

STUDENTS

Non-discrimination and non-harassment of students

A. Purpose

The School Board is committed to maintaining an environment where all students and staff members conduct themselves in a manner built on mutual respect, where differences are understood and appreciated, and where all persons are treated fairly and with respect. It is the Policy of the School Board to prohibit any and all discrimination, harassment and bullying based on an individual's race, color, religion, national origin, sex, sexual orientation, gender identity, pregnancy, childbirth or related medical conditions, age, marital status, disability, genetic information or military/veteran status. The School Board will have jurisdiction over such complaints when the alleged conduct happens on school property, vehicles, or grounds while school activities are going on, at school related or sponsored events, or through School Division communication systems. At its discretion, the School Board or Superintendent may take jurisdiction of complaints that happen outside of these specified situations if the alleged conduct causes significant disruption to the educational environment. The Superintendent or designee is directed to develop regulations, practices and trainings related to compliance with Code of Virginia § 22.1-23.3, as amended, ~~and the Virginia Department of Education Model policies for Treatment of Transgender Students in Public Elementary and Secondary Schools.~~ ¹The School Board directs the Superintendent to take prompt and appropriate action to investigate and resolve all complaints and to publish and provide training regarding this Policy.

B. Report of Complaint

Any student who is the victim of discrimination, harassment or bullying based on race, color, religion, national origin, sex, sexual orientation, gender identity, pregnancy, childbirth or related medical conditions, age, marital status, disability, genetic information or veteran status by a student, employee, official, or non-School Division employee agent, volunteer or invitee is required to immediately report the alleged acts to the principal, assistant principal or an appropriate School Division official. Any person who has reason to believe that a student has been subject to such discrimination, harassment or bullying must report the alleged acts to the principal or an appropriate School Division official immediately, but in no case less than a reasonable amount of time after the person learned of the alleged acts.

Any employee or official who receives information that a student has or may have been the victim of such discrimination, harassment or bullying is required to promptly report the alleged acts to the principal or an appropriate School Division official. Failure to report such information may result in disciplinary action up to and including dismissal.

Use of formal reporting forms is not necessary. Nothing in this Policy will prevent any person from reporting such discrimination, harassment, or bullying directly to the Superintendent/or designee.

C. Who acts as Investigator of Complaints

1. Who acts as Investigator if a Student is the Harasser/Discriminator.

The building principal or designee will act as the investigator for the purpose of investigating allegations of discrimination, harassment or bullying against a student by another student.

2. Who investigates if Employee, Official or School Division agent, volunteer or invitee is the Harasser/Discriminator.

If the principal or designee receives a complaint of discrimination, harassment or bullying against a student by a School Division employee, official or School Division agent, volunteer or invitee, the principal or designee will act as the investigator for the purpose of investigating allegations of discrimination, harassment or bullying against a student by individuals within the school. The principal should consult with the Department of Human Resources, Office of Employee Relations regarding investigations, findings and proposed actions.

3. Who investigates if a Principal, School Administrator, the Superintendent or a School Board Member is the Harasser/Discriminator.

If the complaint involves a principal, the matter will be directed to the Department of School Leadership (DOSL) for investigation. DOSL should consult with the Department of Human Resources, Office of Employee Relations regarding investigations, findings and proposed actions. If the complaint involves the Superintendent, the matter will be directed to School Board to determine whether a third party or other individual should be assigned to investigate the matter. Complaints involving School Board Members should be directed to the Chair of the School Board or the Vice Chair if the Chair is involved. The remaining School Board Members will determine the appropriate course of investigation under these circumstances.

D. Investigation process

Upon receipt of a report or complaint of such discrimination, harassment or bullying of a student the designated investigator will as soon thereafter as practical, undertake or authorize an investigation. The investigation may be conducted by a third party if designated by the Superintendent or School Board. Within three (3) business days, the complainant will receive notice of who has been assigned to investigate the complaint and how to contact the investigator. Confidentiality will be maintained in accordance with applicable law and regulation. The investigator will provide the complainant, victim, and alleged violators the opportunity to provide testimony, evidence and/or witnesses regarding the alleged acts. The investigator will make a reasonable effort to obtain information concerning the alleged acts and related circumstances. The investigator will prepare an investigation report which will include:

1. the allegations as made by the complainant;
2. any additional allegations as ascertained during the investigation;
3. a summary of the evidence obtained during the investigation;

4. the alleged violator's response and supporting evidence regarding the allegations;
5. a summary of statements or other evidence provided by the victim, witnesses or other related parties;
6. the efforts made by the School Division to remedy or otherwise address the circumstances leading to or resulting from the alleged acts;
7. whether the complainant or victim is satisfied with those remedies or seeks further action;
8. the investigator's recommendations regarding whether the allegation has been substantiated as a violation of this Policy and any further actions needed to remedy the complaint or address unresolved issues; and
9. any other relevant information not otherwise addressed

