

# THE SCHOOL DISTRICT OF PHILADELPHIA

SECTION: PUPILS

TITLE: Harassment and Discrimination  
of Students

ADOPTED: September 22, 2010

REVISED: March 15, 2018

## 248. HARASSMENT AND DISCRIMINATION OF STUDENTS

### **Purpose**

The School Reform Commission strives to provide a healthy safe, positive learning climate for students in the schools. Therefore, it shall be the policy of the district to maintain an educational environment in which harassment and sex discrimination (including sexual harassment, sexual assault and sexual violence) in any form is not tolerated. It shall also be the policy of the District that each staff member shall be responsible for maintaining an educational environment free from all forms of harassment and sex discrimination, and that each student shall be responsible to respect the rights of his/her fellow students and employees and to ensure an atmosphere free from all forms of harassment and sex discrimination

### **Authority**

The SRC prohibits all forms of harassment and sex discrimination of students and third parties by all District students and staff members, contracted individuals, vendors, volunteers, and third parties in the schools. The SRC encourages students and third parties or parents/guardians of students who believe that this Policy has been violated, to promptly report such incidents to the school principal or designee, or to any other member of the school staff, including teachers, guidance counselors, bilingual counseling assistants (BCAs), coaches and administrators.[1][2][3][4]. Any staff member who receives such a report shall immediately notify the principal or designee of same. If the behavior continues or if the school does not take action, students or parents/guardians should report the incident to the District's hotline at 215-400-4000.

This policy applies to students in connection with all the academic, educational, extracurricular, athletic, and other programs of the school, whether those programs take place in a school's facilities, on a school bus, in transit to and from school, at a class or training program sponsored by the school at another location or elsewhere. The policy also applies to any off-campus conduct that has a continuing effect on the campus.

The SRC directs that complaints of harassment or sex discrimination shall be investigated promptly, and corrective action taken when allegations are substantiated in accordance with the provision of any applicable state and federal laws. Confidentiality of 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.

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

No reprisals nor retaliation shall occur as a result of good faith charges of violation of this Policy or participation in an investigation. Title IX prohibits retaliation against any individual who files a complaint under Title IX or participates in a complaint investigation.

### **Definitions**

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**Harassment** shall consist of verbal, nonverbal, written, graphic or physical conduct relating to an individual's sex, age, race, color, sexual orientation (known or perceived), gender identity expression (known or perceived), national origin/ethnicity, religion, disability, English language proficiency, socioeconomic status and/or political beliefs. 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 his/her race and sexual orientation.

Harassment can create a hostile environment when it:

1. Is severe, persistent or pervasive that it affects an individual's ability to participate in or benefit from an educational program or activity or creates an intimidating, threatening or abusive educational environment.
2. Has the purpose or effect of substantially or unreasonably interfering with a student's education.
3. Otherwise adversely affects an individual's learning opportunities, safety or well-being.

**Sexual discrimination** - unequal treatment of any person on the basis of sex unless expressly authorized by statute or regulation. Sexual discrimination may include sexual harassment, sexual violence and sexual assault.

**Sexual harassment** is unwelcome conduct of a sexual nature. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, written, graphic or physical conduct of a sexual nature.

*Examples of sexual harassment, as defined above, include but are not limited to, sexual propositions; touching of a sexual nature; graffiti of a sexual nature; displaying or distributing sexually explicit drawings, pictures or written material; sexual gestures or touching oneself sexually in front of others; telling sexual or dirty jokes; spreading*

*sexual rumors or rating other students as to sexual activity or performance; circulating or showing emails or websites of a sexual nature.*

For purposes of this policy, the term sexual harassment includes sexual violence. Sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent.<sup>[2][5]</sup>

### **Guidelines**

The Code of Student Conduct, which shall incorporate this policy, shall be disseminated annually to students.

This policy shall be accessible in every classroom, posted in a prominent location within each school building and posted on the district website. The policy shall be made available in English and all other languages necessary to facilitate understanding by district residents.

