

## **PROHIBITION AGAINST HARASSMENT AND RETALIATION**

### **I. Policy Statement**

The Albemarle County School Board is committed to maintaining an educational environment and workplace that is free from harassment. Through this policy and the enactment of the outlined procedures, the Albemarle County School Board prohibits harassment and bullying of any kind and with regard to any student or school personnel. In accordance with law, the Board prohibits harassment against students, employees, or others on the basis of sex, gender\*, race, color, national origin, disability, religion, ancestry, age, marital status, genetic information, sexual orientation\*\* or any other characteristic protected by law or based on a belief that such characteristic exists at school or any school sponsored activity. The Albemarle County School Board is an equal opportunity employer.

It is a violation of this policy for any student or school personnel to harass a student or school personnel based on sex, gender, race, color, national origin, disability, religion, ancestry, age, marital status, genetic information, sexual orientation or any other characteristic protected by law or based on a belief that such characteristic exists at school or any school sponsored activity. Further, it is a violation of this policy for any school personnel to tolerate harassment based on a student's or employee's sex, gender, race, color, national origin, disability, religion, ancestry, age, marital status or genetic information, sexual orientation or any other characteristic protected by law or based on a belief that such characteristic exists at school or any school sponsored activity, by students, school personnel or third parties participating in, observing or otherwise engaged in school sponsored activities. Through this policy and the enactment of the outlined procedures, the Albemarle County School Board prohibits harassment and bullying of any kind and with regard to any student or school personnel.

For the purpose of this policy, school personnel includes school board members, school employees, agents, volunteers, contractors or other persons subject to the supervision and control of the School Division.

The Albemarle County School Board supports site-based management and invests authority in school principals and operational department heads to solve problems at their level of the organization. Any employee or student who believes he or she has been subjected to harassment or retaliation ordinarily should report the alleged harassment to his or her immediate supervisor, department head, or principal for investigation and resolution. If an employee or student is not satisfied that a complaint has been resolved, or if the employee or student feels uncomfortable reporting the alleged harassment or retaliation to his or her immediate supervisor, department head, or principal, he or she should report the alleged harassment to one of the Compliance Officers designated in this policy.

The school division:

- promptly investigates all complaints, written or verbal, of harassment based on sex, gender, race, color, national origin, disability, religion, ancestry, age, marital status, genetic information or any other characteristic protected by law or based

on a belief that such characteristic exists at school or any school sponsored activity;

- promptly takes appropriate action to stop any harassment;
- takes appropriate action against any student or school personnel who violates this policy; and
- takes any other action reasonably calculated to end and prevent further harassment of school personnel or students.

## II. Definitions

### A. Harassment Based on Sex.

Harassment based on sex consists of unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication, which may include use of cell phones or the internet, of a sexual nature when

- submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment or education;
- submission to or rejection of the conduct or communication by an individual is used as a factor in decisions affecting that individual's employment or education; or
- that conduct or communication substantially or unreasonably interferes with an individual's employment or education, or creates an intimidating, hostile or offensive employment or educational environment (i.e. the conduct is sufficiently serious to limit a student's or employee's ability to participate in or benefit from the educational program or work environment).

Examples of conduct which may constitute harassment based on sex if it meets the immediately preceding definition include:

- unwelcome sexual physical contact
- unwelcome ongoing or repeated sexual flirtation or propositions, or remarks
- sexual slurs, leering, epithets, threats, verbal abuse, derogatory comments or sexually degrading descriptions
- graphic comments about an individual's body
- sexual jokes, notes, stories, drawings, gestures or pictures
- spreading sexual rumors
- touching an individual's body or clothes in a sexual way
- displaying sexual objects, pictures, cartoons or posters
- impeding or blocking movement in a sexually intimidating manner
- sexual violence
- display of written materials, pictures, or electronic images
- unwelcome acts of verbal, nonverbal, written, graphic, or physical conduct based on sex or sex stereotyping

## B. Harassment Based on Race, National Origin, Disability or Religion

Harassment based on race, national origin, disability or religion consists of physical or verbal conduct, which may include use of cell phones or the internet, relating to an individual's race, national origin, disability or religion when the conduct

- creates an intimidating, hostile or offensive working or educational environment;
- substantially or unreasonably interferes with an individual's work or education; or
- otherwise is sufficiently serious to limit an individual's employment opportunities or to limit a student's ability to participate in or benefit from the education program.

