



Equal Educational Opportunities

Students
Policy
8002

Policy Statement

- The Board recognizes its responsibility to provide all students with an educational experience free from discrimination or harassment based on a student's protected characteristics.
- Educational programs and services shall be designed to meet the varying needs of all students and shall not discriminate on the basis of protected characteristics.
- The District shall provide equal opportunities for students to participate in educational and extracurricular programs and to access student services, irrespective of protected characteristics.
- The District prohibits conduct that has the purpose or effect of negatively impacting a student's academic performance or is sufficiently severe, persistent, or pervasive to create an intimidating, hostile, or offensive work or educational environment.
- The District prohibits retaliation against persons who report sexual harassment or protected characteristic harassment or participate in related proceedings.

Sexual Harassment

- The District prohibits sexual harassment. Whenever a school employee has reliable information that would lead a reasonable person to believe that a student under the age of 18 has been a victim of sexual harassment that occurred on school property or at a school function, the harassment shall be immediately reported to a School Administrator or School Counselor.
- The District prohibits sexual harassment that conditions a student's academic status, progress, benefits, services, honors, program, or activities based on submission to such conduct.

Discrimination

No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

The policy requires schools to address any form of discrimination based on race, color, and national origin, including shared ancestry or ethnic characteristics (e.g. antisemitism), including disparate suspension rates; unfair

discipline practices; unequal access to courses; or any action that impairs students' education because of their race or ethnicity.

Protected Characteristic Harassment

The District does not tolerate acts of harassment, including harassment based on a student's actual or perceived race, color, or national origin, including shared ancestry or ethnic characteristics (e.g., antisemitism). Any student who believes he or she has been subjected to harassment or a hostile environment based on race, color, or national origin is urged to report it to a School Administrator or School Counselor. The District is committed to conducting a prompt investigation. Students found to have engaged in acts of harassment that create a hostile environment based on race, color, or national origin may be disciplined, and such discipline may include if circumstances warrant, suspension and expulsion. Students, parents/guardians, and District staff are encouraged to work together to prevent acts of harassment.

Examples of Harassment

Harassment may include but is not limited to, any unwelcome, inappropriate, or illegal physical, written, verbal, graphic, or electronic conduct that relates to an individual's actual or perceived race, color, gender, sexual orientation, religion, national origin (including shared ancestry or ethnic characteristics), disability, marital status, genetic information, veteran status, pregnancy or pregnancy-related conditions, or any other category protected by state or federal law, and that has the purpose or effect of creating a hostile education by limiting the ability of an individual to participate in or benefit from the district's programs and activities or by unreasonably interfering with that individual's education environment or, if the conduct was to persist and would likely create a hostile education environment.

Complaints /Reporting Processes

A student who believes that they have been subjected to discrimination or harassment on the basis of protected characteristics may file a complaint with the principal, a designated school counselor, or a school administrator as outlined in the Student Code of Conduct. Complaint forms are available on the district website (Red Clay Discrimination/Report form (8002.1)).

The principal school administrator shall conduct a prompt and thorough investigation and shall notify the victim's parent of the determination, provided the parent is not alleged to be the offender.

Timelines

- To ensure integrity, promote fairness, and facilitate an effective investigation, all complaints or reports, oral or written, formal or informal, must be made as promptly as possible but not later than 180 calendar days after the alleged incident. Such a time limit, however, may be waived for good cause, as documented in the investigative file.

Mandatory Reporting Guidelines

- All non-student members of the school community are required to report to the appropriate Designated Official any incident of discrimination, including harassment and retaliation, against any student that they witness, that they are notified of through a student's report or complaint, or that they otherwise become aware of, as soon as practicable, but no later than 24 hours of becoming aware of the incident. All reports should include a completed "Discrimination Complaint/Report Form" and should be signed by the reporting party. No mandatory report may be filed anonymously. Failure to comply with the mandatory reporting requirement of this Protocol may lead to disciplinary action.

Investigation Guidelines

- The "Designated Official" will be in charge of overseeing an investigation. They will gather and preserve all evidence feasible and will contact the Office of Public Safety if the allegations involve a potential crime. Investigative activities may consist of, as appropriate, interviewing the parties and others who have witnessed or may have knowledge about the alleged incident(s) or the circumstances giving rise to the complaint or report, review of video recordings, voice mails, e-mails, instant messages, student records, and other items and documents relevant to the allegations. In every investigation, both parties (the alleged victim and the alleged perpetrator) will have the right and option to present witnesses and evidence to support their respective positions. Privacy and confidentiality should be maintained to the extent that is practicable under the circumstances. The Designated

Official should make reasonable efforts to regularly inform the complainant, the alleged perpetrator, and, if applicable, their parent(s) or guardian(s) of the status of the complaint.

