

Administrative Procedure A: Harassment and Discrimination - Employees
(Attachment for Policy No. 348)

Purpose

The School District of Philadelphia (“District”) is committed to providing a safe, positive working climate for its employees. The purpose of these procedures is to establish the process to be utilized when a complaint of harassment or discrimination of an employee is reported. While the nature of an individual claim may range in severity or impact, the goal is to ensure the process is clear to all employees.

~~An employee or third party may utilize either the informal or formal complaint procedure.~~

Definitions

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

Harassment: A form of discrimination based on 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 consisting of 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 work performance, including when:

Submission to such conduct is made explicitly or implicitly a term or condition of an employee's status; or

- a. Submission to or rejection of such conduct is used as the basis for employment-related decisions affecting an employee; or
- b. Such conduct is sufficiently severe, persistent or pervasive that a reasonable person in the complainant's position would find that it unreasonably interferes with the complainant's performance at work or otherwise creates an intimidating, hostile, or offensive working environment such that it alters the complainant's working conditions.

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, an individual 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:

- **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.**

Informal Resolution: Informal Resolution may encompass a broad range of conflict resolution strategies including, but not limited to, formal mediation or a facilitated discussion between the parties, or targeted or broad-based educational programming or training.

Procedures

Formal Complaint Procedure —~~Employee/Third Party~~

Step 1 – Reporting

An employee or third party who believes ~~she has~~ **they have** been subject to conduct by any employee or third party that constitutes a violation of Policy 348 is encouraged to immediately report the incident **in one of the following ways:**

1. **Complete the [Employee Discrimination and/or Harassment Reporting Form](#);¹**
2. **Email employeeTitleIXcomplaints@philasd.org; or**
3. **Report the conduct to their building principal or immediate supervisor.²**

~~If the building principal/immediate supervisor is the subject of a complaint, the employee or third party shall report the incident directly to the Title IX Deputy Coordinator.~~ **Retaliation against any person for filing a complaint, testifying, participating or assisting in an investigation, or opposing practices the person reasonably believes to be discriminatory is prohibited. However, employees who knowingly make a false complaint may be subject to disciplinary action, up to and including possible discharge.**

Principals/immediate supervisors who receive complaints shall encourage the complainant to submit the complaint via the [Reporting Form](#). The principal/immediate supervisor also

¹ The Employee Discrimination and/or Harassment Reporting Form is available at <https://www.philasd.org/employeerelations/forms/employee-discrimination-and-harassment-reporting-and-investigation-form/>

² If the building principal/immediate supervisor is the subject of a complaint, the employee or third party shall report the incident directly to Office of Talent via the [Employee Discrimination and/or Harassment Reporting Form](#) or by email to employeeTitleIXcomplaints@philasd.org

shall notify the Deputy, Employee & Labor Relations and provide all relevant details of the complaint (name of complainant, respondent, witnesses and any known facts). ~~If the building principal/immediate supervisor is unable to conduct the investigation, the employee or third party shall report the incident directly to the Title IX Deputy Coordinator.~~

Step 2 - Initial Assessment

Employee respondent: Upon receiving a written complaint of ~~alleged unlawful harassment or sex discrimination by an employee, the building principal/immediate supervisor shall immediately notify the Title IX Deputy Coordinator(s).~~ ~~The Deputy, Employee & Labor Relations~~ Title IX Deputy Coordinator(s) shall assign an investigator to conduct an initial assessment as follows: ~~authorize the building principal/immediate supervisor to investigate the complaint, unless the building principal/immediate supervisor is the subject of the complaint or is unable to conduct the investigation.~~

- a. If the alleged conduct, if proved, would constitute harassment or discrimination in violation of Policy 348 the investigator shall conduct an investigation in accordance with Step 3 below.
- b. If the alleged conduct, if proved, would not constitute harassment or discrimination in violation of Policy 348, the investigator shall:
 - i. Refer the complaint to the respondent's supervisor, or another individual, as appropriate, for investigation in accordance with an applicable Board policy and/or Collective Bargaining Agreement, for example [Policy 300](#) - Employee Code of Ethics or [Policy 316](#) - Staff Use of Social Media and Electronic Communications; or
 - ii. Offer the complainant the option to pursue an informal complaint process.

