

Book	Policy Manual
Section	Board Approved Policies Vol. 39, No. 2 January 2021
Title	Copy of Vol. 39, No. 2 - January 2021 Revised CONTROVERSIAL ISSUES
Code	po2240
Status	
Adopted	December 18, 2017

## 2240 - **CONTROVERSIAL ISSUES**

The Board of Education believes that the consideration of controversial issues has a legitimate place in the instructional program of the schools.

☒ Properly introduced and conducted, the consideration of such issues can help students learn to identify important issues, explore fully and fairly all sides of an issue, weigh carefully the values and factors involved, and develop techniques for formulating and evaluating positions.

For purposes of this policy, a controversial issue is a topic

- ☐ on which opposing points of view have been promulgated by responsible opinion.
- ☐ likely to arouse both support and opposition in the community.

The Board will permit the introduction and proper educational use of controversial issues provided that their use in the instructional program:

- A. ☒ is related to the instructional goals of the course of study and level of maturity of the students;
- B. ☒ does not tend to indoctrinate or persuade students to a particular point of view;
- C. ☒ encourages open-mindedness and is conducted in a spirit of scholarly inquiry.

Controversial issues related to the program may be initiated by the students themselves provided they are presented in the ordinary course of classroom instruction and it is not substantially disruptive to the educational setting.

Controversial issues may not be initiated by a source outside the schools unless prior approval has been given by the principal.

When controversial issues have not been specified in the course of study, the Board will permit the instructional use of only those issues which

- ☐ have been approved by the Superintendent.
  - ☐ who shall report periodically such approval to the Board for their review.
- ☒ have been approved by the
  - ☒ principal.
  - ☐ department head.

☒ In the discussion of any issue, a teacher may express a personal opinion, but shall identify it as such, and must not express such an opinion for the purpose of persuading students to his/her point of view.

No classroom teacher shall be prohibited from providing reasonable periods of time for activities of a moral, philosophical, or patriotic theme. No student shall be required to participate in such activities if they are contrary to the religious convictions of the student or his/her parents or guardians.

The Board acknowledges that it may not adopt any policy or rule respecting or promoting an establishment of religion or prohibiting any student from the free, individual, and voluntary exercise or expression of the student's religious beliefs. ~~However, such exercise or expression ( ) may ( ) shall be limited to lunch periods or other noninstructional time periods when students are free to associate.~~

The Board also recognizes that a course of study or certain instructional materials may contain content and/or activities that some parents find objectionable. If after careful, personal review of the program lessons and/or materials, a parent indicates to the school that either the content or activities conflicts with his/her religious beliefs or value system, the school will honor a written request for his/her child to be excused from a particular class for specified reasons. The student, however, will not be excused from participating in the course and will be provided alternate learning activities during times of such parent requested absences.

The Superintendent shall develop administrative guidelines for dealing with controversial issues and with parental concerns about program content or the use of particular materials.

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Legal

R.C. 3313.601

Book	Policy Manual
Section	Board Approved Policies Vol. 39, No. 2 January 2021
Title	Copy of Vol. 39, No. 2 - January 2021 Revised SECTION 504/ADA PROHIBITION AGAINST DISCRIMINATION BASED ON DISABILITY
Code	po2260.01
Status	
Adopted	December 18, 2017

## 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.]**

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(School District Title)

\_\_\_\_\_  
(Telephone Number)

\_\_\_\_\_  
(Office Address)

\_\_\_\_\_  
(E-mail Address)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(School District Title)

\_\_\_\_\_  
(Telephone Number)

\_\_\_\_\_  
(Office Address)

\_\_\_\_\_  
(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 Principals 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 parents 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 IDEIA, 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 ~~EOs~~ 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	Special Update - Title IX Regulations - July 2020
Title	Special Update - Title IX Regulations - July 2020 New NONDISCRIMINATION ON THE BASIS OF SEX AND FORMAL COMPLAINTS OF SEXUAL HARASSMENT IN DISTRICT PROGRAMS OR ACTIVITIES
Code	po2266
Status	From Neola

## **2266 - NONDISCRIMINATION ON THE BASIS OF SEX AND FORMAL COMPLAINTS OF SEXUAL HARASSMENT IN DISTRICT PROGRAMS OR ACTIVITIES**

### **Introduction**

The Board of Education of the 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 the enrollment of students and employment of District staff. 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.

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 but does not fall within the definitions set forth below. The grievance process and procedures to be applied in those other instances are included in Policy 2260 (Non-Discrimination and Access to Equal Education Opportunity). The grievance process and procedures in Policy 2266 specifically address how to report or file a complaint of sex discrimination for Sexual Harassment, and how the District will respond to allegations falling within the definitions contained within this Policy 2266.

### **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 where the District has substantial control over both the Respondent and the context in which the Sexual Harassment occurs.

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 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 forcible or non-forcible 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**, as classified under the Uniform Crime Reporting system of the FBI, to include:

- 1. *Penetrative Sexual Assault* – 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 their age or because of their temporary or permanent mental or physical incapacity. Attempts to commit penetrative sexual assault are also included within this definition.
- 2. *Fondling* – Kissing, touching of the private body parts of another person, causing another to touch one's private body parts, or disrobing of another for the purpose of sexual gratification without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
- 3. *Incest* – **Nonforcible S**exual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- 4. *Statutory Rape* – **Nonforcible S**exual intercourse with a person who is under the statutory age of consent.

"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.

"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.

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 either (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.

**Parties:** "Parties" means the Complainant and the Respondent.

**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 Board employee except the Respondent. "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 and 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 or retaliation. 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) 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, regardless of where they occur. 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 exonerate a Respondent from responsibility for 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:

Name: Randy Banks and Angie Adrean

School District Title: Assistant Superintendent-Operations and Assistant Superintendent-Academics

Telephone Number: 614-450-6000

Office Address: 200 E. Wilson Bridge Road, Worthington, OH 43085

Email Address: [rbanks@wscloud.org](mailto:rbanks@wscloud.org) and [aadrean@wscloud.org](mailto:aadrean@wscloud.org)

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 enrollment 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 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 enrollment or students and employment of staff. The District's Title IX Coordinator(s) is/are:*

*Name: Randy Banks and Angie Adrean*

*School District Title: Assistant Superintendent-Operations and Assistant Superintendent-Academics*

*Telephone Number: 614-450-6000*

*Office Address: 200 E. Wilson Bridge Road, Worthington, OH 43085*

*Email Address: [rbanks@wscloud.org](mailto:rbanks@wscloud.org) and [aadrean@wscloud.org](mailto:aadrean@wscloud.org)*

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

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 enrollment 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, 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 consequences imposed against a Respondent who violates this Policy.

## **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 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.

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. 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) of the sexual discrimination or harassment, 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. In that circumstance, the Superintendent will designate a qualifying individual to serve as the Title IX Coordinator.

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 with law enforcement authorities. 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 other Board policies and/or administrative guidelines, the applicable Student Code of Conduct, and applicable collective bargaining agreement.

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. 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 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 provided supportive measures 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 purpose 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.

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. 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.

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 investigation and objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence. The Respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of this grievance process.

It is a violation of this Policy for a Complainant(s), Respondent(s), and/or witness(es) to knowingly make false statements or knowingly submit 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, and any individual engaging in such conduct is subject to disciplinary consequences.

### **Timeline**

The District will seek to conclude the grievance process, including resolving any appeals, within sixty (60) days of receipt of the Formal Complaint.

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. 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, this Policy, and/or Employee/Administrator Handbook that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

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:

- 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.

### **Informal Resolution Process**

Under no circumstances shall a Complainant be required as a condition of enrollment or continuing enrollment, or employment or continuing employment, 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 decisionmaker(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 and the prohibition on the use of statements made during the informal resolution meeting in the Formal Complaint process, unless such statements are independently obtained by the investigator or decision-maker.

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 sexually harassed a student.

The informal resolution process is also not available to resolve allegations involving a sexual assault involving a student Complainant and a student Respondent.

### **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.

In making the determination of responsibility, the decision-maker(s) is(are) directed to use the preponderance of the evidence standard. The decision-maker(s) is charged with considering the totality of all available evidence, from all relevant sources.

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 the student's parent or legal guardian.

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 except as set forth herein.

The District establishes the following restrictions, which apply equally to both parties, regarding the extent to which an advisor may participate in the proceedings: the advisor may not engage in disruptive behavior during any meeting or related proceeding; the advisor may not be a witness in the proceeding; the advisor may not answer questions for any party or witness.

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 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 two days' notice with respect to 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 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.

At the conclusion of the investigation, the investigator shall create an investigative report that fairly summarizes relevant evidence and simultaneously send the report to each party and the party's advisor, if any, for their review and written response. The investigator shall also provide a copy of the report to the decision maker and the Title IX coordinator at that time. The investigator will send the investigative report in an electronic format or a hard copy, at least ten (10) calendar days prior to 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 or the investigator(s).

During the ten-day period following issuance of the investigator's report, 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.

The decision maker may also make inquiries of any party or witness regarding additional information sought by the decision maker. In any such instance, the decision maker shall provide the additional information to the parties and allow them two days for their written review and response, all prior to the decision maker issuing a determination of responsibility.

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.

**Determination regarding responsibility:** The decision-maker will issue a written determination regarding responsibility. To reach this determination, the decision-maker(s) must apply the preponderance of the evidence standard to each finding of fact and to the ultimate determination of whether a violation of this Policy exists.

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;
- 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 imposes 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.

Disciplinary sanctions/consequences may be imposed on a student Respondent who is determined responsible for violating this Policy (i.e., engaging in Sexual Harassment), ranging from informal discipline (i.e., re-assignment, detention) to formal discipline (i.e., suspension/expulsion).

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. An authorized administrator can consider the recommendation(s) and implement an appropriate remedies and consequences 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, where applicable.

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. An authorized administrator can consider the recommendation(s) and implement the discipline in compliance with applicable due process procedures, whether statutory or contractual. Disciplinary sanctions/consequences that may be imposed on an employee Respondent who is determined responsible for violating this Policy (i.e., engaging in Sexual Harassment) range from verbal counseling up to and including

termination of employment. 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.

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. 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), ranging from oral or written warnings up to cancellation of contracts or restrictions from Board property. The Superintendent will take appropriate action based on the recommendation.

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 recommending a disciplinary sanction/consequence, the decision maker 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.

If the decision maker determines that Respondent did not engage in conduct in violation of this Policy 2266, the District may apply its other policies and codes of conduct to Respondent's actions.

## **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. A procedural irregularity occurred 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; or
- 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.

The parties may not challenge the ultimate disciplinary sanction/consequence that is imposed under this Policy. However, a respondent retains all rights provided to them to under State law or any applicable collective bargaining agreement or statute. **Nothing herein shall prevent the Superintendent from implementing appropriate remedies, however, excluding disciplinary sanction, while the appeal is pending.**

Any party wishing to appeal the decision-maker'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 five (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.

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 decisionmaker(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.

The parties' written statements in support of, or challenging, the determination of responsibility must be submitted within five days after the Title IX Coordinator provides notice to the non-appealing party of the appeal.

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(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 ten days of when the parties' written statements were submitted.

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. 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, is a serious violation of this Policy that can result in imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Complaints alleging retaliation related to a complaint of sexual harassment may be filed according to the grievance procedures set forth above. Complaints alleging retaliation related to a complaints of sexual discrimination must be filed according to the grievance procedures for sex discrimination under Board Policy 2260.

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 pursuant to Board Policy 2260, including any individual who has made a report or filed a Formal Complaint of Sexual Harassment under this Policy, 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). The Complainant and Respondent and their advisors will be advised of the identities of all parties, advisors, and witnesses and the evidence contributed.

### **Application of the First Amendment**

The Board will construe and apply this Policy consistent with the First Amendment to the U.S. Constitution.

## **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, 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.

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.

## **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, 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, decision makers, 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, investigator, decision maker, decision maker for appeals, and facilitator of informal resolution processes.

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, and facilitator of informal resolution processes.

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, and facilitator of informal resolution processes to any suitably qualified individual and such delegation may be rescinded by the Superintendent at any time.

## **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 and approving 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.

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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)

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Last Revised	November 11, 2020

#### 6144 - **INVESTMENTS**

This policy, in conjunction with the Ohio Revised Code, as amended, will govern the investment activities of the District. It will be reviewed to assure the flexibility necessary to effectively manage the portfolio.

The purpose of the investment account is to allow for the maximum return on the District's excess cash balances consistent with complete safety of the portfolio's principal value and the liquidity desired.

All investment activities will be undertaken by the Treasurer or those persons assigned thereby to engage in investment activities.

The District will be permitted to invest any security specifically authorized by the Ohio Revised Code.

Under the guidelines of this policy, no security will be purchased that has a remaining term to final maturity of more than five (5) years, except as otherwise provided by law. Swapping (the simultaneous sale of one security and purchase of another) will be permitted.

All portfolio transactions will be performed on a competitive basis when practical.

A copy of this policy must be forwarded to each broker or dealer doing business with the District. Their signature will be required indicating that they have received, read, understood, and will abide by its contents when recommending or selling investment to the District. A file will be maintained with this investment policy of all approved securities dealers and banks with which the District will transact activities.

#### **WE DO NOT HAVE ANYTHING FROM THE TEMPLATE BELOW IN OUR CURRENT POLICY.**

~~The Board of Education authorizes the Treasurer to make investments of available monies from the funds of the District in securities authorized by State law. These shall include:~~

- ~~A. bonds, notes, or other obligations of or guaranteed by the United States, or those for which the faith of the United States is pledged for payment of principal and interest thereon but does not include stripped principal or interest obligations of such obligations;~~
- ~~B. bonds, notes, debentures, or any other obligations or securities directly issued by a Federal government agency or instrumentality;~~
- ~~C. interim deposits in Board approved depositories;~~
- ~~D. bonds and other obligations of the State, or the political subdivisions of this state, provided that, with respect to bonds or other obligations of political subdivisions, all of the following apply the:~~

1. ~~bonds or other obligations are payable from the political subdivision's general revenues and backed by the full faith and credit of the political subdivision;~~
  2. ~~bonds or other obligations are rated, at the time of purchase, in the three (3) highest classifications established by at least one (1) nationally recognized standard rating service and purchased through a registered securities broker or dealer;~~
  3. ~~aggregate value of the bonds or other obligations does not exceed twenty percent (20%) of interim monies available for investment at the time of purchase; and~~
  4. ~~Treasurer is not the sole purchaser of the bonds or other obligations at original issuance; and~~
  5. ~~the bonds or other obligations mature within ten (10) years from the date of settlement;--~~
- E. ~~no-load money market mutual funds consisting exclusively of obligations described in A. and B. above or repurchase agreements secured by such obligations, provided such investments are made only through eligible institutions authorized by R.C. 135.03;~~
- F. ~~the Ohio Subdivision Fund (STAR Ohio);~~

~~Under no circumstances may the Treasurer invest in a derivative as defined by the Revised Code, reverse repurchase agreements, or other funds prohibited by law. The Treasurer shall also not make investments which s/he does not reasonably believe can be held until the maturity date or leverage any investment.~~

~~No investment shall be made under division (D), as described above, unless the Treasurer has completed additional training that has been approved by the Treasurer of State and is either conducted by or provided under the supervision of the Treasurer of State. The Treasurer is also authorized to enter into written repurchase agreements with any eligible institution in accordance with R.C. 135.03 provided that under the terms of the agreement the eligible institution agrees unconditionally to repurchase any of the securities listed in divisions (A) through (E), above. Such agreements may be either overnight or within a time not to exceed thirty (30) days and must comply with the requirements of R.C. 135.14(E).~~

~~Upon a two-thirds (2/3's) vote of its members, the Board may authorize the Treasurer to invest up to a maximum of forty percent (40%) of the District's interim funds in either of the following:~~

- A. ~~Commercial paper notes issued by a for profit corporation, business trust or association, real estate investment trust, common law trust, unincorporated business, or general or limited partnership which has assets exceeding \$500,000,000. Such notes must:~~
1. ~~be rated at the time of purchase in the highest classification established by at least two (2) nationally recognized standard rating servicers;~~
  2. ~~have an aggregate value that does not exceed ten percent (10%) of the outstanding commercial paper of the issuing entity;~~
  3. ~~mature not later than 270 days after purchase; and~~
  4. ~~be limited to the aggregate of five percent (5%) of interim monies available for investment at the time of purchase, when issued by a single issuer.~~

~~No investment shall be made under this provision unless the Treasurer has completed additional training that has been approved by the Treasurer of State and is either conducted by or provided under the supervision of the Treasurer of State.~~

- B. ~~Bankers acceptances of banks that are insured by the Federal Deposit Insurance Corporation ("FDIC") and that matures no later than 180 days after purchase.~~

~~Except as provided in Section D above or as otherwise provided by law, investments made by the Treasurer must mature within five (5) years from the date of settlement, unless they are matched to a specific obligation or debt of the District.~~

~~The Treasurer shall prepare annually and submit to the Board, the Superintendent of Public Instruction, and the Auditor of State, on or before August 31st, a report listing each investment made pursuant to (A) and (B) above, during the preceding fiscal year, income earned from such investments, fees and commissions paid in connection with the investments, and any other information required by the Board, Superintendent, and the Auditor of State.~~

~~[ ] The purpose of the investments is to maximize the returns on the District's excess cash balances consistent with safety of those monies and with the desired liquidity of the investments.~~

~~[ ] In making investments authorized by R.C. 135.14, the Treasurer may retain the services of an investment advisor, provided the advisor is licensed by the Division of Securities under R.C. 1707.141, or is registered with the Securities and Exchange Commission and possesses experience in public funds investment management, specifically in the area of State and local government investment portfolios, or the advisor is an eligible institution in accordance with R.C. 135.03.~~

Whenever the Treasurer classifies public money as interim funds, the Treasurer must notify the Board within thirty (30) days. If the Board does not agree with the Treasurer's classification or investment(s), the Board may order the Treasurer to sell or liquidate any investment(s) or deposits. The Board's order will specifically describe the investment(s) or deposit(s) and fix the date upon which they are to be sold or liquidated for cash at the current market price. Neither the Treasurer nor the members of the Board will be held accountable for any loss occasioned by sales or liquidations of investment(s) or deposit(s) at prices lower than their cost. Any loss or expense incurred in making such sales or liquidation is payable as other expenses of the Treasurer's office.

Unless the District's annual portfolio of investments is \$100,000 or less, the Treasurer must place on file with the Auditor of State a written investment policy that has been approved by the Board of Education and signed by all entities conducting investment business with the Board. Earnings on an investment may become a part of the fund from which the investment was made, unless otherwise specified by law.

