

Fayette County Public Schools

HARASSMENT/DISCRIMINATION COMPLAINT PROCEDURE



Fayette County Public Schools
Compliance Officer
450 Park Place
Lexington, Kentucky 40511

HARASSMENT/DISCRIMINATION COMPLAINT PROCEDURE
(Reference: Policies 03.162, 03.262, 09.42811)

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HARASSMENT/DISCRIMINATION COMPLAINT PROCEDURE

(Reference: Policies 03.162, 03.262, 09.42811)

Fayette County Public Schools (FCPS) desires to be a welcoming and inclusive environment for all students, staff, and visitors. It is the expectation of Fayette County Public Schools that all district schools and work places are safe and free from harassment and discrimination of all forms, including on the basis of race, color, and national origin. Students, staff, and visitors are expected to treat all individuals with respect during school, after school, and during school sponsored activities. Staff and students are encouraged to immediately report incidents of harassment/discrimination. The district will promptly investigate formal and informal complaints.

Section 1: Scope

These procedures shall govern all compliance proceedings for students, parents/guardians, visitors, and employees of FCPS if they believe that an act of harassment/discrimination has occurred due to an individual's race, color, national or ethnic origin, age, religion, sex, genetic information, gender, identity, sexual orientation, political affiliation, veteran status, or disability. with regard to placement, treatment, admission, or access to learning or employment in FCPS programs and activities. Harassment and discrimination can occur in both academic and nonacademic settings. Settings where harassment/discrimination is forbidden include but are not limited to school classrooms, school hallways, buses, field trips, recess, athletic competitions, and all district offices.

Retaliation, harassment, or intimidation due to an individual's filing of a complaint or participating in an investigation, proceeding, or hearing regarding a claim of harassment/ discrimination shall be prohibited.

Section 2: Definitions

Allegation means an incident(s) that the Complainant believes constitutes an unlawful form of harassment/discrimination.

Agency means Fayette County Public Schools.

Complainant is the person who files a complaint based on harassment/discrimination.

Complaint is claim of harassment/discrimination on the basis of race, color, national or ethnic origin, age, religion, sex, genetic information, gender, identity, sexual orientation, political affiliation, veteran status, and disability, or retaliation, harassment, or intimidation due to participation in an investigation, proceeding, or hearing regarding a claim of harassment/discrimination. Any student, parent, visitor, or employee may file a complaint.

Day means a work day (Monday through Friday).

Discrimination means making a distinction in treatment of people due race, creed, color, national or ethnic origin, age, religion, sex, political affiliation, veteran status, or disability.

Employee means any person employed by Fayette County Public Schools.

Individual with Disability means (1) a person who has a physical or mental impairment that substantially limits one or more major life activities, (2) a person with a record of a physical or mental impairment that substantially limits one or more major life activities*, and (3) a person who is regarded as having a physical or mental impairment that substantially limits** one or more major life activities.

*Major life activities include functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. This list is not an exhaustive list of all major life activities. Instead, it is representative of the types of activities that are major life activities.

**Substantially limits means unable to perform or significantly restricted in performing a major life activity that the average person in the general population can perform.

Respondent means the person answering the complaint.

Religion means all aspects of religious observance and practice, as well as belief, unless a Supervisor/Principal demonstrates that he/she is unable to reasonably accommodate an employee's or student's religious observance or practice without undue hardship on the FCPS District.

Sexual Harassment is unwelcome conduct of a sexual nature. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment of a student can deny or limit, on the basis of sex, the student's ability to participate in or to receive benefits, services, or opportunities in the school's program. Sexual harassment of students is, therefore, a form of sex discrimination prohibited by Title IX under the circumstances described in this guidance.

Student shall mean any individual enrolled in the Fayette County Public Schools.

Supervisor is defined as an employee's immediate Supervisor, School Principal, Director, or Superintendent.