Third party respondent: If the respondent is a third party, the Deputy, Employee & Labor Relations shall make a determination as to how to proceed.

Student respondent: If the respondent is a student, the Deputy, Employee & Labor Relations shall refer the complaint for investigation to the Compliance Officer/Title IX Coordinator pursuant to [Policy 248](#) - Harassment of Students or other applicable policy.

Informal Complaint Procedure

The Informal Complaint Procedure may be utilized in cases where conduct may be offensive, **but does not on its face rise to the level of a policy violation**, and the complainant wishes for the conduct to be addressed, or in cases where the complainant does not wish to utilize the Formal Complaint Procedure and the Informal Complaint Procedure is deemed appropriate by the Deputy, Employee & Labor Relations. In such cases, the **investigator may recommend or** the complainant may request an Informal Resolution, ~~either through their supervisor or through the Office of Employee Relations notify the offending party directly, but is not required to do so.~~ The employee or third party may also request a supervisor to intervene by notifying the alleged offender that the specific offensive behavior(s) will not be tolerated in the workplace. In such case, the supervisor must discuss the matter with the alleged offender. **The respondent has the**

right to refuse or disengage in the Informal Complaint Procedure at any time. ~~Copies will also be forwarded to the Law Department of the School District of Philadelphia. The accused shall have the right of representation during his/her interview with the supervisor as required by the applicable collective bargaining agreement.~~

If the complainant is not satisfied with the result of the ~~Informal~~ **Complaint p**Procedure, ~~s/he~~ **they** may submit a formal complaint in accordance with this **or another applicable** policy.

Step 3 – Investigation

~~Upon receiving a written complaint of unlawful harassment or sex discrimination, the building principal/immediate supervisor shall immediately notify the Title IX Deputy Coordinator(s). The Title IX Deputy Coordinator(s) shall authorize the building principal/immediate supervisor to investigate the complaint, unless the building principal/immediate supervisor is the subject of the complaint or is unable to conduct the investigation.~~

~~The building principal or investigative officer~~ **investigator** shall conduct an adequate, reliable and impartial investigation and shall provide ~~the opportunity for each party~~ **the opportunity** to present witnesses and other evidence. ~~Title IX prohibits retaliation against any individual who files a complaint under Title IX or participates in a complaint investigation.~~

The investigation may consist of individual interviews with the complainant, the **respondent** ~~accused~~, and others with knowledge ~~relative~~ **relevant** to the **complaint incident**. The investigator may also **consider** ~~evaluate~~ any other information and materials relevant to the investigation.

~~The investigator shall attempt to secure statements from all participants in and witnesses to the complaint. The accused~~ **respondent** shall have the right of representation during ~~his/her~~ **their** interview ~~as if required by the applicable collective bargaining agreement or district practice.~~

The obligation to conduct this investigation shall not be negated by the fact that a criminal investigation of the incident is pending or has been concluded, unless particular procedural steps would directly impede a criminal investigation. The investigator should coordinate with any other ongoing school or criminal investigations of the incident. The District will implement appropriate interim steps during the law enforcement agency's investigation period to provide for the safety of the victim(s) and the school community and the avoidance of retaliation.

The failure of the accused **or any witness** to participate in the investigation into a written complaint ~~shall~~ **may** be grounds for discipline, up to and including possible discharge for cause.

All investigations shall be completed by the assigned investigator within ~~sixty thirty (30) 60~~ days from the filing date of the complaint. Extenuating circumstances for not being able to comply with the deadline must be approved by the **Deputy, Employee & Labor Relations or designee** ~~Title IX Deputy Coordinator(s)~~. The extension must be **for a specified reasonable** period of time, **given the circumstances** ~~not exceeding twenty-five (25) days~~, and must be communicated to the complainant **and the respondent**.

