

Student Anti-Harassment Policy and Grievance Procedure

Policy Information

Series J - Students

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Policy # JIIA

FILE: JIIA

STUDENT ANTI-HARASSMENT POLICY AND GRIEVANCE PROCEDURE

I. Policy

It is the policy of the Bourne Public Schools to provide an atmosphere for students free from discrimination and/or harassment. Discrimination, including harassment, on the basis of race, color, religion, national origin, ethnicity, genetic information or testing, sex, sexual orientation, gender identity, age or disability will not be tolerated. Retaliation against any student or other individual who has complained of discrimination, including harassment, or individuals, who have cooperated with an investigation of such a complaint, is also unlawful and will not be tolerated. The District will promptly investigate, remedy any harm, seek to prevent recurrence of such conduct, and has developed procedures to accomplish this end. The district is responsible for providing a nondiscriminatory educational environment free from harassment and, to that end, will enforce this policy in cases where harassment of a student is the result of actions not only by its agents and/or employees but also by other students, outside contractors of the district, and/or others.

II. Definitions

A. **Discrimination:** Treating persons differently, or interfering with or preventing them from enjoying the advantages or privileges afforded to others because of their membership in a protected class.

B. **Harassment:** Oral, written, graphic, electronic, or physical conduct relating to a person's actual or perceived membership in a protected class that is sufficiently severe, pervasive or persistent so as to interfere with or limit that person's ability to participate in the District's programs or activities.

C. **Hostile Environment:** Harassment also occurs when conduct (e.g., physical, verbal, graphic, or written) based on a person's protected class status creates a hostile environment which interferes with and/or limits the ability of a student to participate in or benefit from the services, activities or privileges provided by the Bourne Public Schools. To determine whether a hostile

environment exists, the harassment must be severe, pervasive or persistent. **The harassment must in most cases consist of more than casual or isolated incidents to establish a violation of this policy.** In some cases, a hostile environment requiring appropriate responsive action may result from a single incident that is sufficiently severe. Additionally, the age and cognitive ability of the students involved and the special nature and purposes of the educational setting will be considered. If it is determined that the harassment was sufficiently persistent, pervasive or severe that it would have adversely affected the enjoyment of some aspect of the District's educational program by a reasonable student of the same protected class and similar age and development as the victim, the district will find that a hostile environment existed.

D. Harassing conduct based on a person's protected class status may include, but is not limited to:

1. Degrading, demeaning, insulting, or abusive verbal or written statements;
2. Taking personal belongings, taunting, teasing, name-calling, or spreading rumors;
3. Drawing or writing graffiti, slogans, visual displays, or symbols on school or another's property;
4. Telling degrading or offensive jokes;
5. Unwanted physical contact of any kind;
6. Physical violence, threats of bodily harm, physical intimidation, or stalking;
7. Threatening letters, emails, instant messages, or websites that come within the scope of the District's disciplinary authority;
8. Defacing, damaging, or destroying school or another's property.

III. Harassment Prohibited

A. Harassment: Unwelcome verbal, written or physical conduct directed at a person based on his/her:

1. Disability - disability or perceived disability, including but not limited to damaging or interfering with use of necessary, equipment, imitating manner of movement, using disability-related slurs, or invading personal space to intimidate.
2. National Origin - national origin, ancestry, or ethnic background including but not limited to negative comments about surnames, customs, language, accents, immigration status or manner of speaking.
3. Race - race or color, including but not limited to racial slurs or insults based on characteristics of a person's race or color, racial graffiti or symbols, hostile acts based on race, nicknames based on racial stereotypes, negative comments about appearance, imitating mannerisms, taunting, or invading personal space to intimidate.
4. Religion - religion, including but not limited to derogatory comments about religious beliefs, traditions, practices (includes non-belief), or religious clothing.
5. Gender Identity - a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth, including but not limited to slurs or insults, imitating mannerisms, taunting, or invading personal space to intimidate.