Examples of conduct which may constitute harassment based on race, national origin, disability or religion if it meets the immediately preceding definition include:

- graffiti containing racially offensive language
- name calling, jokes or rumors
- physical acts of aggression against a person or his property because of that person's race, national origin, disability or religion
- hostile acts which are based on another's race, national origin, religion or disability
- written or graphic material which is posted or circulated and which intimidates or threatens individuals based on their race, national origin, disability or religion

## C. Additional Prohibited Behavior

Behavior that is not unlawful or does not rise to the level of illegal harassment or retaliation may nevertheless be unacceptable for the educational environment or the workplace. Demeaning or otherwise harmful actions are prohibited, particularly if directed at personal characteristics including, but not limited to, socioeconomic level, sexual orientation, perceived sexual orientation, gender identity or gender expression. Through this policy and the enactment of the outlined procedures, the Albemarle County School Board prohibits harassment and bullying of any kind and with regard to any student or school personnel.

### III. Complaint Procedure

#### A. Formal Procedure

##### 1. File Report

Any student or school personnel who believes he or she has been the victim of harassment prohibited by law or by this policy by a student, school personnel or a third party should report the alleged harassment to his or her immediate supervisor, department head or principal for investigation and resolution. The Albemarle County

School Board supports site-based management and invests authority in school principals and operational department heads to solve problems at their level of the organization. If an employee or student is not satisfied that a complaint has been resolved, he or she should report the alleged harassment to one of the Compliance Officers designated in this policy or to any school personnel. The alleged harassment should be reported as soon as possible, and the report generally should be made within fifteen (15) school days of the occurrence. Further, any student who has knowledge of conduct which may constitute prohibited harassment should report such conduct to one of the Compliance Officers designated in this policy or to any school personnel. Any school personnel who has notice that a student or other school personnel may have been a victim of prohibited harassment shall immediately report the alleged harassment to one of the Compliance Officers designated in this policy.

The reporting party should use the form, Report of Harassment, JFHA-F, to make complaints of harassment. However, oral reports and other written reports are also accepted. The complaint should be filed with either the building principal or one of the Compliance Officers designated in this policy. The principal shall immediately forward any report of alleged prohibited harassment to the Compliance Officer. Any complaint that involves the Compliance Officer or principal shall be reported to the superintendent.

The complaint, and identity of the complainant and alleged harasser, will be disclosed only to the extent necessary to fully investigate the complaint and only when such disclosure is required or permitted by law. Additionally, a complainant who wishes to remain anonymous shall be advised that such confidentiality may limit the School Division's ability to fully respond to the complaint.

## 2. Investigation

Upon receipt of a report of alleged prohibited harassment, the Compliance Officer shall immediately authorize or undertake an investigation. The investigation may be conducted by school personnel or a third party designated by the school division. The investigation shall be completed as soon as practicable, which generally should be not later than 14 business days after receipt of the report by the Compliance Officer. Upon receiving the complaint, the Compliance Officer shall acknowledge receipt of the complaint by giving written notice that the complaint has been received to both the person complaining of harassment and the person accused of harassment. Also upon receiving the complaint, the Compliance Officer shall determine whether interim measures should be taken pending the outcome of the investigation. Such interim measures may include, but are not limited to, separating the alleged harasser and the complainant and, in cases involving potential criminal conduct, determining whether law enforcement officials should be notified. If the Compliance Officer determines that more than 14 business days will be required to investigate the complaint, the complainant and the accused shall be notified of the reason for the extended investigation and of the date by which the investigation will be concluded. If the alleged harassment may also constitute child abuse, then it must be reported to

the Department of Social Service in accordance with Policy JHG, Child Abuse and Neglect Reporting.