Section 3: Representation

a. The Complainant, Respondent, or any individual involved under these procedures are entitled to be accompanied, represented, and advised by a representative of their choice throughout all stages of the complaint process. Nothing contained therein shall be construed to require any representative to be an attorney at law nor as requiring FCPS to pay for such representation.

b. FCPS likewise may be so represented.

Section 4: Confidentiality

Information regarding an investigation of harassment/discrimination shall be kept confidential to the extent possible. Individuals involved in the investigation shall not discuss information regarding the complaint outside of the investigation process.

Section 5: Informal Resolution

- a. Many problems can be solved by an informal meeting. Complainants are encouraged to discuss their complaints in a prompt manner. Employees with a complaint are encouraged to first discuss it with their Supervisor with the objective of resolving the matter promptly and informally. Students and parents/guardians with a complaint are encouraged to first discuss it with their Principal with the objective of resolving the matter promptly and informally.
- b. The Complainant and the Supervisor/Principal shall meet concerning the complaint with the objective of arriving at a mutually satisfactory resolution. At the conference, the Supervisor/Principal shall inform the Complainant of the Board policy on harassment/discrimination complaints. The Complainant should expect a decision at the end of the informal meeting(s), when possible, but no later than five (5) days.
- c. If the matter is not resolved informally to the satisfaction of the Complainant, then within five (5) days of the informal decision, the Complainant may file a formal written complaint and submit it to:

Compliance Officer
Fayette County Public Schools
450 Park Place Lexington, KY 40511
brandon.turnley@fayette.kyschools.us
alicia.miller@fayette.kyschools.us

Necessary forms for filing may be obtained from any Fayette County Public School Supervisor or Principal, or from the Compliance Officer, by calling (859)381-4233 or (859)-381-4497 during normal business hours, or emailing brandon.turnley@fayette.kyschools.us or alicia.miller@fayette.kyschools.us.

- d. All persons submitting complaints shall be given or mailed a copy of these procedures.

Section 6: Formal Resolution

- a. The Complainant may file a written complaint with the Compliance Officer. If an informal resolution has been sought, the written complaint shall be filed within five (5) days of the disposition at the informal level. A complaint shall include a statement that is sufficiently precise to identify the aggrieved individual and the department or school and, where applicable, the identity of any individuals against whom the allegations are made. The statement shall describe specifically the action(s) or practice(s) that forms the basis of the complaint. The complaint must also contain a telephone number and address where the Complainant or the representative can be contacted. Formal complaints must be submitted on the appropriate Harassment/Discrimination Complaint form (Form B-employee, Form C-student).
- b. The Compliance Officer shall conduct a complete and fair investigation of the complaint in a timely manner. Should the investigation continue beyond 30 work days, the Compliance Officer will notify the Complainant of the anticipated date that the investigation will be completed.

Section 7: Dismissal of Complaints

The Compliance Officer shall dismiss a complaint or a portion of a complaint:

1. that fails to state a claim under Section 2;
2. that fails to comply with the applicable time limits contained in Sections 6 and 7, unless the Compliance Officer determines that due to extenuating circumstances, the time limit should be extended;
3. that is the basis of a pending civil action in a Federal or State Court, or an action filed with the Human Rights Commission/Equal Employment Opportunity Commission in which the Complainant is a party, or that was the basis of a civil action decided by a Federal or State Court or the Human Rights Commission/Equal Employment Opportunity Commission, in which the Complainant was a party;
4. that is moot or alleges that a proposal to take an action or other preliminary step is discriminatory;
5. where the Complainant cannot be located, provided that reasonable efforts have been made to locate the Complainant and the Complainant has not responded within 15 days to a notice of proposed dismissal sent to his/her last known address; or
6. where the Compliance Officer has provided the Complainant with a request to provide relevant information or otherwise proceed with the complaint, and the Complainant has failed to respond to the request or the Complainant's response does not address the request.