6. Sexual Orientation - actual or perceived sexual orientation, including but not limited to anti-gay slurs or insults, imitating mannerisms, taunting, or invading personal space to intimidate.

B. Sexual Harassment:

1. *Quid pro quo* sexual harassment occurs when a person explicitly or implicitly conditions participation in a program or activity or bases a decision concerning a student on her/his submission to unwelcome sexual advances, request for sexual favors, or other verbal or physical conduct of a sexual nature, whether or not the other person submits to the conduct. *Quid pro quo* sexual harassment, occurs, for example when a school employee causes a student to believe s(he) must submit to sexual advances to receive a better grade than deserved, or is threatened with a loss of a promised college application recommendation unless the student dates the employee.

2. Hostile environment sexual harassment occurs when unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal or physical conduct of a sexual nature by a student, a school employee, or third party on school property or at school related activities is sufficiently severe, pervasive or persistent so as to interfere with or limit a person's ability to participate in or benefit from the District's programs or activities by creating a hostile educational environment. A victim may also be someone affected by conduct directed toward another individual of the same protected class. Sexual harassment may occur adult to student, student to student, adult to adult, male to female, female to male, female to female, and male to male.

3. Depending on the circumstances, sexual harassment may include, but is not limited to:

a. *Verbal forms of sexual harassment*, including repeated unwanted requests for dates, sexual rumors, sexually explicit jokes, howling, whistles, catcalls, soliciting conversation regarding sexual activity and experiences, making unwanted gender-based references to a person's physical characteristics;

b. *Written forms of sexual harassment*, including offensive sexual notes, emails or other writing; sexual comments about the victim written in public places;

c. *Nonverbal forms of sexual harassment*, including offensive gestures, following or stalking another, cornering or blocking a person, leering, pressuring for sexual activities;

d. *Visual forms of sexual harassment*, including displaying sexually suggestive or sexually provocative photographs, pictures, objects, cartoons, or posters; or

e. *Unwelcome physical touching*, including grabbing, groping, squeezing, sexual fondling, kissing, brushing against another's body, body hugs, and other unwelcome contact.

D. It is a violation of this policy for any administrator, teacher or other employee, or any student to engage in or condone harassment in school or to fail to report or otherwise take reasonable corrective measures when they become aware of an incident of harassment.

E. This policy is not designed or intended to limit the school's authority to take disciplinary action and/or to take remedial action when such harassment occurs out of school but has a connection to school or is disruptive to a student's work or participation in school related activities. Reports of

cyber harassment by electronic or other means occurring in or out of school will be reviewed and, when a connection to school exists, will result in discipline.

IV. Grievance Procedure

A. Any student who believes that he or she has been subjected to discrimination and/or harassment has the right to file a grievance and to receive prompt and equitable handling of the grievance. Further, all reasonable efforts shall be made to maintain the confidentiality and protect the privacy of all parties, but proper enforcement of this policy may require disclosure on any and all information received.

B. Any person who believes she or he has been subjected to discrimination and/or harassment may file a grievance. This procedure does not deny the right of the grievant to file formal grievances with state and federal agencies and/or to seek private counsel for grievances alleging discrimination. Any complaints of discrimination on the basis of disability, other than harassment, should be brought under the Section 504/ADA Grievance Procedure, Policy ACEA.

C. It is against the law and a violation of this policy for the Bourne School District to retaliate against anyone who files a grievance or cooperates in the investigation of a grievance.

D. The Bourne School District will make appropriate arrangements to ensure that disabled persons are provided other accommodations, if needed, to participate in this grievance process. Such arrangements may include, but are not limited to, providing interpreters for the deaf, providing digital recordings of material for the blind, or assuring a barrier-free location for the proceedings. The Civil Rights Officer, Assistant Superintendent Melissa Ryan, will be responsible for such arrangements.

