

## The School Board of Gadsden County

### Bylaws & Policies

Unless a specific policy has been amended and the date of the policy was revised is noted at the bottom of that policy, the bylaws and policies of The School Board of Gadsden County were adopted on June 25, 2013, and were in effect beginning June 26, 2013.

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## 3362 - ANTI-HARASSMENT

### General Policy Statement

It is the policy of the School Board to maintain an education and work environment which is free from all forms of unlawful harassment, including sexual harassment. This commitment applies to all School District operations, programs, and activities. All students, administrators, teachers, staff, and all other school personnel share responsibility for avoiding, discouraging, and reporting any form of unlawful harassment. This policy applies to unlawful conduct occurring on school property, or at another location if such conduct occurs during an activity sponsored by the Board.

The Board will vigorously enforce its prohibition against harassment based on sex, gender, race, color, ethnicity, national origin, religion, political beliefs, military status, marital status, disability, genetic information, social or family background, or any other legally prohibited basis, and encourages those within the School District community as well as third parties, who feel aggrieved to seek assistance to rectify the problems. The Board will investigate all allegations of unlawful harassment and in those cases where legally prohibited harassment is substantiated, the Board will take immediate steps to end the harassment. Individuals who are found to have engaged in unlawful harassment will be subject to appropriate disciplinary action.

For purposes of this policy, "School District community" means students, administrators, teachers, staff, and all other school personnel, including Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

For purposes of this policy, "third parties" include, but are not limited to, guests and/or visitors on School District property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with, the Board, and other individuals who come in contact with members of the School District community at school-related events/activities (whether on or off School District property).

### Other Violations of the Anti-Harassment Policy

The Board will also take immediate steps to impose disciplinary action on individuals engaging in any of the following prohibited acts:

- A. Retaliating against a person who has made a report or filed a complaint alleging unlawful harassment, or who has participated as a witness in a harassment investigation.
- B. Filing a malicious or knowingly false report or complaint of harassment.
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of unlawful harassment, when responsibility for reporting and/or investigating unlawful harassment charges comprises part of one's supervisory duties.

### Definitions

#### Sexual Harassment

Pursuant to Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972, "sexual harassment" is

defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- A. Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment, or status in a class, educational program, or activity;
- B. Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual;
- C. Such conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity.

Sexual harassment may involve the behavior of a person of either gender against a person of the same or opposite gender.

Prohibited acts that constitute sexual harassment may take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

- A. Unwelcome sexual propositions, invitations, solicitations, and flirtations.
- B. Physical assault.
- C. Threats or insinuations that a person's employment, wages, academic grade, promotion, classroom work or assignments, academic status, participation in athletics or extra-curricular programs or events, or other conditions of employment or education may be adversely affected by not submitting to sexual advances.
- D. Unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls.
- E. Sexually suggestive objects, pictures, videotapes, audio recordings, or literature, placed in the work or educational environment, which may embarrass or offend individuals.
- F. Unwelcome and inappropriate touching, patting, or pinching; obscene gestures.
- G. A pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or humiliation to another.
- H. Remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history.
- I. Consensual sexual relationships where such relationship leads to favoritism of a subordinate employee with whom the superior is sexually involved and where such favoritism adversely affects other employees or otherwise creates a hostile work environment.
- J. Inappropriate boundary invasions by a District employee or other adult member of the School District community into a student's personal space and personal life (see AP 3362).

Not all behavior with sexual connotations constitutes unlawful sexual harassment. Conduct must be sufficiently severe, pervasive, and persistent such that it adversely affects an individual's employment or education, or such that it creates a hostile or abusive employment or educational environment.

**NOTE: Any teacher, administrator, coach, or other school authority who engages in sexual conduct with a student may also be guilty of a crime.**

## Race/Color Harassment

Prohibited racial harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race or color and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references relative to racial customs.

## Religious (Creed) Harassment

Prohibited religious harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's religion or creed and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's religious tradition, clothing, or surnames, and/or involves religious slurs.

## National Origin Harassment

Prohibited national origin harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's national origin and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's national origin, such as negative comments regarding customs, manner of speaking, language, surnames, or ethnic slurs.

## Disability Harassment

Prohibited disability harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's disability and when the conduct has the purpose or effect of interfering with the individual's work or educational performance of creating an intimidating, hostile, or offensive working and/or learning environment; or with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's disabling condition, such as negative comments about speech patterns, movement, physical impairments or defects/appearances, or the like. Such harassment may further occur where conduct is directed at or pertains to a person's genetic information.

## Reports and Complaints of Harassing Conduct

Members of the School District community and third parties are encouraged to promptly report incidents of unlawful harassing conduct to an administrator, supervisor or other School District official so that the Board may address the conduct before it becomes severe, pervasive, or persistent.

