

REVISED POLICY - VOL. 28, NO. 1

ANTI-HARASSMENT

General Policy Statement

It is the policy of the Board of School Trustees to maintain an education and work environment that is free from all forms of unlawful harassment, including sexual harassment, occurring in the Corporation's educational opportunities, programs, and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's educational opportunities, programs, and activities, affecting the Corporation environment (hereinafter referred to collectively as "unlawful harassment"). This commitment applies to all ~~School~~ Corporation operations, educational opportunities, 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 occurring in the Corporation's educational opportunities, programs, and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's educational opportunities, programs, and activities, affecting the Corporation environment. 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~~ affects the Corporation environment.

~~The Board will vigorously enforce its prohibition against harassment based on sex (including sexual orientation and/or transgender identity), race, color, national origin, religion, disability, or genetic information that are protected by Federal civil rights laws (hereinafter referred to as unlawful harassment) and encourages those within the School Corporation community as well as third parties who feel aggrieved to seek assistance to rectify such problems. All Corporation employees, including administrators, professional staff and support staff, shall report any incident of alleged harassment that the employee observes or which is reported to the employee. The Board will investigate all allegations of harassment and in those cases where unlawful harassment is substantiated, the Board will take immediate steps to end the harassment, prevent its recurrence, and remedy its effects. Individuals who are found to have engaged in unlawful harassment will be subject to appropriate disciplinary action, up to and including termination of employment or expulsion from school. Corporation employees who fail to report any incident of alleged harassment that the employee observes or which is reported to the employee also are subject to appropriate disciplinary action, up to and including termination of employment.~~

The Board will vigorously enforce its prohibition against unlawful harassment (see definition on page 1), that is based on race, color, national origin, sex (including transgender status, sexual orientation and/or gender identity), religion, disability, military status, ancestry, or genetic information, which are classes protected by Federal and/or State civil rights laws (hereinafter referred to as "Protected Classes"), and encourages those within the Corporation community as well as third parties who feel aggrieved to seek assistance to rectify such problems occurring in the Corporation's educational opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's educational opportunities, programs and activities, affecting the Corporation environment.

All Corporation employees, including administrators, professional staff and support staff, shall report any incident of alleged unlawful harassment (see definition on page 1) that the employee observes or which is reported to the employee.

The Corporation will investigate all allegations of unlawful harassment (see definition on page 1) and, in those cases where unlawful harassment is substantiated, will take immediate steps to end the harassment, prevent its recurrence, and remedy its effects.

Individuals who are found to have engaged in unlawful harassment (see definition on page 1) will be subject to appropriate disciplinary action, up to and including termination of employment or expulsion from school.

Furthermore, Corporation employees who fail to report any incident of alleged unlawful harassment (see definition on page 1) that the employee observes or which is reported to the employee also are subject to appropriate disciplinary action, up to and including termination of employment.

~~[] The Corporation will offer counseling services to any person found to have been subjected to unlawful harassment, and where appropriate, the person(s) who committed the unlawful harassment.~~

For purposes of this policy, "~~School~~-Corporation community" means students, administrators, teachers, and staff, as well as 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~~-Corporation 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~~-Corporation community at school-related events/activities (whether on or off ~~School~~-Corporation property).

Other Violations of the Anti-Harassment Policy

The ~~Board will also take~~ Corporation also will 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.~~Retaliating against a person who has made a report or filed a complaint alleging unlawful harassment (see definition on page 1) or who has participated as a witness in a harassment investigation.
- B. ~~Filing a malicious or knowingly false report or complaint of unlawful harassment.~~Filing a malicious or knowingly false report or complaint of unlawful harassment (see definition on page 1).
- C. ~~Disregarding, failing to investigate adequately, or delaying investigation of allegations of harassment, when responsibility for reporting and/or investigating unlawful harassment charges comprises part of one's supervisory duties.~~Disregarding, failing to investigate adequately, or delaying investigation of allegations of unlawful harassment (see definition on page 1), when responsibility for reporting and/or investigating unlawful harassment charges comprises part of one's supervisory duties.

