

NONDISCRIMINATION AND ANTI-HARASSMENT

The Board of Education does not discriminate on the basis of race, color, national origin, sex, disability, age (except as authorized by law), religion, military status, ancestry, or genetic information (collectively, "Protected Classes") in its employment policies and practices or access to educational opportunities, programs and activities, and will enforce prohibitions against unlawful discrimination or harassment of any kind.

Definitions

1. Sexual Harassment

Pursuant to 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 opportunity/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 either gender against a person of the same or opposite gender.

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

Prohibited acts that constitute sexual harassment 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. Physical assault.
- 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 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, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls.
- E. Sexually suggestive objects, pictures, videotapes, audio recordings or literature, placed in the work or educational environment, which may embarrass or offend individuals.
- F. Unwelcome and inappropriate touching, patting, or pinching; obscene gestures.
- G. 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.
- H. Remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history.
- I. Inappropriate **and/or unwelcome** boundary invasions by a District employee or other adult member of the School District community into a student's personal space and personal life. Examples of inappropriate boundary invasions **could** include, but are not limited to the following:
 - 1. hugging, kissing, or other physical contact with a student
 - 2. telling sexual jokes to students

3. engaging in talk containing sexual innuendo or banter with students
4. talking about sexual topics that are not related to curriculum
5. showing pornography to a student
6. taking an undue interest in a student (i.e. having a "special friend" or a "special relationship")
7. initiating or extending contact with students beyond the school day for personal purposes
8. using e-mail, text-messaging or websites to discuss personal topics or interests with students
9. giving students rides in the staff member's personal vehicle or taking students on personal outings without administrative approval
10. invading a student's privacy (e.g. walking in on the student in the bathroom, locker-room, asking about bra sizes or previous sexual experiences)
11. going to a student's home for non-educational purposes
12. inviting students to the staff member's home without proper chaperones (i.e. another staff member or parent of student)
13. giving gifts or money to a student for no legitimate educational purpose
14. accepting gifts or money from a student for no legitimate educational purpose
15. being overly "touchy" with students
16. favoring certain students by inviting them to come to the classroom at non-class times
17. getting a student out of class to visit with the staff member
18. providing advice to or counseling a student regarding a

personal problem (i.e. problems related to sexual behavior, substance abuse, mental or physical health, and/or family relationships, etc.), unless properly licensed **and/or** authorized to do so

19. talking to a student about problems that would normally be discussed with adults (i.e. marital issues)
20. being alone with a student behind closed doors without a legitimate educational purpose
21. telling a student "secrets" and having "secrets" with a student
22. other similar activities or behavior:

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.

2. Harassment - Protected Classes

Conduct constituting harassment on the basis of race, color, national origin, disability, age (except as authorized by law), religion, military status, ancestry, or genetic information may take different forms, including, but not limited to, the following:

- A **Verbal:**
The making of offensive written or oral innuendoes, comments, jokes, insults, threats, or disparaging remarks concerning a person's protected class.
Nonverbal:
- B Placing offensive objects, pictures, or graphic commentaries in the school environment or making insulting or threatening gestures based upon a person's protected class.
Physical:
- C Any intimidating or disparaging action such as hitting, pushing, shoving, hissing, or spitting on or by a fellow staff member,

student, or other person associated with the District, or third parties, based upon the person's protected class.

3. Discrimination - Protected Classes

Prohibited discrimination occurs when an individual's access to employment opportunities or educational programs are based illegally upon an individual's protected class and when the conduct has the purpose or effect of interfering with the individual's work or educational opportunity/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 an employment opportunity or an educational program or activity.

Such discrimination may occur where conduct is directed at the characteristics of a person's protected class or where access to employment, or educational programs is illegally restricted or denied based on an individual's protected class. Discrimination may also include conduct related to race, color, national origin, sex, disability, age (except as authorized by law), religion, military status, ancestry, or genetic information such as slurs, nicknames implying stereotypes, epithets, and/or negative references relative to customs, traditions, clothing, manner of speaking, language, surnames and the like; or based on an individual's disabling condition, such as negative comments about speech patterns, movement, physical impairments or defects/appearances, or the like.

4. School District Community

For purposes of this policy, "School District community" means students, administrators, teachers, staff, and all other school personnel, including Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

5. Third Parties

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).

