# STUDENTS 09.42811

Harassment/Discrimination

Definition

Harassment/Discrimination is unlawful behavior based on race, color, national origin, age, religion, sex (including sexual orientation or gender identity), or disability that is sufficiently severe, pervasive, or objectively offensive that it adversely affects a student's education or creates a hostile or abusive educational environment.

The provisions of this policy shall not be interpreted as applying to speech otherwise protected under the state or federal constitutions where the speech does not otherwise materially or substantially disrupt the educational process, as defined by policy 09.426, or where it does not violate provisions of policy 09.422.

Prohibition

Harassment/Discrimination is prohibited at all times on school property and off school grounds during school-sponsored activities. This prohibition also applies to visitors to the school, as well as students, administrators, faculty and other employees, who may come into contact with employees and students. (Acts of harassment/discrimination based on sex may be committed by persons of the same or the opposite sex.)

District staff shall provide for a prompt and equitable resolution of complaints concerning harassment/discrimination.

Disciplinary Action

Students who engage in harassment/discrimination of an employee or another student on the basis of any of the areas mentioned above shall be subject to disciplinary action, including but not limited to, suspension and expulsion. Employees who engage in harassment/discrimination of a student or another employee in contravention of this policy shall be subject to disciplinary action, including but not limited to, suspension without pay and termination of employment.

Guidelines

Students who believe they or any other student, employee, or visitor is being or has been subjected to harassment/discrimination shall, as soon as reasonably practicable, report it. In each school building, the Principal is the person responsible for receiving reports of harassment/discrimination at the building level. Otherwise, reports of harassment/discrimination may be made directly to the Superintendent. Additionally, if sexual discrimination or harassment is being alleged, reports may be made directly to the District Title IX Coordinator. Complaints of harassment/discrimination, whether verbal or written, shall lead to a documented investigation and a written report.

Investigations shall include statements and any evidence of the reporter, the victim (if different than the reporter), the accused perpetrators and any known witnesses.

Employees who believe prohibited behavior is occurring or has occurred shall notify the victim’s Principal, who shall immediately forward the information to the Superintendent.

The Superintendent shall provide for the following:

1. Investigation of allegations of harassment/discrimination;

The Superintendent/designee may take interim measures to protect complainants during the investigation.

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Harassment/Discrimination

**Guidelines (continued)**

To ensure an adequate, reliable and impartial investigation of reported incidents of harassment/discrimination, each investigation shall include as a minimum, the following procedural steps:

1. The investigator shall first, after being assigned the investigation make a determination as to whether he or she has a conflict of interest or due to some fact, relationship or predisposition cannot fairly and adequately conduct an impartial investigation of the allegation.
2. If the investigator concludes that he or she cannot or should not proceed with the investigation, the matter shall be re-assigned to another investigator.
3. The investigator shall make contact with and interview or document all attempts to interview the complainant(s), if known or identifiable.
4. Interview the alleged victims(s) or document all attempts to interview the alleged victims(s).
5. Interview or document attempts to interview the alleged perpetrator(s).
6. Interview all known witnesses and other identified as potential witnesses or document attempts to do so.
7. Gather all available documents, photographs, writings and materials, including materials electronically stored, if available, and all other evidence which may be considered by the investigator to be relevant to the allegations under investigation.
8. Each interview shall be memorialized by investigator notes of each conversation and may be electronically recorded after prior permission has been obtained from the witness. The witness may also provide a written statement if he or she so desires.
9. Correction of the conditions causing such harassment/discrimination;
10. Identification and enactment of the methods to prevent reoccurrence of the harassment/discrimination;
11. A process to be developed and implemented to communicate requirements of this policy to all students, which may include, but not be limited to, the following:
* written notice provided in publications such as handbooks, codes, and/or pamphlets; and/or
* such other measures as determined by the Superintendent/designee.

Method(s) used shall provide a summary of this policy, along with information concerning how individuals can access the District’s complete policy/procedures and obtain assistance in reporting and responding to alleged incidents. Students, parents or guardians, as appropriate, will be directed to sign an acknowledgement form verifying receipt of information concerning this policy as part of the Board-approved code of acceptable behavior and discipline.

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Harassment/Discrimination

Guidelines (continued)

1. Age-appropriate training during the first month of school to include an explanation of prohibited behavior and the necessity for prompt reporting of alleged harassment/discrimination; and
2. Development of alternate methods of filing complaints for individuals with disabilities and others who may need accommodation.

When sexual harassment is alleged, the District's Title IX Coordinator shall be notified.

Investigation of allegations of harassment/discrimination to commence as soon as circumstances allow, but not later than three (3) working days of receipt of the report, regardless of the manner in which the complaint is communicated to a District administrator. The investigation shall be performed by the Harassment/Discrimination Coordinator or another investigator acting under his or her direct supervision.