Definitions

Bullying

Bullying rises to the level of unlawful harassment (see definition on page 1) when one (1) or more persons systematically and chronically inflict physical hurt or psychological distress on one (1) or more students with the intent to harass, ridicule, humiliate, intimidate or harm that/those student(s), and that bullying is based upon sex, race, color, national origin, religion, or disability, that is, characteristics that are protected by Federal civil rights laws. It is defined as any unwanted and repeated written, verbal, or physical behavior, including any threatening, insulting, or dehumanizing gesture, by an adult or student, that is severe or pervasive enough to create an intimidating, hostile, or offensive educational environment; cause discomfort or humiliation; or unreasonably interfere with the individual's school performance or participation; and may involve:

- A. teasing;
- B. threats;
- C. intimidation;
- D. stalking;
- E. cyberstalking;
- F. cyberbullying;
- G. physical violence;
- H. sexual violence;
- ~~H.I.~~ theft;
- ~~I.J.~~ sexual, religious, or racial harassment;
- ~~J.K.~~ public humiliation; or
- ~~K.L.~~ destruction of property.

In the bullying context, "harassment" means any threatening, insulting, or dehumanizing gesture, use of data or computer software, or written, verbal or physical conduct directed against a student that:

- A. places a student or school employee in reasonable fear of harm to his/her person or damage to his/her property;
- B. has the effect of substantially interfering with a student's educational performance, opportunities, or benefits; or
- C. has the effect of substantially disrupting the orderly operation of a school.

Sexual Harassment

Pursuant to Title VII of the Civil Rights Act of 1964 and Title IX of the Education 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 status in a class, educational program, or activity.
- B. Submission or rejection of such conduct by an individual is used as the basis for educational decisions affecting such individual.
- C. Such conduct has the purpose or effect of interfering with the individual's educational performance; of creating an intimidating, hostile, or offensive 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. **sexual violence, including** physical and/or sexual assault;
- C. threats or insinuations that a person's academic grade, promotion, classroom work or assignments, academic status, participation in athletics or extra-curricular programs or events, or other conditions of 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 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. inappropriate boundary invasions by a Corporation employee or other adult member of the ~~School~~-Corporation community into a student's personal space and personal life;
- J. verbal, nonverbal or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature;
- K. in the context of employees, 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.

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

NOTE: Sexual conduct/relationships with students by a Corporation employee or any other adult member of the School Corporation community is prohibited, and any teacher, administrator, coach, ~~or~~ other school authority, or staff member who engages in certain sexual conduct with a student may be disciplined up to and including termination and ~~may also be~~ ~~also may be~~ guilty of the criminal charge of "sexual battery" as set forth in ~~Indiana Code-I.C.~~ 35-42-4-8. In the case of a child under fourteen (14) years of age, the person ~~may also be~~ ~~also may be~~ guilty of "child molesting" under ~~Indiana Code-I.C.~~ 35-42-4-3. In the case of a child between the ages of fourteen (14) and sixteen (16), the person ~~may also be~~ ~~also may be~~ guilty of "sexual misconduct with a minor" under ~~Indiana Code-I.C.~~ 35-42-4-9. The issue of consent is irrelevant in regard to the latter two (2) criminal charges. Any employee accused of sexual relations with a student (**x**) may (**-**) will **[not recommended]** be placed on leave until school administrative proceedings are completed. Proven sexual relationships with a student regardless of the age of the student will initiate the termination process for the employee.

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 educational performance; of creating an intimidating, hostile, or offensive 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~~ **may include but is not limited to conduct** 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 educational performance; of creating an intimidating, hostile, or offensive 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~~ **may include but is not limited to conduct** directed at the characteristics of a person's religious tradition, clothing, or surnames, and/or ~~involves~~ **involving** 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 educational performance; of creating an intimidating, hostile, or offensive 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~~ **may include but is not limited to conduct** 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 educational performance; of creating an intimidating, hostile, or offensive 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~~ **include but is not limited to conduct** 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.

Reports and Complaints of Harassing Conduct

Students, members of the ~~School~~-Corporation community and third parties are encouraged to promptly report incidents of ~~harassing conduct-unlawful harassment~~ **(see definition on page 1)** to an administrator, supervisor or other ~~School~~ Corporation official so that the Board may address the conduct before it becomes severe, pervasive, or persistent. All Corporation-level employees, including administrators, professional staff and support staff, shall report any incident of alleged **unlawful** harassment **(see definition on page 1)** that the employee observes or which is reported to the employee. Any ~~administrator, supervisor, or other School administrator or other~~ Corporation-level official who receives such a complaint shall file it with the Corporation's Anti-Harassment Compliance Officer at his/her first convenience. Corporation employees who fail to comply with the reporting responsibility shall be subject to discipline, up to and including termination.