The Treasurer, acting in accord with the law, may withdraw funds from approved public depositories or sell negotiable instruments prior to maturity.

Provided the Board has no outstanding obligation(s) with respect to a loan received under the authority of R.C. 3313.483, the Treasurer of State and the Board issuing obligations under R.C. Chapter 133 that mature within one (1) year from the original date of issuance may enter into an agreement providing for:

- A. the purchase of those obligations by the Treasurer of State on terms and subject to conditions set forth in the agreement;
- B. the payment by the Board to the Treasurer of State of a reasonable fee as consideration for the agreement of the Treasurer of State to purchase those obligations.

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Legal

R.C. 133.23, 135.01-.21, 135.22, 135.45, 135.142, 3317.06, 3315.01, 3315.40, 5705.10



Book	Policy Manual
Section	Board Approved Policies Vol. 39, No. 2 January 2021
Title	Copy of Vol. 39, No. 2 - January 2021 Revised POST-ISSUANCE COMPLIANCE FOR TAX-EXEMPT AND TAX-ADVANTAGED OBLIGATIONS
Code	po6146
Status	
Adopted	December 18, 2017

## 6146 - POST-ISSUANCE COMPLIANCE FOR TAX-EXEMPT AND TAX-ADVANTAGED OBLIGATIONS

The Worthington City School District, Franklin County, Ohio (the "District") uses bonds as one means of financing capital projects in support of its mission. This Post-Issuance Compliance Policy (the "Policy") outlines the policies and procedures to promote compliance with federal income tax and securities laws, as well as the requirements set forth in the bond documents for each bond issue. The policy is to strictly follow the U.S. Constitution and laws and the Ohio Constitution and laws. For purposes of this policy, the term "bonds" means any obligation of the District incurred for the purpose of borrowing money, including, without limitation, bonds, notes and certificates of participation in capital leases.

### 1. Monitoring of Post-Issuance Compliance

Monitoring of post-issuance compliance for bonds will be the responsibility of the Treasurer. The Treasurer may designate employees to carry out the Treasurer's duties under this Policy on the Treasurer's behalf in the same manner and with the same effect as any similar designation for any other purpose permitted by law.

### 2. Compliance with Covenants in Bond Documents

The Treasurer shall ensure compliance with all financial and operational covenants made by the District in the bond documents, including but not limited to financial reporting, insurance requirements, the recording of mortgages, restrictions on incurring additional indebtedness, restrictions on the disposition of property, and restrictions on granting liens or encumbering property.

### 3. Federal Tax Law Compliance

#### 1. Proper Use of Proceeds

The Treasurer shall ensure that bond proceeds are allocated to expenditures in a manner that is consistent with the purpose for which each bond issue is undertaken, as set forth in any tax compliance certificate or agreement related to each bond issue.

#### 2. Investment of Bond Proceeds

The Treasurer shall ensure that bond proceeds are invested in investments that are permissible under the terms of the Ohio Revised Code, the bond documents, and any applicable federal tax laws.

#### 3. Arbitrage Rebate Calculations

The Treasurer shall ensure the timely completion of arbitrage rebate calculations and filings.

#### 4. Administration of Direct Pay Bonds

The Treasurer shall ensure the proper administration of each issue of bonds qualifying for the payment by the Federal government of a credit equal to a percentage of interest on such bonds, including the timely

completion and filing of any forms required by the Internal Revenue Service to maintain or establish the applicable status of the bonds for purposes of federal income taxation.

5. Use of Bond-Financed Facilities

The Treasurer shall consult with Bond Counsel for the District before entering into any agreement or other arrangement for the sale, lease, or use of bond-financed property, including, but not limited to, service, vendor, and management contracts, research agreements, licenses to use bond-financed property, or naming rights agreements. The Treasurer or the designee of the Treasurer shall review such agreements for compliance with federal tax laws and complete a Private Business Use Contract Review Worksheet (attached as Exhibit A) to document that such review has been completed.

6. Post-Issuance Transactions

The Treasurer shall consult with Bond Counsel for the District before making any modifications or amendments to the bond documents for a bond issue, including, but not limited to, entering or modifying investment agreements; making any change in security for the bonds; engaging in post-issuance credit enhancement transactions (e.g., bond insurance, letter of credit) or hedging transactions (e.g., interest rate swap, cap); terminating or appointing successor trustees; releasing any liens; or reissuing the bonds.

7. Remedial Action

In the event that it is determined that any use of bond proceeds or bond-financed facilities is inconsistent with the character of the status for federal income tax purposes of the bonds, the Treasurer shall consult with the District's Bond Counsel for the purpose of determining the nature and extent of any remedial action necessary or proper for the District to take with respect to such bonds or bond-financed facilities according to Treasury Regulations Section 1.141-12 or other remedial actions authorized by the Commissioner of Internal Revenue under 1.141-12(h).

4. Federal Securities Law Compliance

1. The Treasurer shall ensure compliance with all applicable federal securities laws and regulations, including the continuing disclosure requirements of Rule 15c2-12 promulgated under the Securities Exchange Act of 1934.

2. To the extent required by any continuing disclosure agreement, the Treasurer shall:

1. On an annual basis, submit an annual financial report, including audited financial statements and any other information required by the continuing disclosure agreement, to the entities required by the bond documents.
2. Make a timely report of any significant events (as defined by the continuing disclosure agreement) related to the District's outstanding bond issues to the entities required by the bond documents.

5. Recordkeeping

1. Responsibility for Records Maintenance

1. The Treasurer shall be responsible for maintaining records related to bonds of the District.
2. The Treasurer shall maintain a central list of records related to each issue of bonds of the District. The list shall identify:
  1. The name and date of the document related to the issue,
  2. The person or office responsible for the document, and
  3. The physical or electronic location of the document.

2. Bond Records to be Maintained

1. The following records shall be maintained for each outstanding bond issue for the term of the outstanding bond issue plus three years:

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1. Basic records relating to the bond transaction, including the trust indenture, loan, lease, or other financing agreement, the relevant IRS Form 8038 (including Forms 8038-G, 8038-B, or 8038-TC, as applicable) with proof of filing, and bond counsel opinion shall be maintained by the Treasurer's Office;
- 
2. Documentation evidencing the expenditure of bond proceeds, such as construction or contractor invoices and receipts for equipment and furnishings, as well as records of any special allocation made for tax purposes shall be maintained by the Treasurer's Office;
- 
3. Documentation evidencing the lease or use of bond- financed property by public and private sources, including, but not limited to, service, vendor, and management contracts, research agreements, licenses to use bond- financed property, or naming rights agreements shall be maintained by the District office executing such agreement for use of bond-financed property; and
- 
4. Documentation pertaining to investment of bond proceeds, including the yield calculations for each class of investments, actual investment income received from the investment of proceeds, and rebate calculations shall be maintained by the Treasurer's Office.

2. The Treasurer shall maintain the District's audited financial statements for not less than seven years.

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6. Bond Counsel Review

The Treasurer may engage Bond Counsel to assist in implementing this policy, including, but not limited to, assistance in the following areas:

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1. Rebate calculations and compliance;
- 
2. Records retention;
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3. Periodic review of the central list of records related to bonds for compliance with federal tax laws regarding private business use;
- 
4. Other federal tax law compliance, including any annual reporting requirements that may be imposed by the Internal Revenue Service; and
- 
5. Federal securities law compliance.

7. Training Requirements

Within six months of becoming the Treasurer, and on an annual basis thereafter, the Treasurer and the Treasurer's designees, if any, shall undergo training regarding basic federal tax concepts relating to bonds and records required to be maintained under this policy.

8. Annual Policy Review

On an annual basis, or sooner if deemed necessary by the Treasurer, the Treasurer shall review this policy and assess the District's compliance with this policy. The Treasurer shall recommend changes to this Policy as appropriate to ensure compliance with any covenants in the bond documents or the requirements of federal tax and securities laws and any other applicable law.

CROSS REFS.: 133.03 Public Securities, 133.04 Net Indebtedness, 133.05, 133.06, 133.07, 133.18

DEBT GUIDELINES

This Debt Policy is intended to assist District officials by providing guidance on the following questions:

1. When is the proper time to use available cash for projects and borrow for projects?

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2. Under what circumstances are voted general obligation bonds, un-voted general obligation bonds, special revenue notes and lease purchase certificates appropriate?
3. What are the District's goals with respect to interest rates, payment terms and other conditions of a financing?
4. What administrative policies should be in place with respect to debt management?

Definitions – For purposes of this policy, the term "debt" is defined as any type of borrowing for capital facilities and equipment. The word "security" refers to bonds, notes, lease purchase certificates, and other loan or debt obligations.

#### CAPITAL FUNDING GUIDELINES

Cash Funding – the District encourages funding capital projects with cash from the general fund's capital outlay line item or its permanent improvement fund on a "pay as you go" basis, to the extent possible and prudent. Cash funding for this purpose includes the sale of short-term securities that are paid in full within five years or within the maximum life of the capital item, whichever is less. Cash funding is recommended under the following circumstances:

1. When unreserved cash balances are available for capital in the District's general fund equal to or greater than 40% of the general fund's annual expenditures. At no time will cash funding be recommended for projects in a year in which the general fund balance is projected to fall to 25% of expenditures or lower.
2. To finance the purchase of assets with average lives of five years or shorter, such as equipment and maintenance related items.
3. When market conditions are unstable or unattractive making it difficult to achieve acceptable borrowing terms and interest rates. To make this determination, District officials will review historical indices, market conditions and general market conditions when making financing decisions.

General Obligation Bonds – after determining that borrowings will be used to fund all or a portion of a long-term capital project or projects, general obligation bonds (GOs) are the preferred funding option. GO bonds are expected to be the District's lowest interest rate, lowest cost borrowing alternative. There are two (2) Distinct types of School District GO bonds in Ohio and each is defined below along with guidelines for pursuing either type of funding:

1. Voted general obligation bonds - Voted GO bonds are authorized by voter referenda.

Ballot approval gives the District the authority to collect on an annual basis whatever amount of millage dollars are required to make that year's bonds payments. The "unlimited tax" nature of this pledge creates a very strong and reliable security for investors and therefore is expected to achieve the highest bond rating and lowest interest cost financing possible. Voted bonds will be used for long-term projects when general fund capital line item dollars or permanent improvement levy dollars are insufficient to make the necessary debt payments. General obligation bonds will not exceed state debt limitations for school districts unless the District is authorized by the State to exceed those limits.

2. Un-voted general obligation bonds – Un-voted GO bonds are authorized by District resolution and paid from all eligible funds not otherwise obligated.

State law severely restricts the amount of un-voted securities that a school district may issue to 1/10th of 1% of tax valuation. However, there are a few exceptions to this restriction such as for energy notes, bus notes, Classroom Facilities Program matching securities and Chapter 133.06(H) pilot payment supported securities. Un-voted securities are further restricted by Ohio's 9/10th of 1% limit for certain types of securities that can exceed the 1/10th of 1% limit and the "ten mill" limitation. Before pursuing un-voted debt, District officials must confirm available debt capacity under the limits and judge the District's ability to make debt payments from its general fund or other funds. Officials will pursue un- voted securities for projects that are limited in scope and better paid from available resources than voted revenues. Un-voted general obligation securities are expected to carry similar bond ratings and achieve similar to slightly higher interest rates as voted bonds depending upon final maturity and other fiscal factors. Therefore, un-voted GOs are preferred over other possible borrowing alternatives, such as permanent improvement notes and lease purchase certificates, when appropriate.

Permanent Improvement Notes – permanent improvement notes (PI notes) are special obligations authorized by Ohio law. PI notes can be issued in offering amounts equal to one-half of collections projected over the life of the levy, ten years in the case of a continuing levy, or in a greater amount upon state approval. This type of borrowing is exempt from the debt limitations. PI notes are recommended when PI revenues are available and not otherwise committed to pay- as-you-go capital expenditures and when GO debt capacity is unavailable.

Due to its restricted final maturity, a PI note is best used to finance smaller scale projects such as land acquisition or to finance projects with useful lives of ten years or less. PI notes are expected to receive similar ratings and interest

rates to the District's GO securities due to the pledged revenue source for repayment and short final maturity.

Lease Purchase Certificates of Participation – lease purchase certificates of participation (COPs) are considered an appropriate funding alternative when GO bonds and PI Notes are unavailable or unsuitable. COPs are created through a series of complex legal agreements designed to set up a lease, lease-back arrangement. Once the lease is established, a trustee creates certificates of participation in the lease payments which are sold by the underwriter to investors. The price of the certificates funds the project. This type of financing requires participation by a third party lessor recruited or created by the District, preferably an independent Education Foundation or other non-profit entity. Due to the complex legal structure of a COPs issue and its higher transaction fees and interest rate expense, this funding alternative is not preferred and should be used only for critical projects and when other funding options are unavailable. COPs do not constitute a legally enforceable obligation of debt; therefore the District's commitment and ability to make payments on the certificates is determined in part by the District's desire to appropriate lease payments annually. The potential for "non-appropriation" increases risk to the buyers of the securities and thus increases the interest rate of the borrowing over the previously discussed alternatives, sometimes significantly. In the event of non-appropriation, the District will surrender the financed project to the Trustee on behalf of the certificate holders. For these reasons, the District will pursue COPs financings only when absolutely necessary and will attempt to structure them with the shortest final maturities possible.

Type of Sale – District officials will sell the District's securities through competitive or negotiated public offerings of securities or through private sale to investors, including local banks. The District will follow the lowest cost, most efficient process possible.

Short-Term Financing – for purposes of this policy, short-term financing refers to bond anticipation notes (BANs), defined as short-term obligations that typically mature within one year of issuance at which time they must be paid in full or refinanced with additional BANs or long-term obligations. BANs are often used for interim financing during the construction cycle of a project. Prior to or upon completion of the project, BANs are typically refunded with fixed-rate, long-term bonds. BANs are also sometimes used for permanent financing, most suitably for projects with average lives of ten or less years. Short-term financings such as BANs historically create lower cost borrowing due to comparatively lower interest rates and lower financing costs. However, BANs expose the District to interest rate risk, which is the risk that interest rates move higher in advance of the BANs maturity date when refunding BANs or bonds will be sold. BANs also expose a District to credit risk and market access risk, which may threaten or challenge the District's ability to efficiently refund its BANs in the future. The District considers BANs to be appropriate under the following conditions:

1. As a source of permanent financing for projects with useful lives of less than five years, but only when there are alternative funding options in the event marketplace conditions or other events prohibit the sale of refunding BANs
2. As a temporary funding source prior to and in anticipation of the sale of a long-term obligation, with a preference not to exceed three years
3. When the amount of financing is less than \$1 million and therefore the cost of issuing bonds is cost prohibitive.
4. At no time will the District's exposure to BANs, measured by the amount of BANs outstanding compared to total debt obligations outstanding, exceed 20% of total authorized and outstanding debt obligations for a period greater than six months.

Long-Term Variable Rate Financing - variable rate bonds are defined as bonds that carry interest rates that change from time to time based upon market indices and conditions. Variable rate long-term bonds are prohibited by state law for school districts.

Long-Term Fixed Rate Financing – long-term fixed rate financing (long-term bonds) is defined as fixed rate bonds with fixed payments and final maturities in excess of one year. The Board will consider the following prior to issuance.

1. For capital projects with useful lives of five years or greater and when issued in amounts of \$1 million or greater.
2. For energy conservation capital projects supported by a savings report from a qualified energy project consultant and approved by the state documenting that the project's annual energy savings in dollars will offset annual bond payments.
3. For terms up to forty years. However, every effort will be made to keep the final maturity of bonds less than forty years when and if market conditions and other factors provide the opportunity for a shorter term.
4. When the General Obligation 20 Bond Index, published by the Bond Buyer, (or an industry recognized index of a similar nature) is eighty-five percent or less of the index's twenty-year average. Long-term bonds are

considered less appropriate when the index is one hundred and twenty percent or more of the index's twenty-year average. The District will make every effort to structure the terms of its bonds to take advantage of the conditions in the market at that time.

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- 5. When the District's underlying bond rating is Single A or higher and such rating is not unduly threatened by the issuance of new debt. Officials will work with the District's financial advisor to review standard rating measures to make this judgment, primarily reviewing a collection of debt ratios, payment history, voter history, wealth and operating conditions.
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- 6. Long-term bonds are preferred when the District is participating in state assisted building programs. Further, long-term bonds are considered especially attractive when the District is able to take advantage of state and federal programs designed to lower the District's effective cost of borrowing, including credit enhancement programs and interest rate subsidy bond programs.

Refunding Securities – refunding securities are recommended when the District is able to achieve a material reduction in annual payments or a revision to its existing bond terms to achieve a valid governmental purpose. Stand-alone refunding securities are expected to achieve present value savings of 3% or greater. Exceptions to this include securities with maturities shorter than ten years and when securities are refinanced to re-structure annual payments to achieve a particular financial management goal.

CROSS REFS.: ORC 133.01, 133.02 Public Securities, 133.021, 133.03 Public Securities

## DEBT GUIDELINES

### ADMINISTRATIVE PROCEDURES

- Minimum General Fund Balance – the District recognizes the need to maintain sufficient year- end carry-over balances in its general fund to minimize undesirable programmatic reductions, including staffing reductions. Therefore it is essential to clearly define a fund balance level that triggers a decision to make budgetary adjustments and possibly seek voter approval of new taxes well in advance of a cash shortfall. Further, the District recognizes the value of such a policy with respect to its debt management practices and underlying bond rating. As such, the District defines its minimum unreserved general fund balance as 1/12 of annual expenditures in the third year of the forecast and will initiate budgetary actions or proposed levy to voters in a timely manner to address projected balances below this level.

- Managing Bond Subsidy Programs – in the event that the federal subsidy program of 2009/10 return and the District participates in them, the District will engage a bank paying agent/filing agent to apply for semi-annual and annual bond subsidy payments due to the District from any subsidy bond program on its behalf, if any, and to receive and disperse those funds at the District's direction. District officials intend to use any such payments for debt service on the qualifying bonds, but retain the right to direct the payments to any other fund deemed appropriate. Subsidy payments directed to the bond retirement fund will be factored into the District's annual certification of bond issue tax millage. For bond rating purposes, first year debt payments will be structured to create an excess bond retirement fund balance equal to or greater than the first full year's subsidy payment. (See bond retirement fund below.) District officials recognize the fact that subsidy payments may be withheld by the federal government to make payment on any disputed and unrelated lien or past due obligation owed by the District to the federal government and that any such withholding could have a material adverse effect on its ability to make bond payments. As such, the District will make every effort to remain current on any obligations owed the federal government and will not issue such bonds without first verifying that it has no such lien or past due obligations at the time.

