

Descriptor Term: Employees: Harassment and Discrimination Complaint Procedures	Descriptor Code: GBR-P	Issued: Adopted February 15, 2018
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**EMPLOYEES: HARASSMENT AND
DISCRIMINATION COMPLAINT PROCEDURES**

The Amite County School District offers educational/vocational learning opportunities and employment opportunities on a non-discriminatory basis in compliance with the requirements of federal civil rights legislation. This legislation includes, but is not limited to, Title VI, Title VII, Title IX, the Vocational Amendments of 1976 and 1979, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, and IDEA. Further, the Amite County School District offers equal educational and employment opportunities to all persons without regard to sex, race, religion, color, national origin, age, genetic information, military status, or disability. Upon request, a copy of any District policies regarding compliance with these federal legislative mandates may be obtained from the Office of the Superintendent or any other school district administrative office. The District’s Board Policies are also available via the District’s website.

It is a violation of this policy for any District employee, board member, student, or third party to discriminate against or harass any other District employee based on that employee’s sex, race, religion, color, national origin, age, genetic information, military status, disability or any other status protected by applicable law. It is the intent of the District to maintain an environment free from harassment and discrimination based on these protected categories.

Sex Harassment and Sex Discrimination

Employees in the District are protected from sex discrimination, including sexual harassment, under Title IX. It is the intent of the District to maintain an environment free from sexual harassment of any kind. Therefore, unwelcomed sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature amounting to or constituting harassment are prohibited. Employee complaints are handled as set out in this policy.

The District has a Title IX Compliance Officer designated to handle any complaints regarding Title IX issues. Since this policy, Policy GBR - P, is not amended each time the administrator serving as the Title IX Compliance Officer changes, please contact the superintendent, the federal programs director, or any principal to request the name of the current Title IX Compliance Officer. Also, the Title IX Compliance Officer is identified with specificity in the District Student Handbook, Faculty Handbooks, and on the District website. Contact the Title IX Compliance Officer immediately to make a complaint regarding discrimination based on sex with respect to any District educational program or District activity receiving federal financial assistance or with respect to complaints of sex discrimination and/or sexual harassment.

Harassment and Discrimination based on the following: race, religion, color, national origin, age, genetic information, military status, or disability

The District prohibits discrimination and harassment based on an employee's race, religion, color, national origin, genetic information, military status or disability. The Title IX Compliance Officer is also designated to handle any complaints regarding the complaints of harassment and discrimination. Contact the Title IX Compliance Officer immediately to make a complaint regarding harassment and/or discrimination based any of these protected categories.

This complaint procedure provides a process for filing, processing and resolving complaints regarding harassment and discrimination issues. The failure of any complainant to participate in this process may constitute abandonment of the complaint as the investigator may not able to effectively investigate this matter without cooperation of the complainant.

I. DEFINITIONS

A. Harassment and Discrimination

1. "Sexual harassment" is when unwelcomed sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature meets one of the following criteria:

- a. Submission to such conduct is made, either implicitly or explicitly, a term or condition of employment. An example is when submission to or rejection of such conduct by an individual is used as the basis for decisions affecting that individual.
- b. Such conduct has the purpose or effect of unreasonably interfering with the employee's work performance or creating an intimidating, hostile or offensive learning environment.
- c. Sexual Violence – physical sexual assault

Further, unwelcome conduct may include verbal or physical sexual advances, including subtle pressure for sexual activity; touching or brushing against; comments regarding physical or personality characteristics of a sexual nature; and sexually oriented kidding, teasing, double-entendres, and jokes. An employee who has initially welcomed such conduct by active participation must give notice to the alleged harasser that such conduct is no longer welcome.

2. Discrimination based on sex, race, religion, color, national origin, age, genetic information, military status, or disability - discrimination involves treating someone (an applicant or employee) unfavorably because of that person's membership in one of these protected categories.

3. Harassment based on race, religion, color, national origin, age, genetic information, military status, or disability - although the law doesn't prohibit simple teasing,

offhand comments, or isolated incidents that are not very serious, harassment is prohibited when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the complainant being fired or demoted).