Members of the ~~School~~-Corporation community or third parties who believe they have been ~~unlawfully harassed~~ **subjected to unlawful harassment (see definition on page 1)** by another member of the ~~School~~-Corporation community or a third party are entitled to utilize the Board's complaint process set forth below. Initiating a complaint, whether formally or informally, will not adversely affect the complaining individual's participation in educational or extra-curricular programs unless the complaining individual makes the complaint maliciously or with knowledge that it is false. Individuals should make every effort to file a complaint ~~as soon as possible~~ **within thirty (30) calendar days** after the conduct occurs while the facts are known and potential witnesses are available.

If, during an investigation of a reported act of bullying and/or harassment in accordance with Policy 5517.01 – Bullying, the principal or his/her designee believes that the reported misconduct may have created a hostile work ~~or learning~~ environment and may have constituted unlawful ~~discriminatory~~ harassment (see definition on page 1) based on ~~sex, race, color, national origin, religion, or disability~~ "Protected Classes" (see definition on page 1), the principal or his/her designee will report the act of bullying and/or harassment to one (1) of the Compliance Officers who shall investigate the allegation in accordance with this policy.

Anti-Harassment Compliance Officers

The following individuals serve as “Anti-Harassment Compliance Officers” for the Corporation. They are hereinafter referred to as the “Compliance Officers”.

Tim Armstrong
(Name)

(Name)

Assistant Superintendent
(School Corporation Title)

(School Corporation Title)

812-753-4230
(Telephone Number)

(Telephone Number)

1029 W 650 S, Fort Branch, IN 47648
(Office Address)

(Office Address)

tim.armstrong@sgibson.k12.in.us
(E-mail Address)

(E-mail Address)

The names, titles, and contact information for the Compliance Officers will be published annually:

- ☐ ~~in the ~~student, parent, and staff handbooks~~~~
- ☐ ~~in the School Corporation Annual Report to the public~~
- ☒ on the School Corporation's web site
- ☐ ~~on each individual school's web site~~
- ☐ ~~in the School Corporation's calendar~~
- ☐ _____

The Compliance Officers will be available during regular school/work hours to discuss concerns related to ~~unlawful harassment~~ "unlawful harassment" (see definition on page 1), to assist students, other members of the Corporation community and third parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede informally on behalf of the student.

Any Corporation employee who directly observes unlawful harassment (see definition on page 1) of a student is obligated, in accordance with this policy, to report such observations to one (1) of the Compliance Officers within ~~(x)~~ two (2) ~~(+)~~ business days. Thereafter, the Compliance Officer or designee must contact the student if age eighteen (18) or older, or the student's parents if under the age of eighteen (18) within two (2) business days to advise him/her/them of the ~~Board's-Corporation~~ intent to investigate the alleged misconduct, including the obligation of the Compliance Officer or ~~his/her~~ designee to conduct an investigation following all the procedures outlined in this policy for a formal complaint. Additionally, if the alleged harasser is a student, the Compliance Officer or designee must contact the student, if age eighteen (18) or older, or the student's parents if under the age of eighteen (18), within two (2) business days to advise him/her/them of the ~~Board's-Corporation'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. However, all complaints of harassment involving a Corporation employee or any other adult member of the ~~School~~-Corporation community against a student will be formally investigated.

The Compliance Officers are assigned to accept complaints of unlawful harassment (see definition on page 1) directly from any member of the ~~School~~ Corporation community or a visitor to the Corporation, 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, a Compliance Officer will begin either an informal or formal process (depending on the request of the member of the ~~School~~ Corporation community alleging harassment or the nature of the alleged 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 will prepare recommendations for the Superintendent or will oversee the preparation of such recommendations by a designee. ~~All members of the School Corporation community must report incidents of harassment that are reported to them to the Compliance Officer within two (2) business days of learning of the incident. However, if the alleged harasser is the Superintendent, the recommendations shall be submitted to the (x) Board President (-) School Board Attorney (-) _____.~~

All Corporation employees must report incidents of unlawful harassment (see definition on page 1) that they observe or that are reported to them to the Compliance Officer within (x) two (2) business days ~~(-) _____ (-) business days~~ of learning of the incident.