Section 8: Investigation of Complaints

a. The following procedures apply:

1. The Complainant, department, school, or any FCPS employee or students shall produce such documentary and testimonial evidence as the Compliance Officer deems necessary. Statements of witnesses may be required to be made under oath or affirmation.

2. A Respondent, whether identified at the time a formal complaint is filed or during the investigation, must be given an opportunity to respond to all allegations made against him/her. In this respect, the Compliance Officer should interview and receive information from the Respondent as often as may be necessary to ensure that the Respondent has an opportunity to respond to all the allegations.

b. The Compliance Officer has authority to investigate written harassment/discrimination complaints. The Superintendent may designate other investigators as warranted. If possible, the Compliance Officer will facilitate the resolution of the complaint at any stage in the proceedings. The Compliance Officer shall be impartial, and shall conduct an adequate and reliable investigation. The legal standard used to determine whether harassment or discrimination, including a hostile work environment, exist shall be the preponderance of the evidence.

Compliance Officer will prepare a written report of the investigation, which will include the following:

1. A clear statement of the allegations of the complaint and remedy sought by the Complainant.
2. A statement of the facts as contended by the Respondent and any other witnesses.
3. A statement of the facts as found by the Compliance Officer and identification of evidence to support each fact.
4. A narrative describing any attempts to resolve the complaint.
5. A narrative describing any attempts to resolve the complaint.
6. A conclusionary statement as to whether the allegations in the complaint are meritorious.
7. Recommendations to rectify the situation, which may include an offer of counseling for the parties involved in the complaint, separating staff or students, and/or training opportunities.

Section 10: Appeal of Decisions

Appeal of the Compliance Officer's Decision

- Within five (5) days after receipt of the Compliance Officer's written report, either the Complainant or Respondent may appeal any part of the findings and corrective actions to the Superintendent by filing a written appeal from the Compliance Officer's decision (see Attachment D). The appeal shall briefly state the reasons for the appeal.
- The Superintendent shall review the previously presented information and administrative decisions and conduct any necessary meetings and investigations in order to render a fair and impartial decision.
- The Superintendent shall issue a written decision within five (5) days after receipt of the appeal from the Compliance Officer's decision. The Superintendent's decision shall be final. Copies of the final decision shall be sent to all appropriate parties.

Harassment/ Discrimination Complaint Checklist

The following checklist should be followed for the filing of a complaint alleging harassment/discrimination, using the Fayette County Public Schools' harassment/discrimination complaint procedure. This checklist is provided to facilitate understanding of the complaint process.

Informal Resolution (Not Mandatory -- May Begin with Formal Resolution Below)

- 1. Discuss the complaint with Supervisor/Principal, with the purpose of resolving the issue.
- 2. Should the informal resolution be unsatisfactory in resolving the issue, then within five (5) days of the informal resolution process, file a formal written complaint with:

Compliance Officer
Fayette County Public Schools
450 Park Place
Lexington, KY 40511
brandon.turnley@fayette.kyschools.us
alicia.miller@fayette.kyschools.us

Necessary forms for filing may be obtained from any Fayette County Public School, from a Supervisor/Principal, from the district Compliance Officer, or at www.fcps.net.

Formal Resolution

- 1. Complainant should submit a formal written complaint on the Harassment/ Discrimination Complaint Form (Form B-employee, Form C-student).
- 2. The Compliance Officer shall be empowered to investigate all written complaints and take all necessary action to avoid delay and maintain order in the proceedings.
- 3. The Compliance Officer may hold a conference to resolve the issue(s).
- 4. The Compliance Officer may interview witnesses as part of the fact-finding process.
- 5. The Compliance Officer may facilitate the resolution of the complaint at any stage of the proceedings.
- 6. The Compliance Officer will send a written finding to the Complainant and the Respondent.

Employee Harassment/Discrimination Complaint

Form B

This form provides the opportunity for an employee to report incidents of harassment/discrimination and to secure an equitable, prompt, and appropriate resolution.

