employee from all duties that concern or involve the care, custody, or control of a child during the pendency of any criminal action for which that person has been arrested, summoned and/or indicted in that regard.

Education and Training

In support of this Anti-Harassment Policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Superintendent ~~or designee~~ shall provide appropriate information to all members of the School District community related to the implementation of this policy and shall provide training for District students and staff where appropriate. All training, as well as all information, provided regarding the Board's policy and harassment in general, will be age and content appropriate.

Retention of Investigatory Records and Materials

The Compliance Officer(s) is responsible for overseeing retention of all records that must be maintained pursuant to this policy. All individuals charged with conducting investigations under this policy shall retain all documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and/or received as part of an investigation, which may include but not be limited to:

- A. all written reports/allegations/complaints/grievances/statements/responses pertaining to an alleged violation of this policy;
- B. any narratives that memorialize oral reports/allegations/complaints/grievances/statements/responses pertaining to an alleged violation of this policy;
- C. any documentation that memorializes the actions taken by District personnel or individuals contracted or appointed by the Board to fulfill its responsibilities related to the investigation and/or the District's response to the alleged violation of this policy;
- D. written witness statements;
- E. narratives, notes from, or audio, video, or digital recordings of witness interviews/statements;
- F. e-mails, texts, or social media posts that directly relate to or constitute evidence pertaining to an alleged violation of this policy (i.e., not after-the-fact commentary about or media coverage of the incident);
- G. notes or summaries prepared contemporaneously by the investigator in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.), but not including transitory notes whose content is otherwise memorialized in other documents;
- H. written disciplinary sanctions issued to students or employees and other documentation that memorializes oral disciplinary sanctions issued to students or employees for violations of this policy;

- I. dated written determinations/reports (including summaries of relevant exculpatory and inculpatory evidence) and other documentation that memorializes oral notifications to the parties concerning the outcome of the investigation, including any consequences imposed as a result of a violation of this policy;
- J. documentation of any interim supportive measures offered and/or provided to the Complainant and/or the Respondent~~complainants and/or the alleged perpetrators~~, including no contact orders issued to both parties, the dates the no contact orders were issued, and the dates the parties acknowledged receipt of the no contact orders;
- K. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects;
- L. copies of the Board policy and/or procedures/guidelines used by the District to conduct the investigation, and any documents used by the District at the time of the alleged violation to communicate the Board's expectations to students and staff with respect to the subject of this policy (e.g., Student Code of Conduct and/or Employee Handbooks ~~or Codes of Conduct~~);
- M. copies of any documentation that memorializes any formal or informal resolutions to the alleged discrimination or harassment;

[DRAFTING NOTE: The following options should be selected if the district concludes that the following items are not adequately encompassed in the preceding paragraphs.]

- N. ~~() documentation of any training provided to District personnel related to this policy, including but not limited to, notification of the prohibitions and expectations of staff set forth in this policy and the role and responsibility of all District personnel involved in enforcing this policy, including their duty to report alleged violations of this policy and/or conducting an investigation of an alleged violation of this policy; [REMINDER: Documentation of training should be maintained regardless of whether there is an investigation of an alleged violation of this policy. It is best practice to maintain a log of all staff members who participate in a training, along with the date, time and location of the training, and a copy of the materials reviewed and/or presented during the training.]~~
- O. ~~() documentation that any rights or opportunities that the District made available to one party during the investigation were made available to the other party on equal terms;~~
- P. ~~() copies of any notices sent to the alleged perpetrator/responding party of the allegations constituting a potential violation of this policy;~~
- Q. ~~() copies of any notices sent to the Complainant and the Respondent~~complainant and alleged perpetrator~~ in advance of any interview, meeting, or hearing;~~
- R. ~~() copies of any documentation or evidence used during informal and formal disciplinary meetings and hearings, including the investigation report, and any written responses submitted by the Complainant or the Respondent~~complainant or the alleged perpetrator~~.~~

The documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal (e.g., FERPA, ADA) and/or State law (e.g., R.C. 3319.321) – e.g., student records and confidential medical records.

The documents, ESI, and electronic media (as defined in Policy 8315) created or received as part of an investigation shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, and Policy 8330 for not less than three (3) years, but longer if required by the District's records retention schedule.

Legal

R.C. 4112.02

20 U.S.C. 1400 et seq., The Individuals with Disabilities Education Improvement Act of 2004 (IDEIA)

20 U.S.C. 1681 et seq.

29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967

29 U.S.C. 794, Rehabilitation Act of 1973, as amended

29 U.S.C. 6101, The Age Discrimination Act of 1975

42 U.S.C. 2000d et seq.

42 U.S.C. 2000e et seq.

42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended

42 U.S.C. 1983

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