Investigation and Complaint Procedure (see Form 5517 F1)

~~Any employee or other member of the School Corporation community or third party (e.g., visitor to the Corporation) 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. Further, 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 below.~~

Any employee or other member of the Corporation community or third party (e.g., visitor to the Corporation) who believes that s/he has been subjected to unlawful harassment (see definition on page 1) may seek resolution of his/her complaint through either the informal or formal procedures as described below. Further, a process for investigating claims of unlawful harassment (see definition on page 1) and a process for rendering a decision regarding whether the claim of unlawful harassment (see definition on page 1) was substantiated are set forth below.

Due to the sensitivity surrounding complaints of unlawful harassment (see definition on page 1), time lines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within ~~(x)~~ fifteen (15) ~~()~~ business days of the complaint being received).

The informal and formal procedures set forth below are not intended to interfere with the rights of any individual to pursue a complaint of unlawful harassment with the United States Department of Education, Office for Civil Rights (OCR), ~~or the~~ Indiana Civil Rights Commission (ICRC), ~~or to file a concurrent criminal complaint with the law enforcement agency having jurisdiction or Equal Employment Opportunity Commission (EEOC).~~

Informal Complaint Procedure

The goal of the informal complaint procedure is to stop inappropriate behavior and/or unlawful harassment (see definition on page 1), 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 student who believes s/he has been unlawfully harassed or retaliated against in the Corporation's educational opportunities, programs, and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's educational opportunities, programs, and activities, affecting the Corporation environment. This informal procedure is not required as a precursor to the filing of a formal complaint and/or filing a concurrent criminal complaint, and ~~will only be utilized~~ will be utilized only where the parties (alleged target of harassment and alleged harasser(s)) agree to participate in such process.

~~Employees, other members of the Corporation community, or third parties~~ Students who believe that they have been unlawfully harassed (see definition on page 1) or retaliated against may proceed immediately to the formal complaint process and individuals who seek resolution through the information procedure may request that the informal process be terminated at any time to move to the formal complaint procedure.

However, all complaints of unlawful harassment (see definition on page 1) involving a Corporation employee, any adult member of the ~~School~~-Corporation community, or a third party against a student will be formally investigated. Similarly, any allegations of sexual violence will be formally investigated.

As an initial course of action, if an individual feels that s/he is being unlawfully harassed (see definition on page 1) and s/he is able and feels safe doing so, the individual should tell or otherwise inform the harasser that the conduct is unwelcome and must stop. Such direct communication should not be utilized in circumstances involving sexual violence. The complaining individual should address the allegedly harassing conduct as soon after it occurs as possible. The Compliance Officer(s) is/are 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 harasser of his/her complaint is not prohibited from otherwise filing an informal or a formal complaint. In addition, with regard to certain types of unlawful harassment, such as sexual harassment, the Compliance Officer may advise against the use of the informal complaint process.

An individual who believes s/he has been unlawfully harassed (see definition on page 1) may make an informal complaint, either orally or in writing: 1) to a teacher, other employee, or building administrator; 2) directly to one (1) of the Compliance Officers; and/or 3) to the Superintendent or other Corporation-level employee.

All informal complaints must be reported to one (1) of the Compliance Officers who will either facilitate an ~~information-informal~~ resolution as described below on his/her own, or appoint another individual to facilitate an informal resolution.

The Corporation's informal complaint procedure is designed to provide employees, other members of the ~~School~~-Corporation community or third parties who believe they are being ~~unlawfully harassed~~ subjected to unlawful harassment (see definition on page 1) 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 individual claiming unlawful harassment, informal resolution may involve, but not be limited to, one or more of the following:

- A. Advising the individual 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 **school**.
- C. If both parties agree, the Compliance ~~Officers~~ **Officer** may arrange and facilitate a meeting between the individual claiming harassment and the individual accused of harassment to work out a mutual resolution. Such a meeting is not appropriate in circumstances involving sexual violence.

While there are no set time limits within which an informal complaint must be resolved, one (1) of the Compliance Officers or a designee will exercise his/her authority to attempt to resolve all informal complaints within **(x)** fifteen (15) ~~()~~ business days of receiving the informal complaint. Parties who are dissatisfied with the results of the informal complaint process may proceed to file a formal complaint, **may file a complaint with the United States Department of Education, Office for Civil Rights (OCR) or the Indiana Civil Rights Commission (ICRC), and/or may file a concurrent criminal complaint with the law enforcement agency having jurisdiction.** And, as stated above, parties may request that the informal process be terminated at any time to move to the formal complaint process.

