

Administrative Procedure A: Harassment and Discrimination - Employees

(Attachment for Policy No. 348)

Purpose

The School District of Philadelphia (“District”) is committed to providing a safe, positive working climate for its employees. The purpose of these procedures is to establish the process to be utilized when a complaint of harassment or discrimination of an employee is reported. While the nature of an individual claim may range in severity or impact, the goal is to ensure the process is clear to all employees.

The Board prohibits discrimination and harassment based on an employee’s protected class,¹ or retaliation. Students, parents, and community members are strongly encouraged to report such incidents using the [Online Bullying Harassment and Discrimination Reporting Page](#). As further explained below, all supervisors and principals are required to report acts of discrimination, harassment, or retaliation whether those acts are witnessed by staff or reported to them by others.

This procedure applies to all allegations of discrimination, harassment, and retaliation. However, the District follows Administrative Procedures B when investigating allegations that meet the specific definition of sexual harassment under Title IX of the Civil Rights Act.

Definitions

Complainant: Any individual who is alleged to be the victim of harassment, discrimination, or retaliation by a District student or employee.

Discrimination: To treat individuals differently or to harass or victimize based on one or more known or perceived protected classifications. A single incident of discrimination may implicate more than one protected class.

Harassment: Verbal, nonverbal, written, graphic, virtual, or physical conduct relating to an individual's known or perceived protected classification.

Harassment includes unwelcome conduct such as graphic, written, electronic, verbal, or nonverbal acts including offensive jokes, slurs, epithets and name-calling, ridicule or mockery, insults or put-downs, offensive objects or pictures, physical assaults or threats, intimidation, sexual harassment that does not meet the specific definition within Title IX, or other conduct that may be harmful or humiliating or interfere with a person’s school or school-related performance when:

1. Such conduct is subjectively and objectively offensive; and

¹ As defined below, protected classifications include race, color, ethnicity, age, religion, sex, sexual orientation (known or perceived), gender identity or expression (known or perceived), shared ancestry and ethnic characteristics, national origin, marital status, pregnancy, English language proficiency, veteran status, and disability

2. So severe or pervasive that it limits or denies a person's ability to participate in or benefit from the services, activities, or opportunities offered by a school.

Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. A single incident of harassment may implicate more than one protected class. For example, a student may be targeted because of their race and sexual orientation.

Protected Classification: Classifications which are defined under federal, state, or local law as being protected. These classes include race, color, ethnicity, age, religion, sex, sexual orientation (known or perceived), gender identity or expression (known or perceived), shared ancestry and ethnic characteristics, national origin, marital status, pregnancy, English language proficiency, veteran status, and disability.

Respondent: Any District student or employee who is reported to be the perpetrator of conduct that could constitute bullying, harassment, discrimination, or retaliation.

Title IX sexual harassment: The District's definition of Title IX harassment and related information can be found in Administrative Procedures B. Title IX sexual harassment complaints are investigated in accordance with Administrative Procedure B: Title IX Sexual Harassment.

Procedures

Complaint Procedure

Step 1 – Reporting

An employee or third party who believes they have been subject to conduct by any employee, student, or third party that constitutes a violation of Policy 348 is encouraged to immediately report the incident in one of the following ways:

1. Complete the [Employee Discrimination and/or Harassment Reporting Form](#),²
2. Email employeecomplaints@philasd.org; or
3. Report the conduct to their building principal or immediate supervisor.³

Retaliation against any person for filing a complaint, testifying, participating or assisting in an investigation, or opposing practices the person reasonably believes to be discriminatory is prohibited. However, employees who knowingly make a false complaint may be subject to disciplinary action, up to and including possible discharge.

Principals/supervisors who receive complaints shall encourage the Complainant to submit the

² The Employee Discrimination and/or Harassment Reporting Form is available at:

https://sdp.guardianconduct.com/incident-reporting?incident_type=Report%20Student%20Bullying,%20Harassment%20Discrimination,%20Retaliation

³ If the building principal/immediate supervisor is the subject of a complaint, the employee or third party shall report the incident directly to Office of Talent via the [Employee Discrimination and/or Harassment Reporting Form](#) or by email to employeecomplaints@philasd.org

complaint via the [Reporting Form](#). The principal/supervisor also shall notify the Office of Employee & Labor Relations and provide all relevant details of the complaint (name of Complainant, Respondent, witnesses, and any known facts).

