

POLICY 7-1.2 HARASSMENT – SCHOOL PERSONNEL

Policy Statement

The School Board of the City of Richmond is committed to maintaining a working environment free from harassment of any kind. Therefore, the School Board prohibits sexual harassment and harassment based on race, religion, national origin, disability, sexual orientation, gender identity or gender expression (collectively “harassment”) of any school personnel at school or any school sponsored activity.

It shall be a violation of this policy for any school personnel to harass a student or school personnel sexually or based on the above-stated characteristics. Further, it shall be a violation of this policy for any school personnel to tolerate harassment of any kind by school personnel or third parties participating in, observing or otherwise engaged in school sponsored activities.

For the purpose of this policy, “school personnel” School Board members, school employees, agents, volunteers, contractors or other persons subject to the supervision and control of the School Board and Richmond Public Schools.

The school division shall: (1) promptly investigate all complaints, written or verbal, of harassment; (2) promptly take appropriate action to stop any harassment and (3) take appropriate action against any school personnel who violates this policy and take any other action reasonably calculated to end and prevent further harassment of school personnel.

Definitions

a. Sexual Harassment

Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual nature when:

- i. submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment;
- ii. 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
- iii. that conduct or communication substantially or unreasonably interferes with an individual’s employment, or creates an intimidating, hostile or offensive work environment (i.e. the conduct is sufficiently severe, persistent or pervasive to limit an employee’s ability to participate in or benefit from the work environment).

Examples of conduct, which may constitute sexual harassment, include but are not limited to:

- i. unwelcome, sexually motivated or inappropriate patting, pinching or other physical contact;
- ii. unwelcome, ongoing or repeated sexual flirtation, remarks or propositions;

- iii. sexual slurs, leering, epithets, threats, verbal abuse, derogatory comments or sexually degrading descriptions;
- iv. graphic verbal or written comments about an individual's body, or overly personal conversation of a sexual nature;
- v. sexual jokes, notes, stories, drawings, gestures or pictures;
- vi. spreading sexual rumors;
- vii. touching an individual's body or clothes in a sexual way;
- viii. displaying sexually suggestive objects, pictures, cartoons or posters;
- ix. impeding or blocking movement in a sexually intimidating manner;
- x. coercing, forcing or attempting to coerce or force sexual intercourse or a sexual act or another;
- xi. touching oneself sexually or talking about one's sexual activity in front of others;
- xii. other unwelcome sexual behavior or words, including demands for sexual favors, when accompanied by either: (1) implied or overt threats concerning an individual's educational status; or (2) implied or overt promises of preferential treatment with respect to one's educational status;
- xiii. unwelcome behavior or words directed at an individual because of gender; or
- xiv. unwelcome verbal harassment or abuse, threats of physical harm, or assaults directed at an individual because of their sexual orientation.

b. Harassment Based on Race, Religion, National Origin, Disability, Sexual Orientation and Gender Identity or Expression

Harassment based on race, religion, national origin, disability, sexual orientation, gender identity or gender expression consists of physical or verbal conduct that:

- i. has the purpose or effect of creating an intimidating, hostile or offensive working environment;
- ii. has the purpose or effect of substantially or unreasonably interfering with an individual's work; or
- iii. otherwise adversely affects an individual's employment opportunities.

Examples of conduct, which may constitute harassment based on the stated characteristics, include but are not limited to:

- i. graffiti containing offensive language;
- ii. name calling, jokes or rumors;
- iii. physical acts of aggression against a person or his/her property;
- iv. slurs, negative stereotypes and hostile acts; or
- v. written or graphic material containing ethnic comments or stereotypes which is posted or circulated and is intended to degrade individuals.

Complaint Procedure

a. Reporting

Any employee who believes he or she has been the victim of harassment by a student, teacher, administrator or other school personnel, or by any other person who is participating in, observing, or otherwise engaged in activities, including sporting events and other extracurricular activities, under the auspices of Richmond Public Schools, is strongly encouraged to immediately report the alleged acts to an appropriate school division official designated by this policy. The alleged discrimination should be

reported as soon as possible, and the report generally should be made within fifteen (15) school days of the occurrence.

