

## 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.

### 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**

#### *Step 1 – Reporting*

An employee or third party who believes 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](#);<sup>1</sup>
2. Email [employeetitleIXcomplaints@philasd.org](mailto:employeetitleIXcomplaints@philasd.org); or
3. Report the conduct to their building principal or immediate supervisor.<sup>2</sup>

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 shall notify the Deputy, Employee & Labor Relations and provide all relevant details of the complaint (name of complainant, respondent, witnesses and any known facts).

#### *Step 2 - Initial Assessment*

**Employee respondent:** Upon receiving a complaint of alleged harassment or discrimination by an employee, the Deputy, Employee & Labor Relations shall assign an investigator to conduct an initial assessment as follows:

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<sup>1</sup> 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/>

<sup>2</sup> 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](mailto:employeetitleIXcomplaints@philasd.org)

- 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 through the Office of Employee Relations. The respondent has the right to refuse or disengage in the Informal Complaint Procedure at any time.

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

#### *Step 3 – Investigation*

The investigator shall conduct an adequate, reliable and impartial investigation and shall provide each party the opportunity to present witnesses and other evidence.

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

The respondent shall have the right of representation during their interview if required by the applicable collective bargaining agreement.

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 may be grounds for discipline, up to and including possible discharge for cause.

All investigations shall be completed by the assigned investigator within sixty (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. The extension must be for a reasonable period of time, given the circumstances and must be communicated to the complainant and the respondent.

#### *Step 4 – Investigative Report*

The investigator shall prepare and submit a written report to the Deputy, Employee & Labor Relations, 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 violation of this or any Board policy, the rationale for the determination, and a recommendation that the respondent's supervisor take appropriate corrective action.

The complainant and the respondent shall be provided written notice of the outcome of the investigation, including a summary of the investigation and the determination.

#### *Step 5 – District Action*

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

The corrective action may also include, but is not limited to, employee discipline in accordance with Board policies, administrative procedures, applicable collective bargaining agreements, and state and federal laws, including 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.

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

Leta Johnson-Garner  
Interim Deputy, Employee  
Evaluations & Relations  
440 N. Broad Street  
Philadelphia PA 19130  
215-400-4600