The investigation may consist of personal interviews with the complainant, the alleged harasser, and any others who may have knowledge of the alleged harassment or the circumstances giving rise to the complaint. The investigation will consider witnesses and evidence from both the alleged harasser and the person allegedly harassed. The investigation may also consist of the inspection of any other documents or information deemed relevant by the investigator. The school division shall take necessary steps to protect the complainant and others pending the completion of the investigation.

In determining whether alleged conduct constitutes a violation of this policy, the division shall consider, at a minimum: (1) the surrounding circumstances; (2) the nature of the behavior; (3) past incidents or past or continuing patterns of behavior; (4) the relationship between the parties; (5) how often the conduct occurred; (6) the identity of the alleged perpetrator in relation to the alleged victim (i.e. whether the alleged perpetrator was in a position of power over the alleged victim); (7) the location of the alleged harassment; (8) the ages of the parties and (9) the context in which the alleged incidents occurred. Whether a particular action or incident constitutes a violation of this policy requires a case by case determination based on all of the facts and circumstances revealed after a complete and thorough investigation.

The Compliance Officer shall issue a written report to the superintendent upon completion of the investigation. If the complaint involves the superintendent, then the report shall be sent to the School Board. The report shall include a determination of whether the allegations are substantiated, whether this policy was violated and recommendations for corrective action, if any.

All employees shall cooperate with any investigation of alleged harassment conducted under this policy or by an appropriate state or federal agency.

### 3. Action by Superintendent

Within 5 business days of receiving the Compliance Officer's report, the superintendent or designee shall issue a decision regarding whether this policy was violated. This decision must be provided in writing to the complainant and the alleged perpetrator. If the Superintendent's designee determines that it is more likely than not that prohibited harassment occurred, the Albemarle County School Division shall take prompt, appropriate action to address and remedy the violation as well as prevent any recurrence. Such action may include discipline up to and including expulsion or discharge. Whether or not the Superintendent's designee determines that prohibited harassment occurred, the Superintendent's designee may determine that school-wide or division-wide training be conducted or that the complainant receives counseling.

4. Appeal

If the Superintendent's designee determines that no prohibited harassment occurred, the employee or student who was allegedly subjected to harassment may appeal this finding to the School Board within 5 business days of receiving the decision. Notice of appeal must be filed with the superintendent who shall forward the record to the School Board. The School Board shall make a decision within 30 calendar days of receiving the record. The School Board may ask for oral or written argument from the aggrieved party, the superintendent and any other individual the School Board deems relevant. Written notice of the School Board's decision will be given to both the alleged harasser and the person allegedly harassed.

If the Superintendent's designee determines that prohibited harassment occurred and discipline is imposed, the disciplined person may appeal the disciplinary sanction in the same manner as any other such sanction would be appealed.

Employees may choose to pursue their complaints under this policy through the relevant employee grievance procedure instead of the complaint procedure in this policy.

5. Compliance Officers

The Albemarle County School Board has designated

**Student Services Officer, Albemarle County Public Schools, 401 McIntire Road,  
Charlottesville, VA 22902, 434-296-5885**

as the Compliance Officer responsible for identifying, investigating, preventing and remedying prohibited harassment for students. Complaints of harassment by employees may be made

**Director of Human Resources, 401 McIntire Road, Charlottesville, VA 22902,  
434-296-5827**

The Compliance Officer shall

- receive reports or complaints of harassment;
- conduct or oversee the investigation of any alleged harassment;
- assess the training needs of the school division in connection with this policy;
- arrange necessary training to achieve compliance with this policy; and
- ensure that any harassment investigation is conducted by an impartial investigator who is trained in the requirements of equal employment/education opportunity, and has the authority to protect the alleged victim and others during the investigation.