Within fifteen (15) business days, the investigation report will be completed and provided to the complainant (if the complainant is also the alleged victim), to the alleged violator, and to the appropriate School Division staff member. Upon agreement by the victim or if extenuating circumstances arise, the time period to complete the investigation report may be extended for a reasonable period of time. If the complainant is not the victim, then the complainant will be informed that the complaint has been investigated and handled in accordance with this Policy or applicable law and regulation. Portions of the investigation report may be kept confidential to protect the rights of students or staff members. The investigator's obligation to conduct this investigation will not be extinguished by the fact that a civil, administrative or criminal investigation involving the same or similar allegations is also pending or has been concluded.

E. Action by the School Administration or School Board

Upon receipt of the investigation report, the principal or designee, the Superintendent or designee, or the School Board, will take prompt, appropriate formal or informal action to address, and where appropriate, remediate the violation. Such action may include disciplining any students using student discipline procedures; disciplining any employees or officials involved using employee discipline procedures; taking appropriate action against School Division agents, volunteers or invitees. Action taken for violation of this Policy shall be consistent with the requirements of applicable local, state and federal law and regulation and School Board policies and regulations of a related nature or degree of severity.

In the event that the evidence suggests that the discrimination, harassment or bullying at issue is also a crime or other violation of local, state or federal law or regulation, the Superintendent or designee, or other official shall report the results of the investigation to the appropriate enforcement agency.

F. Appeal of determination or action taken

If the victim of the complaint is not satisfied with the determination of the investigation report or the action taken by the School Division to prevent further harassment, discrimination or bullying of the victim, the victim may file an appeal within fifteen (15) calendar days of receipt of the investigation

report. The victim will not be entitled to appeal the disciplinary action imposed on a student, employee or official. The appeal should be filed with the Superintendent if the acts were alleged to have been caused by a student, employee, official, or School Division agent, volunteer or invitee. If the acts were alleged to have been caused by the Superintendent or a School Board Member, the appeal should be filed with Clerk of the School Board. The School Board will make a decision within thirty (30) business days of receiving the appeal or within a reasonable time after the complaint is filed. The School Board may ask for oral or written argument from the victim and the School Administration and any other individual that the School Board deems relevant. At its sole discretion, the School Board may hold a hearing or designate a hearing officer to hold a hearing on the appeal. The School Board will set the terms and conditions for any such hearing.

G. Retaliation or false complaints

Persons who use this procedure for good faith complaints will not be retaliated against by the School Board or School Division staff. The School Board directs that appropriate action be taken against any person who retaliates against another person for reporting alleged violations of this Policy or for participating in related proceedings. Persons who knowingly file false complaints and any person who knowingly gives false statements or evidence in a related proceeding may be subject to discipline or other appropriate action. Students may be subject to discipline up to and including suspension or expulsion. School Board employees or officials may be subject to discipline up to and including dismissal. School Division agents, volunteers, and invitees may be subject to measures up to and including exclusion from School Board property, buses, communication systems and school sponsored events.

H. Posting of Policy and Training

The Superintendent or designee will conspicuously post this Policy or a summary thereof in each school in a place accessible to students, School Division staff and the public. The notice will include the name, mailing address and telephone number of that School's compliance official or the contact information for any state or federal agency responsible for investigating the allegations.

This Policy will be referenced in the student handbook and will be made available upon request of parents, students, and other interested parties.

The Superintendent/or designee will develop a method of reviewing this Policy with students and employees. Training on the requirements for Compliance with this Policy will be provided to all School Division students, employees, officials and other agents on an annual basis, and at such times as the Superintendent determines are appropriate or necessary.

Notes:

¹This Policy should not be read to abrogate other School Board policies or regulations prohibiting other forms of unlawful discrimination, inappropriate behavior, and/or hate crimes within the School Division. It is the intent of the School Board that all such policies be read consistently to provide the highest level of protection from unlawful discrimination in the provision of educational services and opportunities

²"Tolerate" is defined to mean allow to happen, fail to intervene, encourage, fail to report or otherwise, provided that the person knew or could have reasonably been expected to know about the actions

Legal Reference

Code of Virginia § 2.2-3900, *et seq.*, as amended. Virginia Human Rights Act.

Code of Virginia § 22.1-23.3, as amended. Treatment of transgender student; policies.

Adopted by School Board: June 3, 2003

Amended by School Board: November 19, 2013

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