This policy shall be reviewed with every district student within ninety (90) days after the initial adoption or a revision by the SRC, and annually on the first day of school thereafter.

### **Mandated Regulatory Procedures:**

*Complaint/Grievance Procedure – Student/Third Party*

#### **Step 1 – Reporting Bullying, Harassment, or Discrimination**

A student or third party who believes s/he has been subject to conduct by any student, employee or third party that constitutes a violation of the District's anti-harassment or nondiscrimination policy(s), or the parent/guardian of a student, is encouraged to immediately report the incident to the building principal or designee, or to any other member of the school staff, including teachers, guidance counselors, bilingual counseling assistants (BCAs), coaches and administrators.

A school employee who witnesses, suspects or is notified that a student has been subject to conduct that constitutes a violation of this policy shall immediately report the incident to the building principal or designee.

The complainant or reporting employee is encouraged to use the report form available from the building principal, but oral complaints shall be acceptable. The principal or designee shall complete the District's complaint form if the complainant chooses to make an oral or electronic report. In each building, to the extent practicable, compliant forms shall be readily available in any and all languages that are spoken by one or more students attending that school.

If the building principal is the subject of a complaint, the student, parent/guardian, third party or employee shall report the incident directly to the Title IX Deputy Coordinator for inquiries under this Policy:

Chief Student Support Services Officer/Title IX Deputy Coordinator  
440 N. Broad Street  
Philadelphia PA 19130  
215-400-4000

antiharassment@philasd.org

## **Step 2 – Investigation**

Upon receiving a complaint of harassment or sex discrimination, the building principal or designee shall take immediate and appropriate action to investigate or otherwise determine what occurred. At a minimum, the investigation shall consist of the following:

1. The investigation should 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.
2. The parties may present witnesses and other evidence as part of the investigation.
2. The investigator shall attempt to secure statements from all participants in, and witnesses to, the incident(s). The complainant shall not be required to meet face-to-face with the accused.
3. When a student with limited English proficiency is a party to a complaint, interpretation and/or translation services shall be provided. The limited English proficiency of a complainant, witness, or the accused is not an acceptable reason for failure to secure a statement from him or her.
4. 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.
5. The obligation to conduct this investigation shall not be negated by the fact that the complainant cannot identify the accused.

All complaints should be forwarded and/or uploaded to the Title IX Deputy Coordinator for the purpose of monitoring, evaluating and providing District level support to diminish harassment.

All investigations shall be completed by the assigned investigator within fourteen (14) days from the reporting of the complaint. Extenuating circumstances for not being able to comply with the deadline must be approved by the Title IX Deputy Coordinator. The extension must be a specified period of time not exceeding fourteen (14) days, and must be communicated to the complainant.

The District will follow the Complaint Procedures regardless of whether the alleged harassment also is being investigated by another agency, including law enforcement, unless particular procedural steps would directly impede a criminal investigation. 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.

In the event that school-based staff fail to investigate a complaint of harassment or sex discrimination, fail to document the outcome of an investigation, or if violations continue after an investigation has concluded, individuals shall report the incident to the district's Title IX Deputy Coordinator at 215-400-4000 and/or submit a complaint to [antiharassment@philasd.org](mailto:antiharassment@philasd.org).

### **Step 3 - Investigative Report**

The building principal or designee 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.

The findings of the investigation shall be provided to the complainant, and his or her parent, if s/he is under 18 years old, the accused, and the Title IX Deputy Coordinator.

### **Step 4 -District Action**

If the investigation determines that the accused engaged in conduct that constitutes a violation of this policy, the District shall take prompt and effective steps reasonably calculated to end the harassment or sex discrimination, eliminate any hostile environment, remedy the discriminatory effect on the victim, and prevent the harassment or sex discrimination from recurring. When appropriate, students who have been found to violate this policy will receive instruction or training on why their actions were inappropriate and/or hurtful.

Complainants and the accused, and their parents, if they are under 18 years old, shall be notified of the final disposition/action taken by the District.