One of the Compliance Officers or a designee will retain all materials generated as part of the informal complaint process in accordance with the Board's records retention policy (see Policy 8310, Policy 8320 and Policy 8330).

Formal Complaint Procedure

If a complaint is not resolved through the informal complaint process, if one (1) of the parties has requested that the informal complaint process be terminated to move to the formal complaint process, or if the individual elects to file a formal complaint initially, the formal complaint process as described below shall be implemented.

The formal complaint process is not intended to interfere with the rights of an employee, other member of the ~~School~~-Corporation community, or third party to pursue a complaint of unlawful harassment with the United States Department of Education, Office for Civil Rights (OCR) or the Indiana Civil Rights Commission (ICRC), and/or to file a concurrent criminal complaint with the law enforcement agency having jurisdiction.

An individual who believes s/he has been subjected to offensive conduct/~~unlawful~~ harassment/retaliation-~~hereinafter~~, hereinafter referred to as the "Complainant", may file a formal complaint, either orally or in writing with a teacher, principal, the Compliance Officer, Superintendent, or other Corporation-level employee. Due to the sensitivity surrounding complaints of unlawful harassment (see definition on page 1) and retaliation, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. If a Complainant informs a teacher, principal, Superintendent, or other Corporation-level employee, either orally or in writing, about any complaint of harassment or retaliation, ~~that the~~ employee to whom the student reports the complaint must report such information to the Compliance Officer or designee within two (2) business days.

Throughout the course of the process as described herein, the Compliance Officer should keep the parties informed of the status of the investigation and the decision making process.

All formal complaints of unlawful harassment (see definition on page 1) or retaliation 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/retaliation; a detailed description of the facts upon which the complaint is based; a list of potential witnesses; and the resolution sought by the Complainant.

If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the Compliance Officer shall ask for such details in an oral interview. Thereafter, the Compliance Officer will prepare a written summary of the oral interview and the Complainant will be asked to verify the accuracy of the reported ~~charge-complaint~~ by signing the document.

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 harassment or retaliation, including, ~~but not limited to,~~ but not limited to a change of ~~work-building or class~~ assignment or ~~class~~ schedule for the Complainant and/or the alleged harasser. 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 any change that is deemed appropriate by the Compliance Officer, the Compliance Officer may still take whatever actions s/he deems appropriate in consultation with the Superintendent and/or Board Attorney.

Within (x) two (2) ~~()~~ ~~()~~ business days of receiving the complaint, the Compliance Officer or a designee will initiate a formal investigation to determine whether the Complainant has been subjected to offensive conduct/~~unlawful~~ harassment/retaliation.

[] A principal will not conduct an investigation unless directed to do so by the Compliance Officer.

Contemporaneously, one of the Compliance Officers or a designee will inform the individual alleged to have engaged in the ~~unlawful~~ harassing or retaliatory 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 the Board's anti-harassment policy shall be provided to the Respondent. The Respondent ~~must also be also must be~~ informed of the opportunity to submit a written response to the complaint within five (5) business days.

Although certain cases may require additional time, one (1) of the Compliance Officers or a designee will attempt to complete an investigation into the allegations of harassment or retaliation within fifteen (15) business days of receiving the formal complaint. ~~The investigation will include:~~

The investigation will include:

- A. ~~interviews-interview(s)~~ with the Complainant;
- B. ~~interviews-interview(s)~~ with the Respondent;

- C. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations; and
- D. consideration of any documentation or other information, presented by the Complainant, Respondent, or any other witnesses that is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the Compliance Officer or the designee shall prepare and deliver a written report to the Superintendent that 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~~ **subjected** to unlawful harassment (see definition on page 1) or retaliation. The Compliance Officer's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. In determining if discriminatory harassment or retaliation occurred, a preponderance of the evidence standard will be used (i.e., it is more likely than not that unlawful harassment or retaliation occurred). ~~() The Compliance Officer may consult with the Board's legal counsel before finalizing the report to the Superintendent.~~

- () The Compliance Officer may consult with the Board's legal counsel before finalizing the report to the Superintendent.**

Formatted: Indent: Left: 0", Hanging: 0.69",
Tab stops: 0.7", Left

Absent extenuating circumstances, within five (5) business days of receiving the report of the Compliance Officer or the designee, the Superintendent must either issue a ~~final~~ decision regarding whether the complaint of 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 five (5) business days. At the conclusion of the additional investigation, the Superintendent must issue a ~~final~~ written decision as described above.