- Bond Retirement Fund – the District will strive to maintain an unreserved bond retirement fund year-end balance equal to its maximum semi-annual debt payment on bonds outstanding.

- Credit Enhancement – the District will participate in any available state credit enhancement program to the extent it qualifies for such program and the program's "programmatic bond rating" reduces the District's interest rates and thus cost. The District understands that if for any reason the District is unable to make a debt payment in full for securities issued under certain credit enhancement programs, such as the State of Ohio's Foundation Credit Enhancement Program, that a paying agent/program trustee may direct the state to intercept the District's monthly operational state aid payments to the extent necessary to cover the shortfall. The District may also explore the value of purchasing bond issuance or other credit enhancement facilities and will do so when advised by its financial advisors that such enhancements will lower its overall interest costs.

- Federal Tax Law – all financings will comply with the restrictions set forth in federal tax law. In addition, the size and timing of notes or bonds may be affected by options provided in the tax code, such as rebate exemptions. District officials will retain professional assistance to comply with all filing and post issuance compliance procedures regarding construction spending guidelines; rebate calculations and payments; private use rules; reimbursement of prior expenditures and subsidy payments, among others.



Continuing Disclosure – the District will comply with its continuing disclosure obligations by filing required information annually with the appropriate national repository. This requirement will be satisfied through the filing of the audit and certain additional information as required in its compliance certificates, including material event notifications.

Economic Development – District officials may consider opportunities to encourage economic development through the sale of debt on a case by case basis to the extent such development achieves a needed educational purpose. Such projects may include public private partnerships (P3) as well as inter-governmental collaborations.

Professional Services – professionals retained by the District in connection with the District's debt program shall provide full disclosure to the District of any formal or informal relationships or agreements outside of the District that may be in conflict with the best interests of the District. The District shall retain professionals in connection with its debt issues based upon demonstrated qualifications, including past successful performance. Officials will review professional relationships periodically as appropriate.

Debt Policy Review – the debt policy will be reviewed from time to time in keeping with District practices to all policies and as necessary to comply with state and federal law.

CROSS REFS.: ORC 133.01, 133.02 Public Securities, 133.021, 133.03 Public Securities

## **WE DO NOT HAVE ANYTHING FROM THE TEMPLATE BELOW IN OUR CURRENT POLICY.**

### **FOR RELEASE "UPON REQUEST"**

The Board of Education may, from time to time, finance its capital improvements and operations through the issuance of debt obligations that are eligible for tax benefits under the Internal Revenue Code of 1986, as amended (the "Code"), and regulations promulgated thereunder ("Treasury Regulations"). Such obligations may include tax-exempt obligations and/or obligations eligible for tax credits (direct subsidies to the School District or tax credits to bond owners). All such tax-exempt obligations or tax-advantaged obligations are referred to herein as "Obligations," whether in the form of general obligation bonds, revenue bonds, bond anticipation notes, tax anticipation notes, lease-purchase obligations, installment purchase obligations or otherwise. This policy and related AG-6146 document practices and describes various procedures and systems designed to identify on a timely basis facts relevant to demonstrating compliance with the requirements that must be satisfied subsequent to the issuance of Obligations in order that the interest on such Obligations continue to be eligible to be excluded from gross income for Federal income tax purposes or that the Obligations continue to receive tax-advantaged treatment. The Federal tax law requirements applicable to each issue of Obligations will be detailed in the nonarbitrage or tax compliance certificate prepared by bond counsel (the "Tax Certificate") and signed by officials of the District and the post-closing compliance checklist provided by bond counsel with respect to such issue. This policy and related AG-6146 establish a permanent, ongoing structure of practices and procedures that will facilitate compliance with the Code, Treasury Regulations and SEC Rule 15c2-12 (the "Rule").

The Board recognizes that compliance with applicable provisions of the Code and Treasury Regulations is an on-going process, necessary during the entire term of the Obligations, and is an integral component of the District's debt management. Accordingly, the analysis of those facts and implementation of this Policy and Administrative Guidelines will require on-going monitoring and consultation with an attorney experienced in legal work relating to the issuance of tax-exempt obligations or tax-advantaged obligations ("Bond Counsel") and the District's accountants.

This policy and the related AG-6146 do not address any post-issuance compliance requirements under State law. Nor is this policy and related AG-6146 a substitute, or a replacement, for any Tax Certificate or a post-issuance compliance checklist relating to specific Obligations. The District is responsible for compliance with any such Tax Certificate or post-issuance compliance checklist.

This policy may be modified, expanded, abridged, or otherwise amended only by the Board upon consultation with the District's attorney and Bond Counsel, but without any notice to or consent from any trustee, bondholder or any other person.

#### **A. Investment and Expenditure of Proceeds**

The District's system of internal controls and accounting will be capable of tracking the investment and expenditure of proceeds of Obligations and other amounts subject to special requirements, and the allocation of such proceeds and other amounts to District facilities. Appropriate coding will be developed to identify District facilities (or portions thereof) financed or refinanced by Obligations. Such Administrative Guidelines will ensure that such proceeds are expended only for the purposes authorized by the resolution and, as applicable, referendum, pursuant to which such Obligations were issued and in compliance with the Tax Certificate relating to the Obligations or other instructions of Bond Counsel.

#### **B. Financed Facilities**

The District will track the use of facilities (or portions thereof) financed or refinanced by Obligations in the private trades or businesses for private business use. Arrangements for the sale, disposition, lease, sublease, management or other use of more than \_\_\_\_% (although not included in U.S. Department of Treasurer regulations, 1% threshold is suggested as a trigger for greater security) **[NOTE: Private business use limit applies to each bond issue rather than each financed facility.]** of facilities financed or refinanced by Obligations with a term of (i) less than 200 days will be subject to prior

review and approval by the Treasurer, and (ii) equal to or greater than 200 days will be subject to prior review and approval by the Treasurer and Bond Counsel. The Treasurer will track the aggregate annual private business use (if any) of facilities financed or refinanced by Obligations.

C. **Periodic Review**

The District will periodically review compliance with the requirements of the Code and Treasury Regulations necessary to preserve the tax advantages of such Obligations. Such reviews will include final allocations of proceeds not later than 18 months after completion of facilities financed or refinanced with proceeds of Obligations and annual reviews to ensure private business use of such facilities does not exceed allowable levels. Such annual review will be conducted in connection with the preparation of the District's audited financial statements.

D. **Potential Non-Compliance**

If the Treasurer, upon any annual review or otherwise, discovers non-compliance with any requirements of the Code or Treasury Regulations necessary to preserve the tax advantages of such Obligations, the Treasurer will, after consultation with the District's attorney and Bond Counsel, take necessary actions to remedy any such non-compliance, including among others the use of the "remedial actions" described in Treasury Regulations 1.141-12 and the IRS Voluntary Closing Agreement Program.

E. **Retention of Professionals; Rebate Analyst**

The District will engage such professionals or consultants as are necessary, in the judgment of the Superintendent, to ensure that the requirements of the Code and Treasury Regulations necessary to preserve the tax advantages of such Obligations are timely met, including, without limitation, the requirement to compute and pay rebatable arbitrage to the United States government or to confirm an exception thereto. The Treasurer/Superintendent will ensure that all information reports or other returns or filings with the United States Department of Treasury or Internal Revenue Service timely will be filed on behalf of the District.

F. **Purchase of Investments**

All investments of the proceeds of Obligations will be purchased at fair market value, as defined in the Code and Treasury Regulations, and will comply with the requirements of the Code and Treasury Regulations relating to yield restriction as advised by Bond Counsel.

G. **Credit Enhancement Transactions**

The Treasurer will consult with Bond Counsel prior to engaging in any post-issuance credit enhancement transactions (i.e., bond insurance or letters of credit) or hedging transactions (i.e., interest rate swaps, caps, etc.) relating to any Obligation.

H. **Subsidy Payments**

The Treasurer will implement proper administrative guidelines to ensure that any Federal subsidy payable in respect of any direct pay tax credit bonds is requested by the timely filing of any required return or other documentation and that, upon receipt, such amounts are transmitted to the appropriate account of the District.

I. **Post-Issuance Modifications**

The Treasurer will consult with Bond Counsel prior to any modification of the interest rate, maturity date, or other material terms of any Obligation.

J. **Records Retention**

The District will retain records sufficient to demonstrate compliance with the requirements of the Code and Treasury Regulations necessary to preserve the tax advantages of such Obligations for the period required by law, presently understood to be the life of the Obligations or any succeeding refunding Obligation plus three (3) years.

K. **Continuing Disclosure**

The Treasurer will implement proper Administrative Guidelines to ensure that the District complies with any undertakings to provide continuing disclosure in accordance with the Rule, including annual filing of operating and financial information and notices of listed "material events." The Treasurer may enter into a contract with a third party to assist the District in complying with its continuing disclosure obligations.



L. **Training and Education**

~~The Board authorizes the Superintendent, Treasurer, and any other person assigned responsibilities under this Policy and the Administrative Guidelines to attend educational seminars and conferences providing training and education on post-issuance compliance issues at least once a year and will pay the authorized expenses of such person.~~

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Legal                      Internal Revenue Code of 1986, as amended  
                                 Treasury Regulations  
                                 SEC Rule 15c2-12

Book Policy Manual

Section Board Approved Policies Vol. 39, No. 2 January 2021

Title Copy of Vol. 39, No. 2 - January 2021 Revised BUDGET PREPARATION

Code po6220

Status

6220 - ~~TAX~~ BUDGET PREPARATION **WE DO NOT HAVE THIS POLICY**

The District's operation and educational plan is reflected in its budgets. Each year, the Board of Education will cause to have prepared and then review the General Fund as well as the other funds which comprise the tax budget.

The Treasurer CFO may include in the budget a Budget Reserve Fund. The amount of the reserve shall be

( ) stipulated by Board resolution.

OR

( ) of at least \_\_\_\_\_ percent ( \_\_\_\_\_ %) of the General Fund.

The Board directs the \_\_\_\_\_ to present the tax budget to the Board prior to January 15th of each year. When presented to the Board for review and/or adoption, the tax budget shall indicate the information required by the State Auditor's Office.

With an affirmative vote of the majority of the County Budget Commission, including the County Auditor, the requirement that the Board of Education adopt a tax-budget may be waived. Therefore, the Board directs the \_\_\_\_\_ to prepare the tax budget in compliance with the requirements of the \_\_\_\_\_ County Auditor, the Ohio Revised Code, and the State Auditor's Office.

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Legal R.C. 5705.13, 5705.28(A)(1), 5705.281, 5705.29, 5705.30

Book	Policy Manual
Section	Board Approved Policies Vol. 39, No. 2 January 2021
Title	Copy of Vol. 39, No. 2 - January 2021 Revised DEPOSIT OF PUBLIC FUNDS: CASH COLLECTION POINTS
Code	po6600
Status	
Adopted	December 18, 2017

#### 6600 - DEPOSIT OF PUBLIC FUNDS: CASH COLLECTION POINTS

Monies received at cash collection points throughout the District must be deposited in accordance with this policy. Cash collection points are any areas within a school where money flows into the District. Currently identified cash collection points are admission fees to athletic events, lunchroom sales, classroom fees, student activities/fundraisers, and miscellaneous money coming through the Treasurer's Office such as grants, interest, donations, sale of fixed assets, and taxes.

Persons who receive monies at cash collection points shall identify any discrepancies in cash receipts or ticket sales. Each seller shall provide a written explanation of each discrepancy to their immediate supervisor, who shall report all findings to the Treasurer. All discrepancies, even those rectified, shall be reported to the Treasurer. Such reported information shall be used in performance evaluation and adjudicated in accordance with District procedures or as provided by law.

Acceptance of check or credit card overpayment to provide cash back is prohibited.

Persons who receive monies at cash collection points in the District are required to deposit all monies received with the Treasurer on the next business day after the day of receipt if the total amount of monies exceeds \$1,000. If the monies received do not exceed \$1,000, the person shall deposit such monies with the Treasurer (**X**) not more than ~~three~~ (3) business days following the day of receipt. **[NOTE: This number cannot exceed three (3).]** Persons who receive money at cash collection points are responsible for its safekeeping until the money is deposited with the Treasurer. Ordinarily, the money should be secured in a locked desk, file cabinet, safe or other secure room on school property, and it should not be taken home. If an employee believes it is safer to take the money home, s/he must obtain permission to do so from his/her supervisor, building principal, or other appropriate administrator. The Treasurer is directed to develop, distribute, and implement procedures addressing the provision of receipts (where applicable) to the payee(s), and proper segregation of duties for the receipting, depositing, recording, and reporting of cash. These procedures should be particularized to each cash collection point and should include flowcharts as appropriate. The procedures should further address the need for completion of timely bank reconciliations so that "unreconciled differences" can be identified and resolved.

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Legal R.C. 9.38

Book	Policy Manual
Section	Board Approved Policies Vol. 39, No. 2 January 2021
Title	Copy of Vol. 39, No. 2 - January 2021 Revised VIDEO SURVEILLANCE AND ELECTRONIC MONITORING
Code	po7440.01
Status	
Adopted	December 18, 2017

#### 7440.01 - VIDEO SURVEILLANCE AND ELECTRONIC MONITORING

**[X] (X)** In order to promote student and staff safety, protect Board of Education property, and deter unauthorized access and destructive acts (e.g., theft and vandalism), ~~**[END-OF-OPTION] (-)** In order to protect Board property, promote security and protect the health, welfare and safety of students, staff and visitors, **[END-OF-OPTION]**~~ the Board of Education authorizes the use of video surveillance and electronic monitoring equipment on school property, and in school buildings and school buses. Information obtained through video surveillance/electronic monitoring may be used to identify intruders and persons breaking the law, Board policy, or the Student Code of Conduct (i.e., it may be used as evidence in disciplinary actions and criminal proceedings).

#### OR

**[ ]** The Board of Education authorizes the use of video surveillance and electronic monitoring equipment at various school sites throughout the District and on school buses. The video surveillance/electronic monitoring equipment shall be used to protect Board property and assets from theft and vandalism, through deterrence and video documentation. The system is not designed nor intended to protect individuals from being victims of violent or property crimes, nor to detect other potentially illegal and undesirable activities that may occur, although information may be used as evidence in such cases.

The monitoring of actions and behavior of individuals who come onto school property is a significant factor in maintaining order and discipline and protecting students, staff, visitors, and school and student property. Video surveillance/electronic monitoring systems serve to complement other means being employed in the District to promote and foster a safe and secure teaching and learning environment for students and staff. The Board recognizes that the use of a video surveillance/electronic monitoring system does not replace the need for the ongoing vigilance of the school staff assigned by the building principal to monitor and supervise the school building. Rather, the video surveillance/electronic monitoring system serves as an appropriate and useful tool with which to augment or support the in-person supervision provided by staff. The building principal is responsible for verifying that due diligence is observed in maintaining general campus security.

The Superintendent is responsible for determining where to install and operate fixed-location video surveillance/electronic monitoring equipment in the District. The determination of where and when to use video surveillance/electronic monitoring equipment will be made in a nondiscriminatory manner. Video surveillance/electronic monitoring equipment may be placed in common areas in school buildings (e.g., school hallways, entryways, the front office where students, employees, and visitors are permitted to freely come and go, gymnasiums, cafeterias, libraries), the school parking lots and other outside areas, and in school buses. Except in extraordinary circumstances and with the written authorization of the Superintendent or Board President, video surveillance/electronic monitoring equipment shall not be used in areas where persons have a reasonable expectation of privacy (e.g., restrooms, locker rooms, changing areas, private offices (unless there is express consent given by the office occupant), or conference/meeting rooms), or in individual classrooms during instructional times. **[(X)]** Security staff and administrators are authorized to carry and use portable video cameras when responding to incidents. **[( )]** The Board authorizes security personnel to use body-worn video cameras while on duty, but prohibits them from being operated while the individual is routinely patrolling restrooms and locker rooms unless the staff member is responding to a specific incident.

Any person who takes action to block, move, or alter the location and/or viewing angle of a video camera shall be subject to disciplinary action.

Legible and visible signs shall be placed at the main entrance to buildings and in the areas where video surveillance/electronic monitoring equipment is in use to notify people that their actions/behavior are being monitored/recorded. Additionally, the Superintendent is directed to annually notify parents and students via school newsletters and the Student Handbook, and staff via the Staff Handbook, of the use of video surveillance/electronic monitoring systems in their schools.

Any information obtained from video surveillance/electronic monitoring systems may only be used to support the orderly operation of the School District's schools and facilities, and for law enforcement purposes, and not for any other purposes. As such, recordings obtained through the use of video surveillance/electronic monitoring equipment may be used as evidence in any disciplinary proceedings, administrative proceedings or criminal proceedings, subject to Board policy and regulations. Further, such recordings may become a part of a student's education record or staff member's personnel file.

### [SELECT OPTION #1 OR OPTION #2]

#### OPTION #1

[ ] Under no circumstances will video surveillance/electronic monitoring equipment be used to make an audio recording of conversation occurring on school grounds or property.

#### OPTION #2

[X] Ordinarily video surveillance/electronic monitoring equipment will not be used to make an audio recording of conversation occurring on school grounds or property.

#### [END OF OPTIONS]

The Board will not use video surveillance/electronic monitoring equipment to obtain information for the purpose of routine staff appraisal/evaluation or monitoring. However, prerecorded lessons or observations of on-line or virtual learning sessions may be included as part of an employee's evaluation in accordance with a collective bargaining agreement or Memorandum of Understanding approved by the Board.

Further, if an employee is assigned to work remotely (i.e., telework), the administration is authorized to conduct observations that consist of the supervisor reviewing video-recordings of the employee working and/or watching the employee perform his/her job responsibilities through means of a live-stream that includes both video and audio, provided the employee is afforded advanced notice of the observation, and the recording of his/her work and/or observation is conducted in accordance with a collective bargaining agreement or Memorandum of Understanding approved by the Board if the employee is a member of a bargaining unit.

Additionally, nothing herein shall prevent the administration from using information gathered through electronic means (i.e., viewing a video-recording or live-stream of an employee working) for employment purposes, including but not limited to completing components of an evaluation, so long as the information is gathered in a manner consistent with law and any applicable collective bargaining agreement or Memorandum of Understanding approved by the Board.

Recordings of students will be treated as confidential. Consequently, because the Board is bound by Ohio's Student Records Statute and the Family Educational Rights and Privacy Act (FERPA), copies of video recordings containing personal identifiable information about students shall not be released except to school officials with legitimate educational interests. Parents or guardians of minor students, and students who are eighteen (18) years of age or older, who are charged with disciplinary violations may view relevant portions of any video recording related to the charge, upon written request to the building principal, provided that viewing the recording does not violate State and/or Federal law (i.e., the privacy rights of any other students whose images appear on the recording). Likewise, school personnel may view relevant portions of any video relating to any disciplinary charge against them, upon written request to the building principal, provided that viewing the recording does not violate State and/or Federal law (i.e., the privacy rights of any students whose images appear on the recordings). Otherwise, such confidential recordings shall only be released through subpoena or court order.

