

Discrimination, Harassment and Retaliation Grievance Procedure

The following procedure is designed to resolve harassment, discrimination and retaliation complaints by and against students, parents, and third parties as described in board policy in a prompt and equitable manner. Board policy requires all students and staff to fully cooperate when asked to participate in a harassment, discrimination or retaliation investigation. The procedure contained in this regulation supersedes the Unit's policies regarding complaints about personnel and bullying.

Retaliation Prohibited

The Unit prohibits retaliation for an individual's participation in and/or initiation of a harassment/discrimination complaint investigation, including instances when a complaint is not substantiated. The consequences for violating this prohibition are delineated in the Nondiscrimination & Anti-Harassment Board Policy.

Complaint Filing Format and Deadlines

A complaint may be filed verbally or in writing and should be filed as soon as possible after the discrimination, harassment, or retaliation allegedly occurred. Delays in filing a complaint may cause difficulties in the investigation.

To Whom Complaints May be Filed

Complaints may be filed with any Unit employee. Unit employees are required to report any discrimination/harassment to the grievance coordinator (Title IX, 504/Title II or Nondiscrimination) when they knew (e.g., received a complaint, directly observed it) or should have known it was occurring (e.g., overheard people talking about an incident). Complaints other than Title IX, 504, or Title II shall be referred to the Unit Director. Failure by a Unit employee to report under this regulation may result in disciplinary action.

Initiating Complaint Resolution Procedure

After receiving a discrimination, harassment and/or retaliation complaint or gaining knowledge of potentially discriminatory, harassing, and/or retaliating conduct, the appropriate grievance coordinator shall contact the complainant, determine if an informal or formal investigation is appropriate, and determine if the complainant requests confidentiality. Requests for confidentiality shall be handled in accordance with policy.

Prohibition on Meeting with the Accused

At no time during the informal or formal resolution process shall the complainant be required to meet with the accused. If the appropriate grievance coordinator assigned to conduct or oversee the investigation is the accused, the Director or Board President (if the Director is the accused) shall designate a different individual (which may be a third party) to carry out the accused's responsibilities associated with the investigation.

Third-Party Assistance

A unit official responsible for conducting or overseeing discrimination, harassment, and/or retaliation investigations is authorized to receive assistance from the Unit's legal counsel throughout the process.

Investigation Timeframes

The informal resolution procedure shall be completed within 30 days of a Unit employee reporting the complaint or incident to the appropriate grievance coordinator unless the investigator documents reasons for delays and communicates these reasons with the complainant and accused.

The formal resolution procedure shall be completed within 60 days of a Unit employee reporting the complaint or incident to the grievance coordinator or a complainant or accused terminating the informal complaint procedure unless the investigator documents reasons for delays and communicates these reasons with the complainant and accused. Acceptable reasons for delays may include, but are not limited to, extended school breaks when witnesses are not available, and complex cases involving multiple witnesses.

Interim Measures

Pending the final outcome of an informal or formal resolution, the Unit shall institute interim measures to protect the complainant and inform him/her of support services available. Interim measures may include a Unit-enforced no contact order, schedule changes, academic modifications for the complainant, and/or school counseling for the complainant. These interim measures should have minimal impact on the complainant. If the accused is a student, interim measures should also take into consideration the accused student's educational rights.

Informal Resolution Procedure

This procedure may only be used when mutually agreed to by the complainant, the accused, and the appropriate grievance coordinator. This procedure may not be used when the alleged discrimination, harassment, and/or retaliation may have constituted sexual violence or any other crime. The formal resolution procedure must be used whenever the informal procedure is not permitted.

During the informal resolution process, the investigator shall gather information necessary to understand and resolve the complaint. Based on this fact-gathering process, the investigator shall propose an informal resolution, which may include requiring the accused to undergo training on discrimination, harassment, and/or retaliation requiring all students and Unit employees to undergo such training, instituting protection mechanisms for the complainant, and/or holding a formal meeting with the accused to review the nondiscrimination and anti-harassment policy and discuss the implications of violating it. Both the complainant and the accused must agree to the informal resolution before it can be instituted.

The appropriate grievance coordinator shall monitor the implementation and effectiveness of the informal resolution procedure and initiate the formal resolution procedure if discrimination,

harassment, and/or retaliation persists.

Both the complainant and the accused have the right to terminate the informal resolution procedure at any time in writing to pursue a remedy under the formal resolution procedure.

Formal Resolution Procedure

This procedure must be used whenever the informal resolution procedure is not used. Whenever alleged discrimination, harassment, or retaliation may have constituted a crime, the Director should contact law enforcement and enter into a memorandum of understanding concerning sharing of evidence and coordination of the investigation. However, the Unit shall proceed with its investigation and this resolution procedure, regardless of the criminal investigation or outcome.

The fact-gathering portion of the investigation must be carried out or overseen by the appropriate grievance coordinator and must consist of interviews with the complainant, the accused, and any others who may have witnessed or otherwise have knowledge of the circumstances giving rise to the alleged complaint and may involve gathering and review of information relevant to the complaint. Both the complainant and accused will have equal opportunity to present evidence and name witnesses. Witnesses must be instructed not to discuss this matter with others except proper authorities.

The fact-gathering portion of the investigation must be completed as soon as practical.

Investigation Report

After the fact-gathering process is complete, under the formal resolution procedure, the appropriate grievance coordinator shall complete a written report containing a determination of whether allegations were substantiated, whether the nondiscrimination and anti-harassment policy was violated, and recommendations for corrective action, if any. The appropriate grievance coordinator shall assess if discrimination, harassment, and/or retaliation “more likely than not” occurred based on the following criteria:

1. Whether evidence suggests a pattern of conduct supportive of disproving the allegations of discrimination, harassment, and/or retaliation;
2. Whether behavior meets the definition of discrimination, harassment, and/or sexual harassment as defined in board policy;
3. Ages of the parties involved;
4. Relationship between the parties involved;
5. Severity of the conduct;
6. How often the conduct occurred, if applicable; and
7. How the Unit resolved similar complaints, if any, in the past.

The investigation report must indicate if any measures are to be instituted to protect the complainant. Such measures may include extending any interim protection measures taken during the investigation. The report must also inform the complainant of support services available, which at a minimum must include offering school counseling services if the complainant is a student. The investigation report must contain a monitoring plan to evaluate the effectiveness of the

resolution and help prevent recurrence.

Disciplinary Action

Any disciplinary action must be carried out in accordance with board policy, law, and, when applicable, the negotiated agreement.

The appropriate grievance coordinator along with the building principal shall determine if a recommendation for expulsion for an accused student should be made.

The appropriate grievance coordinator along with the Unit Director shall determine if a recommendation for discharge for an accused employee should be made.

If this recommendation is made and a hearing is required, the hearing must be held in accordance with Unit policy and law.

Both the complainant and accused shall have an equal right to attend the hearing, have a representative and parent (if student) present, present evidence, and question witnesses.

The complainant may choose to appoint a representative to participate in the hearing in his/her stead.

Notice of Outcome

Both the complainant and the accused must be provided written notice of the outcome of the complaint.

Nothing shall prevent the parties from seeking judicial redress through a court of competent jurisdiction or through any applicable state or federal complaint procedures.

Investigation Materials

Investigation materials must be retained by the appropriate grievance coordinator for at least six years.