- The Designated Official will give notice of the complaint or report, and where requested, copies of all records and information throughout the resolution and investigative process, to the appropriate Director of School Support.

Receipt of Student Complaints/Reports

- Students are strongly encouraged to file a complaint or report, written or oral, formal or informal, of any incident of discrimination, including harassment and retaliation, that they are subjected to, witness, or otherwise become aware of, and may do so to any school faculty, staff member, or administrator. Students are encouraged to file a written "Discrimination Complaint/Report Form," but its use is not mandatory. Where requested or needed, students, or their parent(s)/guardian(s), will be provided assistance in preparing a Complaint/Report Form. Although not preferred, students may file an anonymous complaint or report (the school community should be informed that anonymous filings will likely undermine the ability to investigate or address such alleged incidents).

Investigation and Resolution Procedures

Step One

- The Designated Official will notify the complainant and alleged perpetrator of a time and date at which each will have a separate interview to discuss the incident. The interviews shall take place as soon as practicable. Except for good cause, as documented in the investigative file, interviews of the parties must be completed within five (5) school days from the initiation of the Resolution Procedures. All interviews with individuals who have information about the complaint, including but not limited to, the complainant, the person accused of discrimination/harassment, witnesses, and anyone mentioned as having relevant information, will be documented in writing or other recording.
- Notification of Parents/Guardians: Within five (5) school days of receiving a complaint or report under this Policy, the Designated Official shall notify the parents/guardians of a student complainant or victim and the parents/guardians of a student who has been alleged as a perpetrator. Such

notification may be made by telephone, writing, or in person. The date, time, method, and location (if applicable) of such notification and communication shall be noted in the investigative report. All notifications shall be consistent with the student privacy rights under the applicable provisions of the Family Educational Rights and Privacy Act of 1974 (FERPA).

- During the Designated Official's interview with the complainant, the Designated Official should notify a student complainant and their parents/guardians that the school will, to the extent practicable, keep the complainant's identity confidential throughout the investigation, unless there is a need to know to investigate and/or resolve the complaint, or needed to provide corrective or remedial measures for the complainant. In addition, the Designated Official should explain to the complainant and, if applicable, the complainant's parent(s)/guardian(s), that the school may release, at the very least, the complainant's name to the alleged perpetrator to ensure a fair investigation.
- After the interviews of the parties, the Designated Official may suggest a resolution to the parties, if they deem a speedy resolution appropriate (but may not use this process when it involves allegations of severe, persistent or pervasive forms of harassment or retaliation). If the resolution is agreed to, the Designated Official should proceed to Step Four. However, if the resolution is not agreed to, the Designated Official should continue to Step Two.

Step Two

- The Designated Official will conduct an investigation following the Investigation Guidelines outlined in this policy. The investigation should be completed within ten (10) school days of the interviews discussed in Step One, except for good cause, as documented in the investigative file. If the Designated Official determines it necessary at any time during the investigation, they may take protective or disciplinary measures to ensure the complainant's safety or the safety of the school community. The Designated Official will also make appropriate referrals for complainant assistance, including counseling and crisis intervention, if requested, or as needed.
- Extension: If the Designated Official deems it necessary, due to the severity of the allegations or the need for discovery of further information, an investigation may be extended beyond the ten (10) school day limit. However, as soon as it is determined that more time is necessary, the Designated

Official must notify the complainant, the alleged perpetrator, any parent/guardian, if applicable, and the appropriate Director of School Operations.

Step Three

- Upon completion of the investigation, the Designated Official will prepare a written report summarizing the key factual findings and stating whether, by a preponderance of the evidence, the allegations were proven in the course of the investigation, and whether the Policy has been violated.
- This written report shall be completed no later than 30 calendar days (unless there is a reasonable cause for delay) after the completion of the investigation. If the allegations are proven and are considered violations of the Policy, the Designated Official will determine the appropriate disciplinary and corrective action for the perpetrator and the appropriate corrective action (i.e., protective measures) and remedial measure for the victim and/or school community. The Designated Official will keep a copy of their report documenting all action taken, and also send a copy to the appropriate Director of School Operations.
- Basis For Determining Whether Policy Violated: In making a determination of whether, by a preponderance of the evidence, a violation of the Policy has occurred, the Designated Official(s) shall consider all the facts and surrounding circumstances, including, for example, the context, nature, frequency and severity of the behavior, how long the wrongful conduct continued, where the incident(s) occurred, the number of persons involved in the wrongful conduct, the ages of and relationships between the parties, consideration of special needs or status of the individual, past incidents or patterns of behavior, and the extent to which the conduct adversely affected the education, school or work environment of the complainant and other school community members.
- Taking Appropriate Action For Students: Such action shall include imposing discipline and/or corrective and remedial action reasonably calculated to end the conduct, deter future conduct, and remedy the effects of the discrimination, including harassment or retaliation, or other prohibited conduct, on the student victim(s) and the school community, as applicable.