The Board shall maintain video surveillance/electronic monitoring recordings for a limited period. Any request to view a recording under this policy must be made within ~~fourteen~~ (14) **[seven (7) to thirty (30)]** days of the event/incident. Unless a formal complaint is being investigated, recordings shall be destroyed after ~~thirty~~ (30) **[seven (7) to thirty (30)]** days. If, however, action is taken by the Board/administration, as a result of a formal complaint or incident, recordings shall be kept for a minimum of one (1) year from the date of the action taken. **[( )** Recordings may also be kept beyond the normal retention period if they are going to be utilized for training purposes.

This policy does not address or cover instances where school officials record a specific event (e.g., a play, music performance, athletic contest, graduation, or Board meeting), or an isolated instance where a classroom is videotaped for educational or research purposes. Authorized videotaping for educational, instructional and/or research purposes is permitted and is not addressed by this policy.

The Superintendent is directed to develop administrative guidelines to address the use of video surveillance/electronic monitoring equipment in school buildings, school buses and on property owned and/or operated by the Board.

Video surveillance is to be implemented in accordance with this policy and the related guidelines. The Board will not accept or tolerate the improper use of video surveillance/electronic monitoring equipment and will take appropriate action in any cases of wrongful use of this policy.

[ ] ( ) Annually, ( ) Quarterly, ( ) Monthly, ( ) \_\_\_\_\_ **[insert interval]**, the Superintendent shall conduct a review to verify that this policy and its implementing guidelines are being adhered to, and report to the Board on the use of video surveillance/electronic monitoring equipment in the District.

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FERPA 20 U.S.C. 1232g

34 C.F.R. 99.1-99.67

Title I of the Electronic Communication Privacy Act of 1986

18 U.S.C. 2510-2521

Book	Policy Manual
Section	Board Approved Policies Vol. 39, No. 2 January 2021
Title	Copy of Vol. 39, No. 2 - January 2021 Revised PROTECTIVE FACIAL COVERINGS DURING PANDEMIC/EPIDEMIC EVENTS
Code	po8450.01
Status	

### **WE CURRENTLY DO NOT HAVE THIS POLICY.**

#### **8450.01 - PROTECTIVE FACIAL COVERINGS DURING PANDEMIC/EPIDEMIC EVENTS**

During times of elevated communicable disease community spread (pandemic or epidemic), the Superintendent will issue periodic guidance through Board of Education plans/resolution(s) in alignment with public health officials and/or in accordance with government edicts and including any Pandemic Plan developed by the District's Pandemic Response Team. ~~under Policy 8420.01.~~

School settings can be a source of community spread. Wearing face masks/coverings is especially important during these times and can help mitigate the risk of exposure from person to person.

As such, during times of elevated communicable disease community spread, the Superintendent may activate this policy by notifying the school community, requiring all school staff, volunteers, and visitors (including vendors) to wear appropriate face masks/coverings on school grounds unless it is unsafe to do so or where doing so would significantly interfere with the Districts educational or operational processes.

**[ ]** Face masks/shields will be provided by the District to employees. Alternatively, employees may elect to wear their own face coverings if they meet the requirements of this policy as well as any requirements issued by State or local health departments.

In addition, the Board may require that

**( )** students in \_\_\_\_ grade and higher shall wear a face mask unless they are unable to do so for a health or developmental reason. Efforts will be made to reduce any social stigma for a student who, for medical or developmental reasons, cannot and should not wear a mask.

**OR**

**( )** students shall wear a face mask unless they are unable to do so for a health or developmental reason. Efforts will be made to reduce any social stigma for a student who, for medical or developmental reasons, cannot and should not wear a mask.

If face masks/coverings are required, and no exception is applicable, students shall be subject to disciplinary action in accordance with the Student Code of Conduct/Student Discipline Code, and in accordance with policies of the Board

**( )** and/or may be reassigned by the Superintendent to an online/virtual learning environment if the Superintendent determines that reassignment is necessary to protect the health and safety of the student or others. **[DRAFTING NOTE: Districts should consult with legal counsel before reassigning a student with a disability to a virtual learning format. This might constitute a change in placement in violation of state and federal law.]**

**[ ]** During times of elevated communicable disease community spread as determined by the Board in consultation with health professionals, all students are required to wear masks while being transported on District school buses or other modes of school transportation or while waiting for a school bus outdoors and unable to maintain a distance of six (6) feet or more from individuals who are not members of their household.

**[DRAFTING NOTE: The majority opinion among medical experts from the Ohio Department of Health and elsewhere appears to be that children kindergarten through 5th grade can wear masks as long as consideration is given for the age and developmental level of the child and the physical situation the child is in at that moment.]**

#### **Use of Mask/Face Covering**

~~Cloth~~ Face coverings/masks should:

- A. fully cover the mouth, nose, and chin;
- B. fit snugly against the side of the face so there are no gaps;
- C. not create difficulty breathing while worn; and
- D. be held securely through either a tie, elastic, etc. to prevent slipping.

Facial masks/coverings generally should not include surgical masks or respirators unless medically indicated (as those should be reserved for healthcare workers) or masks designed to be worn for costume purposes.

All employee facial masks/coverings shall meet the requirements of the appropriate dress/staff grooming policies (Policy 3216/4216). All student facial masks/coverings shall meet the requirements of the appropriate Student Code of Conduct/Student Discipline Code [ ] and Policy 5511 Dress and Grooming.

Any person may be required to temporarily remove a face mask or covering when instructed to do so for identification or security purposes. Failure to comply with such a request violates this policy and may lead to disciplinary or other action.

Exceptions to the use of masks/face coverings include when:

- A. facial masks/coverings in the school setting are prohibited by law or regulation;
- B. facial masks/coverings are in violation of documented industry standards;
- C. facial masks/coverings are not advisable for health reasons;
- D. facial masks/coverings are in violation of the school's documented safety policies;
- E. facial masks/coverings are not required when the ~~individual~~ staff works alone in an assigned work area;
- F. there is a functional (practical) reason for a staff member or volunteer not to wear a facial mask/covering in the workplace;
- G. settings where ~~cloth~~ masks might present a safety hazard (i.e. science labs);
- H. ~~individuals~~ for individuals who have difficulty wearing a ~~cloth~~ face covering; ~~or~~
- I. ~~to assist with communication for hearing impaired students~~ the individual is communicating with students who are hearing impaired or otherwise disabled, where an accommodation is appropriate or necessary;
- J. the individual is actively participating in outdoor recess and/or physical activity where students are able to maintain a distance of six (6) feet or more or athletic practice, scrimmage, or competition that is permitted under a separate Department of Health order;
- K. the individual is seated and actively consuming food or beverage;
- L. students and staff can maintain distancing of at least six (6) feet and removal of the facial covering is necessary for instructional purposes, including instruction in foreign language, English language for non-native speakers, and other subjects where wearing a facial covering would prohibit participation in normal classroom activities, such as playing an instrument;
- M. students are able to maintain a distance of six (6) feet or more and a mask break is deemed necessary by the educator supervising the educational setting;
- N. an established sincerely held religious requirement exists that does not permit a facial covering.

The Board may be required to provide written justification to the local health officials upon request explaining why a staff member is not required to wear a facial covering in the school. Therefore, if any exceptions are made to the requirement for facial coverings, the request for such exception must be submitted in writing to the individual's supervisor with appropriate documentation provided. A decision on the request will be provided in writing.



**Use of Face Shields**

Face shields that wrap around the face and extend below the chin may be permitted as an alternative to ~~cloth~~ face masks/coverings with permission of the Superintendent as the Board recognizes that face shields may be useful in some situations, including:

- A. when interacting with students, such as those with disabilities, where communication could be impacted;
- B. when interacting with English-language learners or when teaching a foreign language;
- C. settings where ~~cloth~~ masks might present a safety hazard (i.e. science labs); or
- D. for individuals who have difficulty wearing a ~~cloth~~ face covering.

If employees receive approval from the District administration after discussing their request not to wear a face mask/covering/shield due to a physical, mental or developmental health condition, and/or if wearing a mask/covering/shield would lead to a medical emergency or would introduce significant safety concerns, the District administration may also discuss other possible accommodations for the staff member. Such discussion shall follow Board policies and guidelines under the ADA.

School nurses or staff who care for individuals with symptoms consistent with those of a communicable disease must use appropriate personal protective equipment (PPE), provided by the school, in accordance with OSHA standards.

When facial masks/coverings are required by the Board, and no exception has been applied, staff members who violate this policy shall be subject to disciplinary action in accordance with policies of the Board.

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R.C. 3313.20, 3313.60, 3313.661, 3313.665

Book	Policy Manual
Section	Board Approved Policies Vol. 39, No. 2 January 2021
Title	Copy of Vol. 39, No. 2 - January 2021 Revised FOOD SERVICES
Code	po8500
Status	
Adopted	December 18, 2017
Last Revised	December 6, 2019

## 8500 - **FOOD SERVICES**

The Board of Education shall provide cafeteria facilities in all school facilities where space and facilities permit, and will provide food service for the purchase and consumption of meals for all students. The Board shall also provide a breakfast program in accordance with procedures established by the Department of Education. The Board shall annually encumber the funds needed to operate the program.

The food-service program shall comply with Federal and State regulations pertaining to the selection, preparation, consumption, and disposal of food and beverages, including but not limited to the current USDA's school meal pattern requirements and the USDA Smart Snacks in School nutrition standards, as well as to the fiscal management of the program.

The Board does not discriminate on the basis of race, color, national origin, sex, sexual orientation, gender identity, and gender expression ~~(including sexual orientation or transgender identity)~~, disability, age (except as authorized by law), religion, military status, ancestry, or genetic information (collectively, "Protected Classes") in its educational programs or activities. Students 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. See Policy 2260 - Nondiscrimination and Access to Equal Educational Opportunity.

The Board shall approve and implement nutrition standards governing the types of food and beverages that may be sold on the premises of its schools and shall specify the time and place each type of food or beverage may be sold. In adopting such standards, the Board shall:

- A. consider the nutritional value of each food or beverage;
- B. consult with a dietitian licensed under R.C. Chapter 4759, a dietetic technician registered by the commission on dietetic registration, or a school nutrition specialist certified or credentialed by the school nutrition association;
- C. consult and incorporate to the maximum extent possible the dietary guidelines for Americans jointly developed by the United States Department of Agriculture (USDA) and the United States Department of Health and Human Services; and
- D. consult and incorporate the USDA Smart Snacks in School nutrition guidelines.

~~No food or beverage may be sold on any school premises except in accordance with the standards approved by the Board.~~

In addition, as required by law, a food safety program that is based on the principles of the Hazard Analysis and Critical Control Point (HACCP) system shall be implemented with the intent of preventing food-borne illnesses. For added safety and security, access to the facility and the food stored and prepared therein shall be limited to food service program staff and other authorized persons.

The Board shall provide a Federal food service program for students during summer intervention programs that are mandated under Federal law. If the Board determines that it is unable to provide a Federal food service program during the summer, for financial reasons, the Board will communicate that decision to its residents in a manner it determines to be appropriate.

During all times while the food service program is operating and students are being served food, at least one (1) employee shall be present in the area in which the food is being consumed who has received instruction in methods to prevent choking and demonstrated an ability to perform the Heimlich maneuver.

## Substitutions

If determined appropriate by a student's Section 504 team, substitutions to the standard meal requirements shall be made, at no additional charge, for students for whom a health care provider who has prescriptive authority in the State of Ohio has provided medical certification that the student has a disability that restricts his/her diet, in accordance with the criteria set forth in 7 C.F.R. Part 15b. To qualify for such substitutions the medical certification must identify:

- A. the student's disability and the major life activity affected by the disability;
- B. an explanation of why the disability affects the student's diet; and
- C. the food(s) to be omitted from the student's diet and the food or choice of foods that must be substituted (e.g., caloric modifications or use of liquid nutritive formula).

**[ ]** If determined appropriate by a team of qualified individuals including, but not limited to, the Principal, school nurse, parent, Director of Food Services, and/or ( ) \_\_\_\_\_ substitutions to the standard meal requirements may be made, at no additional charge, for a student who is not a "disabled person," but has a signed statement from a qualified medical authority that the student cannot consume certain food items due to medical or other special dietary needs. To qualify for such consideration and substitutions the medical statement must identify:

- A. the medical or dietary need that restricts the student's diet; and
- B. the food(s) to be omitted from the student's diet and the food(s) or choice of foods that may be substituted.

~~For non-disabled students who need a nutritionally equivalent milk substitute, only a signed request by a parent or guardian is required.~~

Meals sold by the school may be purchased by students and staff members and community residents in accordance with administrative guidelines established by the Superintendent. ~~Meals may be made available, free of charge, to senior citizens who are serving as volunteers to the District.~~

The operation and supervision of the food-service program shall be the responsibility of the Food Service Supervisor\_\_\_\_\_. In accordance with Federal law, the Food Service Supervisor\_\_\_\_\_ shall take such actions as are necessary to obtain a minimum of two (2) food safety inspections per school year, which are conducted by the State or local governmental agency responsible for food safety inspections. The report of the most recent inspection will be posted in a publicly visible location, and a copy of the report will be available upon request. **[Please note: Schools participating in more than one (1) child nutrition program are only required to obtain two (2) food safety inspections per school year if the nutrition programs offered use the same facilities for the preparation and service of meals. Also, the requirement for two (2) inspections does not apply to schools that only offer the Special Milk Program.]**

A periodic review of the food-service accounts shall be made by the Food Service Supervisor\_\_\_\_\_. The District shall also address feeding students with unpaid meal balances without stigmatizing them. Any surplus funds from the National School Lunch Program or the Healthy, Hunger-Free Kids Act of 2010 (P.L. 111-296) shall be used to reduce the cost of the service to students or to purchase cafeteria equipment. Surplus funds from a-la-carte foods may accrue to the food-service program.

~~Bad debt incurred through the inability to collect meal payment from students is not an allowable cost chargeable to any Federal program. Any related collection cost, including legal cost, arising from such bad debt after they have been determined to be uncollectable are also unallowable.~~

~~[ ] Bad debt is uncollectable/delinquent debt that has been determined to be uncollectable by the end of the school year in which the debt was incurred. If the uncollectable/delinquent debt cannot be recovered by the School Meals Program in the year when the debt was incurred, then this is classified as bad debt. Once classified as bad debt, non-Federal funding sources must reimburse the NSFSFA for the total amount of the bad debt. The funds may come from the District general fund, State or local funding, school or community organizations such as the PTA, or any other non-Federal source. Once the uncollectable/delinquent debt charges are converted to bad debt, records relating to those charges must be maintained in accordance with the record retention requirements in 7 C.F.R. 210.9(b) (17) and 7 C.F.R. 210.15(b).~~

~~The Superintendent is authorized to develop and implement an administrative guideline regarding meal charge procedures. This guideline will provide consistent directions for students who are eligible for reduced price or paid meals but do not have funds in their account or in hand to cover the cost of their meal at the time of service and shall also address feeding students with unpaid meal balances without stigmatizing them.~~

~~This guideline shall be provided in writing to all households at the start of each school year and to households transferring to the school or School District during the school year.~~

With regard to the operation of the school food service program, the Superintendent shall require:

- A. the maintenance of sanitary, neat premises free from fire and health hazards;
- B. the preparation of food that complies with Federal food safety regulations;
- C. ~~the planning and execution of menus in compliance with USDA requirements;~~
- D. the purchase of food and supplies in accordance with State and Federal law, USDA regulations, and Board policy; (see Policy 1130, Policy 3113, Policy 3214, Policy 4113, Policy 4214, and Policy 6460)
- E. ~~complying with food holds and recalls in accordance with USDA regulations;~~
- F. the administration, accounting, and disposition of food-service funds pursuant to Federal and State law and USDA regulations;
- G. the safekeeping and storage of food and food equipment pursuant to State and Federal law and USDA regulations;
- H. the regular maintenance and replacement of equipment<sup>1,7</sup>
- I. ~~all District employees whose salaries are paid for with USDA funds or non-Federal funds used to meet a match or cost share requirement must comply with the District's time and effort record keeping policy (see Policy 6116);~~

In accordance with the nutritional standards adopted by the Board, the placement of vending machines in any classroom where students are provided instruction, unless the classroom is also used to serve meals to students, is prohibited.

No foods or beverages, other than those associated with the District's food-service program, are to be sold during food service hours. The District shall serve only nutritious food in accordance with the nutritional standards adopted by the Board in compliance with the current USDA Dietary Guidelines for Americans and the USDA Smart Snacks in School nutrition guidelines. Foods and beverages in competition with the District's food-service program must comply with the current USDA Dietary Guidelines for Americans and the USDA Smart Snacks in School nutrition guidelines, and may only be sold in accordance with Board Policy 8550.

The Superintendent will require that the food service program serve foods in the schools of the District that are wholesome and nutritious and reinforce the concepts taught in the classroom.

The Superintendent is responsible for implementing the food service program in accordance with the adopted nutrition standards and shall provide a report regarding the District's compliance with the standards at one of its regular meetings annually.

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Legal	R.C. 3313.81, 3313.811-815
	A.C. 3301-91
	42 U.S.C. 1758
	Healthy, Hunger-Free Kids Act of 2010 and Richard B. Russell National School Lunch Act, 42 U.S.C. 1751 et seq.
	Child Nutrition Act of 1966, 42 U.S.C. 1771 et seq.
	7 CFR Parts 15b, 210, 215, 220, 225, 226, 227, 235, 240, 245, 3015
	OMB Circular No. A-87USDA Smart Snacks in School Food Guidelines (effective July 1, 2014)
	SP 32-2015 Statements Supporting Accommodations for Children with Disabilities in the Child Nutrition Programs

Book	Policy Manual
Section	Board Approved Policies Vol. 39, No. 2 January 2021
Title	Copy of Vol. 39, No. 2 - January 2021 Revised WELLNESS
Code	po8510
Status	
Adopted	December 18, 2017

**8510 - WELLNESS**

As required by law, the Board of Education establishes the following wellness policy for the Worthington School District as a part of a comprehensive wellness initiative.

The Board recognizes that good nutrition and regular physical activity affect the health and well-being of the District's students. Furthermore, research suggests that there is a positive correlation between a student's health and well-being and his/her ability to learn. Moreover, schools can play an important role in the developmental process by which students establish their health and nutrition habits by providing nutritious meals and snacks through the schools' meal programs, by supporting the development of good eating habits, and by promoting increased physical activity both in and out of school.