E. Initiating a Grievance

1. A student or parent of a student who believes that the student has been harassed or otherwise discriminated against is encouraged to report this information immediately to the Principal. If the student reports to another school staff person, and or if a school staff person observes the harassment, the staff person shall report to the Principal. If the grievance is against the Principal, the report can be made to the Civil Rights Officer or the Superintendent of Schools. Reports/grievances are to be filed within ninety (90) days of the date the student, or parent on behalf of a student filing the grievance becomes aware of the alleged discrimination and/or harassment. The time limit may be extended for good cause.

2. The Principal, or designee, from here forward "Principal", will process the grievances in a fair, expeditious and, to the extent possible, confidential manner. Upon receipt of a grievance, the Principal, of appropriate, shall make the person filing the grievance aware of the availability of interim measures such as counseling, stay away mechanisms, and/or services or accommodations while the grievance is being investigated.

3. A grievance must be in writing but, if necessary, the Principal will assist the student or parent in writing the complaint.

4. The grievance should state the problem(s) or action(s) alleged to be discrimination and/or harassment, identify any witnesses and written evidence, and what the person believes will stop the discrimination and or make the student feel safe from further discrimination. The Principal's investigation shall include an interview of the grieving party and the accused; securing any

physical and/or documentary evidence; and/or interviewing any other witnesses to events relevant to the grievance. This investigation must be thorough, affording all interested persons an opportunity to present witnesses and/or submit evidence relevant to the grievance.

5. The Principal will submit a written report of the investigation to the parties within thirty (30) days of the receipt of the written grievance, which shall include the following

- a. A clear statement of the allegations of the grievance.
- b. A statement of the facts as found by the Principal and the basis for such findings.
- c. A list of all witnesses interviewed and documents reviewed during the investigation.
- d. The Principal's conclusion as to whether or not a hostile environment was found applying a preponderance of the evidence standard of review to the evidence.
- f. If a violation occurred, information about corrective action and reported to each party to the extent allowed under applicable confidentiality laws.

6. In the event that it is determined that discrimination and/or harassment in violation of this policy has occurred, the Bourne Public Schools will act promptly to take the actions necessary to end the discrimination and prevent its reoccurrence. Such steps include but are not limited to counseling, development of a safety plan, discipline of students up to and including expulsion, discipline of employees up to and including termination; as appropriate, and if not done previously, referral of perpetrators to law enforcement; restricting contact between perpetrators and the victims. Additionally, the Bourne Public Schools will promptly take reasonable steps to remedy the effects of the discrimination and/or harassment on the victims thereof.

7. The Assistant Superintendent of Schools will maintain the files and records of the Bourne School District relating to such grievances.

8. Either party may appeal the decision of the Principal by writing to the Superintendent of Schools within 10 days of receiving the Principal's decision. The appeal will not be a *de novo* review of the Principal's decision. Rather the appealing party must explain why he or she believes the factual information was incomplete, the analysis of the facts was incorrect, and/or the appropriate legal standard was not applied, *and* how this would change the District's determination in the case. Failure to do so may result in the denial of the appeal. The Superintendent of Schools shall issue a decision on the appeal no later than 15 days after its filing. A copy of said decision will be mailed to all parties and their representatives, if any, on the date it is issued.

V. Other Options for Complaining Party

Using the Bourne Public Schools' investigation and grievance procedure does not prohibit the filing of a formal complaint with the government agencies set forth below. Each of the agencies has a designated time period for filing a claim. Please contact these agencies to learn about their applicable time frames.

At any time during the process, a grievant may file a complaint with any of these agencies.

U.S. Department of Education Office for Civil Rights (OCR)

U.S. Department of Education
Office of Civil Rights
J.W. McCormack Post Office and Courthouse
5 Post Office Square, 8th Floor
Boston, MA 02109-4577

The Massachusetts Commission Against Discrimination (MCAD)

One Ashburton Place
Sixth Floor, Room 601
Boston, MA 02108

617.994.6000
TTY: 617.994.6196

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