Compliance Officers

The Superintendent shall appoint the Assistant Superintendent and the Director of Human Resources to serve as compliance officers. The compliance officers' names and contact information will be published annually in the parent and staff handbooks, on the School District's web site, posted in each building and distributed as an addendum to this policy upon request.

The Compliance Officers 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 or denial of equal access. The Compliance Officers shall also verify that proper notice of nondiscrimination for Title II of 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.

Complaint Procedure

Members of the School District community are directed to promptly report incidents of possible discriminating and/or harassing conduct to a Compliance Officer or to another administrator, supervisor or other School District official so that the Board may address the conduct before it becomes severe, pervasive, or persistent.

Any Board employee who directly observes unlawful discrimination or harassment of a student is obligated, in accordance with this policy, to report such observations to one of the Compliance Officers. Thereafter, the Compliance Officer/designee must contact the complainant, if age eighteen (18) or older, or the complainant's parents if under the age eighteen (18), to advise s/he/them of the Board's intent to investigate the alleged misconduct, including the obligation of the Compliance Officer/designee to conduct an investigation following all the procedures outlined for a formal complaint.

Members of the School District community or third parties who believe they have been unlawfully discriminated against and/or harassed by another member of the School District community or a third party are entitled to utilize the Board's complaint process. Initiating a complaint, whether formally or informally, will not adversely affect the 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.

Informal Complaint Procedure

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

The informal complaint procedure and mediation will not be used to resolve sexual assault complaints and may not be appropriate in all situations. For example, all complaints of harassment involving a District employee will be formally investigated, as will complaints against any other adult where a student is involved.

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

A member of the School District community or third party who believes s/he has been unlawfully harassed may make an informal complaint, either orally or in writing: (1) to a building administrator in the building where the individual is employed; (2) to a building administrator in the building where the student attends; (3) to a Compliance Officer. All informal complaints must be reported to a Compliance Officer who will either facilitate an informal resolution as described below on his/her own, or appoint another individual to facilitate an informal resolution.

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

- A. Advising the member of the School District community or third party about how to communicate the unwelcome nature of the behavior to the alleged harasser.

- B. Distributing a copy of the Nondiscrimination and Anti-Harassment Policy as a reminder to the individuals in the school building or office where the individual whose behavior is being questioned works or attends.
- C. If both parties agree, a Compliance Officer/designee may arrange and facilitate a meeting between the member of the School District community or third party claiming harassment and the individual accused of harassment to work out a mutual resolution.

While there are no set time limits within which an informal complaint must be resolved, a Compliance Officer/designee will exercise his/her authority to attempt to resolve all informal complaints within two (2) weeks of receiving the informal complaint.

When a member of the School District community or third party is dissatisfied with the results of the informal complaint process, or when a Complainant elects to file a formal complaint, such complaint must be submitted to a Compliance Officer/designee.

Formal Complaint Procedure

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

A member of the School District community or third party who believes s/he has been subjected to offensive conduct/harassment hereinafter referred to as the "Complainant", should file a formal complaint, either orally or in writing with the building administrator or Compliance Officer/designee. If a Complainant informs any other employee of the School District, either orally or in writing, about any complaint of harassment, that employee must immediately report such information to the building administrator or a Compliance Officer. Thereafter the assigned Compliance Officer/designee must contact the Complainant to determine whether the Complainant wishes to file a formal or an informal Complaint.

Throughout the course of the process, the Compliance Officer/designee should keep the Complainant informed of the status of the investigation and the decision making process.

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

**BOARD OF EDUCATION
WASHINGTON LOCAL SCHOOL DISTRICT**

PROFESSIONAL STAFF
3362/page 9 of 14

complaint is based; a list of potential witnesses; and, identification of the resolution which the Complainant seeks.

If the Complainant is unwilling to provide a written statement including the information set forth above, the Compliance Officer/designee shall ask for such details in an oral interview. Thereafter the Compliance Officer/designee will prepare a written summary of the oral interview which will be presented to the Complainant for verification by signature. If the Complainant does not wish to verify or sign the document, the Compliance Officer/designee shall proceed with the investigation process regardless.

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

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

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

Although certain cases may require additional time, the Compliance Officer/designee will attempt to complete an investigation into the allegations of harassment 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, which is reasonably believed to be relevant to the allegations.