Schools alone, however, cannot develop in students healthy behaviors and habits with regard to eating and exercise. It will be necessary for not only the staff, but also parents and the public at large to be involved in a community-wide effort to promote, support, and model such healthy behaviors and habits.

The Board sets the following goals in an effort to enable students to establish good health and nutrition habits:

A. With regard to nutrition education, the District shall:

**[Select one or more of the following:]**

1. ☒ Nutrition education shall be included in the Health curriculum so that instruction is sequential and standards-based and provides students with the knowledge, attitudes, and skills necessary to lead healthy lives.
2. ☐ Nutrition education shall be included in the sequential, comprehensive Health curriculum in accordance with the curriculum standards and benchmarks established by the State.
3. ☐ Nutrition education shall be integrated into other subject areas of the curriculum, when appropriate, to complement, but not replace, the standards and benchmarks for health education.
4. ☐ Nutrition education standards and benchmarks shall be age-appropriate and culturally relevant.
5. ☐ The standards and benchmarks for nutrition education shall be behavior focused.
6. ☐ Nutrition education shall include enjoyable, developmentally appropriate and culturally relevant participatory activities, such as contests, promotions, taste testing, and others.
7. ☒ Nutrition education shall include opportunities for appropriate student projects related to nutrition, involving, when possible, community agencies and organizations.
8. ☐ Nutrition education shall extend beyond the classroom by engaging and involving the school's food service staff.
9. ☒ Nutrition education posters, such as the Food Pyramid Guide, will be displayed in the cafeteria.
10. ☐ The school cafeteria shall serve as a learning lab by allowing students to apply the knowledge, attitudes, and skills taught in the classroom when making choices at mealtime.

11. ☐ Nutrition education shall extend beyond the school by engaging and involving families and the community.
12. ☐ Nutrition education shall reinforce lifelong balance by emphasizing the link between caloric intake (eating) and exercise in ways that are age-appropriate.
13. ☐ Nutrition education benchmarks and standards include a focus on media literacy as it relates to food marketing strategies.
14. ☐ Nutrition education standards and benchmarks promote the benefits of a balanced diet that includes fruits, vegetables, whole grain products, and low-fat and fat-free dairy products.
15. ☐ Staff responsible for providing instruction in nutrition education shall regularly participate in professional development activities designed to better enable them to teach the benchmarks and standards.
16. ☐ Instruction related to the standards and benchmarks for nutrition education shall be provided by highly qualified teachers.
17. ☐ The District shall provide information to parents that is designed to encourage them to reinforce at home the standards and benchmarks being taught in the classroom.
18. ☐ [other:] \_\_\_\_\_
19. ☐ [other:] \_\_\_\_\_
20. ☐ [other:] \_\_\_\_\_
21. ☐ [other:] \_\_\_\_\_

B. With regard to physical activity, the District shall:

**[It is recommended that one (1) or more of the following be selected from both categories:]**

#### 1. Physical Education

- a. ☐ A sequential, comprehensive physical education program shall be provided for students in K-12 in accordance with the physical education academic content standards and benchmarks adopted by the State.
- b. ☒ The sequential, comprehensive physical education curriculum shall provide students with opportunities to learn, practice, and be assessed on developmentally appropriate knowledge, attitudes, and skills necessary to engage in lifelong, health-enhancing physical activity.
- c. ☐ Planned instruction in physical education shall be sufficient for students to achieve a proficient level with regard to the standards and benchmarks adopted by the State.
- d. ☐ Planned instruction in physical education shall promote participation in physical activity outside the regular school day.
- e. ☐ All students in grades K-12, including those with disabilities, special health care needs and in alternative educational settings (to the extent consistent with the students' IEPs), shall receive daily physical education for the entire school year, for at least 150 minutes per week for K-5 students and at least 225 minutes per week for students in grades 6 - 12.

**[The National Association for Sport and Physical Education (NASPE) defines a quality physical education program in the terms and minutes specified above.]**

- f. ☐ All students in grades \_\_\_\_ - \_\_\_\_, including those with disabilities, special health care needs and in alternative educational settings (to the extent consistent with the students' IEPs), shall receive instruction in physical education for \_\_\_\_\_ (\_\_\_\_) minutes ☐ daily ☐ \_\_\_\_\_ days per week for the entire school year.
- g. ☐ All students, including those with disabilities, special health care needs and in alternative educational settings (to the extent consistent with the students' IEPs), shall receive instruction in physical education for \_\_\_\_\_ (\_\_\_\_) minutes ☐ per day ☐ \_\_\_\_\_ days per week for at least \_\_\_\_\_ semesters in grades

\_\_\_\_ -12.

- h. ( ) The physical education curriculum shall provide sequential instruction related to the knowledge, attitudes, and skills necessary to participate in lifelong, health-enhancing physical activity.
- i. ( ) Physical education classes shall provide students with opportunities to learn, practice, and be assessed on developmentally appropriate knowledge, attitudes and skills necessary to engage in lifelong, health-enhancing physical activity.
- j. (X) The sequential, comprehensive physical education curriculum shall stress the importance of remaining physically active for life.
- k. ( ) The K-12 program shall include instruction in physical education as well as opportunities to participate in competitive and non-competitive team sports to encourage lifelong physical activity.
- l. ( ) Planned instruction in physical education shall require students to be engaged in moderate to vigorous physical activity for at least fifty percent (50%) of scheduled class time.
- m. ( ) Teachers properly certificated/licensed in the subject area of physical education shall provide all instruction in physical education.
- n. ( ) Professional development opportunities should focus on the physical education content area.
- o. ( ) All physical education classes shall have a student/teacher ratio comparable to the student/teacher ratio in other curricular areas.

**[NASPE includes this option in the definition of a quality physical education program.]**

- p. ( ) Planned instruction in physical education shall teach cooperation, fair play, and responsible participation.
- q. ( ) Planned instruction in physical education shall meet the needs of all students, including those who are not athletically gifted.
- r. ( ) Planned instruction in physical education shall be presented in an environment free of embarrassment, humiliation, shaming, taunting, bullying or harassment of any kind.
- s. ( ) Planned instruction in physical education shall include cooperative as well as competitive games.
- t. ( ) Planned instruction in physical education shall take into account gender and cultural differences.
- u. ( ) On an annual basis, physical education teachers shall review and affirm receipt of the Ohio Department of Health's concussion information sheet.
- v. ( ) Physical Education teachers shall remove from class participation any student who exhibits signs, symptoms, or behaviors consistent with having sustained a concussion or head injury. The Principal and/or teacher shall notify parents or guardians about the possible concussion or head injury.
- w. ( ) Any student who has been removed from physical education class participation because s/he has exhibited signs, symptoms, or behaviors consistent with having sustained a concussion or head injury shall not be permitted to return to physical education class until the student's condition is assessed by a physician, and the physician gives the student written clearance that it is safe to return to class.
- x. ( ) [other:] \_\_\_\_\_
- y. ( ) [other:] \_\_\_\_\_
- z. ( ) [other:] \_\_\_\_\_

## 2. Physical Activity

- a. ( ) Physical activity ( ) shall ( ) should not be employed as a form of discipline or punishment.
- b. ( ) Physical activity and movement shall be integrated, when possible, across the curricula and throughout the school day.

- c. ☒ Schools shall encourage families to provide physical activity outside the regular school day, such as outdoor play at home, participation in sports sponsored by community agencies or organizations, and in lifelong physical activities like bowling, swimming, or tennis.
- d. ☐ All students in grades K- 5/6 shall be provided with a daily recess period at least \_\_\_\_\_ (\_\_\_\_) minutes in duration. Recess shall not be used as a reward or punishment.

**[NASPE's recommendation is that all elementary school students should be provided with at least one daily period of recess for a minimum of twenty (20) minutes.]**

- e. ☐ The school shall provide information to families to encourage and assist them in their efforts to incorporate physical activity into their children's daily lives.
- f. ☒ The school shall encourage families and community organizations to help develop and institute programs that support physical activity of all sorts.
- g. ☐ The school shall provide students in grades \_\_\_\_ - \_\_\_\_ with the opportunity to use physical activity in which they participate outside the regular school day (other than organized interscholastic athletics) to satisfy physical activity requirements.
- h. ☐ In addition to planned physical education, the school shall provide age-appropriate physical activities (e.g., recess during the school day, intramurals and clubs before and after school, and interscholastic sports) that meet the needs of all students, including males, females, students with disabilities, and students with special health care needs.

**[This is a NASPE recommendation in their position statement on Comprehensive School Physical Activity Programs (2008).]**

- i. ☐ All students in grades \_\_\_\_ - \_\_\_\_ shall have the opportunity to participate in extracurricular activities and intramural programs that emphasize physical activity.
- j. ☐ All students in grades \_\_\_\_ - 12 shall have the opportunity to participate in interscholastic sports programs.
- k. ☐ Schools shall offer a wide range of physical activities outside the regular school day that meet the needs, interests, and abilities of all students, including males, females, students with disabilities, and students with special health care needs.
- l. ☐ All before/after-school programs shall provide developmentally appropriate physical activity for the students who participate.
- m. ☐ Schools shall discourage extended periods of student inactivity, without some physical activity.
- n. ☐ [other:] \_\_\_\_\_
- o. ☐ [other:] \_\_\_\_\_
- p. ☐ [other:] \_\_\_\_\_

C. With regard to other school-based activities ~~the District shall~~:

Free drinking water shall be available to students during designated meal times and may be available throughout the school day.

**[Select one or more of the following:]**

1. ☒ The schools shall provide at least twenty (20) minutes daily for students to eat.
2. ☐ The schools shall schedule mealtimes so there is minimum disruption by bus schedules, recess, and other special programs or events.
3. ☐ The school shall provide attractive, clean environments in which the students eat.



4. ☐ Students at \_\_\_\_\_ **[insert name(s) of building(s)]** are not permitted to have drinks in the classroom.
5. ☐ Students at \_\_\_\_\_ **[insert name(s) of building(s)]** are permitted to have bottled water only in the classroom.
6. ☐ Activities, such as tutoring or club meetings, shall not be scheduled during mealtimes, unless students may eat during those meetings.
7. ☒ Schools ☒ may ☐ shall limit the number of celebrations involving serving food during the school day ~~to no more than \_\_\_\_\_ (\_\_\_\_\_) party(ies) per class per month.~~
8. ☐ Students, parents, and other community members shall have access to, and be encouraged to use, the school's outdoor physical activity facilities outside the normal school day.
9. ☐ An organized wellness program shall be available to all staff.
10. ☒ The schools ☐ shall ☒ may use environmentally friendly practices ~~, such as the use of locally grown foods and non-disposable tableware and dishes.~~
11. ☐ The schools ☐ shall ☐ may provide opportunities for staff, parents, and other community members to model healthy eating habits by dining with students in the school dining areas.
12. ☐ The schools ☐ shall ☐ may demonstrate support for the health of all students by hosting health clinics and screenings and encouraging parents to enroll their eligible children in Medicaid or in other children's health insurance programs for which they may qualify.
13. ☐ Schools in our system utilize electronic identification and payment systems, therefore, eliminating any stigma or identification of students eligible to receive free and/or reduced meals.
14. ☐ Students are discouraged from sharing their foods or beverages with one another during meal times, given concerns about allergies and other restrictions on some students' diets.
15. ☐ **[other:]** \_\_\_\_\_
16. ☐ **[other:]** \_\_\_\_\_

D. With regard to nutrition promotion, ~~any foods and beverages marketed or promoted to students on the school campus, during the school day, will meet or exceed the USDA Smart Snacks in School nutrition standards. Additionally,~~ the District shall:

1. ☒ encourage students to increase their consumption of healthful foods during the school day. The District will provide affordable access to the varied and nutritious foods they need to be healthy and to learn well regardless of unpaid meal balances and without stigma.
2. ☐ create an environment that reinforces the development of healthy eating habits, including offering the following healthy foods that comply with the USDA Dietary Guidelines for Americans and the USDA Smart Snacks in School nutrition standards:
  - a. ☐ a variety of fresh produce to include those prepared without added fats, sugars, refined sugars, and sodium;
  - b. ☐ a variety of vegetables daily to include specific subgroups as defined by dark green, red/orange, legumes, and starchy;
  - c. ☐ whole grain products - half of all grains need to be whole grain-rich upon initial implementation and all grains must be whole grain-rich within two (2) years of implementation;
  - d. ☐ fluid milk that is fat-free (unflavored and flavored) and low-fat (unflavored);
  - e. ☐ meals designed to meet specific calorie ranges for age/grade groups;

3. ☐ eliminate trans-fat from school meals;
4. ☐ require students to select a fruit or vegetable as part of a complete reimbursable meal;
5. ☐ designate wellness champions at each school that will promote resources through the District's website for wellness for students, families and the community;
6. ☐ provide opportunities for students to develop the knowledge and skills for consuming healthful foods.

☐ The District nutrition department will promote and encourage Farm to School efforts in order to provide the healthy foods identified above.

☐ All foods and beverages sold to students as fund-raisers outside of the school meals program during the regular and extended school day for consumption on the school campus shall meet the USDA Competitive Food regulations, the Alliance for A Healthier Generation's Competitive Foods and Beverages Guidelines, and the USDA Smart Snacks in School nutrition standards.

☐ Rewarding children in the classroom should not involve candy and other foods that can undermine children's diets and health and reinforce unhealthy eating habits. A wide variety of alternative rewards can be used to provide positive reinforcement for children's behavior and academic performance.

☐ Promotions/Partnerships:

- A. ☐ Through partnership with the \_\_\_\_\_ **[insert local running organization]** each school has the opportunity to earn \$\_\_\_\_\_ **[identify dollar amount or other gift]** to start and implement a mileage or running club.
- B. ☐ Through USTA partnerships, each K-12 school has the opportunity to receive more than \$\_\_\_\_\_ **[insert dollar amount]** worth of equipment to teach and implement tennis appropriate to grade level in the curriculum.
- C. ☐ Through community partnerships, the elementary schools will receive training and equipment to implement the \_\_\_\_\_ **[insert name of a golf program; e.g., First Tee Golf]** into the curriculum.
- D. ☐ Through grants from the \_\_\_\_\_ **[insert source of grants]** and local businesses, each elementary school has the opportunity to implement the \_\_\_\_\_ **[insert name of local bike safety program]**.
- E. ☐ \_\_\_\_\_
- F. ☐ \_\_\_\_\_

~~Furthermore, with the objectives of enhancing student health and well being, and reducing childhood obesity, the following guidelines are established:~~

- A. ~~In accordance with Policy 8500, entitled Food Service, the food service program shall comply with Federal and State regulations pertaining to the selection, preparation, consumption, and disposal of food and beverages, including but not limited to the USDA Dietary Guidelines for Americans and the USDA Smart Snacks in School nutrition standards, as well as to the fiscal management of the program.~~
- B. ~~As set forth in Policy 8531, entitled Free and Reduced-Price Meals, the guidelines for reimbursable school meals are not less restrictive than the guidelines issued by the U.S. Department of Agriculture (USDA).~~  
  
~~The sale of foods of minimal nutritional value in the food service area during the lunch period is prohibited.~~
- C. ~~The sale of foods and beverages to students that do not meet the USDA Dietary Guidelines for Americans and the USDA Smart Snacks in School nutrition standards to be consumed on the school campus during the school day is prohibited.~~
- D. ~~All food items and beverages available for sale to students for consumption on the school campus (any area of property under the jurisdiction of the school that is accessible to students during the school day) between midnight and thirty (30) minutes after the close of the regular school day shall comply with the current USDA Dietary Guidelines for Americans and the USDA Smart Snacks in School nutrition standards, including, but not limited to, competitive foods that are available to students a la carte or as entrees in the dining area (except entree items that were offered on the National School Lunch Program (NSLP) or School Breakfast Program (SBP) menu on the day of and the day after they are offered on the NSLP or SBP menu), as well as food items and beverages from vending machines, from school stores, or as fund-raisers, including those operated by student clubs and organizations, parent groups, or boosters clubs.~~

- E. ~~All foods offered on the school campus during the school day shall comply with the current USDA Dietary Guidelines for Americans, including competitive foods that are available to students a la carte in the dining area, as classroom snacks, from vending machines.~~

~~[DRAFTING NOTE: THE FINAL RULES STATE THAT A POLICY MUST HAVE STANDARDS FOR FOOD AND BEVERAGES "PROVIDED" AT SCHOOL, SUCH AS PROVIDED FOR A CLASS PARTY OR AS A REWARD TO STUDENTS. THESE STANDARDS DO NOT HAVE TO MEET THE REQUIREMENTS IMPOSED ON FOOD SOLD AT SCHOOL. A DISTRICT CAN ADOPT THE SAME STANDARD AS FOR SOLD FOOD OR ESTABLISH ITS OWN STANDARDS AS LONG AS IT HAS SOMETHING IN PLACE FOR FOOD PROVIDED IN SCHOOL OTHER THAN THROUGH SALE. THIS DOES NOT APPLY TO FOOD BROUGHT IN FOR INDIVIDUAL CONSUMPTION, I.E., A SACK LUNCH.]~~

- F. ~~All food and beverages that are provided, other than through sale, on the school campus during the school day (which may include for classroom parties and at holiday celebrations) shall comply with the~~

☐ current USDA Dietary Guidelines for Americans.

OR

☐ food and beverage standards approved by the ☐ Superintendent ☐ \_\_\_\_\_.

OR

☐ the following standards:

---

**[It is recommended that one (1) or more of the following be selected:]**

- G. ☐ The food service program will strive to be financially self-supporting; however, if it is necessary to subsidize the operation, it will not be through the sale of foods with minimal nutritious value.
- H. ☒ The food service program will provide all students affordable access to the varied and nutritious foods they need to be healthy and to learn well regardless of unpaid meal balances and without stigma.
- I. ☐ All foods available on campus at any time shall comply with the current USDA Dietary Guidelines for Americans, including competitive foods that are available to students a la carte in the dining area, as well as foods that are served as classroom snacks, from vending machines, for fundraisers, for classroom parties, at holiday celebrations, at concession stands, or at any school-related event.
- J. ☐ The school food service program ☐ may ☐ shall involve
- ☐ students,
- ☐ parents,
- ☐ staff,
- ☐ school officials
- in the selection of competitive food items to be sold in the schools.
- K. ☐ Nutrition information for competitive foods available during the school day shall be readily available near the point of purchase.
- L. ☐ All foods available to students in District programs, other than the food service program, shall be served with consideration for promoting student health and well-being.
- M. ☐ The school shall prepare and distribute to staff, parents, and after-school program personnel a list of snack items that comply with the current USDA Dietary Guidelines for Americans and the USDA Smart Snacks in School nutrition standards.
- N. ☐ The food service program shall be administered by a qualified nutrition professional.
- O. ☐ The food service program shall be administered by a director who is properly qualified, certificated, licensed, or credentialed, according to current professional standards.