## B. Informal Procedure

If the complainant and the person accused of harassment agree, the student's principal or principal's designee may arrange for them to resolve the complaint informally with the help of a counselor, teacher, or administrator.

If the complainant and the person accused of harassment agree to resolve the complaint informally, they shall each be informed that they have the right to abandon the informal procedure at any time in favor of the initiation of the Formal Procedures set forth herein. The principal or principal's designee shall notify the complainant and the person accused of harassment in writing when the complaint has been resolved. The written notice shall state whether prohibited harassment occurred.

## IV. Retaliation

Retaliation against students or school personnel who report harassment or participate in any related proceedings is prohibited. The school division shall take appropriate action against students or school personnel who retaliate against any student or school personnel who reports alleged harassment or participates in related proceedings. The Compliance Officer will inform persons who make complaints, who are the subject of complaints, and who participate in investigations, of how to report any subsequent problems.

## V. Right to Alternative Complaint Procedure

Nothing in this policy shall deny the right of any individual to pursue other avenues of recourse to address concerns relating to prohibited harassment including initiating civil action, filing a complaint with outside agencies or seeking redress under state or federal law.

## VI. Prevention and Notice of Policy

Training to prevent harassment prohibited by law or by this policy is included in employee and student orientations as well as employee in-service training.

This policy shall be (1) displayed in prominent areas of each division building in a location accessible to students, parents and school personnel, (2) included in the student and employee handbooks; and (3) sent to parents of all students within 30 calendar days of the start of school. Further, all students, and their parents/guardians, and employees shall be notified annually of the names and contact information of the Compliance Officers.

## VII. False Charges

Students or school personnel who knowingly make false charges of harassment shall be subject to disciplinary action as well as any civil or criminal legal proceedings.

Adopted: May 9, 2013

Amended: January 8, 2015; February 25, 2016

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Legal Refs: 20 U.S.C. §§ 1681-1688.  
29 U.S.C. § 794.  
42 U.S.C. §§ 2000d-2000d-7.  
42 U.S.C. §§ 2000e-2000e-17.  
42 U.S.C. § 2000ff-1.  
34 C.F.R. 106.9.  
Code of Virginia, 1950 as amended, §§ 2.2-3900, 2.2-3901, 2.2-3902.

Cross Refs: AC, Nondiscrimination  
AD, Educational Philosophy  
JB, Equal Educational Opportunities/Nondiscrimination  
JFC, Student Conduct  
JHG, Child Abuse and Neglect Reporting

\*For purpose of this Policy GBA/JFHA, “gender” includes gender identity and gender expression.

\*\*Definition of Sexual Orientation: One’s attraction to the same sex, opposite sex or both sexes, real or perceived. This definition is intended to describe the status of persons and does not render lawful conduct prohibited by the laws of the Commonwealth of Virginia.

REPORT OF HARASSMENT

Name of Complainant: \_\_\_\_\_

For Students, School Attending: \_\_\_\_\_

For Employees, Position and Location: \_\_\_\_\_

Address, Phone Number \_\_\_\_\_

and Email Address: \_\_\_\_\_

Date(s) of Alleged Incident(s) of Harassment: \_\_\_\_\_

Name of person(s) you believe harassed you or others: \_\_\_\_\_

If the alleged harassment was toward another, please identify that person: \_\_\_\_\_

Please describe in detail the incident(s) of alleged harassment, including where and when the incident(s) occurred. Please note any witnesses that may have observed the incident(s). Please include a description of any past incidents that may be related to this complaint. Attach additional pages if necessary.

I certify that the information provided in this report is true, correct and complete to the best of my knowledge:

\_\_\_\_\_

Signature of Complainant

Date

Complaint Received By: \_\_\_\_\_

(Principal or Compliance Officer)

Date