

Policy Code: 1755 Complaint Procedure for Employees

The Board takes seriously all complaints of discrimination, harassment, and bullying. The process provided in this policy is available for employees who believe that they may have been discriminated against, harassed, or bullied. Any employee with a complaint of discrimination, harassment, or bullying is encouraged to notify school officials and seek either an informal resolution through this complaint procedure or submit a grievance in accordance with policy 1750/7220, Grievance Procedures for Employees.

It is possible for discrimination, harassment, and bullying to occur at various levels: between co-workers, between supervisors and subordinates, between employees and students, or imposed by non-employees, including visitors, on employees.

A. INFORMAL RESOLUTION

The board acknowledges that reports of discrimination, harassment, and bullying may be addressed informally through such methods as conferences or mediation, and the board encourages the use of such procedures to the extent possible. If an informal process is used, the school official responding to the complaint must notify the complainant of his or her option to request formal procedures at any time and must make a copy of this policy and other relevant policies available. In those circumstances where informal procedures fail or are inappropriate or where the complainant requests formal procedures, the complaints will be investigated promptly, impartially and thoroughly according to the following procedure.

B. DEFINITIONS

Accused: the employee, student or visitor alleged to have discriminated, harassed, or bullied the complainant.

Complainant: the employee reporting a complaint of discrimination, harassment, or bullying

Days: the working days, exclusive of Saturdays, Sundays, and vacation days of holidays, as set forth in the school calendar. In counting days, the first day will be the first full working day following receipt of the complaint. After May 1st, the time limits will consist of all weekdays (Monday-Friday) so that the matter may be resolved before the close of the school term or soon thereafter as possible.

Investigator: the school official responsible for investigating and responding to the complaint (which may be the assistant superintendent of support services or another designated school official).

C. TIMELINESS OF PROCESS

The number of days indicated at each level should be considered a maximum and every effort should be made to expedite the process. Failure by the investigator at any step to communicate a decision within the specified time limit will permit the complainant to appeal the complaint to the next step unless the investigator has notified the complainant of the delay and the reason for the delay, such as the complexity of the investigation or report. The investigator will make reasonable efforts to keep the complainant apprised of progress being made during any period of delay. Delays are not permitted that interfere with the exercise of any legal rights. Failure by the complainant at any step to appeal a complaint to the next step within the specified time limit will be considered acceptance of the decision at that step, unless the complainant has notified the investigator of a delay and the reason for the delay, and the investigator has consented in writing to the delay.

D. GENERAL REQUIREMENTS

1. No reprisals of any kind will be taken by the Board or by an employee of the school district against any complainant or other employee on account of his or her participation in a complaint filed and decided pursuant to this policy.
2. All meetings and hearings conducted pursuant to this policy will be private.
3. The Board and school district will consider requests to hear grievances from a group of complainants, but the Board and officials have the discretion to respond to individual complainants.
4. The complainant and/or accused may have a representative, including an attorney, at any stage of the complaint.
5. Should, in the judgment of the superintendent or designee, the investigation or processing of any complaint require the absence of the complainant, representative or witnesses from regular work assignments, such absences will be excused without loss of pay or benefits.

E. PROCESS FOR COMPLAINT

REPORTING COMPLAINT

1. An employee or job applicant who believes he or she has been discriminated against, harassed, or bullied may make a complaint orally or in writing with any of the following:
 - Immediate supervisor
 - Principal or assistant principal
 - Director of human resources
 - The assistant superintendent of support services
2. A complainant must file the complaint as soon as possible but no longer than 30 (thirty) days after the occurrence or the disclosure or discovery of the facts giving rise to the complaint. For a complaint submitted after thirty (30) days which claims a violation, misapplication, or misinterpretation of state or federal law, including discrimination, harassment, and bullying, the superintendent or designee will determine whether the complaint will be investigated after considering factors such as the reason for the delay; the extent of the delay; the effect of the delay on the ability of the school district to investigate and respond to the complaint; and whether the investigation of the complaint is necessary to meet any legal obligations. However, the complainant should recognize that delays in reporting may significantly impair the ability of the school district to investigate and respond effectively to such complaints.
3. Any supervisor who receives a complaint of discrimination, harassment, or bullying or has reason to believe that an employee is being discriminated against, harassed, or bullied must notify the assistant superintendent of support services (if the accused is an employee) or the principal (if the accused is a student or school visitor) within two working days, if possible.
4. The assistant superintendent of support services or the principal (hereinafter referred to as the investigator), as appropriate, will respond to the complaint and investigate.
5. The investigator will notify the Title IX coordinator within two (2) working days, if possible, of the complaint.
6. The investigator will explain the process of investigation to the complainant and inquire as to any proposed corrective action.
7. An employee accused of discrimination, harassment, or bullying will not be allowed to resign to avoid dismissal or other disciplinary action without the written consent of the complainant.