Step 4 – Investigative Report

The **investigator** ~~building principal/immediate supervisor~~ shall prepare and submit a written report to the **Deputy, Employee & Labor Relations Title IX Deputy Coordinator(s)**, which shall include a summary of the investigation, a determination of whether the complaint has been substantiated as factual and whether ~~the investigation revealed a it is a~~ violation of this **or any Board** policy, the **rationale basis** for the determination, **and a recommendation that the respondent's supervisor take appropriate corrective action, and a recommended disposition of the complaint.**

The complainant and the **respondent accused** shall be provided written notice of the outcome of the investigation, including **a summary of the investigation and the determination.**~~the recommended disposition of the complaint. The accused shall not be notified of the individual remedies offered or provided to the complainant.~~

Step 5 – District Action

If the investigation results in a finding that the complaint is **substantiated factual** and constitutes a violation of ~~this a~~ **Board** policy, the investigation report is issued to the manager, who shall take prompt action to **address the conduct through the disciplinary process.** ~~ensure that such conduct ceases.~~

~~The district shall take steps to prevent the recurrence of prohibited conduct and to remedy the discriminatory effect on the victim or complainant and others, if appropriate. District staff shall document the corrective action taken and, where not prohibited by law, inform the complainant.~~

~~Disciplinary actions shall be consistent with SRC policies, administrative procedures, applicable collective bargaining agreements, and state and federal laws and may include counseling, suspension, reassignment, or termination. The corrective action may include, but is not limited to, appropriate supports and interventions for **complainants, students and** who are either victims or perpetrators or improper conduct, in accordance with District services and programs, which may include Tier II and II or Response to Instruction and Intervention (RtII); Positive Behavior Interventions & Supports (PBIS); Student Assistance Program (SAP); counseling services; parent meetings; referrals to appropriate resources outside of the District; student discipline pursuant to the Code of Student Conduct; **The corrective action may also include, but is not limited to,** employee discipline in accordance with any applicable collective bargaining agreement or contract, including but not limited to counseling, suspension, expulsion.~~
~~Disciplinary actions shall be consistent with SRC **Board** policies, administrative procedures, applicable collective bargaining agreements, and state and federal laws, and may include~~**ing** counseling, suspension, reassignment, or termination.

The District shall take steps to prevent the recurrence of prohibited conduct and to remedy the effect of the conduct on the complainant and others, if appropriate. District staff shall document the corrective action taken.

~~If it is concluded that an employee has knowingly made a false complaint under this policy, such employee shall be subject to disciplinary action, up to and including possible discharge. [11]~~

Appeal Procedure

- ~~1. If the complainant or accused is not satisfied with a finding of no violation of the policy or with the recommended corrective action, s/he may submit a written appeal to the Title IX Deputy Coordinator(s) within fifteen (15) days of her/his receipt of written notice of final disposition/action taken. The appeal will be conducted in an impartial manner by an impartial decision-maker.~~
- ~~2. The Title IX Deputy Coordinator(s) shall review the investigation and the investigative report and may also conduct a reasonable investigation.~~
- ~~3. The Title IX Deputy Coordinator(s) shall prepare a written response to the appeal within fifteen (15) days. This time period may be extended by the Title IX Deputy Coordinator(s) under circumstances where winter, spring, or summer break coincides with the investigatory period or for other reasonable cause. Copies of the response shall be provided to the complainant, the accused and the building principal/immediate supervisor who conducted the initial investigation.~~

The name and contact information for the District's **Deputy, Employee & Labor Relations Title IX Deputy Coordinator** for inquiries related to Policy 348 is:

Michelle Chapman
Deputy, Employee & Labor Relations
Chief Talent Officer
440 N. Broad Street
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215-400-4600