B. A "complaint" is a report by any employee which alleges that a policy or practice of the District/employee results in discrimination against the employee or that another employee has discriminated against the employee based on the employee's sex, race, religion, color, national origin, age, genetic information, military status or disability. A complaint is also a report by an employee which alleges that he or she has been harassed by another employee based on the employee's sex, race, religion, color, national origin, age, genetic information, military status or disability. The definition of "complaint" also includes a report by any employee which alleges that a third party or student has engaged in this prohibited conduct.

C. The "complainant" is an employee who submits a complaint.

D. The "respondent" is the person alleged to be responsible for the violation alleged in a complaint. The term may be used to designate persons with responsibility for a particular action or those persons with supervisory responsibility for procedures and policies in those areas covered in the complaint.

E. The "Title IX Compliance Officer" is the person(s) designated to coordinate the District's efforts to comply with and carry out responsibilities under Title IX and other state and federal laws addressing equal educational opportunity. The Title IX Compliance Officer may delegate responsibilities listed below to a properly trained designee if assistance is needed with an investigation.

F. A "day" means a working day and does not include holidays, weekends, or partial school days.

II. GENERAL RULES

A. While it is important to handle complaints promptly, it is even more important that the investigation into the complaint be accurate. The District intends for a decision regarding the merits of the complaint to be rendered within a 30 day period or less, though complex complaints may take longer. The Title IX Compliance Officer/designee should complete his or her summary of the investigation within 20 days of receiving the complainant's written statement. The Principal/Superintendent, as applicable below, will then review the summary, conduct any interviews he or she wishes to conduct, and make a determination as to whether disciplinary action is warranted and what steps, if any, can be put in place to prevent further discrimination or harassment, should the determination find that discrimination or harassment occurred. Under the direction of the Principal/Superintendent, as applicable below, a summary of the findings will be prepared and communicated to the complainant and respondent on or before the 30th day from the date the Title IX Compliance Officer received the complainant's written statement. The 30 day investigation and response timeframe may be extended up to 60 days by the Superintendent, if, upon being informed by the Title IX Compliance Officer that additional time is needed to investigate the complaint, the

Superintendent determines that such an extension is needed to conduct a fair and impartial investigation. Should the Superintendent determine such an extension is necessary, the Superintendent will set a date during the extension time period by which the Title IX Compliance Officer/designee will submit the summary of the investigation and the Principal/Superintendent, as applicable, will handle his or her remaining responsibilities by on or before the 60th day from the date the Title IX Compliance Officer received the complainant's written statement. Reasons for extensions include, but are not limited to, extended school breaks, witnesses not being available, complex cases involving multiple witness, and involvement of law enforcement that halts or delays an investigation. On very rare occasions, there may be extenuating circumstances which justify the Superintendent extending the time period past the 60 day deadline.

B. With regard to complaints of staff member sexual misconduct with a student, complaints of allegations of violations of Standard 4 of the Mississippi Educator Code of Ethics and Standards of Conduct, complaints containing allegation of violations of criminal statutes or other statutes, the District has certain deadlines under Mississippi Law and Mississippi Department of Education (MDE) regulations within which to report these allegations. As the investigation into the complaint moves through the process outlined in these procedures, the District, if applicable, will simultaneously proceed with its reporting requirement under the deadlines required by state law and MDE. If applicable, the superintendent shall make a report to the appropriate District Attorney, the Department of Human Services, or law enforcement as required by Mississippi law and MDE regulations. Further, a complainant may also have reported the allegations to law enforcement. It may be that there is an internal investigation proceeding under these procedures and external investigation by the District Attorney, Department of Human Services or law enforcement. The District will continue its investigation independent of law enforcement unless the District has been notified by the District Attorney, the Department of Human Services, or law enforcement that its investigation will endanger or hinder the District Attorney's investigation, the Department of Human Services investigation, or law enforcement investigation or unless the District Attorney, the Department of Human Services, or law enforcement personnel instruct the District to discontinue its investigation. At that point, the Superintendent will determine whether he or she can make a determination based on the evidence gathered thus far and notify the complainant and respondent of that decision.

