

THE SCHOOL DISTRICT  
OF PHILADELPHIA

SECTION: EMPLOYEES

TITLE: UNLAWFUL HARASSMENT

ADOPTED: August 24, 2011

REVISED:

<p>1. Authority</p> <p>43 P.S. Sec. 951 et seq 20 U.S.C. Sec. 1681 et seq 42 U.S.C. Sec. 2000e et seq 42 U.S.C. Sec. 2000ff et seq 29 CFR Sec. 1606.8(a)</p>	<p style="text-align: center;">348. UNLAWFUL HARASSMENT</p> <p>The School Reform Commission strives to provide a safe, positive working climate for its administrative, professional and support employees. Therefore, it shall be the policy of the district to maintain an employment environment in which harassment in any form is not tolerated.</p> <p>The SRC prohibits all forms of unlawful harassment of employees and third parties by all district students and staff members, contracted individuals, vendors, volunteers, and third parties in the schools. The SRC encourages employees and third parties who have been harassed to promptly report such incidents to the designated administrators.</p> <p>While unlawful harassment will not be tolerated by any employee, supervisors shall be held to the highest of conduct standards and shall be subject to a higher level of discipline when engaging in unlawful harassment.</p> <p>The SRC directs that complaints of harassment shall be investigated promptly, and corrective action in accordance with the provisions of any applicable collective bargaining agreement and/or the Pennsylvania School Code shall be taken when allegations are substantiated. Confidentiality by all parties shall be maintained, consistent with the district's legal and investigative obligations: only those with a 'need to know' will be apprised of the complaint and staff participants in the complaint process shall be informed of their duty of confidentiality to the process as well.</p> <p>The basic rights of all concerned shall be respected at all times. No reprisals nor retaliation shall occur as a result of good faith charges of harassment.</p>
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<p>2. Definitions  42 U.S.C.  Sec. 2000ff et seq.  29 CFR  Sec. 1606.8 (a)  66 Fed. Reg. 5512</p>	<p>For purposes of this policy, <b>harassment</b> shall consist of verbal, written, graphic or physical conduct relating to an individual's race, color, national origin/ethnicity, sex, age, disability, sexual orientation, religion or genetic information when such conduct:</p> <ol style="list-style-type: none"> <li>1. Is sufficiently severe, persistent or pervasive that it affects an individual's ability to perform job functions or creates an intimidating, threatening or abusive work environment.</li> <li>2. Has the purpose or effect of substantially or unreasonably interfering with an individual's work performance.</li> <li>3. Otherwise adversely affects an individual's employment opportunities.</li> </ol>
<p>29 CFR  Sec. 1604.11 (a)</p>	<p>For purposes of this policy, <b>sexual harassment</b> shall consist of unwelcome sexual advances; requests for sexual favors; and other inappropriate verbal, written, graphic or physical conduct of a sexual nature when:</p> <ol style="list-style-type: none"> <li>1. Acceptance of such conduct is made, explicitly or implicitly, a term or condition of an individual's continued employment.</li> <li>2. Submission to or rejection of such conduct is the basis for employment decisions affecting the individual.</li> <li>3. Such conduct is sufficiently severe, persistent or pervasive that it has the purpose or effect of substantially interfering with the employee's job performance or creating an intimidating, hostile or offensive work environment.</li> </ol> <p>Examples of conduct that may constitute <b>sexual harassment</b> under this policy include but are not limited to sexual flirtations, advances, touching or propositions; sexual favoritism; verbal abuse of a sexual nature; graphic or suggestive comments about an individual's dress or body; sexually degrading words to describe an individual; jokes; pin-ups; calendars; objects; graffiti; vulgar statements; abusive language; innuendoes; references to sexual activities; overt sexual conduct; or any conduct that has the effect of unreasonably interfering with an employee's ability to work or creates an intimidating, hostile or offensive working environment.</p>
<p>3. Delegation of Responsibility  Pol. 104</p>	<p>In order to maintain a work environment that discourages and prohibits unlawful harassment, the SRC designates the Chief Talent Development Officer and Office of General Counsel as the district's Compliance Officers.</p>

<p>4. Guidelines</p>	<p>The Compliance Officer(s) shall publish and disseminate this policy and the complaint procedure at least annually to students, parents/guardians, employees, independent contractors, vendors, and the public. The publication shall include the position, office address and telephone number of the Compliance Officer(s).</p> <p>The administration shall be responsible to provide training for students and district employees regarding unlawful harassment, and the district's policy prohibiting unlawful harassment including its procedure for the filing and investigation into unlawful harassment complaints.</p> <p>Each employee shall be responsible to maintain a working environment free from all forms of unlawful harassment.</p> <p>Any supervisor who receives a harassment complaint or who has reason to believe harassment is occurring shall refer to SRC policy and the procedures for processing harassment complaints.</p> <p>The building principal/immediate supervisor or designee shall be responsible to complete the following duties when receiving a complaint of unlawful harassment:</p> <ol style="list-style-type: none"><li>1. Inform the employee or third party of the right to file a written, signed complaint and the complaint procedure.</li><li>2. Notify the complainant and the accused of the progress at appropriate stages of the procedure.</li><li>3. Refer the complainant to the Compliance Officer(s) if the building principal/immediate supervisor is the subject of the complaint.</li></ol> <p>An employee or third party may utilize either the informal or formal complaint procedure.</p> <p><u>Informal Complaint Procedure – Employee/Third Party</u></p> <p>Where behaviors may be offensive and the offended party has a desire to stop the behavior(s) without resorting to the formal procedure, the employee may notify the offending party directly, but is not required to do so. The employee may also request a supervisor to intervene by notifying the alleged offender that the specific offensive behavior(s) will not be tolerated in the work place. In such case the supervisor must discuss the matter with the alleged offender, and, if warranted require that s/he participate in nondisciplinary counseling. The supervisor shall document actions taken and inform the Chief Talent Development Officer in writing. Copies will also</p>
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be forwarded to the Law Department of the School District of Philadelphia. The accused shall have the right of representation during his/her interview with the supervisor as required by the applicable collective bargaining agreement.