The school division encourages the reporting party or complainant to use the included Report of Discrimination/Harassment Complaint Form (Appendix I) available from the principal of each building or available from Richmond Public Schools' administrative offices. Use of formal reporting forms is not mandated. Verbal reports of harassment shall be treated as formal complaints. Nothing in this policy shall prevent any person from reporting harassment directly to the division superintendent or his or her designee.

In each school building, the principal is the person responsible for receiving verbal or written reports of harassment at the building level. Any adult school division personnel who receives a report of harassment shall inform the building principal immediately. Upon receipt of a report, the principal must notify the compliance officer, without screening or investigating the report. The principal may request, but may not insist upon a written complaint. A written statement of the facts alleged must be forwarded as soon as practicable by the principal to the division superintendent or his or her designee. If the report was given verbally, the principal shall personally reduce the complaint to written form within 24 hours and forward the complaint to the compliance officer. Failure to forward any harassment report or complaint as provided in this policy will result in disciplinary action against the principal.

If the complaint involves the building principal, the complaint shall be made or filed directly with the compliance officer by the reporting party or the complainant. If any complaint involves the compliance officer or alternate compliance officer, the complaint shall be made or filed directly with the division superintendent. If the complaint involves the division superintendent, the complaint shall be made or filed directly with the School Board. If the complaint involves a School Board member, the complaint shall be made or filed directly with the School Board Chair or Vice-Chair should the complaint involve the School Board Chair.

The division superintendent has designated the Executive Director of Human Resources as the compliance officer for the school division with responsibility to identify, prevent, and remedy harassment in accordance with this policy. In the absence of the Executive Director of Human Resources, the division superintendent has designated the Chief of Staff as the alternate compliance officer to be responsible for the duties listed herein.

The compliance officer or alternate shall:

- i. Receive reports or complaints of harassment;
- ii. Oversee the investigative process;
- iii. Be responsible for assessing the training needs of the school division's staff and students in connection with the dissemination, comprehension, and compliance with this policy;
- iv. Arrange for necessary training required for compliance with this policy; and
- v. Ensure that any investigation is conducted by an impartial investigator who has been trained in the requirements of equal education opportunity, including harassment, and who is able to apply procedural and substantive standards which are necessary and applicable to identify unlawful harassment, recommend appropriate discipline and remedies when prohibited harassment is found, and take other appropriate action to rectify the damaging effects of any prohibited discrimination, including interim protection of the victim during the course of the investigation.

The complaint and the identity of the complainant and the person or persons allegedly responsible for the harassment will be disclosed only to the extent necessary to fully investigate the complaint and only when such disclosure is required or permitted by law. A complainant who wishes to remain anonymous will be advised that anonymity may limit the school division's ability to fully respond to the complaint.

b. Investigation

Upon receipt of a report or complaint alleging harassment, the compliance officer or alternate shall immediately undertake or authorize an investigation. The investigation may be conducted by Richmond Public Schools' officials or, at Richmond Public Schools' discretion, by a third party designated by Richmond Public Schools. All employees shall cooperate with any investigation of alleged harassment or discrimination conducted under this policy or by an appropriate state or federal agency.

Upon receipt of the complaint, the compliance office 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.

The investigation may consist of personal interviews with the complainant, the individual(s) against whom the complaint is filed, and others who have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of the evaluation of any other information or documents that may be relevant to the particular allegations.

In determining whether the alleged conduct constitutes a violation of this policy, Richmond Public Schools shall consider:

- i. The nature of the behavior;
- ii. How often the conduct occurred;
- iii. Whether there were past incidents or past continuing patterns of behavior;
- iv. The relationship between the parties involved;
- v. The sex and age of the victim;
- vi. The identity of the perpetrator, including whether the perpetrator was in a position of power over the employee allegedly subjected to harassment;
- vii. The number of alleged harassers;
- viii. The age of the harasser;
- ix. Where the harassment occurred;
- x. Whether there have been other incidents in the school involving the same or other employees;
- xi. Whether the conduct has adversely, or continues to adversely affect the employee's job performance or work environment; and
- xii. 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 the facts and surrounding circumstances revealed through the investigation.