In determining whether the alleged conduct constitutes a violation of this policy the District will consider:

- A. the nature of the behavior;
- B. how often the conduct occurred;
- C. whether there were past incidents or past continuing patterns of behavior;
- D. the relationship between the parties involved;
- E. the race, national origin, sex, religion, age and/or disability of the victim; and in case of genetic information harassment, the genetic information of the victim;
- F. the identity of the perpetrator, including whether the perpetrator was in a position of power over the person allegedly subjected to harassment;
- G. the number of alleged harasser(s);
- H. the age of the alleged harasser(s);
- I. where the harassment occurred;
- J. whether there have been other incidents in the school involving the same or other individuals;
- K. whether the conduct adversely affected the person's work or educational opportunity/performance or environment;
- L. the context in which the alleged incidents occurred;
- M. whether or not speech or expression that is alleged to constitute harassment is protected by the First Amendment to the United States Constitution; and
- N. whether a particular action or incident constitutes a violation of Policy 5517 requires a determination based on all the facts and

surrounding circumstances.

At the conclusion of the investigation, the Compliance Officer/designee shall prepare and deliver a written report to the Superintendent which summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful harassment as provided in Board policy and State and Federal law as to whether the Complainant has been subject to unlawful harassment. The Compliance Officer's/designee's recommendations must be based upon the preponderance of the evidence, taking into account the ages and maturity levels of those involved.

Absent extenuating circumstances, within five (5) business days of receiving the report of the Compliance Officer/designee, the Superintendent must either issue a 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 shall, in most circumstances, 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.

If the investigation results in findings of harassment or discrimination in violation of this policy, appropriate disciplinary action up to and including the discharge of an employee, or the suspension/expulsion of a student will be enforced, after applicable due process is afforded. The Superintendent/designee's final decision shall also include assurances of the steps the District will take to prevent recurrence of harassment or discrimination and steps to correct the discriminatory effects on the complainant and/or others as appropriate.

Confidentiality/Privacy

The School District will make all reasonable efforts to protect the confidentiality rights of the Complainant and the Respondent. The School District will respect the privacy of the Complainant, the Respondent, and all witnesses in a manner consistent with the School District's legal obligations under State and Federal law, as well as with the School District's obligations to investigate, to take appropriate action, and to conform with any appropriate discovery or disclosure requests. Confidentiality cannot always be guaranteed. All Complainants proceeding through the formal investigation process should be advised that their identities may be disclosed to the Respondent.

**BOARD OF EDUCATION
WASHINGTON LOCAL SCHOOL DISTRICT**

PROFESSIONAL STAFF
3362/page 12 of 14

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 s/he learns or that s/he provides during the course of the investigation.

Office of Civil Rights

The Informal and Formal Complaint procedures set forth in this policy are not intended to interfere with the rights of a member of the School District community or a third party to pursue a complaint of unlawful harassment or discrimination with the United States Department of Education, Office for Civil Rights. The Office for Civil Rights may be contacted at:

U.S. Department of Education Office for Civil Rights
600 Superior Avenue, East, Suite 750, Cleveland, Ohio 44114-2611
Office main line: (216) 522-4970
TTY: (800) 877-8339
Fax: (216) 522-2573
Web: www.ed.gov/OCR
Email: ocr.cleveland@ed.gov
To file a complaint: <http://www2.ed.gov/about/offices/list/ocr/complaintintro.html>

Employees of the district may also pursue a complaint with the Ohio Civil Rights Commission or the Equal Employment Opportunity Commission.

Record Retention

All public records created as a part of an investigation of a complaint of harassment will be maintained by the Compliance Officer in accordance with the Board's records retention policy. All records generated under the terms of this policy shall be maintained as confidential to the extent permitted by law. Any records which are considered student records in accordance with the *Family Educational Rights and Privacy Act* or under Ohio's student records law will be maintained in a manner consistent with the provisions of the Federal and State law.

Allegations Constituting Criminal Conduct: Child Abuse/Sexual Misconduct

State law requires any school teacher or school employee who knows or suspects that a child 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 / 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 / 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 / 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 file a 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.

**BOARD OF EDUCATION
WASHINGTON LOCAL SCHOOL DISTRICT**

PROFESSIONAL STAFF
3362/page 14 of 14

ADDENDUM: 10/5/2012

The following persons are designated as the District's Civil Rights Compliance Officer(s):

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Nancy Brenton
Director of Human Resources
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Email: nbrenton@wls4kids.org