If the complainant is not satisfied with the result of the informal process, s/he may submit a formal complaint in accordance with this policy.

Formal Complaint Procedure – Employee/Third Party

**Step 1 – Reporting**

An employee or third party who believes s/he has been subject to conduct that constitutes a violation of this policy is encouraged to immediately report the incident to the building principal/immediate supervisor.

If the building principal/immediate supervisor is the subject of a complaint, the employee or third party shall report the incident directly to the Compliance Officer(s).

The complainant is encouraged to use the report form available from the building principal/immediate supervisor.

**Step 2 – Investigation**

Upon receiving a written complaint of unlawful harassment, the building principal/immediate supervisor shall immediately notify the Compliance Officer(s) and the Assistant Superintendent. The Compliance Officer(s) shall authorize the building principal/immediate supervisor to investigate the complaint, unless the building principal/immediate supervisor is the subject of the complaint or is unable to conduct the investigation.

The investigation may consist of individual interviews with the complainant, the accused, and others with knowledge relative to the incident. The investigator may also evaluate any other information and materials relevant to the investigation.

The investigator shall attempt to secure statements from all participants in, and witnesses to, the complaint. The accused shall have the right of representation during his/her interview as required by the applicable collective bargaining agreement. Non-represented accused employees may request that a district co-worker represent him/her.

The obligation to conduct this investigation shall not be negated by the fact that a criminal investigation of the incident is pending or has been concluded.

<p>Pol. 317</p>	<p>The failure of the accused to participate in the investigation into a written complaint shall be grounds for discipline, up to and including possible discharge for cause.</p> <p>All investigations shall be completed by the assigned investigator within sixty (60) days from the filing date of the complaint. Extenuating circumstances for not being able to comply with the deadline must be approved by the Compliance Officer(s). The extension must be a specified period of time not exceeding twenty-five (25) days, and must be communicated to the complainant.</p> <p><b>Step 3 – Investigative Report</b></p> <p>The building principal/immediate supervisor shall prepare a written report which shall include a summary of the investigation, a determination of whether the complaint has been substantiated as factual and whether it is a violation of this policy, and a recommended disposition of the complaint.</p> <p>The findings of the investigation shall be provided to the complainant, the accused, and the Compliance Officer(s).</p> <p><b>Step 4 – District Action</b></p> <p>If the investigation results in a finding that the complaint is factual and constitutes a violation of this policy, the district shall take prompt, corrective action to ensure that such conduct ceases and will not recur.</p> <p>Complainants and the accused shall be notified of the final disposition/action taken by the district.</p> <p>Disciplinary actions shall be consistent with SRC policies, administrative procedures, applicable collective bargaining agreements, and state and federal laws.</p> <p>If it is concluded that an employee has knowingly made a false complaint under this policy, such employee shall be subject to disciplinary action, up to and including possible discharge.</p> <p><b>Appeal Procedure</b></p> <ol style="list-style-type: none"><li>1. If the complainant is not satisfied with a finding of no violation of the policy or with the corrective action recommended in the investigative report, s/he may submit a written appeal to the Compliance Officer(s) within fifteen (15) days of her/his receipt of written notice of final disposition/action taken.</li></ol>
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2. The Compliance Officer(s) shall review the investigation and the investigative report and may also conduct a reasonable investigation.
3. The Compliance Officer(s) shall prepare a written response to the appeal within thirty (30). This time period may be extended by the Compliance Officer(s) under circumstances where winter, spring or summer break coincides with the investigatory period or for other reasonable cause. Copies of the response shall be provided to the complainant, the accused and the building principal/immediate supervisor who conducted the initial investigation.

References:

Pennsylvania Human Relations Act – 43 P.S. Sec. 951 et seq.

Federal Anti-Discrimination and Civil Rights Laws –

20 U.S.C. Sec. 1681 et seq. (Title IX)

42 U.S.C. Sec. 2000e et seq. (Title VII)

Genetic Information Nondiscrimination Act of 2008 – 42 U.S.C. Sec. 2000ff et seq.

Harassment Regulations and Guidelines

Code of Federal Regulations – 29 CFR Sec. 1604.11(a), 1606.8(a)

Federal Register – 66 Fed. Reg. 5512

Philadelphia Code of Ordinances (Fair Practices Ordinance) – Title 9, Section 9-1101 et seq.

School Reform Commission Policy – 104, 317