The investigation shall be completed no later than thirty (30) calendar days from receipt of the report. The investigator shall make a written report to the compliance officer or alternate upon completion of the investigation. The report shall include a determination of whether the allegations have been substantiated as factual and whether there appears to be violation of this policy. The investigator's

duty to conduct this investigation shall not be extinguished by the fact that a criminal investigation involving the same or similar allegations is also pending or has been concluded. The compliance officer shall submit the report to the division superintendent upon the completion of the investigation.

c. Division Superintendent Action

Within five (5) calendar days of receiving the compliance officer's report, the division superintendent or designee shall issue a decision regarding whether the policy was violated. The results of Richmond Public Schools' investigation of each complaint filed under these procedures will be reported in writing to the complainant and other parties by Richmond Public Schools in accordance with state and federal laws regarding data and records privacy, and consistent with the privacy rights of the complainant and the alleged harasser.

If the division superintendent determines that prohibited harassment occurred, Richmond Public Schools will take prompt, appropriate formal or informal action to address, and where appropriate, remediate the violation. Appropriate actions may include, but are not limited to, counseling, awareness training, termination, or discharge. Any action taken for violation of this policy shall be consistent with the requirements of state and federal law, School Board *Bylaws and Policies*, and the *Administrative Procedures Manual*.

In determining what is an appropriate response to a finding that harassment in violation of this policy has occurred, Richmond Public Schools shall consider:

- i. What response is most likely to end any ongoing harassment;
- ii. Whether a particular response is likely to deter similar future conduct by the harasser or others;
- iii. The amount and kind of harm suffered by the victim of the harassment;
- iv. The identity of the party or parties who engaged in the harassing conduct; and
- v. Whether the harassment was engaged in by school personnel, and if so, the school division will also consider how it can best remediate the effects of the harassment.

In the event that evidence suggests that the harassment is also a crime under state or federal law, school officials shall report the results of the investigation to the appropriate law enforcement agency.

d. Appeal

If the results of Richmond Public Schools' evaluation of a complaint or harassment conclude that an individual has engaged in harassment in violation of this policy, or that any individual has failed to report harassment as required by this policy, that individual may appeal this determination by use of established School Board procedures for appealing other adverse employment related actions. If the results of Richmond Public Schools' investigation of a complaint of harassment conclude that no harassment has occurred, an individual who was allegedly subjected to harassment and believes this conclusion to be erroneous may appeal this determination by use of established School Board procedures for appealing other adverse personnel related actions.

Copies of all complaints of harassment and the investigations conducted pursuant to them shall be maintained for a period of two years at the School Board administrative offices.

e. Privacy

The school division will respect the privacy of the complainant, the individuals against whom the complaint is filed, and the witnesses as much as possible, consistent with Richmond Public Schools' legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations.

f. Acts of Reprisal

Submission of a good faith complaint or report of harassment will not affect the complainant's grades, learning environment, or work assignments.

The School Board shall discipline or take appropriate action against any student, teacher, administrator, or other school personnel who knowingly files a false complaint of harassment.

The School Board shall discipline or take appropriate action against any student, teacher, administrator, or other school personnel who retaliates against any person who reports an incident of alleged harassment, or any person who testifies, assists, or participates in a proceeding, investigation or hearing relating to such harassment or violence. Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment.

g. 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 discriminatory actions or harassment including initiating civil action, filing a complaint with outside agencies, or seeking redress under state or federal law.

Dissemination of Policy and Training

Richmond Public Schools shall conspicuously post this policy against harassment in each school, in a place accessible to students, faculty administrators, employees, parents, and members of the public. The notice shall include the name, mailing address and telephone number of the compliance officer and alternate for Richmond Public Schools, the Virginia Council on Human Rights, and the mailing address and telephone number of the United States Department of Education, Office of Civil Rights.

A summary of this policy shall appear in the *Standards of Student Conduct*. A summary of this policy is included in Appendix D. A complete copy of the policy shall be made available upon the request of parents, students, and other interested parties.

The division superintendent is directed to develop procedures and guidelines to implement this policy to include but not be limited to (a) a method of discussing this policy with students and employees; (b) training on the requirements of this policy and the appropriate responses to issues regarding harassment; (c) a division-wide plan to promote strategies to prevent harassment. Training of school personnel should take place on an annual basis, and at such other times as the School Board determines necessary or appropriate.

Application

This policy does not render lawful any conduct prohibited by the laws of the Commonwealth of Virginia. This policy shall be reviewed at least annually for compliance with state and federal law.