INVESTIGATION

1. The investigator will impartially, promptly, and thoroughly investigate the complaint. The investigator will interview (1) the complainant; (2) the accused; and (3) any other persons the investigator has reason to believe may have relevant knowledge concerning the complaint.
2. Information will be shared only with individuals who need the information in order to appropriately investigate and address the complaint.
3. The investigator will review the factual information gathered through the investigation to determine whether the alleged conduct constitutes discrimination, harassment, or bullying giving consideration to all factual information, the totality of the circumstances, including the nature of the verbal, physical, visual, or sexual conduct, and the context in which the alleged incidents occurred.

INVESTIGATOR'S REPORT

1. The investigator will make a written report of the findings of the investigation. The investigator will notify the complainant of the results of the investigation within fifteen (15) days of receiving the complaint, unless additional time is necessary to conduct an impartial, thorough investigation. The report will specify:
 - a. whether the complaint was substantiated;
 - b. whether the accused violated relevant law or board policy by his or her actions (regardless of whether the complaint as submitted is substantiated); and
2. If the investigator determines that discrimination, harassment, or bullying has occurred, the investigator will also specify:
 - a. reasonable, timely, effective corrective action intended to end the discrimination, harassment, or bullying;
 - b. if needed, reasonable steps to address the effects of the discrimination, harassment or bullying on the complainant; and
 - c. if needed, reasonable steps to protect the complainant from retaliation as a result of communicating the complaint.

Information regarding disciplinary action imposed on the accused will not be given to the complainant unless the information relates directly to the complainant (e.g., an order requiring the accused not to have contact with the complainant.)

3. The investigator will submit the full report and investigative findings to the Title IX coordinator.
4. If the corrective steps specified by the investigator involve actions outside the scope of the investigator's responsibilities, the superintendent also will be notified so that responsibility for the corrective steps can be delegated to the appropriate individual.
5. The accused will be provided with a written summary of the results of the investigation in regard to whether the complaint was substantiated, whether the accused violated board policy or law (regardless of whether the complaint was substantiated), and what, if any, disciplinary actions or consequences will be imposed upon the accused in accordance with board policy. The accused may appeal any disciplinary action or consequences in accordance with board policy and law.

APPEAL OF INVESTIGATOR'S REPORT

1. If the complainant is dissatisfied with the investigator's report, the complainant may appeal the report to the superintendent. The appeal must be in writing within five (5) days of receiving the investigator's report. Upon receiving an appeal, the superintendent will immediately forward the appeal to the Title IX, Section 504, or student services coordinator for review. The Title IX,

Section 504, or student services coordinator will review the investigation and make any further investigation necessary and provide a written report and recommendation to the superintendent within ten days, unless additional time is necessary to complete an investigation.

2. The superintendent will review the report and recommendation of the Title IX, Section 504, or student services coordinator, and may conduct any further investigation necessary or pursue any other steps the superintendent determines to be appropriate in order to respond to the complaint. The superintendent will provide a written response to the complainant within five (5) days after receiving the report and recommendation of the Title IX, Section 504, or student services coordinator, unless further investigation is necessary.

3. If the complainant is dissatisfied with the superintendent's response, the complainant may appeal the decision to the Board in writing within five (5) calendar days of receiving the superintendent's response. The Board will review the documents related to the complaint and may direct any further investigation be conducted before making a determination or pursue any other steps the Board determines to be appropriate in order to respond to the complaint, including holding a hearing in accordance with board policy. The Board will provide a written response within thirty (30) days after receiving the complaint, unless further investigation is necessary or the hearing necessitates that more time be taken to respond.

F. RECORDS

Records will be maintained as required by policy 1710 Prohibition Against Discrimination, Harassment and Bullying.

Legal References: Age Discrimination in Employment Act of 1967, [29 U.S.C. 621](#) *et seq.*; Americans with Disabilities Act, [42 U.S.C. 12134](#), [28 C.F.R. pt. 35](#); Family Educational Rights and Privacy Act, [20 U.S.C. 1232g](#); Rehabilitation Act of 1973, [29 U.S.C. 705\(20\)](#), [-794](#), [34 C.F.R. pt. 104](#); Title VI of the Civil Rights Act of 1964, [42 U.S.C. 2000d](#) *et seq.*, [34 C.F.R. pt. 100](#); Title VII of the Civil Rights Act of 1964, [42 U.S.C. 2000e](#) *et seq.*, [29 C.F.R. pt. 1604](#); Title IX of the Education Amendments of 1972, [20 U.S.C. 1681](#) *et seq.*, [34 C.F.R. pt. 106](#); Racial Incidents and Harassment Against Students at Educational Institutions: Investigative Guidance, U.S. Department of Education, Office for Civil Rights (1994); Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, U.S. Department of Education, Office for Civil Rights (2001); [Gebser v. Lago Vista Independent School District](#), 524 U.S. 274, (1998); [Davis v. Monroe County Board of Education](#), 526 U.S. 629 (1999); [G.S. 126-16](#); State Board of Education Policy SS-A-007

Cross References: Policy Against Discrimination, Harassment, and Bullying (policy 1710), Grievance Procedure for Employees (policy 1750/7220), Hearings Before the Board (policy 2500)

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Chapel Hill-Carrboro Schools