C. Facts elicited during the complaint procedure do not become part of a student's permanent record, unless disciplinary action is warranted with regard to a finding of student misconduct as to a student alleged to have violated Title IX's provisions. A copy of documents, communications and records dealing with the processing of a complaint will be filed in a separate file as designated by the superintendent. To the extent possible, the investigation and the facts elicited during an investigation are kept confidential, though the District must conduct an investigation into the complaint and must interview persons who have been identified as witnesses along with other persons who may have knowledge of the facts surrounding the report. Further, the District will interview any person(s) accused of violations of Title IX as part of its investigation. All individuals interviewed will be instructed that this is a confidential process.

D. Should an employee be accused of violations of Title IX with regard to that employee's interaction with a student, facts elicited during the complaint procedure which result

in adverse disciplinary action against an employee will become part of that employee's personnel file.

E. The complainant may withdraw his or her complaint at any step without reprisal, though, depending on the circumstances, the allegations may still necessitate an investigation, even without the cooperation of the complainant. Further, refusal of a complainant to cooperate in an investigate will likely impact the effectiveness of the investigation.

F. No reprisal shall be invoked against the complainant for filing a complaint or against any person for participation in any way in this procedure. Further, a complainant or witness who believes that he or she is being retaliated against shall notify the Title XI Compliance Officer who shall investigate the retaliation claim under these procedures.

G. These procedures apply to complaints of discrimination alleged to have been carried out by employees, other students or third parties.

H. It may be appropriate for the District to take interim measures during the investigation of complaint. For instance, a staff member who is identified as having harassed another employee may be placed on administrative leave with pay while the investigation is conducted. The Title IX Coordinator will oversee or require updates on any interim measures implemented.

I. A complainant will never be required to complain to the subject of a complaint and an employee/administrator will never be involved in any complaints/investigations of which they are the subject. For instance, if the Title IX Compliance officer is the subject of a complaint, the Superintendent should be contacted by the complainant so the Superintendent or the Superintendent's designee can oversee the investigation. If the Superintendent is the subject of a complaint, the Title IX Compliance Officer should involve the Attorney for the school board to assist with conducting an impartial investigation since the Title IX Compliance Officer reports to the superintendent. Further, in that situation, the Superintendent would not make the determination regarding the merits of the complaint, but rather the Board of Education would step into the role the Superintendent would normally occupy in this process. The procedures must be implemented such that due process will still be provided to the respondent when the Board of Education steps into the role the Superintendent would normally occupy in this process.

J. If it is determined that discrimination, harassment or retaliation has occurred or if the provisions of Title IX are implicated, the District will implement appropriate corrective and remedial actions.

K. It is also prohibited to knowingly make a false discrimination, harassment, or retaliation report or provide false information in an investigation. Individuals who knowingly file a false or misleading complaint alleging harassment, discrimination or retaliation or provide false information in an investigation are subject to appropriate disciplinary actions.

III. PROCEDURES FOR INVESTIGATING A COMPLAINT AND REACHING A RESOLUTION

Depending on the substance of the complaint, this process will be adapted to best investigate the allegations in the complaint in a thorough, reliable, and impartial manner. As soon as possible from the time a complaint becomes known, the complainant should contact the Title IX Compliance Officer. If a complainant contacts another District administrator, that administrator must refer the complainant to the Title IX Compliance Officer and also notify the Title IX Compliance Officer of the contact. The Title IX Compliance Officer will then follow-up with the potential complainant regarding the report. The complainant will be asked to prepare and submit a written statement to the Title IX Compliance Officer. The statement should state the respondent's name, the nature and date of the alleged violation, the names of any witnesses to the alleged violation, and all facts that support the complaint.

