

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.

1362.02 - ANTI-HARASSMENT COMPLAINT PROCEDURE

Anti-Harassment Compliance Officers

The individuals who have the following positions serve as "Anti-Harassment Compliance Officers" for the School District. They are hereinafter referred to as the "Compliance Officer" or "Compliance Officers".

Director of Human Resources

850-627-9651 ext. 1247

35 MLK Boulevard

Quincy, Florida 32351

The Compliance Officers, or his/her designee, will be available during regular school/work hours to discuss concerns related to legally prohibited harassment.

The Compliance Officer, or his/her designee, is assigned to accept complaints of unlawful harassment directly from any member of the School District community or a visitor to the District, or to receive complaints that are initially filed with a school building administrator. Upon receipt of a complaint either directly or through a school building administrator, the Compliance Officer will begin either an informal or formal process (depending on the request of the member of the School District community alleging harassment), or the Compliance Officer will designate a specific individual to conduct such a process. In the case of a formal complaint, the Compliance Officer, or his/her designee, will prepare, after consultation with the School Board Attorney, recommendations for the Superintendent or will oversee the preparation of such recommendations by a designee. All members of the School District community should report incidents of unlawful harassment that are reported to them to a Compliance Officer within five (5) calendar days of learning of the incident.

Investigation and Complaint Procedure

Any member of the School District community or third party 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.

While there is a sixty (60) day time limit for initiating a complaint of harassment, individuals should make every effort to file an informal or a formal complaint as soon as possible after the harassing conduct occurs. Both the informal and formal procedures set forth below are established to provide a prompt and equitable process for resolving complaints of unlawful harassment.

The informal and formal procedures set forth below are not intended to interfere with the rights of a member of the School District community or a third party to pursue a complaint of legally prohibited harassment with the United States Department of Education, Office for Civil Rights, the Florida Civil Rights Commission, or the Equal Employment Opportunity Commission.

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 a member of the School District community or third party who believes s/he has been unlawfully harassed. This informal procedure is not required as a

precursor to the filing of a formal complaint.

As an initial course of action, if a member of the School District community or third party feels that s/he is being unlawfully harassed and s/he is able and feels safe doing so, the individual should tell or otherwise inform the person s/he feels is harassing him/her that the conduct is unwelcome and must stop. The complaining individual should address the allegedly harassing conduct as soon after it occurs as possible. The Compliance Officer, or his/her designee, is 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 alleged harasser of his/her complaint is not prohibited from otherwise filing an informal or a formal complaint.

A member of the School District community or third party who believes s/he has been unlawfully harassed may make an informal complaint, either orally or in writing: (1) to a building administrator in the building where the individual is employed; (2) to a building administrator in the building where the student attends; (3) to the Superintendent if the individual is not employed in or attending a specific school building; and/or (4) to the Compliance Officer. All informal complaints must be reported to the 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 to provide members of the School District community and third parties who believe they are being unlawfully harassed 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 member of the School District community or third party claiming unlawful harassment, informal resolution may involve, but not be limited to, one or more of the following:

- A. Advising the member of the School District community or third party 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, or his/her designee, may arrange and facilitate a meeting between the member of the School District community or third party claiming harassment and the individual accused of harassment to work out a mutual resolution.

While there are no set time limits within which an informal complaint must be resolved, the Compliance Officer, or his/her designee, will exercise his/her authority to attempt to resolve all informal complaints within two (2) weeks of receiving the informal complaint. Those members of the School District community or third parties who are dissatisfied with the results of the informal complaint process may proceed to file a formal 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. (see Policy [8310](#) - Public Records and Policy [8320](#) - Confidentiality)

Formal Complaint Procedure

If a complaint is not resolved through the informal complaint process, or if the member of the School District community or third party elects to file a formal complaint initially, the formal complaint process as described below shall be implemented.

A member of the School District community or third party who believes they have been subjected to legally prohibited harassment hereinafter referred to as the "complainant", may file a formal complaint, either orally or in writing with the Compliance Officers. If a complainant informs any other employee of the School District, either orally or in writing, about any complaint of unlawful harassment, that employee must immediately report such information to the Compliance Officer.

The Compliance Officer shall determine whether or not the complaint alleges legally prohibited harassment. In making this determination the Compliance Officer shall consult with the Board Attorney. If it is determined that the complaint does not allege legally prohibited harassment, the complainant will be notified in writing that the complaint will be assigned to the appropriate administrator for appropriate disposition. If it is determined that the complaint alleges legally prohibited harassment, the complaint will be investigated in accordance with the process described herein.

Throughout the course of the process as described herein, the Compliance Officer, or his/her designee, should keep the complainant 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, offensive conduct/harassment; a detailed description of the facts upon which the complaint is based; a list of potential witnesses; and, identification of the resolution which the complainant seeks.