Step 2 - Initial Assessment

Employee Respondent: Upon receiving a complaint of alleged harassment or discrimination by an employee, the Deputy Chief of Employee & Labor Relations or their designee shall assign an investigator to conduct an initial assessment. An initial assessment may be limited to a review of the allegations only, or it may require an interview with the Complainant to obtain additional information. The investigator reviews the allegations to determine if they warrant an investigation by analyzing:

- a. If the alleged conduct, if true, would constitute harassment or discrimination in violation of Policy 348, the investigator shall conduct an investigation in accordance with Step 3 below.
- b. If the alleged conduct, if true, would not constitute harassment or discrimination in violation of Policy 348, the investigator shall:
 - i. Refer the complaint to the Respondent's supervisor, or another individual, as appropriate, for investigation in accordance with an applicable Board policy and/or Collective Bargaining Agreement, for example Policy 300 - Employee Code of Ethics or Policy 316 - Staff Use of Social Media and Electronic Communications

Third party: If the allegations are against a third party, the Deputy Chief, Employee & Labor Relations or their designee shall make a determination as to how to proceed.

Student Respondent: If the Respondent is a student, the Deputy, Employee & Labor Relations or their designee shall refer the complaint for investigation to the Director, Compliance Monitoring pursuant to Policy 248 - Harassment of Students or other applicable policy.

Step 3 – Investigation

The investigator shall conduct a reliable and impartial investigation and shall provide each party the opportunity to present witnesses and other evidence.

The investigation may consist of individual interviews with the Complainant, the Respondent, and others with knowledge relevant to the complaint. The investigator may also consider any other information and materials relevant to the investigation.

The employee Respondent shall have the right of union representation during their interview if required by an applicable collective bargaining agreement.

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, unless particular procedural steps

would directly impede a criminal investigation. The investigator should coordinate with any other ongoing school or criminal investigations of the incident. The District will implement appropriate interim steps during the law enforcement agency's investigation period to provide for the safety of the victim(s) and the school community and the avoidance of retaliation.

The failure of the accused or any witness to participate in the investigation into a complaint may be grounds for discipline, up to and including possible discharge.

All investigations shall be completed by the assigned investigator within ninety (90) days from the filing date of the complaint. Extenuating circumstances for not being able to comply with the deadline must be approved by the Deputy Chief, Employee & Labor Relations or designee. The extension must be for a reasonable period of time, given the circumstances, and must be communicated to the Complainant and the Respondent.

Step 4 – Investigative Report

The investigator shall prepare and submit a written report to the Deputy Chief, Employee & Labor Relations or their designee, which shall include a summary of the investigation, a determination of whether the complaint has been substantiated as factual and whether the investigation revealed a violation of this or any Board policy, the rationale for the determination, and a recommendation that the Respondent's supervisor take corrective action as they deem appropriate.

The Complainant and the Respondent shall be provided written notice of the outcome of the investigation, including a summary of the investigation and the determination.

Step 5 – District Action

If the investigation results in a finding that the complaint is substantiated and constitutes a violation of a Board policy, the investigation report is issued to the Employee Respondent's manager, who shall take prompt corrective action to address the findings as they deem appropriate.

The corrective action may include, but is not limited to, employee discipline in accordance with Board policies, administrative procedures, applicable collective bargaining agreements, and state and federal laws, including counseling, suspension, reassignment, or termination.

Corrective action will be designed to prevent the recurrence of prohibited conduct and to remedy the effect of the conduct on the Complainant and others, if appropriate. District staff shall document the corrective action taken.

The name and contact information for the District's Deputy, Employee & Labor Relations for inquiries related to Policy 348 is:

Sandra Crawford
Interim Deputy,
Employee & Labor Relations
440 N. Broad Street
Philadelphia PA 19130
215-400-4600

Confidentiality

The District makes every effort to protect the Parties' privacy. Confidentiality of all parties, witnesses, the allegations, the filing of a report, and the investigation related to any form of harassment, discrimination, or retaliation shall be handled in accordance with applicable law, regulations, this policy, the administrative procedures to this policy, and the District's legal and investigative obligations.

The basic rights of all concerned shall be respected at all times. All parties will be treated with dignity and due process.

Retaliation

The Board prohibits retaliation by the District or any other person against any person for:

- Reporting or making a formal complaint of any form of harassment, discrimination, or retaliation;
- Testifying, assisting, participating, or refusing to participate in a related investigation, process, or other proceeding or hearing; or
- Acting in opposition to practices the person reasonably believes to be discriminatory. The District, its employees, and others are prohibited from intimidating, threatening, coercing, or discriminating against anyone for actions described above. Individuals are encouraged to contact the Interim Deputy of Employee and Labor Relations immediately if retaliation is believed to have occurred.