Members of the School District community or third parties who believe they have been unlawfully harassed by another member of the School District community or a third party are entitled to utilize the Board's complaint process that is set forth in Policy [3362.02](#) - Anti-Harassment Complaint Procedure. Initiating a complaint, whether formally or informally, will not adversely affect the complaining individual's employment or participation in educational or extra-curricular programs unless the complaining individual makes the complaint maliciously or with knowledge that it is false. While there are no time limits for initiating complaints of harassment under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

The titles of the Anti-Harassment Compliance Officer with whom complaints of sexual and other forms of unlawful harassment should be filed are set forth in Policy [3362.02](#) - Anti-Harassment Complaint Procedure. The titles of this individual will be published annually in the parent and staff handbooks, in the School District Annual Report to the public, and/or on the School District's web site.

The formal and informal processes for making a charge of harassment, a process for investigating claims of harassment, and a process for rendering a decision regarding whether the claim of legally prohibited harassment was substantiated are set forth in Policy [3362.02](#) - Anti-Harassment Complaint Procedure. This policy and Policy [3362.02](#) - Anti-Harassment Complaint Procedure will be readily available to all members of the School District community and posted in appropriate places throughout the School

District.

Any Board employee who directly observes unlawful harassment of a student is obligated, in accordance with this policy, to report such observations to one of the Anti-Harassment Compliance Officers. Thereafter, the Compliance Officer must contact the student, if over age eighteen (18) or the student's parents if under the age eighteen (18), to advise s/he/them of the Board's intent to investigate the alleged misconduct, including the obligation of the compliance officer or designee to conduct an investigation following all the procedures outlined for a formal complaint.

## Confidentiality

The School District will make reasonable efforts to maintain the confidentiality of the parties involved in an investigation of unlawful harassment. Confidentiality, however, cannot be guaranteed. (see Policy [8320](#) - Confidentiality)

## Informal Process for Addressing Complaints of Harassment

An informal complaint process to provide members of the School District community or third parties who believe they are being unlawfully harassed with a range of options designed to bring about a resolution of their concerns is set forth in Policy [3362.02](#) - Anti-Harassment Complaint Procedure. Members of the School District community or third parties who believe that they have been unlawfully harassed may initiate their complaint through this informal complaint process, but are not required to do so. The informal process is only available in those circumstances where the parties (alleged target of harassment and alleged harasser(s)) agree to participate in the informal process. Those members of the School District community or third parties who believe that they have been unlawfully harassed may proceed immediately to the formal complaint process and individuals who seek resolution through the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process. However, all complaints of unlawful harassment involving a District employee or any other adult member of the School District community against a student will be formally investigated.

## Formal Process for Addressing Complaints of Harassment

Policy [3362.02](#) - Anti-Harassment Complaint Procedure also includes a formal complaint process. While the formal complaint process may serve as the first step to resolution of a charge of unlawful harassment, it is also available in those circumstances when the informal complaint process fails to satisfactorily resolve a concern. Because of the need for flexibility, no specific time lines are established for initiating the formal complaint process; however, once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within thirty-one (31) calendar days of the complaint being received).

Members of the School District community or third parties who feel they have been unlawfully harassed should file a formal written complaint with the principal of their school building or with one of the compliance officer identified in Policy [3362.02](#) - Anti-Harassment Complaint Procedure. Oral complaints of harassment will be reduced to writing by the individual receiving the complaint and the complainant will be asked to verify the accuracy of the reported charge by signing the document. Complaints received by a school building principal will be immediately reported to the appropriate compliance officer identified in Policy [3362.02](#) - Anti-Harassment Complaint Procedure and the principal will not conduct an investigation unless directed to do so by the Compliance Officer.

The complaint process, which is set forth in Policy [3362.02](#) - Anti-Harassment Complaint Procedure, is not intended to interfere with the rights of a member of the School District community or a third party to pursue a complaint of unlawful harassment with the United States Department of Education, Office for Civil Rights, the Florida Civil Rights Commission, or the Equal Employment Opportunity Commission.

The Board reserves the right to investigate and resolve a complaint or report of unlawful harassment regardless of whether the member of the School District community or third party alleging the unlawful harassment pursues the complaint. The Board also reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy and Policy [3362.02](#) or in such other manner as deemed appropriate by the Board or its designee.

## Sanctions and Monitoring

The Board shall vigorously enforce its prohibitions against unlawful harassment. While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s). When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the ages and maturity levels of those involved. In those cases where unlawful harassment is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in

accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s).

Where the Board becomes aware that a prior remedial action has been taken against a member of the School District community, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to eliminate such conduct in the future.

## **Education and Training**

In support of this policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Superintendent shall provide appropriate training to all members of the School District community related to the implementation of this policy and Policy [3362.02](#). All training regarding this policy, Policy [3362.02](#), and harassment in general, will be age and content appropriate.

## **Retaliation**

Any act of retaliation against a person who has made a report or filed a complaint alleging unlawful harassment, or who has participated as a witness in a harassment investigation is prohibited.

F.S. 110.1221, 760.01, 760.10, 1000.05

42 U.S.C. 2000d et seq.

42 U.S.C. 2000e et seq.

29 U.S.C. 621 et seq.

29 U.S.C. 794

29 C.F.R. Part 1635

42 U.S.C. 12101 et seq.

20 U.S.C. 1681 et seq.

42 U.S.C. 1983

42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act

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