

NON-DISCRIMINATION AND HARASSMENT POLICY



POLICY ADOPTED FROM THE PSD NO. 248

THE SCHOOL DISTRICT OF PHILADELPHIA

No. 248

Section: 200 Pupils

Title: Harassment and Discrimination - Students

Adopted: September 22, 2010

Revised: June 23, 2022

248 HARASSMENT AND DISCRIMINATION - STUDENTS

Purpose

The Board of Education (“Board”) is committed to maintaining schools that are spaces with inclusive climates and that support the social, emotional, and mental health and well-being of all students. The purpose of this policy is to require the School District of Philadelphia (“District”) to maintain an educational environment in which harassment and discrimination in any form is not tolerated and to establish procedures for investigating, responding to, and resolving reports of harassment and discrimination.

Definitions

For the purposes of this policy, terms are defined as follows:

Discrimination: To treat individuals differently or to harass or victimize based on one or more known or perceived protected classifications including race, color, ethnicity, age, religion, sex, sexual orientation, gender identity or expression, ancestry, national origin, marital status, pregnancy, English language proficiency, veteran status, disability, or other protected classification. A single incident of discrimination may implicate more than one protected class. [1][2][3][4][5][6][7][8][9][10][11][12][13][14][15][16][17]

Harassment: Verbal, nonverbal, written, graphic, virtual, or physical conduct relating to an individual's known or perceived race, color, ethnicity, age, religion, sex, sexual orientation, gender identity or expression, ancestry, national origin, marital status, pregnancy, English language proficiency, veteran status, disability, or other 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 misconduct 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 sufficiently severe, persistent, or pervasive; and
2. A reasonable person in the complainant's position would find that it creates an intimidating, threatening, or abusive educational environment such that it deprives or adversely interferes with or limits an individual or group of the 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.

Title IX sexual harassment: Conduct on the basis of sex, that satisfies one or more of the following:[18][19][20]

- A District employee conditioning the provision of an aid, benefit, or District service on an individual's participation in unwelcome sexual conduct, commonly referred to as quid pro quo sexual harassment;
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to a District education program or activity; or
- Sexual assault, dating violence, domestic violence, or stalking.[21][22]

Conduct on the basis of sex or gender includes conduct on the basis of sexual orientation and gender identity. Examples of conduct on the basis of sex or gender include but are not limited to, sexual propositions; making unwanted sexual remarks in person or online, 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; and circulating or showing emails or websites of a sexual nature. Sexual harassment can take place regardless of sexual orientation or gender identity and can happen among people of the same gender identity.

Authority

As required by federal, state, and local laws and regulations, the Board shall provide for an equal opportunity for all students to achieve their maximum potential through the programs and activities offered in the schools without discrimination, including harassment which is a form of discrimination, on the basis of known or

perceived race, color, ethnicity, age, religion, sex, sexual orientation, gender identity or expression, ancestry, national origin, marital status, pregnancy, English language proficiency, veteran status, disability, or other protected classification. [1][2][3][4][5][6][7][8][9][10][11][12][13][14][15][16][17]

The Board also declares it to be the policy of this District to comply with federal law and regulations under Title IX prohibiting sexual harassment, which is a form of unlawful discrimination on the basis of sex. Such discrimination shall be referred to throughout this policy as Title IX sexual harassment. Inquiries regarding the application of Title IX to the District may be referred to the Compliance Officer/Title IX Coordinator, to the Assistant Secretary for Civil Rights of the U.S. Department of Education, or both. [12]

Delegation of Responsibility

To maintain an educational environment that discourages and prohibits harassment and sex discrimination, the Board directs the Superintendent or their designee to designate and authorize a Compliance Officer/Title IX Coordinator to ensure this policy is consistently enforced. [23]

The Compliance Officer/Title IX Coordinator can be contacted at:

Address: 440 N. Broad Street, Philadelphia, PA 19130

Email: antiharassment@philasd.org

Phone Number: 215-400-4830

The Board directs the Superintendent or their designee, through the Office of Student Support Services, to develop administrative procedures to implement this policy, including timeframes for the conclusion of the complaint processes, and for filing and resolving appeals.

The Compliance Officer/Title IX Coordinator shall fulfill designated responsibilities, ensure adequate nondiscrimination procedures are in place, and recommend new procedures or modifications to procedures, as well as the following:

1. Publish and disseminate this policy and related procedures and notice of nondiscrimination at least twice annually to students, parents/guardians, and employees. The publication shall include the name, position, office address, telephone number, and email address of the Compliance Officer/Title IX Coordinator.
2. Ensure that the [Online Bullying Harassment and Discrimination Reporting Page](#) is available in multiple languages.
3. Receive reports or complaints from District employees, students, families, and third parties.
4. Coordinate the provision of training for students and staff to identify and alleviate problems of discrimination and harassment, including appropriate training for Compliance Officer/Title IX Coordinator, investigator(s), decision-maker(s), and any individual designated to facilitate an informal resolution process related to Title IX sexual harassment. All Title IX training materials shall be posted on the District's website.
5. Track and monitor the completion of all complaints, investigation materials, and resolutions from harassment and discrimination complaints District-wide and by school.

6. Monitor and provide technical assistance to individuals involved in managing complaints.
7. Make ad hoc reports (as necessary or appropriate) and annual reports to the Board on harassment complaints and resolutions.
8. Maintain and provide information to staff on resources available to complainants in addition to the complaint procedure.

All employees shall be responsible to maintain an educational environment free from all forms of harassment and discrimination.

Each student shall be responsible to respect the rights of their fellow students and District employees and to conduct themselves in a manner free from all forms of harassment and discrimination.

Mandatory Regulatory Procedures

The Board prohibits all forms of harassment and discrimination of students and third parties by all District students and staff members, contracted individuals, vendors, volunteers, and third parties in the schools.