The investigation shall be completed within ten (10) working days. The investigation of allegations involving the Superintendent shall be conducted by an investigator or attorney not employed by the School District. A written report of all findings of the investigation shall be completed within fifteen (15) calendar days, unless additional time is necessary due to the matter being investigated by a law enforcement or governmental agency.

Notifications

Within twenty-four (24) hours of receiving a serious allegation of harassment/discrimination, District personnel shall attempt to notify parents of both student victims and students who have been accused of harassment/discrimination.

In circumstances also involving suspected child abuse, additional notification shall be required by law. (See Policy 09.227.)

In applicable cases, employees must report harassment/discrimination to appropriate law enforcement authorities in accordance with law.1

Prohibited Conduct

Depending on circumstances and facts of the situation, and within the definition of harassment/discrimination contained in this policy, examples of conduct and/or actions that could be considered a violation of this policy include, but are not limited to:

1. Any nicknames, slurs, stories, jokes, written materials or pictures that are lewd, vulgar, or profane and relate to any of the protected categories listed in the definition of harassment/discrimination contained in this policy;
2. Unwanted touching, sexual advances, requests for sexual favors, and spreading sexual rumors;
3. Instances involving sexual violence;
4. Causing a student to believe that he or she must submit to unwelcome sexual conduct in order to participate in a school program or activity or that an educational decision will be based on whether or not the student submits to unwelcome sexual conduct;

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**Prohibited Conduct (continued)**

1. Implied or overt threats of physical violence or acts of aggression or assault based on any of the protected categories;
2. Seeking to involve students with disabilities in antisocial, dangerous or criminal activity where the students, because of disability, are unable to comprehend fully or consent to the activity; and
3. Destroying or damaging an individual's property based on any of the protected categories.

Confidentiality

District employees involved in the investigation of complaints shall respect, as much as possible, the privacy and anonymity of both victims and persons accused of violations.

Appeal

Upon the completion of the investigation and correction of the conditions leading to the harassment/discrimination, any party may appeal in writing any part of the findings and corrective actions to the Superintendent.

If a supervisor is an alleged party in the harassment/discrimination complaint, procedures shall also provide for addressing the complaint to a higher level of authority.

Retaliation Prohibited

No one shall retaliate against an employee or student because s/he submits a grievance, assists or participates in an investigation, proceeding, or hearing regarding the charge of harassment/discrimination of an individual or because s/he has opposed language or conduct that violates this policy.

Upon the resolution of allegations, the Superintendent shall take steps to protect employees and students against retaliation.

Failure to Act

All employees are required to report suspected sexual abuse of a student to their supervisor and to the Title IX Coordinator. Employees who fail to report shall be subject to disciplinary action, including termination. This requirement does not alter or amend the requirement under [KRS 620.030](http://policy.ksba.org//DocumentManager.aspx?requestarticle=/KRS/620-00/030.pdf&requesttype=krs) of every person to report abused or neglected children to an appropriate law enforcement agency.

Failure by employees to report, notify, and/or initiate an investigation of alleged harassment/discrimination as required by this policy, or to take corrective action also shall be cause for disciplinary action.

False Complaints

Deliberately false or malicious complaints of harassment/discrimination may result in disciplinary action taken against the complainant.

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Other Claims

When a complaint is received that does not appear to be covered by this policy, administrators shall review other policies that may govern the allegations, including but not limited to, 09.422 and/or 09.426.

References:

1[KRS 158.156](http://policy.ksba.org//DocumentManager.aspx?requestarticle=/KRS/158-00/156.pdf&requesttype=krs)

 42 USC 2000e, Civil Rights Act of 1964, Title VII

 Racial Incidents and Harassment Against Students at Educational Institutions;

 Investigative Guidance (U.S. Department of Education)

 US Supreme Court ‑ Franklin vs. Gwinnett County

 29 C.F.R. 1604.11, Equal Employment Opportunity Commission (EEOC)

 Regulations Implementing Title VII

 20 U.S.C. 1681, Education Amendments of 1972, Title IX

 34 C.F.R. 106.1-106.71, U.S. Department of Education Office for Civil Rights

 Regulations Implementing Title IX

 Gebser v. Lago Vista Independent School Dist., 118 S.Ct. 1989 (1998)

 Davis v. Monroe County Bd. of Educ., 119 S.Ct. 1661 (1999)

 Bostock v. Clayton County, Georgia 140 S.Ct. 1731 (2020)

Related Policies:

03.162; 03.262

09.13; 09.2211; 09.227; 09.422; 09.426; 09.438

Adopted/Amended: 7/19/2021

Order #: 3C