The Title IX Compliance Officer or his or her designee will then conduct an investigation and may be assisted by other personnel in conducting the investigation. The specific steps in the investigation will vary depending upon the nature of the allegations, the source of the complaint, the age of the student or students involved and other factors. The Title IX Compliance Officer/designee will interview the complainant regarding the facts listed in the statement and ask any follow-up questions. The Title IX Compliance Officer/designee will notify the respondent of allegations and interview the respondent and request that the respondent provide a written statement providing factual information responding to the allegations. The Title IX Compliance Officer/designee may request that the complainant and/or the respondent provide documents and records, including electronic documents and records, related to the allegations. Both the complainant and respondent will be given an equal opportunity to present other evidence throughout the investigation. This evidence may be gathered in several ways, including but not limited to, the following: through interviews of the complainant and respondent; through interviews with witnesses whose names are provided by the complainant and respondent; through interviews with other witnesses the investigator learns about in the investigation; through documentation provided by the complainant and respondent to support the information provided in interviews; through documentation that the investigator obtains from other witnesses in the investigation; or through documentation that is part of District records. The complainant and respondent may be interviewed multiple times to follow-up on additional information learned during the investigation.

The Title IX Compliance Officer/designee will obtain statements from the witnesses interviewed. If anyone refuses to provide or sign a statement, the Title IX Compliance Officer/designee will prepare notes of the verbal statements in the interview. The Title IX Compliance Officer/designee may consult confidentially with other administrators/District legal counsel throughout the process, regarding the steps in the investigation and duties arising under the investigation or other issues that arise.

After concluding the initial investigation, the Title IX Compliance Officer/designee will prepare a summary of the investigation, attaching any statements and other evidence, and include a recommendation as to whether the facts support a finding of responsibility for violation of Title IX. The Title IX Compliance Officer may have additional administrative

personnel confidentially review the investigation, which may generate additional investigation items or interviews.

In the case of a student respondent, the student's principal (who may also be the designee who conducted the investigation) will review the summary, conduct any additional interviews needed, and make a determination as to whether disciplinary action is warranted and what steps, if any, can be put in place to further prevent discrimination or harassment, should the determination find that discrimination or harassment occurred. Any due process required will be provided as set forth in the District's Student Code of Conduct, which includes the District Disciplinary Procedures and the District Discipline Plan, in the Student Handbook and District Policies (Student Handbook).

In the case of an employee respondent, the Superintendent will review the summary, conduct any additional interviews needed, and make a determination as to whether disciplinary action is warranted and what steps, if any, can be put in place to prevent further discrimination or harassment, should the determination find that discrimination or harassment occurred.

Under the direction of the Principal (if student respondent) or Superintendent (if employee respondent), a summary of the findings will be prepared. Both the complainant and respondent will be notified of the findings and the determination, though as to matters involving a student respondent, the notification will not reveal information protected by FERPA. Further, if the complaint involves an employee respondent, should it be determined that disciplinary action will be taken against an employee, the complainant may be informed that action is being taken, but the District may determine not to release the specific disciplinary action(s).

If the matter involves student disciplinary actions, any appeal of the Principal's decision will be handled according to the Student Handbook and notice provided to the respondent of the appeal option. Any appeal after the Committee/Superintendent review will be governed by Mississippi law as to whether an appeal to the Board is allowed. For instance, with regard to a suspension greater than 10 days or an expulsion, Miss. Code Ann. Section 37-9-71 mandates that a student has the right to a due process hearing. The student and the student's parent, legal guardian or person in custody of the student may appeal suspension of more than ten (10) days and expulsions to the school board. The superintendent or his or her designee will provide notification to the appropriate party regarding any hearing or appeal options.

If the resolution involves employee disciplinary action, any appeal of the Superintendent's decision will be governed by Mississippi law and notice will be provided to the employee. For instance, if a licensed employee is suspended or terminated, Mississippi law provides a hearing process as described in Miss. Code Ann. Section 37-9-59 and Section 37-9-111 and the opportunity to appear before the Board of Education. The Superintendent or his or her designee will provide notification to the appropriate party regarding any hearing or appeal options.

With regard to any decision where there is a finding that the facts do not support a violation of the District Title IX policy, the complainant may also appeal to the next level of administration

and, ultimately, the Board of Education. The District will provide the complaint notice of this appeal option.

Legal References

34 C.F.R. § 106.8

34 C.F.R. § 106.9

20 C.F.R. § 1681

Mississippi Code Annotated as cited.

Cross Ref: Policy GAAA Equal Opportunity Employment

Policy GRB Employee Complaints of Harassment and Discrimination