The Board directs that the foregoing statement of Board policy be included in each student and staff handbook, and that this policy be posted to the District's website.

The Board requires a notice stating that the District does not discriminate in any manner, including Title IX sexual harassment, in any District education program or activity, to be issued to all students, parents/guardians, employment applicants, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the District. All discrimination notices and information shall include the title, office address, telephone number, and email address of the individual(s) designated to monitor compliance.

Verbal complaints of an incident or incidents shall be accepted and documented via the [Online Bullying Harassment and Discrimination Reporting Page1](#) in accordance with Administrative Procedure A and B.

This policy applies to students in connection with all of 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.

Upon receipt of a report, the Compliance Officer/Title IX Coordinator shall conduct an assessment to determine the appropriate process for handling the report. If the reported circumstances, as alleged, would be sufficient to meet the definition of Title IX sexual harassment the report shall be addressed through [Administrative Procedure B: Title IX Sexual Harassment](#). All other reports of harassment or discrimination shall be addressed through [Administrative Procedure A: Bullying, Harassment, and Discrimination \(Students\)](#).

Supportive Measures

Schools must provide intervention and support to Complainants, Respondents, and/or witnesses to address acts of bullying, harassment, or discrimination. Possible interventions include, but are not limited to, the following actions:

1. Parent/student conferences;
- 1 The reporting page is [Online Bullying Harassment and Discrimination Reporting Page](#)
2. Offer of one-to-one counseling with appropriate professional staff;
3. Positive behavioral supports, such as functional behavioral assessments and check in/check out;
4. Increased adult supervision in hot spot areas and during transition times (e.g. admission and dismissal, classroom changes, lunch, recess);
5. Social skills training, including role playing;
6. Positive incentives and reinforcements for appropriate or improved behavior;
7. Development of a safety plan for the Complainant; and
8. Daily report.

Confidentiality

Confidentiality of all parties, witnesses, the allegations, the filing of a report, and the investigation related to any form of harassment or discrimination, including Title IX sexual harassment, 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.[18][19][24][25][26][27]

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: [26]

- Reporting or making a formal complaint of any form of harassment or discrimination or retaliation, including Title IX sexual harassment;
- 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 Compliance Officer/Title IX Coordinator immediately if retaliation is believed to have occurred.

Disciplinary Consequences

Violations of this policy, including acts of retaliation as described in this policy, or knowingly providing false information, may result in disciplinary consequences or corrective actions under applicable Board policy and procedures. [28][29][30][31]

Disciplinary or corrective action may include, but is not limited to, appropriate supports and interventions, which may include:

- Multi-tiered System of Supports (“MTSS”);
- Positive Behavior Interventions & Supports (“PBIS”);
- Student Assistance Program (“SAP”);
- Counseling services;
- Parent meetings;
- Referrals to appropriate resources outside of the District;
- Loss of school privileges;
- Permanent transfer to another school building, classroom, or school bus;
- Exclusion from school-sponsored activities;
- Detention; and
- Referral to law enforcement officials.

Students Convicted or Adjudicated Delinquent of Sexual Assault

Upon notification of a conviction or adjudication of a student in the District for sexual assault against another student enrolled in the District, the District shall comply with the disciplinary or placement requirements established by state law. [22]

Examples of behavior that should be reported include, but are not limited to, the following:

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.

Students who are in a romantic relationship get into an argument while at lunch and one of them punches the other.

A student sexually assaults another student while on a field trip.

A teacher requests sexual favors in exchange for a passing grade on a test.

After two students end their relationship, one waits for the other outside of all of their classes and repeatedly asks them to reconsider. The student replies that they are not interested but continues to be followed around the building. The student is fearful and no longer feels comfortable going to class, or safe at school.

Legal References:

1. 22 PA Code 12.1
2. 22 PA Code 12.4
3. 22 PA Code 15.1 et seq
4. 22 PA Code 4.4
5. 24 P.S. 1301
6. 24 P.S. 1310
7. 24 P.S. 1601-C et seq
8. 24 P.S. 5004
9. 43 P.S. 951 et seq
10. 20 U.S.C. 1681 et seq
11. 34 CFR Part 106
12. 29 U.S.C. 794
13. 42 U.S.C. 12101 et seq

14. 42 U.S.C. 1981 et seq
15. 42 U.S.C. 2000d et seq
16. U.S. Const. Amend. XIV, Equal Protection Clause
17. Policy 103.1 - Nondiscrimination – Qualified Students With Disabilities/Protected Handicapped Students
18. 34 CFR 106.44
19. 34 CFR 106.45
20. 34 CFR 106.30
21. 34 U.S.C. 12291
22. 24 P.S. 1318.1 23. 34 CFR 106.8

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24. Policy 113.3 - Screening and Evaluations for Students with Disabilities 25. 20 U.S.C. 1232g
26. 34 CFR 106.71
27. 34 CFR Part 99
28. Policy 113.1 - Discipline of Students with Disabilities
29. Policy 218 - Student Conduct and Discipline
30. Policy 233 - Suspension and Expulsion
31. Policy 317 - Employee Conduct and Reporting Requirements

Related Information:

- 18 Pa. C.S.A. 2709
- 20 U.S.C. 1400 et seq
- 28 CFR Part 41
- 28 CFR Part 35
- 34 CFR Part 100
- 34 CFR Part 104
- 34 CFR Part 110
- U.S. Const. Amend. I
- Policy 122
- Policy 123
- Policy 138
- Policy 216
- Policy 220
- Policy 247
- Policy 251
- Policy 252
- Policy 320
- Policy 701
- Policy 815

[Online Bullying Harassment and Discrimination Reporting Page](#)