A Complainant or respondent who is dissatisfied with the ~~final~~ decision of the Superintendent may appeal through a signed written ~~statement request~~ to the Board of ~~School~~ Trustees within five (5) business days of his/her receipt of the Superintendent's final decision.

If the Superintendent is the Respondent, the appeal process will skip the review by the Superintendent and move directly to the Board. In such circumstances, the Compliance Officer, or the designee, shall prepare and deliver a written report to the Board that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful harassment/retaliation as provided in Board policy and State and Federal law as to whether the Complainant has been subjected to unlawful harassment (see definition on page 1) or retaliation.

~~In an attempt to resolve the complaint, the~~ The Board shall meet with the concerned parties and their representatives within twenty (20) business days of the receipt of ~~such a~~ written request to appeal. At this meeting, the parties have the right to present evidence, including testimony and/or exhibits, to the Board in support of their position. A copy of the Board's disposition of the appeal shall be sent to each concerned party within ten (10) business days of this meeting. The decision of the Board will be final.

~~If either the Complainant or the Respondent is not satisfied with the Board's decision, either party will have an additional sixty (60) days to appeal the decision to the United States Department of Education Office of Civil Rights (OCR) or the Indiana Civil Rights Commission (ICRC).~~

The Board reserves the right to investigate and resolve a complaint or report of unlawful harassment/retaliation regardless of whether the member of the ~~School~~ Corporation community or third party alleging the unlawful harassment/retaliation 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 or in such other manner as deemed appropriate by the Board or its designee.

The Complainant and the Respondent may be represented, at his/her own cost, at any of the above-described meetings/hearings.

The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights or the Indiana Civil Rights Commission, or the filing of a concurrent criminal complaint. Use of the complaint procedures is not a prerequisite to the pursuit of other remedies. Furthermore, the complaint must be investigated even if a separate investigation is being conducted by another agency, including but not limited to the local police department.

Formatted: No widow/orphan control, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers

Privacy/Confidentiality

The ~~School~~ Corporation will ~~respect~~ employ all reasonable efforts to protect the privacy of the Complainant, the ~~Respondent~~ Respondent(s) (that is the individual(s) against whom the complaint is filed), and the witnesses ~~as much as to the extent~~ possible, consistent with the ~~Board's~~ Corporation's legal obligations to investigate, to take appropriate action, and ~~to conform~~ comply with any discovery or disclosure obligations. ~~Confidentiality, however, cannot be guaranteed. All Complainants proceeding through the formal investigation process should be advised that their identities may be disclosed to the Respondent.~~

All records generated under the terms of this policy shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed.

All Complainants proceeding through the formal investigation process should be advised that their identities may be disclosed to the Respondent(s).

During the course of a formal investigation, the Compliance Officer or his/her designee will instruct all members of the ~~School~~ Corporation community and third parties who are interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of a harassment investigation is expected not to disclose any information that s/he learns or that s/he provides during the course of the investigation.

~~The Compliance Officer shall maintain all public records created as a part of an investigation of a complaint of harassment in accordance with the Board's records retention policy. Any records that are considered student records in accordance with the Family Educational Rights and Privacy Act will be maintained in a manner consistent with the provisions of Federal law.~~

In accordance with the Board's records retention policy and student records policy, the Compliance Officer will maintain all records created as a part of an investigation of a complaint of unlawful harassment/retaliation occurring in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment. (See Policy 8310 – Public Records and/or Policy 8330 – Student Records)

Remediation

In cases where the complaint investigation results in a finding that the allegation of unlawful harassment/retaliation is substantiated, action must be taken by the Compliance Officer to remedy the past effects of such unlawful harassment/retaliation on a student. This may include but is not limited to providing a contact person to monitor the student, providing tutoring to the student, allowing the student to retake tests or assignments, and counseling.

Sanctions and Monitoring

The Board shall vigorously enforce its prohibitions against unlawful harassment (see definition on page 1)/retaliation by taking appropriate action reasonably calculated to stop the harassment and prevent further such 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).~~

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), if any. Any discipline of students with disabilities will be in accordance with the Individuals with Disabilities Education Act ("IDEA") and the Federal and State regulations implementing the IDEA.