- P. ☐ All food service personnel shall receive pre-service training in food service operations.
- Q. ☐ Continuing professional development shall be provided for all staff of the food service program.
- R. ☐ [other:] \_\_\_\_\_
- S. ☐ [other:] \_\_\_\_\_

The Board designates ☐ the Superintendent ☒ the Building Principals as the individual(s) charged with operational responsibility for measuring and evaluating the District's implementation and progress under this policy. The Superintendent shall develop administrative guidelines necessary to implement this policy.

~~The Superintendent shall appoint a District-wide Wellness Committee that ☐ meets at least four (4) times per year and includes parents, students, representatives of the school food authority, educational staff (including health and physical education teachers), mental health and social services staff, school health professionals, members of the public, and school administrators to oversee development, implementation, evaluation and periodic update of this policy. The Wellness Committee shall be an ad hoc committee with members recruited and appointed annually.~~ School level health advisory teams may assist in the planning and implementation of these Wellness initiatives.

~~The Wellness Committee shall be responsible for:~~

- A. ~~assessment of the current school environment;~~
- B. ~~review of the District's Wellness policy;~~
- C. ~~presentation of the Wellness policy to the Board for approval;~~
- D. ~~measurement of the implementation of the policy; and~~
- E. ~~recommendation for the revision of the policy, is necessary.~~

~~Before the end of each school year, the Wellness Committee shall recommend to the Superintendent any revisions to the policy it deems necessary and/or appropriate. In its review, the Wellness Committee shall consider evidence-based strategies in determining its recommendations.~~

~~The Superintendent shall report annually to the Board on the Wellness Committee's progress and on its evaluation of the policy's implementation and areas for improvement, including status of compliance by individual schools and progress made in attaining the policy's goals.~~

The Superintendent is also responsible for informing the public, including parents, students and community members, on the content and implementation of this policy. In order to inform the public, the Superintendent shall

- ☐ distribute information at the beginning of the school year to families of school children;
- ☐ include information in the student handbook;
- ☐ \_\_\_\_\_ **[insert other methods of informing the public]**

~~and~~ post the policy on the District's website, including the Wellness Committee's assessment of the policy's implementation.

The District shall assess the Wellness Policy at least once every three (3) years on the extent to which schools in the District are in compliance with the District policy, the extent to which the District policy compares to model wellness policies, and the progress made in attaining the goals of the District Wellness Policy. The assessment shall be made available to the public. 🗑️

- 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. ☐ in the School District's calendar.
- E. ☐ \_\_\_\_\_.

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Legal

42 U.S.C. 1751, Sec. 204

42 U.S.C. 1771

7 C.F.R. Parts 210 and 220

Book	Policy Manual
Section	Board Approved EDGAR Revisions January 2021
Title	Copy of EDGAR Revisions - January 2021 Revised COST PRINCIPLES - SPENDING FEDERAL FUNDS
Code	po6114
Status	
Adopted	December 18, 2017

#### 6114 - COST PRINCIPLES - SPENDING FEDERAL FUNDS

The Superintendent/Treasurer is responsible for the efficient and effective administration of grant funds through the application of sound management practices. Such funds shall be administered in a manner consistent with all applicable Federal, State and local laws, the associated agreements/assurances, program objectives, and the specific terms and conditions of the grant award.

##### Cost Principles

Except where otherwise authorized by statute, costs shall meet the following general criteria in order to be allowable under Federal awards:

- A. Be necessary and reasonable for proper and efficient performance and administration of the Federal award and be allocable thereto under these principles.

To determine whether a cost is reasonable, consideration shall be given to:

1. whether a cost is a type generally recognized as ordinary and necessary for the operation of the District or the proper and efficient performance of the Federal award;
2. the restraints or requirements imposed by such factors as sound business practices, arm's length bargaining, Federal, State, local, tribal, and other laws and regulations;
3. market prices for comparable goods or services for the geographic area;
4. whether the individuals concerned acted with prudence in the circumstances considering their responsibilities; and
5. whether the cost represents any significant deviation from the established practices or Board of Education policy which may unjustifiably increase the expense.

While Federal regulations do not provide specific descriptions of what satisfies the "necessary" element beyond its inclusion in the reasonableness analysis above, whether a cost is necessary is determined based on the needs of the program. Specifically, the expenditure must be necessary to achieve an important program objective. A key aspect in determining whether a cost is necessary is whether the District can demonstrate that the cost addresses an existing need, and can prove it.

When determining whether a cost is necessary, consideration may be given to whether:

1. the cost is needed for the proper and efficient performance of the grant program;
2. the cost is identified in the approved budget or application;
3. there is an educational benefit associated with the cost;
4. the cost aligns with identified needs based on results and findings from a needs assessment;
5. the cost addresses program goals and objectives and is based on program data.

A cost is allocable to the Federal award if the goods or services involved are chargeable or assignable to the Federal award in accordance with the relative benefit received. This standard is met if the cost: is incurred specifically for the Federal award; benefits both the Federal award and other work of the District and can be distributed in proportions that may be approximated using reasonable methods; and is necessary to the overall operation of the District and is assignable to the Federal award in accordance with cost principles mentioned here.

- B. Conform to any limitations or exclusions set forth in the~~as~~ cost principles in Part 200 or in the terms and conditions of the Federal award.
- C. Be consistent with policies and procedures that apply uniformly to both Federally-financed and other activities of the District.
- D. Be accorded~~afforded~~ consistent treatment. A cost cannot be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to a Federal award~~assigned~~ as an indirect cost under another award.
- E. Be determined in accordance with generally accepted accounting principles.
- F. Be representative of actual cost, net of all applicable credits, or offsets.

The term "applicable credits" refers to those receipts or reductions of expenditures that operate to offset or reduce expense items allocable to the Federal award. Typical examples of such transactions are: purchase discounts; rebates or allowances; recoveries or indemnities on losses; and adjustments of overpayments or erroneous charges. To the extent that such credits accruing to or received by the State relate to the Federal award, they shall be credited to the Federal award, either as a cost reduction or a cash refund, as appropriate.

- G. Be not included as a match or cost-share, unless the specific Federal program authorizes Federal costs to be treated as such.
- H. Be adequately documented:
  1. in the case of personal services, the Superintendent shall implement a system for District personnel to account for time and efforts expended on grant-funded programs to assure that only permissible personnel expenses are allocated;
  2. in the case of other costs, all receipts and other invoice materials shall be retained, along with any documentation identifying the need and purpose for such expenditure if not otherwise clear.

I. Be incurred during the approved budget period.

The budget period means the time interval from the start date of a funded portion of an award to the end date of that funded portion during which recipients are authorized to carry out authorized work and expend the funds awarded, including any funds carried forward or other revisions pursuant to the law. Prior written approval from the Federal awarding agency or State pass through entity may be required to carry forward unobligated balances to subsequent budget periods, unless waived.

### Selected Items of Cost

The District shall follow the rules for selected items of cost at 2 C.F.R. Part 200, Subpart E when charging these specific expenditures to a Federal grant. When applicable, District staff shall check costs against the selected items of cost requirements to ensure the cost is allowable. In addition, State, District, and program-specific rules, including the terms and conditions of the award, may deem a cost as unallowable and District personnel shall follow those rules as well.

### Cost Compliance

The ~~Superintendent~~Treasurer shall require that grant program funds are expended and are accounted for consistent with the requirements of the specific program and as identified in the grant application. Compliance monitoring includes accounting for direct or indirect costs and reporting them as permitted or required by each grant. Costs incurred for the same purpose in like circumstances shall be treated consistently as either direct or indirect costs, but may not be double charged or inconsistently charged as both.

### Determining Whether a Cost is Direct or Indirect:

- A. Direct costs are those costs that can be identified specifically with a particular final cost objective, such as a Federal award, or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high

degree of accuracy.

These costs may include: salaries and fringe benefits of employees working directly on a grant-funded project; purchased services contracted for performance under the grant; travel of employees working directly on a grant-funded project; materials, supplies, and equipment purchased for use on a specific grant; program evaluation costs or other institutional service operations; and infrastructure costs directly attributable to the program (such as long-distance telephone calls specific to the program, etc.).

- B. Indirect costs are those that have been incurred for a common or joint purpose benefitting more than one (1) cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. Costs incurred for the same purpose in like circumstances shall be treated consistently as either direct or indirect costs.

These costs may include: general data processing, human resources, utility costs, maintenance, accounting, etc.

Federal education programs with supplement not supplant provisions must use a restricted indirect cost rate. In a restricted rate, indirect costs are limited to general management costs. General management costs do not include divisional administration that is limited to one (1) component of the District, the governing body of the District, compensation of the Superintendent, compensation of the chief executive officer of any component of the District, and operation of the immediate offices of these officers.

The salaries of administrative and clerical staff should normally be treated as indirect costs. Direct charging of these costs may be appropriate only if all of the following conditions are met:

1. Administrative or clerical services are integral to a project or activity.
2. Individuals involved can be specifically identified with the project or activity.
3. Such costs are explicitly included in the budget or have the prior written approval of the Federal awarding agency.
4. The costs are not also recovered as indirect costs.

Where a Federal program has a specific cap on the percentage of administrative costs that may be charged to a grant, that cap shall include all direct administrative charges as well as any recovered indirect charges.

Effort should be given to identify costs as direct costs whenever practical, but allocation of indirect costs may be used where not prohibited and where indirect cost allocation is approved ahead of time by the Ohio Department of Education ("ODE") or the pass-through entity (Federal funds subject to 2 C.F.R. Part 200 pertaining to determining indirect cost allocation).

### Timely Obligation of Funds

Financial obligations ~~Obligations~~ are orders placed for property and services, contracts and subawards made, and similar transactions ~~during a given period~~ that require payment. This term is used when referencing a recipient's or subrecipient's use of funds under a Federal award. ~~by the non-Federal entity during the same or a future period.~~

The following table illustrates when funds are determined to be obligated under the U.S. Department of Education regulations:

If the obligation is for:

- A. Acquisition of property - on the date which the District makes a binding written commitment to acquire the property.
- B. Personal services by an employee of the District - when the services are performed.
- C. Personal services by a contractor who is not an employee of the District - on the date which the District makes a binding written commitment to obtain the services.
- D. Performance of work other than personal services - on the date when the District makes a binding written commitment to obtain the work.
- E. Public utility services - when the District receives the services.
- F. Travel - when the travel is taken.



G. Rental of property - when the District uses the property.

H. A pre-agreement cost that was properly approved by the Secretary under the cost principles in 2 C.F.R. Part 200, Subpart E - Cost Principles - on the first day of the project period.

## Period of Performance

All **financial** obligations must occur ~~during on or between the beginning and ending dates of the grant project. This period of time is known as~~ the period of performance. **Period of performance means the total estimated time interval between the start of an initial Federal award when the District is permitted to carry out the work authorized by the grant and the planned end date. The period of performance may include one or more funded portions or budget periods.** The period of performance is dictated by statute and will be indicated in the Grant Award Notification ("GAN"). As a general rule, State-administered Federal funds are available for obligation within the year that Congress appropriates the funds for. However, given the unique nature of educational institutions, for many Federal education grants, the period of performance is twenty-seven (27) months. This maximum period includes a fifteen (15) month period of initial availability, plus a twelve (12) month period for carryover. For direct grants, the period of performance is generally identified in the GAN.

In the case of a State-administered grant, **financial** obligations under a grant may not be made until the **application is approved or is in substantially approvable form, grant funding period begins or all necessary materials are submitted to the granting agency,** whichever is later. In the case of a direct grant, **a grantee may use grant funds only for obligations it makes during the grant period, obligations may begin when the grant is,** unless an agreement exists with **the awarding agency or the pass-through entity (e.g., ODE) ODE or the pass-through entity** to reimburse for pre-approval expenses.

**If a Federal awarding agency or pass-through entity approves an extension, or if the District extends under C.F.R. 200.308(e)(2), the Period of Performance will be amended to end at the completion of the extension. If a termination occurs, the Period of Performance will be amended to end upon the effective date of termination. If a renewal is issued, a distinct Period of Performance will begin.**

For both State-administered and direct grants, regardless of the period of availability, the District shall liquidate all **financial** obligations incurred under the award not later than ninety (90) days after the end of the funding period unless an extension is authorized. Any funds not obligated within the period of performance or liquidated within the appropriate timeframe are said to lapse and shall be returned to the awarding agency. Consequently, the District shall closely monitor grant spending throughout the grant cycle.

2 C.F.R. **200.344(b),** 200.403-~~406~~**407**, 200.413(a)-(c), 200.430(a), 200.431(a), 200.458

**34 C.F.R. 76.707-.708(a), 75.703**

~~C.F.R. 200.47(b)~~

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Legal                      2 C.F.R. 200.344(b), 200.403-407, 200.413(a)-(c), 200.430(a), 200.431(a), 200.458  
                                  34 C.F.R. 76.707-.708(a), 75.703

Book	Policy Manual
Section	Board Approved EDGAR Revisions January 2021
Title	Copy of EDGAR Revisions - January 2021 Revised PROCUREMENT - FEDERAL GRANTS/FUNDS
Code	po6325
Status	
Adopted	December 18, 2017
Last Revised	November 11, 2020

### 6325 - PROCUREMENT - FEDERAL GRANTS/FUNDS

Procurement of all supplies, materials, equipment, and services paid for from Federal funds or District matching funds shall be made in accordance with all applicable Federal, State, and local statutes and/or regulations, the terms and conditions of the Federal grant, Board of Education policies, and administrative procedures.

The Superintendent shall ~~have and use~~ maintain a procurement and contract administration system in accordance with the USDOE requirements (2 C.F.R. 200.317-.326), including affirmative steps for small and minority businesses and women's business enterprises, for the administration and management of Federal grants and Federally-funded programs. The District shall maintain ~~oversight a contract administration system~~ that requires contractors to perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. Except as otherwise noted, procurement transactions shall conform to the provisions of the District's documented general purchasing Policy 6320 and AG 6320A.

All District employees, officers, and agents who have purchasing authority shall abide by the standards of conduct covering conflicts of interest and governing the actions of its employees, officers, and agents engaged in the selection, award, and administration of contracts as established in Policy 1130, Policy 3113 and Policy 4113 - Conflict of Interest.

The District will avoid acquisition of unnecessary or duplicative items. Additionally, consideration shall be given to consolidating or breaking out procurements to obtain a more economical purchase and, where appropriate, an analysis shall be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach. These considerations are given as part of the process to determine the allowability of each purchase made with Federal funds.

To foster greater economy and efficiency, the District may enter into State and local intergovernmental agreements where appropriate for procurement or use of common or shared goods and services.

#### Competition

All procurement transactions for the acquisition of property or services required under a Federal award paid for from Federal funds or District matching funds shall be conducted in a manner that encourages full and open competition and that is in accordance with good administrative practice and sound business judgment. In order to promote objective contractor performance and eliminate unfair competitive advantage, the District shall exclude any contractor that has developed or drafted specifications, requirements, statements of work, or invitations for bids or requests for proposals from competition for such procurements.

Some of the situations considered to be restrictive of competition include, but are not limited to, the following:

- A. unreasonable requirements on firms in order for them to qualify to do business
- B. unnecessary experience and excessive bonding requirements
- C. noncompetitive pricing practices between firms or between affiliated companies
- D. noncompetitive contracts to consultants that are on retainer contracts
- E. organizational conflicts of interest

F. specification of only a "brand name" product instead of allowing for an "or equal" product to be offered and describing the performance or other relevant requirements of the procurement

G. any arbitrary action in the procurement process

Further, the District does not use statutorily or administratively imposed State, local, or tribal geographical preferences in the evaluation of bids or proposals, unless 1) an applicable Federal statute expressly mandates or encourages a geographic preference; or 2) the District is contracting for architectural and engineering services, in which case geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

To the extent that the District uses a pre-qualified list of persons, firms or products to acquire goods and services that are subject to this policy, the pre-qualified list includes enough qualified sources as to ensure maximum open and free competition. The District allows vendors to apply for consideration to be placed on the list periodically. **[insert frequency. See Drafting Note]**

**[Drafting Note: The District shall allow vendors not on the pre-qualified list to apply for placement on the list periodically. The District may determine how frequently the pre-qualified list becomes open for new vendors or whether it is open continuously.]**

The District shall require that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to provide maximum open and free competition. The District shall not preclude potential bidders from qualifying during the solicitation period.

### **Solicitation Language (Purchasing Procedures)**

The District shall have written procurement procedures that require that all solicitations made pursuant to this policy incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, shall set forth those minimum essential characteristics and standards to which it shall conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible.

When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which shall be met by offers shall be clearly stated; and identify all requirements which the offerors shall fulfill and all other factors to be used in evaluating bids or proposals.

The Board will not approve any expenditure for an unauthorized purchase or contract.

### **Procurement Methods**

The District shall have and use documented procedures, consistent with the standards described above, for ~~utilize~~ the following methods of procurement:

#### **A. Informal Procurement Methods**

When the value of the procurement for property or services under a Federal award does not exceed the simplified acquisition threshold, or a lower threshold established by the State, formal procurement methods are not required. The District may use informal procurement methods to expedite the completion of its transactions and minimize the associated administrative burden and cost. The informal methods used for procurement of property or services at or below the simplified acquisition threshold include:

##### **1. Micro-purchases**

Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed \$10,000 **[not to exceed \$10,000]**. To the maximum extent practicable, the District ~~should~~~~shall~~ distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be made without soliciting competitive quotations if the Superintendent considers the price to be reasonable based on research, experience, purchase history or other relevant information and documents are filed accordingly. ~~The District shall maintain~~~~The District maintains~~ evidence of this reasonableness in the records of all purchases made by this method.