### **Appeal Procedure**

1. If the complainant or accused is not satisfied with a finding of no violation of the policy or with the recommended corrective action, s/he may submit a written appeal to the Title IX Deputy Coordinator(s) within fifteen (15) days of her/his receipt of written notice of final disposition/action taken. The appeal will be conducted in an impartial manner by an impartial decision-maker.
2. The Title IX Deputy Coordinator(s) shall review the investigation and the investigative report and may also conduct a reasonable investigation.
3. The Title IX Deputy Coordinator(s) shall prepare a written response to the appeal within fifteen (15) days. This time period may be extended by the Title IX Deputy Coordinator(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.

Disciplinary actions shall be consistent with the Code of Student Conduct, SRC policies and administrative procedures outlined in this policy, and state and federal laws. The corrective action may include, but is not limited to, appropriate supports and interventions for students who are either victims or perpetrators of improper conduct, in accordance with District services and programs, which may include Tier II and II or Response to Instruction and Intervention (RtII); Positive Behavior Interventions & Supports (PBIS); Student Assistance Program (SAP); counseling services; parent meetings; referrals to appropriate resources outside of the District; student discipline pursuant to the Code of Student Conduct which could include suspension or expulsion; employee discipline in accordance with any applicable collective bargaining agreement or contract, including but not limited to counseling, suspension, expulsion.

If it is concluded that a student has intentionally made a false report or complaint under this policy, such student may be subject to disciplinary action.

#### Expedited Resolution of Harassment Incidents

While the SRC cautions that all incidents of harassment are hurtful to students and negatively impact the school environment, there are some harassment incidents that District employees can effectively address and resolve immediately. The investigative procedures (Steps 1-4 above) shall not apply when a District employee witnesses or receives a report of harassment and the District employee, in his/her professional judgment determines:

1. The harassment was not severe, persistent, or pervasive, and
2. The District employee is able to fully and adequately address the harassment with the target(s) (if any) and the perpetrator(s), including:
  - a. Educating the perpetrator(s) on the wrongfulness of his/her actions, identifying the harassing language and behavior involved, and referring the student for counseling, community service or imposing discipline, if appropriate, and
  - b. Speaking with the target student(s) (if any) to ensure s/he has not been a repeated target of harassment, is satisfied with the employee's response, and is notified of his/her right to file a complaint with the principal.

Whenever the Expedited Resolution process is followed, the District employee shall file a written report on the incident in accordance with the administrative procedures outlined in this policy.

The following are examples of harassment prohibited by this policy:

*Some students anonymously inserted offensive notes into African-American students' lockers and notebooks, used racial slurs, and threatened African-American students who tried to sit near them in the cafeteria.*

*Students mockingly refer to Asian students as "Bruce Lee", "China boy", "f\*ckm' Asian" and use racial slurs and create noises intended to reference made-up speech around Asian languages. Asian students are routinely targeted in unmonitored student-centric areas such as stairwells, hallways, bathrooms, and walking to and from school with students screaming at them with threats of harm and physical assault. One student threatens an Asian student by drawing a finger across the throat with the statement, "F\*ck you China people."*

*School employees at junior high school received reports of several incidents of anti-Semitic conduct at the school Anti-Semitic graffiti, including swastikas, was scrawled on the stalls of the school bathroom. At the same school, a teacher caught two ninth-graders trying to force two seventh-graders to give them money. The ninth-graders told the seventh-graders, "You Jews have all of the money, give us some. "At the same school, a group of eighth-grade students repeatedly called a Jewish student "Drew the dirty Jew."*

*Shortly after enrolling at a new high school, a female student had a brief romance with another student. After the couple broke up, other male and female students began routinely calling the new student sexually charged names, spreading rumors about her sexual behavior; and sending her threatening text messages and e-mails.*

*A gay high school student was called names (including anti-gay slurs and sexual comments) both to his face and on social networking sites, physically assaulted, threatened, and ridiculed because he did not conform to stereotypical notions of how teenage boys are expected to act and appear (e.g., effeminate mannerisms, nontraditional choice of extracurricular activities, apparel, and personal grooming choices).*