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), if any, and with Federal and State laws and regulations.

~~Where the Board becomes aware that a prior sanction has been imposed against a member of the Corporation community, all subsequent~~ All sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its recurrence, and remedy its effects. Prior sanctions imposed on the Respondent(s) for similar past conduct shall be considered in determining the appropriateness of the sanction(s) imposed for the present conduct.

Remediation

~~In cases where the complaint investigation results in a finding that the allegation of harassment is substantiated, action must be taken by the Compliance Officer to remedy the past effects of such harassment. This may include but is not limited to providing a contact person to monitor the harassed student, providing tutoring to the student, allowing the student to retake tests or assignments, and counseling. Counseling shall be offered to all students who have been subjected to harassment.~~

Retaliation

Any act of retaliation against a person who has made a report, filed a complaint alleging unlawful harassment, or participated as a witness in a harassment investigation is prohibited. ~~Individuals found to have engaged in retaliation shall be subject to disciplinary action, up to and including termination of employment or expulsion from school.~~

Specifically, the Board will not discriminate/retaliate against, coerce, intimidate, threaten, or interfere with any individual because the person opposed any act or practice of unlawful harassment (see definition on page 1), or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing pertaining to unlawful harassment, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by Federal or State laws.

Individuals found to have engaged in retaliation shall be subject to disciplinary action, up to and including termination of employment or expulsion from school.

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 ~~Department of Children and Family Services~~ Department of Child Services, Office of Child Protective Services. If, during the course of a harassment investigation, the Compliance Officer or a designee has reason to believe or suspect that the alleged conduct reasonably indicates abuse or neglect of the Complainant or the alleged victim, a report of such knowledge must be made in accordance with State law and Board Policy.

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

Any reports made to ~~the local child protection service~~ Child Protective Services 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 harassment. While the Compliance Officer or a designee may work cooperatively with outside agencies to conduct concurrent investigations, in no event shall the harassment investigation be inhibited by the involvement of outside agencies ~~without good cause after consultation with the Superintendent.~~

Education and Training

In support of this Anti-Harassment Policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. ~~The Superintendent or designee shall provide appropriate training to all members of the School Corporation community related to the implementation of this policy and its accompanying administrative guidelines.~~ The Compliance Officers will oversee training of Corporation employees and students so that they understand their rights and responsibilities under Federal and State law and are informed of the Board's policies and practices with respect to fully implementing and complying with the requirements of Federal and State law. All training regarding the Board's policy and administrative guidelines and harassment in general will be age and content appropriate.

Notice

Notice of the Board's policy on anti-harassment related to employment practices and the identity of the Compliance Officers will be posted throughout the Corporation, and published in any Corporation statement regarding the availability of employment, in any staff handbooks, and in general information publications of the Corporation as required by Federal and State law and this policy.

I.C. 35-42-4-3, 35-42-4-8, 35-42-4-9

20 U.S.C. 1400 et seq., the Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004)

20 U.S.C. 1681 et seq., Title IX of the Education Amendments Act of 1972

29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967

29 U.S.C. 794, Section 504 of the Rehabilitation Act of 1973, as amended

42 U.S.C. 1983

42 U.S.C. 2000d et seq., Title VI of the Civil Rights Act of 1964

42 U.S.C. 2000e et seq., Titles VII of the Civil Rights Act of 1964

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

42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended

29 C.F.R. Part 1635

National School Boards Association Inquiry and Analysis - May 2008

~~I.C. 35-42-4-3, 35-42-4-8, 35-42-4-9~~

~~20 U.S.C. 1400 et seq., the Individuals with Disabilities Education Improvement Act of 2004 (IDEIA)~~

~~20 U.S.C. 1681 et seq., Title IX of the Education Amendments Act of 1972~~

~~29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967~~

~~29 U.S.C. 794, Rehabilitation Act of 1973, as amended~~

~~29 U.S.C. 794, Rehabilitation Act of 1973, as amended~~

~~29 U.S.C. 6101, The Age Discrimination Act of 1975~~

~~42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended~~

~~42 U.S.C. 2000d et seq., Titles VI and VII of the Civil Rights Act of 1964~~

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

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

~~42 U.S.C. 1983~~

~~29 C.F.R. Part 1635~~

~~National School Boards Association Inquiry and Analysis - May 2008~~

Formatted: Left