[.] Unless otherwise defined by State or local law, Districts are responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of the risk, and its documented

procurement procedures. The micro-purchase threshold used by the District shall be authorized or not prohibited under State, local, or tribal laws or regulations. A District which is qualified as a low-risk auditee for the most recent audit (C.F.R. 200.520) may increase the micro-purchase threshold up to \$50,000. An eligible District may self-certify the increased micro-purchase threshold on an annual basis after completing the annual internal institutional risk assessment to identify, mitigate, and manage financial risks. The self-certification, in accordance with C.F.R. 200.334, must include a justification, clear identification of the threshold, and supporting documentation of the qualifications listed above. **[DRAFTING NOTE: The Federal regulation allows for a \$50,000 threshold. While this authority is allowed for an entity qualified as a low-risk auditee, Neola does not suggest its use due to the complexity and subjectivity of the mechanism.]**

## 2. **Small Purchases**

~~Small purchase procedures provide for relatively simple and informal procurement methods for securing services, supplies, and other property that does not exceed the competitive bid.~~ Small purchases include the acquisition of property or services, the aggregate dollar amount of which is higher than the micro-purchase threshold but does not exceed the simplified acquisition threshold of \$250,000 **[not to exceed \$250,000]**. Small purchase procedures require that price or rate quotations shall be obtained from ( ) \_\_\_\_\_ (X) an adequate number of **[END OF OPTION]** qualified sources. **[Drafting Note: ~~Unless the pass-through entity or State law defines the number of quotes required,~~ the District may define in policy how many quotations are adequate. The number must be greater than one (1).]**

Districts are responsible for determining an appropriate simplified acquisition threshold based on internal controls, an evaluation of risk, and its documented procurement procedures which must not exceed the threshold established in the Federal Acquisition Regulations (FAR). When applicable, a lower simplified acquisition threshold used by the non-Federal entity must be authorized or not prohibited under State, local, or tribal laws or regulations.

## B. **Formal Procurement Methods**

When the value of the procurement for property or services under a Federal award exceeds the simplified acquisition threshold, or a lower threshold established by the State, formal procurement methods are required. Formal procurement methods require following documented procedures. Formal procurement methods also require public advertising unless a non-competitive procurement method can be used in accordance with the standards on competition in 200.319 or non-competitive procurement. The formal methods of procurement are:

### 1. **Sealed Bids**

Sealed, competitive bids shall be obtained when the purchase of, and contract for, single items of supplies, materials, or equipment which amounts to more than \$250,000 **[the lesser of the established Small Purchase threshold or \$250,000]** and when the Board determines to build, repair, enlarge, improve, or demolish a school building/facility the cost of which will exceed \$50,000.

In order for sealed bidding to be feasible, the following conditions shall be present:

- a. a complete, adequate, and realistic specification or purchase description is available;
- b. two (2) or more responsible bidders are willing and able to compete effectively for the business; and
- c. the procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

When sealed bids are used, the following requirements apply:

- a. Bids shall be solicited in accordance with the provisions of State law and Policy 6320. Bids shall be solicited from ( ) \_\_\_\_\_ (X) an adequate number of qualified suppliers, providing sufficient response time prior to the date set for the opening of bids. The invitation to bid shall be publicly advertised. The invitation for bids will include product/contract specifications and pertinent attachments and shall define the items and/or services required in order for the bidder to properly respond.
- b. All bids will be opened at the time and place prescribed in the invitation for bids; bids will be opened publicly.
- c. A firm fixed price contract award will be made in writing to the lowest responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts may only be used to determine the low bid when prior

experience indicates that such discounts are usually taken.

d. The Board reserves the right to reject any or all bids for sound documented reason.

## 2. ~~(-) Competitive~~ Proposals

~~Procurement by competitive proposal, normally conducted with more than one source submitting an offer, is~~  
Procurement by proposals is a method in which either a fixed price or cost-reimbursement type contract is awarded.  
Proposals are generally used when conditions are not appropriate for the use of sealed bids or in the case of a recognized exception to the sealed bid method. **[Drafting Note: Federal law does not require a competitive proposal unless the procurement is for over \$250,000. The State/District may set a lower threshold for sealed bids and competitive proposals. Ohio law requires sealed bids when the Board seeks to build, repair, enlarge, improve, or demolish a school building/facility if the cost will exceed \$50,000 (see Policy 6320).]**

If this method is used, the following requirements apply:

- a. Requests for proposals shall be publicized and identify all evaluation factors and their relative importance. Any response to the publicized requests for proposals shall be considered to the maximum extent practical.
- b. Proposals shall be solicited from ( ) \_\_\_\_\_ **(X)** an adequate number of sources.
- c. The District shall use its written method for conducting technical evaluations of the proposals received and for selecting recipients.
- d. Contracts shall be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.

The District may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

## 3. ~~(-) Noncompetitive~~ Procurement Proposals

Procurement by noncompetitive proposals allows for solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

- a. micro-purchases
- b. the item is available only from a single source
- c. the public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation
- d. the Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the District
- e. after solicitation of a number of sources, competition is determined to be inadequate

## 4. **(X)** Noncompetitive Purchases Through Educational Service Centers (ESCs)

Under State law, the Board may enter into a contract with an educational service center (ESC) that authorizes the ESC to make purchases for supplies, materials, equipment, and services or the delivery of services on the District's behalf. These contracts promote operational efficiency and cost savings, and further enhance the educational experience for our students. Purchases made through such contracts are exempt from competitive bidding. **[DRAFTING NOTE: this provision applies to 3313.843, 3313.844, and 3313.845 contracts. A District with student enrollment of less than 16k must enter into a contract with an ESC in accordance with 3313.843.]**

The District may apply for approval from ODE to use a noncompetitive purchasing method to procure personnel-based services from an ESC only when the following criteria are met:

- a. the ESC posts a list of all services it provides including costs of these services on its website;
- b. the ESC has been designated as "high performing" by the Ohio Department of Education, and
- c. ODE as the passthrough state entity has determined that the ESC was substantially in compliance with all audit rules and guideline during the most recent audit conducted by the Auditor of State

The Treasurer/CFO will submit an application and any required documentation to ODE on the designated form requesting approval for use of a noncompetitive purchasing method for personnel services. Purchases will not be made until the application is approved. Notice of approval will be maintained by the Treasurer/CFO.

### **Domestic Preference for Procurement**

As appropriate and to the extent consistent with law, the District shall, to the extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. Such requirements shall be included in all subawards including all contracts and purchase orders for work or products under the Federal award.

### **Contract/Price Analysis**

The District shall perform a cost or price analysis in connection with every procurement action in excess of \$250,000, including contract modifications. A cost analysis generally means evaluating the separate cost elements that make up the total price, while a price analysis means evaluating the total price, without looking at the individual cost elements.

The method and degree of analysis is dependent on the facts surrounding the particular procurement situation; however, the District shall come to an independent estimate prior to receiving bids or proposals.

When performing a cost analysis, the District shall negotiate profit as a separate element of the price. To establish a fair and reasonable profit, consideration is given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

### **Time and Materials Contracts**

The District uses a time and materials type contract only 1) after a determination that no other contract is suitable; and 2) if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to the District is the sum of the actual costs of materials, and direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, the District sets a ceiling price for each contract that the contractor exceeds at its own risk. Further, the District shall assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

### **Suspension and Debarment**

The District will award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of the proposed procurement. All purchasing decisions shall be made in the best interests of the District and shall seek to obtain the maximum value for each dollar expended. When making a purchasing decision, the District shall consider such factors as 1) contractor integrity; 2) compliance with public policy; 3) record of past performance; and 4) financial and technical resources.

The Superintendent shall have the authority to suspend or debar a person/corporation, for cause, from consideration or award of further contracts. The District is subject to and shall abide by the nonprocurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 C.F.R. Part 180.

Suspension is an action taken by the District that immediately prohibits a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 C.F.R. Chapter 1) for a temporary period, pending completion of an agency investigation and any judicial or administrative proceedings that may ensue. A person so excluded is suspended. (2 C.F.R. Part 180 Subpart G)

Debarment is an action taken by the Superintendent to exclude a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 C.F.R. Chapter 1). A person so excluded is debarred. (2 C.F.R. Part 180 Subpart H)

The District shall not subcontract with or award subgrants to any person or company who is debarred or suspended. For contracts over \$25,000, the District shall confirm that the vendor is not debarred or suspended by either checking the Federal government's System for Award Management, which maintains a list of such debarred or suspended vendors at [www.sam.gov](http://www.sam.gov); collecting a certification from the vendor; or adding a clause or condition to the covered transaction with that vendor. (2 C.F.R. Part 180 Subpart C)

### **Bid Protest**

The District maintains the following protest procedures to handle and resolve disputes relating to procurements and, in all instances, discloses information regarding the protest to the awarding agency.

A bidder who wishes to file a bid protest shall file such notice and follow procedures prescribed by the Request For Proposals (RFPs) or the individual bid specifications package, for resolution. Bid protests shall be filed in writing with the Superintendent within seventy-two (72) hours of the opening of the bids in protest.

Within five (5) days of receipt of a protest, the Superintendent shall review the protest as submitted and render a decision regarding the merits of the protest and any impact on the acceptance and rejection of bids submitted. Notice of the filing of a bid protest shall be communicated to the Board and shall be so noted in any subsequent recommendation for the acceptance of bids and awarding of contracts.

Failure to file a notice of intent to protest, or failure to file a formal written protest within the time prescribed, shall constitute a waiver of proceedings.

### **Maintenance of Procurement Records**

The District ~~shall maintain~~**maintains** records sufficient to detail the history of all procurements. These records will include but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price (including a cost or price analysis).

2 C.F.R. 200.317 - .326, [\*\*Appendix II to Part 200\*\*](#)

[\*\*2 C.F.R. 200.520\*\*](#)

R.C. 3313.843 - 3313.846

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Legal                      2 C.F.R. 200.317 - .326, Appendix II to Part 200  
                                 2 C.F.R. 200.520  
                                 R.C. 3313.843 - 3313.846

Book Policy Manual

Section Board Approved EDGAR Revisions January 2021

Title Copy of EDGAR Revisions - January 2021 Revised PROPERTY INVENTORY

Code po7450

Status

Adopted December 18, 2017

#### 7450 - **PROPERTY INVENTORY**

As steward of this District's property, the Board of Education recognizes that efficient management and full replacement upon loss requires accurate inventory and properly maintained property records.

The Board shall

- ☐ conduct a complete inventory
- ☒ maintain a continuous inventory

of all Board-owned equipment and supplies ~~and conduct a complete history~~ and the results reconciled with the property records at least once

- ☐ annually.
- ☒ every ~~ten~~ (10) years. [specify number; Federal regulations require at least once every two (2) years]
- ☐ at such intervals as will coincide with property insurance renewal.
- ☐ and G.A.A.P. reporting requirements.

For purposes of this policy "equipment" shall mean a unit of furniture or furnishings, an instrument, a machine, an apparatus, or a set of articles which retains its shape and appearance with use, is nonexpendable, costs at least \$~~5000~~

- ☒ to replace
- ☐ as a single unit

and does not lose its identity when incorporated into a more complex unit. When defining Food Service supplies for inventory purposes, no items will be counted whose total value is less than \$~~25.00~~.

**WE DO NOT HAVE THE FOLLOWING LANGUAGE IN OUR CURRENT POLICY, BUT PROPOSE TO ADD IT, WITH THE SELECTED OPTIONS**

It shall be the duty of the

- ☐ Superintendent
- ☐ Business Manager
- ☒ Treasurer

to ensure that inventories are recorded systematically and accurately and property records of equipment are updated and adjusted annually by reference to purchase orders and withdrawal reports.

☐ Major items of equipment shall be subject to annual spot check inventory to determine loss, mislocation, or depreciation; any major loss shall be reported to the Board.

☐ Property records of consumable supplies shall be maintained on a continuous inventory basis.



☒ The Treasurer shall maintain a system of property records which shall show, as appropriate to the item recorded, the:

- A. ☒ description and identification;
- B. ☐ manufacturer;
- C. ☒ year of purchase;
- D. ☒ initial cost;
- E. ☒ location;
- F. ☐ condition and depreciation;
- G. ☐ evaluation in conformity with insurance requirements.

Equipment acquired under a Federal award will vest upon acquisition to the District, subject to the following conditions:

- A. The equipment shall be used for the authorized purposes of the award project during the period of performance or until the equipment is no longer needed for the purposes of the project.
- B. The equipment shall not be encumbered without the approval of the Federal awarding agency or the pass-through entity.
- C. The equipment may only be used and disposed of in accordance with the provisions of the Federal awarding agency or the pass-through entity and Policy 7300 and Policy 7310, AG 7300 and AG 7310.
- D. Property records shall be maintained that include a description of the equipment, a serial number or other identification number, the source of funding for the equipment (including the FAIN), title entity, acquisition date, cost of the equipment, percentage of Federal participation in the project costs for the award under which the equipment was acquired, the location, use, and condition of the equipment, and ultimate disposition data, including date of disposal and sale price of the equipment.
- E. A physical inventory of the property must be taken and results reconciled with property records at least once every two (2) years.
- F. A control system shall be developed to provide adequate safeguards to prevent loss, damage, or theft of the property. Any such loss, damage, or theft shall be investigated.
- G. Adequate maintenance procedures shall be implemented to keep the property in good condition.
- H. Proper sales procedures shall be established to ensure the highest possible return, in the event the District is authorized or required to sell the equipment/property.
- I. When original or replacement equipment acquired under a Federal award is no longer needed for the original project/program or for activities currently or previously supported by a Federal awarding agency, and except as otherwise provided by Federal statutes, regulations, or Federal awarding agency disposition instructions, the District shall request disposition instructions from the Federal awarding agency if required by the terms and conditions of the Federal award. Disposition of the equipment shall be made in accordance with the provisions of C.F.R. 200.313.

Book	Policy Manual
Section	Board Approved EDGAR Revisions January 2021
Title	Copy of EDGAR Revisions - January 2021 Revised ACCOUNTING SYSTEM FOR CAPITAL ASSETS
Code	po7455
Status	
Adopted	December 18, 2017

#### 7455 - ACCOUNTING SYSTEM FOR ~~CAPITAL~~FIXED ASSETS

The Board of Education shall maintain a ~~capital~~fixed-asset, accounting system. The ~~capital~~fixed-asset system shall maintain sufficient information to permit the following:

- A. (X) the preparation of year-end financial statements in accordance with generally-accepted, accounting principles
- B. (X) adequate insurance coverage
- C. (X) control and accountability

~~Capital~~Fixed assets are defined as those tangible assets of the District with 1.) a useful life in excess of one (1) year ~~and~~ 2.) an initial cost equal to or exceeding \$5,000. **WE DO NOT HAVE ANY OF THE FOLLOWING LANGUAGE IN OUR CURRENT POLICY BUT OK TO INCLUDE AS MARKED.** ~~the amount determined ( ) annually ( ) every ( ) years in the District's administrative guidelines, 3.) which are capitalized in accordance with GAAP, and 4.) which the District intends to hold or continue in use over an extended period of time.~~ If a single item does not meet the threshold amount, but is typically purchased in aggregate by the District, the ~~Treasurer~~ shall verify which items shall be classified as ~~capital~~fixed assets and recorded at the time of purchase or acquisition. Further, some items may be identified as "controlled" assets that, although they do not meet all ~~capital~~fixed asset criteria, are to be recorded on the ~~capital~~fixed-asset system to maintain control.

~~Capital~~Fixed assets shall be classified as follows:

- A. ~~( ) land~~land, buildings (facilities), equipment, and intellectual property (including software) whether acquired by purchase, construction, manufacture, exchange, or through a lease accounted for as financed purchase under Government Accounting Standards Board (GASB) standards or a finance lease under Financial Accounting Standards Board (FASB) standards, and
- B. ~~( ) land improvements~~additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations or alterations to ~~capital~~fixed assets that materially increase their value or useful life (not ordinary repairs and maintenance).
- C. ~~( ) buildings and building improvements~~
- D. ~~( ) improvements other than building~~
- E. ~~( ) machinery and equipment~~
- F. ~~( ) furniture and fixtures~~
- G. ~~( ) vehicles~~
- H. ~~( ) plant (aerator)~~
- I. ~~( ) underground lines and other infrastructure~~
- J. ~~( ) construction in progress~~
- K. ~~( ) textbooks and library books~~

L. ~~( ) investment in joint venture~~

Leased ~~capital~~~~fixed~~ assets and assets which are jointly-owned shall be identified and recorded on the ~~capital~~~~fixed~~ asset system.

~~Capital-Fixed~~ assets shall be recorded at actual, ~~or if not determinable, estimated~~ purchase price ~~or fair market value~~ at the time of acquisition. ~~The method(s) to be used to estimate such price or market value shall be established by the \_\_\_\_\_.~~

The Superintendent shall develop administrative guidelines to address the proper purchase, transfer, and disposal of ~~capital-fixed~~ assets. Such assets shall be disposed of in such a manner as will be in the public interest and benefit the District (see Policy 7300 and Policy 7310).

The ~~Treasurer~~ \_\_\_\_\_ shall verify whether an expense should be recorded as an improvement to a ~~capital-fixed~~ asset or maintenance cost. An improvement of a ~~capital-fixed~~ asset significantly increases its value, life or capacity to serve, and should be capitalized and depreciated over its life. Maintenance restores a ~~capital-fixed~~ asset to its original level of service and should not be capitalized.

Depreciation is the allocation of the cost of a ~~capital-fixed~~ asset over its estimated useful life. Depreciation shall be recorded for funded ~~capital~~~~fixed~~ assets using the method(s) agreed upon by the Superintendent and the Treasurer.

~~The following information shall be maintained for all capital-fixed assets:-~~

- A. ~~description (including whether the item was acquired in aggregate)-~~
- B. ~~asset classification (land, building, equipment, etc.)-~~
- C. ~~location-~~
- D. ~~purchase price/cost, or if not determined:-~~
  - 1. ~~estimated cost/purchase price-~~
  - 2. ~~estimated fair market value-~~
  - 3. ~~contract price (including all related charges to place the capital-fixed asset in condition or in its place for the intended use), or-~~
  - 4. ~~appraised value at the time of acquisition (if obtained by gift/donated)-~~
- E. ~~vendor-~~
- F. ~~date purchased/acquired~~

Book	Policy Manual
Section	Board Approved Nondiscrimination/Anti-Harassment Policies Update January 2021
Title	Nondiscrimination/Anti-Harassment Policies Update - January 2021 Revised NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY
Code	po1422
Status	
Adopted	December 18, 2017
Last Revised	December 6, 2019

#### 1422 - **NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY**

The Board of Education does not discriminate on the basis of race, color, national origin, sex, sexual orientation, gender identity, and gender expression ~~(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.]**

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{Name}

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{School District Title}

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{Telephone Number}

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{Office Address}

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{E-mail Address}

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{Name}

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{School District Title}

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{Telephone Number}

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{Office Address}

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{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. ~~X ( ) 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. ~~(X)~~ 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. The employee may file the concern as a formal or informal complaint as outlined below. 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. This should be done in writing or via email with the subject "Formal Complaint".