Step Four

- The Designated Official will close the file and, within three (3) school days of making the determination, notify all parties, and if a student, their parent(s)/guardian(s), of the results of the investigation and any action taken that pertains to them, and provide the parties with a list of further steps available for the parties to take, including, but not limited to, the appeal process and other legal recourse. The Designated Official will attempt notification of a student's parents/guardians via telephone, with a notification letter sent to the parties, and if a student, their parents(s)/guardian(s). The Designated Official will follow up with the victim and perpetrator no less than weekly for ninety (90) school days from closing the file in order to ensure retaliation does not occur and that the issue has been resolved. In addition, the Designated Official will prepare a brief written report after each follow-up.

Corrective Action and Remedial Measures for Students

- Corrective Action concerning a student victim may include, but is not limited to, adopting a written safety plan to implement protective measures.
- The Designated Official will determine if corrective action and remedial measures are necessary to end the conduct, deter future conduct, and remedy the effects of the discrimination, including harassment or retaliation, on the victim and/or the school community as a whole. This decision is appealable per the appeal processes listed in this policy. All corrective action and/or remedial measures must be documented in the investigative file and must not interfere with or violate any other school or District Policies and Practices.

Availability of an Appeal

- Any party may appeal the determination of a Designated Official to the Superintendent or their designee. The Superintendent, or their designees, will have ten (10) school days to determine whether or not to reopen the file. If the file is reopened, the Superintendent, or their designee, will become the Designated Official and perform further investigation pursuant to the Resolution Procedures as they

	<p>deem necessary and appropriate. If the file is not reopened, the Superintendent, or their designee, will provide notice to the appealing party and will include the notice in the file. The Superintendent or their designee's decision is not appealable at the school district level but may be appealed pursuant to state and federal laws.</p> <ul style="list-style-type: none"> • Notice of the outcome of the complaint will include the reasons or rationale for such conclusion(s); the consequences imposed on any individual(s) found to have engaged in discrimination and/or harassment that relate to the subject of the complaint; and, notice to the complainant to immediately report any recurrence of the conduct or acts of retaliation to the District. <p>Complaints may be sent to the Office of the Deputy Superintendent 1502 Spruce Ave. Wilmington, DE 19805 302-552-3706</p> <p>Complaints of sexual harassment /misconduct by a student is governed by the Student Code of Conduct and the District's sexual harassment policy (4005 and 4005.1). All other complaints of discrimination and harassment may be filed under Policy 8002.</p> <p>Complaints of sexual harassment /misconduct by an adult are governed by the District's policy: Adult Sexual Misconduct in School (4022).</p> <p><i>Record Keeping</i></p> <ul style="list-style-type: none"> • All files, forms, written findings, evidence, determinations, or any other material gathered related to a complaint, report, or investigation of a student-related issue must be kept in a file in the individual school's administrative offices. In addition, copies of all investigative reports will be sent to, and must be maintained in the office of the appropriate Director of School Operations. All files should be kept confidential. 	
Definitions	<i>Designated Official:</i> The school principal or designee. In the case of an appeal, it is the Superintendent or designee.	

	<p><i>Discrimination:</i> Treatment or consideration of or making a distinction for or against a person based on the group, class, or category to which that person belongs rather than on individual merit</p> <p><i>Protected characteristics:</i> Race, color, gender, sexual orientation, religion, national origin (including shared ancestry or ethnic characteristics), disability, marital status, genetic information, veteran status, and any or all other legally protected characteristics</p>	
Responsibility	The Superintendent shall be responsible for compliance.	
References	<p>20 U.S. C. §1400 et seq. 29 U.S. C. §794 14 Del. C. §4112 (b) (3) 14 Del. Admin. C. §225 Family Educational Rights and Privacy Act of 1974 (FERPA).</p> <p>Related policies: 1002 Diversity and Equity in Public Education, 4002 Nondiscrimination in Employment, 4005 Harassment, 8002.1 Discrimination Complaint Form 8023 Bullying Prevention</p> <p>Related documents: Student Code of Conduct</p>	
Adoption Date	05/19/2010	
Revision/ Reapproval Date	8/21/2024	