Mail, deliver, or email this form to:

Compliance Officer

450 Park Place

Lexington, Kentucky 40511

brandon.turnley@fayette.kyschools.us

alicia.miller@fayette.kyschools.us

To be completed by Compliance Officer:

Date Received: _____

Case Number: _____

Employee Information

Name: _____ Home Telephone No.: _____

Home Address: _____
(Number and Street) (City) (State) (ZIP)

Work Location: _____ Position Held: _____

Work Address: _____

Supervisor: _____ Work Telephone No.: _____

Type of Harassment/Discrimination

Please check:

- Race Creed Color Sexual Orientation Political Affiliation Age Religion
 Political Affiliation Sex Disability Gender Veteran Status National/Ethnic Origin

Statement of Complaint (Use additional sheet(s) if necessary)

Identify the harassment/discrimination that you allege has occurred. Be complete, and use full names/titles, dates, exact location(s), and specific occurrence(s), if appropriate.

Date(s) harassment/discrimination occurred: Earliest: _____ Latest: _____

Previous steps taken to STOP the harassment/discrimination: _____

Was the Informal Resolution process used prior to filing this Complaint? Yes No

What results are you seeking by filing this complaint? _____

Have you filed this complaint with any other governmental agency? Yes No

If yes, specify: Federal Court State Court HRC/EEOC Other: _____

Signature: _____ Date: _____

Student Harassment/Discrimination Complaint

Form C

This form provides the opportunity for a student or parent to report incidents of harassment/discrimination and to secure an equitable, prompt, and appropriate resolution.

Mail, deliver, or email this form to:

Fayette County Public Schools
Compliance Officer
450 Park Place
Lexington, Kentucky 40511
brandon.turnley@fayette.kyschools.us
alicia.miller@fayette.kyschools.us

To be completed by Compliance Officer:

Date Received: _____

Case Number: _____

Student Information

Student's I.D. No.: _____

Name: _____
(Last) (First) (Middle Initial)

Home Address: _____
(Number and Street) (City) (State) (ZIP)

Age: _____ Date of Birth: _____ Telephone No.: _____

School: _____ Grade: _____ Homeroom/Classroom: _____

Name of Parent/Guardian: _____ Daytime Telephone No.: _____

Type of Harassment/Discrimination

Please check:

- Race Creed Color Sexual Orientation Political Affiliation Age Religion
 Political Affiliation Sex Disability Gender Veteran Status National/Ethnic Origin

Statement of Complaint (Use additional sheet(s) if necessary)

Identify the harassment/discrimination that you allege has occurred. Be complete, and use full names/titles, dates, exact location(s), and specific occurrence(s), if appropriate.

Date(s) harassment/discrimination occurred: Earliest: _____ Latest: _____

What results are you seeking by filing this complaint?

Have you filed this complaint with any other governmental agency? Yes No

If yes, specify: Federal Court State Court HRC/EEOC Other: _____

Signature: _____ Date: _____

Signature of Parent/Guardian **or** Student If Over 18 Years Old

Harassment/Discrimination Complaint Appeal

Form D

This form provides the opportunity to submit a written appeal to the Superintendent regarding any part of the findings and recommendations rendered as a result of the investigation conducted by the Compliance Officer.

Mail, deliver, or email this form to:
Compliance Officer
450 Park Place
Lexington, Kentucky 40511
brandon.turnley@fayette.kyschools.us
alicia.miller@fayette.kyschools.us

To be completed by Compliance Officer:

Date Received: _____

Case Number: _____

Appeal Information

Employee

Student/Parent/Guardian

Name: _____
(Last) (First) (Middle Initial)

Home Address: _____
(Number and Street) (City) (State) (ZIP)

Home Telephone No.: _____ Daytime Telephone No.: _____

Name of Student (if applicable): _____

Statement of Appeal (Use additional sheet(s) if necessary.)

Briefly state your reason(s) for submitting this appeal.

What results are you seeking by filing this appeal?

Signature: _____ Date: _____

Attach all documents related to this appeal.