### **WE DO NOT HAVE THE FOLLOWING 3 PARAGRAPHS IN OUR CURRENT POLICY**

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 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 or report it as an informal complaint to the supervisor. 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~~ 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

**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 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 complaints of unlawful discrimination/retaliation 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 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 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.**

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 **via email** ~~orally~~ or in writing, with a Principal, 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 Principal, Superintendent, or other District ~~official level employee, either orally or in writing,~~ about any **formal** 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 **be titled "Formal Complaint"** and 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. **X(→)** 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.

**[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 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.]**  
**WE DO NOT HVE THE FOLLOWING 4 OPTIONS IN OUR CURRENT POLICY**
- 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	Board Approved Nondiscrimination/Anti-Harassment Policies Update January 2021
Title	Nondiscrimination/Anti-Harassment Policies Update - January 2021 Revised NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY
Code	po3122
Status	
Adopted	December 18, 2017
Last Revised	December 6, 2019

### 3122 - **NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY**

The Board of Education does not discriminate on the basis of race, color, national origin, sex, sexual orientation, gender identity, and gender expression ~~(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.]**

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{Name}

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{School District Title}

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{Telephone Number}

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{Office Address}

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{Name}

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{School District Title}

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{Telephone Number}

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{Office Address}

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{E-mail Address}

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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. ~~(X)~~ 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. The employee may file the concern as a formal or informal complaint as outlined below. 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. This should be done in writing or via email with the subject reading "Formal Complaint".

### **WE DO NOT HAVE THE FOLLOWING 3 PARAGRAPHS IN OUR CURRENT POLICY**

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.

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 within two (2) business days to advise him/her of the Board's intent to investigate the alleged wrongdoing.

## Formal Complaint Procedure

Employees who believe that they have been unlawfully discriminated/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 complaints involving a District employee or any other adult member of the School District community against a student will be investigated.

As an initial course of action, if 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 either tell or otherwise inform the person who engaged in the allegedly discriminatory/retaliatory conduct that it is inappropriate and must stop, or report it as an informal complaint to the supervisor. The complaining individual should address the alleged misconduct as soon after it occurs as possible. The COs are also 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 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, such as sexual discrimination, the CO may advise against the use of the informal complaint process.

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 ~~via email orally~~ or in writing, with a Principal, 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 Principal, Superintendent, or other District

~~official-level employee~~, either ~~via email~~ 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 be titled "Formal Complaint" and 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.]**

**WE DO NOT HAVE THE FOLLOWING OPTIONS IN OUR CURRENT POLICY**

- 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.

## 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	Board Approved Nondiscrimination/Anti-Harassment Policies Update January 2021
Title	Nondiscrimination/Anti-Harassment Policies Update - January 2021 Revised NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY
Code	po4122
Status	
Adopted	December 18, 2017
Last Revised	December 6, 2019

#### 4122 - **NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY**

The Board of Education does not discriminate on the basis of race, color, national origin, sex, sexual orientation, gender identity, and gender expression ~~(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.]**

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~~{Name}~~

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~~{School District Title}~~

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~~{Telephone Number}~~

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~~{Office Address}~~

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~~{E-mail Address}~~

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~~{Name}~~

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~~{School District Title}~~

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~~{Telephone Number}~~

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~~{Office Address}~~

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~~{E-mail Address}~~

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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. (X ) 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 Principal, 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 Principal, 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.]**

**WE DO NOT HAVE THE FOLLOWING OPTIONS IN OUR CURRENT POLICY**

- 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	<p>R.C. 4112.01, 4112.02</p> <p>A.C. 3301-35-03(A)</p> <p>Fourteenth Amendment, U.S. Constitution</p> <p>20 U.S.C. Section 1681, Title IX of Education Amendment Act</p> <p>20 U.S.C. Section 1701 et seq., Equal Educational Opportunities Act of 1974</p> <p>20 U.S.C. Section 7905, Boy Scouts of America Equal Access Act</p> <p>42 U.S.C. 6101 et seq., Age Discrimination Act of 1975</p> <p>42 U.S.C. 12101 et seq., The Americans with Disabilities Act of 1990, as amended</p> <p>34 C.F.R. Part 110 (7/27/93)</p> <p>42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act</p> <p>42 U.S.C., 2000e, et seq., Civil Rights Act of 1964</p> <p>29 U.S.C. 701 et seq., Rehabilitation Act of 1973, as amended</p> <p>29 C.F.R. Part 1635</p>
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Book	Policy Manual
Section	Board Approved Nondiscrimination/Anti-Harassment Policies Update January 2021
Title	Nondiscrimination/Anti-Harassment Policies Update - January 2021 Revised SECTION 504/ADA PROHIBITION AGAINST DISABILITY DISCRIMINATION IN EMPLOYMENT
Code	po1623
Status	
Adopted	December 18, 2017

#### 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.

#### **WE DO NOT HAVE ANY OF THE FOLLOWING LANGUAGE IN OUR CURRENT POLICY**

##### **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.]**

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(School District Title)

\_\_\_\_\_  
(Telephone Number)

\_\_\_\_\_  
(Office Address)

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(E-mail Address)

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(Name)

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(School District Title)

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(Telephone Number)

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(Office Address)

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(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~~e 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	Board Approved Nondiscrimination/Anti-Harassment Policies Update January 2021
Title	Nondiscrimination/Anti-Harassment Policies Update - January 2021 Revised SECTION 504/ADA PROHIBITION AGAINST DISABILITY DISCRIMINATION IN EMPLOYMENT
Code	po3123
Status	
Adopted	December 18, 2017

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

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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. ~~X ( ) on the School District's web site.~~
- D. ( ) on each individual school's web site.
- E. ( ) in the School District's calendar.
- F. ( ) \_\_\_\_\_.

#### **WE DO NOT HAVE ANY OF THE FOLLOWING LANGUAGE IN OUR CURRENT POLICY**

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.

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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	Board Approved Nondiscrimination/Anti-Harassment Policies Update January 2021
Title	Nondiscrimination/Anti-Harassment Policies Update - January 2021 Revised SECTION 504/ADA PROHIBITION AGAINST DISABILITY DISCRIMINATION IN EMPLOYMENT
Code	po4123
Status	
Adopted	December 18, 2017

#### 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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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.~~

The School District's informal complaint procedure is designed to provide 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 individual claiming unlawful discrimination/retaliation, informal resolution may involve, but not be limited to, one or more of the following:

1. Advising the individual about how to communicate his/her concerns to the person who allegedly engaged in the discriminatory/retaliatory behavior.
2. Distributing a copy of Policy 1422 – Non-Discrimination as a reminder to the individuals in the school building or office where the individual whose behavior is being questioned works.
3. If both parties agree, the CO may arrange and facilitate a meeting 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 will exercise his/her authority to attempt to resolve all informal complaints within fifteen (15) business days of receiving the informal complaint. Parties who are dissatisfied with the results of the informal complaint process may proceed to file a formal

complaint. And, as stated above, parties may request that the informal process be terminated at any time to move to the formal complaint process.

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

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 within two (2) business days to advise him/her of the Board's intent to investigate the wrongdoing.

### **Investigation and Complaint Procedure**

Any employee who believes that s/he has been subjected to unlawful discrimination or retaliation may seek resolution of his/her complaint through the procedures described below. The formal complaint procedures involve an investigation of the individual's claims 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 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").

### **Formal Complaint Procedure**

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 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 complaints of unlawful discrimination/retaliation 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 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 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.

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 individual elects to file a formal complaint initially, the formal complaint process shall be implemented.

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 via email or in writing, with a principal, the CO, Superintendent, or other District-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 complaint within thirty (30) calendar days after the conduct occurs. If a Complainant informs a principal, Superintendent, or other District-level employee, about any formal 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 informed of the status of the investigation and the decision-making process.

All formal complaints must be titled "Formal Complaint" and include the following information to the extent it is available: the identity of the 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; 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 person who allegedly engaged in the misconduct. In making such a determination, the CO should consult the Complainant to assess 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 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 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. 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:

1. interviews with the Complainant;
2. interviews with the Respondent;
3. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations;
4. 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 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 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 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.

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 Complainant may be represented, at 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 or the filing of a court case. Use of this internal complaint procedure is not a prerequisite to the pursuit of other remedies.

### **THE FOLLOWING LANGUAGE WAS DELETED AND REPLACED WITH THE ABOVE LANGUAGE IN OUR CURRENT POLICY**

#### **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.

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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	Board Approved Nondiscrimination/Anti-Harassment Policies Update January 2021
Title	Nondiscrimination/Anti-Harassment Policies Update - January 2021 Revised ANTI-HARASSMENT
Code	po1662
Status	
Adopted	December 18, 2017
Last Revised	December 6, 2019

## 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, sexual orientation, gender identity, and gender expression ~~(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. (WE HAVE THIS LANGUAGE IN CURRENT POLICY).~~

~~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). (WE HAVE THIS LANGUAGE IN CURRENT POLICY).~~

### 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, video ~~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; ~~(X)~~ 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/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.]**



(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 (X) 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 Principal 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 Principal 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 Principal 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 Principal informed of the status of the Policy 1662 investigation and provide the Principal ~~him/her~~ with a copy of the resulting written report. Likewise, the Title IX Coordinator will provide the Principal 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.~~

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 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, Principal, 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, Principal, 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 ~~five~~~~two~~ (5) 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~~ Principal 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.]**

**WE DO NOT HAVE THE FOLLOWING OPTIONS IN OUR CURRENT POLICY**

- 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	Board Approved Nondiscrimination/Anti-Harassment Policies Update January 2021
Title	Nondiscrimination/Anti-Harassment Policies Update - January 2021 Revised ANTI-HARASSMENT
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Last Revised	December 6, 2019

### 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, sexual orientation, gender identity, and gender expression ~~(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. (WE HAVE THIS LANGUAGE IN CURRENT POLICY).~~

~~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). (WE HAVE THIS LANGUAGE IN CURRENT POLICY).~~

#### 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, video ~~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; ~~(X)~~ 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.]**

(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 (X) 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 Principal 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 Principal 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 Principal 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 Principal informed of the status of the Policy 3362 investigation and provide ~~the~~ Principal ~~him/her~~ with a copy of the resulting written report. ~~Likewise, the Title IX Coordinator will provide the Principal 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 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, Principal, 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, Principal, 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 Principal 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.]**

**WE DO NOT HAVE THE FOLLOWING OPTIONS IN OUR CURRENT POLICY**

- 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 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	Board Approved Nondiscrimination/Anti-Harassment Policies Update January 2021
Title	Nondiscrimination/Anti-Harassment Policies Update - January 2021 Revised ANTI-HARASSMENT
Code	po4362
Status	
Adopted	December 18, 2017
Last Revised	December 6, 2019

#### 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, sexual orientation, gender identity and gender expression ~~(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. (WE HAVE THIS LANGUAGE IN CURRENT POLICY).~~

~~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). (WE HAVE THIS LANGUAGE IN CURRENT POLICY).~~

##### 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, video ~~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; ~~(X)~~ 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.]**

(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 Principal 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 Principal 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 Principal 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 Principal informed of the status of the Policy 4362 investigation and provide ~~the~~ Principal ~~him/her~~ with a copy of the resulting written report. Likewise, the Title IX Coordinator will provide the Principal 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, Principal, 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, Principal, 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 Principal 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 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.]**

**WE DO NOT HAVE THE FOLLOWING OPTIONS IN OUR CURRENT POLICY**

- 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 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	Board Approved Nondiscrimination/Anti-Harassment Policies Update January 2021
Title	Nondiscrimination/Anti-Harassment Policies Update - January 2021 Revised NONDISCRIMINATION AND ACCESS TO EQUAL EDUCATIONAL OPPORTUNITY
Code	po2260
Status	
Adopted	December 18, 2017
Last Revised	December 6, 2019

## 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, sexual orientation, gender identity, and gender expression ~~(including sexual orientation or transgender 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.

Equitable~~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.]

\_\_\_\_\_  
{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/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).~~ **(WE HAVE THIS LANGUAGE IN CURRENT POLICY)**

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 ~~T~~<sup>h</sup>ird ~~P~~<sup>p</sup>arties 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 ~~T~~<sup>h</sup>ird ~~P~~<sup>p</sup>arties, 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 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 Principal believes that the reported misconduct may constitute unlawful discrimination based on a Protected Class, the Principal 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 Principal shall suspend ~~the~~<sup>his/her</sup> Policy 5517.01 investigation to await the CO's written report. The CO shall keep the Principal informed of the status of the Policy 2260 investigation and provide the ~~Principal~~<sup>him/her</sup> 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, Principal, 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, Principal, 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~~ Principal 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.]**

**WE DO NOT HAVE THE FOLLOWING OPTIONS IN OUR CURRENT POLICY**

- 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	Board Approved Nondiscrimination/Anti-Harassment Policies Update January 2021
Title	Nondiscrimination/Anti-Harassment Policies Update - January 2021 Revised ANTI-HARASSMENT
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## 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, sexual orientation, gender identity and gender expression ~~(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.~~ (WE HAVE THIS LANGUAGE IN CURRENT POLICY)

~~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).~~ (WE HAVE THIS LANGUAGE IN CURRENT POLICY)

### 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; ~~(X)~~ 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.]**

\_\_\_\_\_  
(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

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 Principal 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 Principal 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 Principal 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 Principal informed of the status of the Policy 5517 investigation and provide ~~the~~ ~~Principal~~ ~~him/her~~ with a copy of the resulting written report. ~~Likewise, the Title IX Coordinator will provide the Principal 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, any~~ Any 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~~ 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, principal, 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~~ days after the conduct occurs while the facts are known and potential witnesses are available. If a Complainant informs a teacher, principal, 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 Principal 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.]**

**WE DO NOT HAVE THE FOLLOWING OPTIONS IN OUR CURRENT POLICY**

- 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 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

National School Boards Association Inquiry and Analysis - May, 2008

Book	Policy Manual
Section	Board Approved Policies Vol. 39, No. 2 January 2021
Title	Copy of Vol. 37, No. 1 - August 2018 Revised PUBLIC PARTICIPATION AT BOARD MEETINGS
Code	po0169.1
Status	
Adopted	December 18, 2017
Last Revised	December 10, 2018

#### 0169.1 - PUBLIC PARTICIPATION AT BOARD MEETINGS

The Board of Education recognizes the value to school governance of public comment on educational issues and the importance of allowing members of the public to express themselves on school matters of community interest. The Board offers public participation to members of the public in accordance with the procedures below. The Board applies these procedures to all speakers, and does not discriminate based on the identity of the speaker, content of the speech, or viewpoint of the speaker.

~~The Board is also committed to conducting its meetings in a productive and efficient manner that assures that the regular agenda of the Board is completed in a reasonable period of time, honors the voluntary nature of the Board's time and using that time efficiently, and allows for a fair and adequate opportunity for input to be considered. Consequently, public participation at Board meetings will be governed by this bylaw.~~

- A. ~~[ ] Any person or group wishing to place an item on the agenda shall register their intent with the Superintendent no later than \_\_\_\_\_ days prior to the meeting and include:~~

~~( ) name and address of the participant;~~

~~( ) group affiliation, if and when appropriate;~~

~~( ) topic to be addressed.~~

~~Such requests shall be subject to the approval of the Superintendent and the Board President.~~

Photographic and electronic audio and video broadcasting and recording devices may be used at regular and special Board meetings legally to the public according to the following guidelines.

1. Photographing, broadcasting and recording meetings are permitted only when all parties involved have been informed that cameras, broadcasting and/or recording devices are being used.

2. Persons operating cameras, broadcasting and/or recording devices must do so with a minimum of disruption to those present at the meet. Specifically, the view between Board members and the audience must not be obstructed, interviews must not be conducted during the meet and no commentary is to be given in a manner that distracts Board members or the audience.

3. The Board has the right to halt any recording that interrupts or disturbs the meeting. The Board may make the necessary arrangements to make audio recordings of all regular meetings and any special meeting that it deems appropriate.

In order to permit the fair and orderly expression of such comment, the Board shall provide a period for public participation

- ( ) at every regular meeting of the Board
- ( ) at all public meetings of the Board
- ( ) at those public meetings of the Board during which action may be taken

and publish rules to govern such participation in Board meetings.

The presiding officer of each Board meeting at which public participation is permitted shall administer the rules of the Board for its conduct.

The presiding officer shall be guided by the following rules:

- A. ☒ Public participation shall be permitted
  - ☐ as indicated on the order of business.
  - ☐ before the Board takes official action on any issue of substance.
  - ☒ at the discretion of the presiding officer.
- B. ☒ Anyone having a legitimate interest in the actions of the Board may participate during the public portion of a meeting.
- C. ☒ Attendees must register their intention to participate in the public portion of the meeting as directed by the District ~~upon their arrival at the meeting.~~
- D. ☒ Participants must be recognized by the presiding officer
  - ☒ and will be requested to preface their comments by an announcement of their name,
  - ☒ address, and
  - ☒ group affiliation, if and when appropriate.
- E. ☒ Each statement made by a participant shall be limited to five minutes duration, unless reduced or extended by the presiding officer.
- F. ☐ No participant may speak more than once on the same topic unless all others who wish to speak on that topic have been heard.
- G. ☐ All statements shall be directed to the presiding officer; no person may address or question Board members individually.
- H. ☐ ~~Tape~~ Audio or video recordings are permitted. The person operating the recorder should contact the Superintendent prior to the Board meeting to review possible placement of the equipment, and must agree to abide by the following conditions:
  - 1. No obstructions are created between the Board and the audience.
  - 2. No interviews are conducted in the meeting room while the Board is in session.
  - 3. No commentary, adjustment of equipment, or positioning of operators is made that would distract either the Board or members of the audience while the Board is in session and not disrupt the meeting.
- I. ☒ The presiding officer may:
  - 1. ☒ prohibit public comments that are frivolous, repetitive, and/or harassing;
  - 2. ☒ interrupt, warn, or terminate a participant's statement when the statement is too lengthy, ~~personally directed,~~ abusive, off-topic, ~~antagonistic,~~ obscene, or irrelevant;
  - 3. ☒ request any individual to leave the meeting when that person does not observe reasonable decorum or is disruptive to the conduct of the meeting;
  - 4. ☒ request the assistance of law enforcement officers in the removal of a disorderly person when that person's conduct interferes with the orderly progress of the meeting;
  - 5. ☒ call for a recess or an adjournment to another time when the lack of public decorum so interferes with the orderly conduct of the meeting as to warrant such action;
  - 6. ☐ waive these rules.
    - ☐ with the approval of the Board when necessary for the protection of privacy or the administration of the Board's business.

☐ The portion of the meeting during which the participation of the public is invited shall be limited to ☐ \_\_\_\_\_ minutes ☐ \_\_\_\_\_ hours, unless extended by a vote of the Board.

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