If the complainant is unwilling to provide a written statement including the information set forth above, the Compliance Officer, or his/her designee, shall ask for such details in an oral interview. Thereafter the Compliance Officer, or his/her designee, will prepare a written summary of the oral interview that will be presented to the complainant for verification by signature.

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 legally prohibited harassment or retaliation including but not limited to, a change of job assignment or a change of class schedule. In making such a determination, the Compliance Officer should consult the complainant to assess his/her agreement to any action deemed appropriate. If the complainant is unwilling to consent to any change which is deemed appropriate by the Compliance Officer, the Compliance Officer may still take whatever actions s/he deem appropriate in consultation with the Superintendent and/or Board Attorney.

Within three (3) business days of receiving a formal complaint of legally prohibited harassment, the Compliance Officer will inform the individual alleged to have engaged in the harassing conduct, hereinafter referred to as the "respondent", that a complaint has been received. The respondent will be informed about the nature of the allegations and a copy of these administrative procedures and the Board's anti-harassment policy shall be provided to the respondent at that time. The respondent must also be informed of the opportunity to submit a written response to the complaint within five (5) business days.

Within five (5) business days of receiving the complaint, the Compliance Officer or a designee will initiate a formal investigation to determine whether the complainant has been subject to unlawful harassment.

Although certain cases may require additional time, the Compliance Officer or a designee will attempt to complete an investigation into the allegations of harassment within twenty-one (21) calendar days of receiving the formal complaint. The investigation will include:

- A. interviews with the complainant;
- B. interviews with the respondent;
- C. 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 evidence presented by the complainant, respondent, or any other witness which is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the Compliance Officer or the designee shall consult with the Board Attorney. A written report shall then be prepared and delivered to the Superintendent which summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful harassment as provided in Board policy and State and Federal law as to whether the complainant has been subject to unlawful harassment. The recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. The Compliance Officer or designee shall consult with the Board Attorney before finalizing the report to the Superintendent.

Absent extenuating circumstances, within ten (10) business days of receiving the report of the Compliance Officer or the designee, the Superintendent must either issue a final decision regarding whether or not the complaint of legally prohibited harassment 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 specify the additional information that is to be gathered, and such additional investigation must be completed within ten (10) business days. 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.

Confidentiality

The School District will make all reasonable efforts to protect the rights of the complainant and the respondent. The School District will respect the privacy of the complainant (unless the complainant made the complaint with malice or with knowledge that it was false), the respondent, and all witnesses in a manner consistent with the School District's legal obligations under State and Federal law. Confidentiality cannot be guaranteed however. All complainants proceeding through the formal investigation process should 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 an investigation of legally prohibited harassment 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 legally prohibited harassment will be maintained by the Compliance Officer in accordance with State law and the Board's records retention policy. Any records which are considered education records in accordance with the *Family Educational Rights and Privacy Act* will be maintained in a manner consistent with the provisions of the Federal law and Policy [8330](#) - Student Records.

Allegations Constituting Criminal Conduct: Child Abuse/Sexual Misconduct

State law requires any teacher or school employee who knows or suspects that a child under the age of eighteen (18) is a victim of child abuse or neglect to immediately report that knowledge or suspicion to the school principal or Superintendent, who must notify the Department of Children and Family Services. If, during the course of an investigation of legally prohibited harassment, the Compliance Officers or a designee has reason to believe or suspect that the alleged conduct reasonably indicates abuse or neglect of the complainant, a report of such knowledge must be made in accordance with State law and Board Policy [8462](#) - Student Abuse and Neglect.

If the Compliance Officer or a designee has reason to believe that the complainant has been the victim of criminal conduct as defined under Florida law, such knowledge should be reported to local law enforcement.

Any reports made to the local child protection service or to local law enforcement shall not terminate the Compliance Officer's or a designee's obligation and responsibility to continue to investigate a complaint of legally prohibited harassment. While the Compliance Officer or a designee may work cooperatively with outside agencies to conduct concurrent investigations, in no event shall the investigation of legally prohibited harassment be inhibited by the involvement of outside agencies without good cause after consultation with the Superintendent.

Mandatory Reporting of Misconduct by Certificated Employees

The Superintendent is required by State law and Board Policy [8141](#) - Mandatory Reporting of Misconduct by Certificated Employees to report alleged misconduct by certificated employees of the District that affects the health, safety, and welfare of a student. In accordance with Board policy and State law, the Superintendent shall investigate each allegation of such conduct and, if confirmed, shall report such misconduct pursuant to Policy [8141](#) - Mandatory Reporting of Misconduct by Certificated Employees.

F.S. 110.1221, 760.01, 760.10, 1000.05, 1006.07

20 U.S.C. 1681 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.

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

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

42 U.S.C. 1983

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

National School Boards Association Inquiry and Analysis - May 2008

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