*Several classmates repeatedly called a student with a learning disability "stupid," "idiot," and "retard" while in school and on the school bus. On one occasion, these students tackled him, hit him with a school binder, and threw his personal items into the garbage.*

*Students yell "Speak English!" at immigrant youth at a school who speak their native language in school. In full view of other students, native born English speakers routinely mimic or otherwise make fun of immigrant students' accents and comment on how "weird" they sound.*

### **Delegation of Responsibility**

In order to maintain an educational environment that discourages and prohibits harassment and sex discrimination the SRC shall designate the Student Support Services Chief as the District's Title IX Deputy Coordinator to coordinate the District's efforts to comply with this policy and applicable laws and regulations.

The Title IX Deputy Coordinator shall:

1. 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 name, position, office address, telephone number and email address of the Title IX Deputy Coordinator.
2. Receive and investigate reports or complaints from District employees, students, families, and third parties if the school principal is the subject of a report or complaint.
3. Track all complaints, investigation materials and resolutions from harassment complaints District-wide.
4. Make ad hoc reports (as necessary or appropriate) and annual reports to the School Reform Commission on harassment complaints and resolutions.

The District shall be responsible to provide training for students and employees regarding all aspects of harassment and sex discrimination. Student training shall include the definition of harassment and sex discrimination, examples of harassment and sex discrimination, the reporting process and consequences of participating in prohibited behavior. Staff training shall include how to appropriately identify, address, and report incidents of harassment and sex discrimination.

Each staff member shall be responsible to maintain an educational environment free from all forms of harassment and sex discrimination.

Each student shall be responsible to respect the rights of his/her fellow students and district employees and to ensure an atmosphere free from all forms of harassment and sex discrimination.

The building principal or designee shall be responsible to complete the following duties when receiving a complaint of harassment or sex discrimination in accordance with the procedures listed in this policy. At a minimum, the building principal or designee shall be responsible to complete the following duties when receiving an oral or written report or complaint:

1. Inform the student or third party of the right to file a complaint and the complaint procedure, including their right to English Language interpretation and translation during all steps of the complaint procedures. Even if the student does not explicitly request interpretation, employees are encouraged to use interpretation and translation if they feel it will improve the ability to communicate accurately with the student or third party.
2. Inform the complainant that s/he may be accompanied by a parent/guardian during all steps of the complaint procedure.
3. Ensure that complainants are notified of available resources, such as counseling, health, and mental health services, and their right to file a complaint with local law enforcement.
4. Notify the complainant and the accused of the progress at appropriate stages of the procedure.
5. Refer the complainant to the Title IX Deputy Coordinator if the building principal is the subject of the complaint.



6. In cases involving potential criminal conduct, determine whether appropriate law enforcement authorities should be notified.
7. Take interim action, as necessary, to address prohibited conduct prior to the completion of the investigation.

The SRC directs that District employees respond to all incidents of harassment and sex discrimination according to the procedures in this policy, regardless of whether they are alleged to have created a hostile environment.

Legal References:

1. 43 P.S. 951 et seq - 1955 Act 222 PENNSYLVANIA HUMAN RELATIONS ACT
2. 20 U.S.C. 1681 et seq - 20 U.S. Code Chapter 38 - DISCRIMINATION BASED ON SEX OR BLINDNESS
3. 29 CFR 1606.8 - 29 CFR 1606.8 - Harassment
4. 29 CFR 1604.11 - 29 CFR 1604.11 - Sexual harassment
5. Office for Civil Rights - Questions and Answers on Title IX and Sexual Violence

Related Information:

Office for Civil Rights – Revised Sexual Harassment Guidance: Harassment of Students By School Employees, Other Students, or Third Parties

Philadelphia Commission on Human Relations Guidance

Pol. 103.1 - Nondiscrimination – Qualified Students With Disabilities/Protected Handicapped Students

Pol. 249 - Bullying/Cyberbullying

Pol. 806 - Child Abuse