

## 1423 - ANTI-HARASSMENT

This guideline shall be used to ensure that the Board of Education's Policy 1423, “Anti-Harassment,” is implemented properly and in compliance with Federal and State laws and regulations.

**NOTE: This guideline applies only to harassment other than sexual harassment. Sexual harassment is governed by Administrative Guideline 1424.**

Policy 1423 provides in pertinent part as follows:

The District prohibits discriminatory harassment based on race, color, national origin, sex (including sexual orientation and transgender identity), disability, age, religion, height, weight, marital or family status, military status, ancestry, genetic information 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 appropriate action reasonably calculated to stop the harassment and prevent further such harassment. Individuals who are found to have engaged in unlawful harassment will be subject to appropriate disciplinary action.

"Harassment" means any threatening, insulting, bullying or dehumanizing gesture, use of technology, or written, verbal or physical conduct directed against a member of the School District community or a third party 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.

### Anti-Harassment Compliance Officers

Administration designates the following individuals to serve as Anti-Harassment Compliance Officers for the District.

Dr. Roy Bishop  
Deputy Superintendent for Educational Services  
20601 Morningside Drive  
Grosse Pointe Woods, Michigan 48236  
313-432-3015  
bishopr@gpschools.org

Ms. Nicole Pilgrim  
Director of Human Resources  
20601 Morningside Drive  
Grosse Pointe Woods, Michigan 48236  
(313) 432-3017  
pilgrim@gpschools.org

In the event of an allegation of discrimination harassment by or involving either or both of the Anti-Harassment Compliance Officers, the allegation may be submitted to the Superintendent.

In the event of an allegation of harassment by or involving the Superintendent, the allegation may be submitted to the President of the Board of Education.

### Investigation and Complaint Procedure

Any employee or other member of the School District community or third party (e.g., visitor to the District) who believes that s/he has been subjected to unlawful harassment may seek resolution of his/her complaint through either the informal or formal procedures as described below.

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 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 Equal Employment Opportunity Commission ("EEOC"), or the Michigan Department of Civil Rights.

### Informal Complaint Procedure

The goal of the informal complaint procedure is 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 an adult member of the School District community or third party who believes s/he has been unlawfully harassed or retaliated against. This informal procedure is not required as a prerequisite to the filing of a formal complaint and will only be utilized where the parties (the alleged target of harassment and the alleged harasser(s)) agree to participate in such process. Any party who has agreed to utilize the informal procedure, or the District itself, may request that the informal process be terminated at any time to move to the formal complaint process. Any party dissatisfied with the results of the informal complaint process, or the District itself, may proceed to the formal complaint process.

However, any allegation that an adult member of the School District community or a third party has committed harassment or retaliation against a student, and any allegation of sexual violence,

will be investigated using the formal complaint procedure and/or reported to law enforcement, as appropriate.

As an initial course of action, if an individual feels that s/he is being unlawfully harassed and s/he is able and feels safe doing so, the individual should consider telling or otherwise informing the harasser that the conduct is unwelcome and must stop. Such direct communication should not be utilized in circumstances involving sexual violence. The 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 individual if requested to do so. An individual who is uncomfortable or unwilling to 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.

An individual who believes s/he has been unlawfully harassed or retaliated against may make an informal complaint, either orally or in writing: (1) to a building administrator; (2) directly to one of the Compliance Officers; and/or (3) to the Superintendent or other District-level employee. If a Complainant informs an administrator or Superintendent, either orally or in writing, about any complaint of harassment or retaliation, that employee must promptly report such information to a Compliance Officer, who will either facilitate an informal resolution as described below on his/her own, or appoint another individual to facilitate an informal resolution.

The School District's informal complaint procedure is designed for persons who believe they are being unlawfully harassed or retaliated against 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 individual claiming unlawful harassment or retaliation, informal resolution may involve, but not be limited to, one or more of the following:

- A. Advising the individual about how to communicate the unwelcome nature of the behavior to the alleged harasser.
- B. Distributing a copy of the anti-harassment policy as a reminder to the individuals in the school building or office where the individual whose behavior is being questioned works or attends.
- C. If both parties agree, the Compliance Officer may arrange and facilitate a meeting 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 will attempt to resolve all informal complaints within fifteen (15) business days of receiving the informal complaint.

All materials generated as part of the informal complaint process will be retained by the Compliance Officers in accordance with the Board's records retention policy and/or Student Records policy. (See Policy 8310 and Policy 8330)

### 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 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 harassment or retaliation, hereinafter referred to as the "Complainant", may file a formal complaint, either orally or in writing, with an administrator, one of the Compliance Officers or the Superintendent. 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 complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. If a Complainant informs an administrator or Superintendent, either orally or in writing, about any complaint of harassment or retaliation, that employee must promptly report such information to the Compliance Officer.

Throughout the course of the process, the Compliance Officer should keep the parties informed of the status of the investigation and the decision-making process.

All formal complaints must include the following information to the extent it is available: the identity of the individual believed to have engaged in, or be engaging in, harassment or retaliation; 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 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 alleged harasser. In making such a determination, the Compliance Officer 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 Compliance Officer may still take whatever actions 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 harassment or retaliation.

Simultaneously, the Compliance Officer will inform the individual alleged to have engaged in the harassing or retaliatory conduct (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 Administrative Guidelines, including the Board's Anti-Harassment policy. The Respondent must also be informed of the opportunity to submit an initial 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 or retaliation within fifteen (15) business days of receiving the formal complaint. The investigation will include:

- A. one or more interviews with the Complainant;
- B. one or more interviews with the Respondent;
- C. one or more 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 or retaliation 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 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 decision regarding whether the complaint of harassment or retaliation 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 promptly specify the additional information that is to be gathered. 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.

Administration reserves the right to investigate and resolve a complaint or report of harassment or retaliation regardless of whether the member of the School District community or third party alleging the harassment pursues the complaint. Administration 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 Administration deems appropriate.

Privacy/Confidentiality

The District will employ all reasonable efforts to protect the rights of the Complainant, the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the District'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. 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 s/he learns or that s/he provides during the course of the investigation.

All public records created as a part of an investigation of a complaint of harassment will be maintained by the Compliance Officer in accordance with the School Board's records retention policy. Any records that are considered student education records in accordance with the Family Educational Rights and Privacy Act (FERPA) or under Michigan's student records law will be maintained in a manner consistent with the provisions of the Federal and State laws.