

POLICY PROHIBITING DISCRIMINATION/HARASSMENT IN EMPLOYMENT

I. GENERAL STATEMENT AND DEFINITIONS

The Cleveland Municipal School District actively endorses the principle and spirit of equal opportunity in employment. Each individual has the right to work in a professional environment that promotes equal employment opportunities and prohibits discriminatory practices, including harassment. It is the policy of this District to maintain a working environment that is free from discrimination and harassment because of an individual's sex, race, color, national origin, religion, age, sexual orientation or because the person is a qualified individual with a disability.

Discrimination or harassment of applicants or employees on the basis of sex, race, color, national origin, religion, age, sexual orientation and disability is unacceptable and will not be tolerated. This policy applies to all employees of the Cleveland Municipal School District. All complaints of discrimination or harassment shall be received, investigated and disposed of in accordance with this policy.

II. DEFINITIONS

A. Discrimination

Discrimination refers to any behavior, expression or activity that stigmatizes or victimizes individuals or groups of people because of their personal attributes, including, sex, race, color, national origin, religion, age, sexual orientation and disability, and that:

- (1) Involves an express or implied threat to an individual's terms or conditions of employment or personal safety; or
- (2) Has the purpose of interfering with an individual's terms or conditions of employment or personal safety; or
- (3) Creates an intimidating, hostile, demeaning or offensive workplace environment.

B. Sexual Harassment

Sexual harassment may include unwelcome sexual advances, requests for sexual favors and other verbal, nonverbal or physical conduct of a sexual nature, whenever:

- (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- (2) submission to or rejection of such conduct is used as the basis for employment decisions affecting such individual; or
- (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or of creating an intimidating, hostile or offensive working environment.

Sexually related conduct forms the basis of a sexual harassment claim if a reasonable person, in view of all the surrounding circumstances, would consider it sufficiently severe or pervasive as to create an objectively hostile or abusive work environment and that it causes the person who believes he or she has been harassed to subjectively perceive the environment to be abusive or hostile.

No employee or applicant should be subjected to unsolicited and unwelcome sexual overtures, nor should any employee or applicant be led to believe that an employment opportunity or benefit would, in any way, depend upon "cooperation" of a sexual nature.

Sexual harassment is not limited to demands for sexual favors and may involve individuals of the same or different gender. Sexual harassment may include, but is not limited to:

- (1) sexual flirtations, touching, advances or propositions;
- (2) gestures of a sexual nature;
- (3) subtle pressure for sexual activity;
- (4) physical contact or blocking movement;
- (5) verbal or physical abuse of a sexual nature;
- (6) graphic or suggestive comments about an individual's body or appearance;
- (7) sexually degrading words to describe an individual;
- (8) sexually explicit or obscene jokes; and
- (9) displays of sexually suggestive pictures, materials or literature.

C. Harassment on the Basis of Other Protected Characteristics

Harassment on the basis of any other protected characteristics is also strictly prohibited. Under this policy, harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his/her sex, race, color, national origin, religion, age, sexual orientation, disability, or any other characteristics protected by law, or that:

- (1) has the purpose or effect of creating an intimidating, hostile or offensive work environment;
- (2) has the purpose or effect of unreasonably interfering with an individual's work performance; or
- (3) otherwise adversely affects an individual's employment opportunities.

Harassment may include, but is not limited to:

- (1) epithets, slurs or negative stereotyping;
- (2) threatening, intimidating or hostile acts;
- (3) denigrating jokes;
- (4) written or graphic material that denigrates or shows hostility or aversion toward an individual or group that is displayed or circulated in the workplace.

II. REPORTING PROCEDURES

The District is committed to resolving complaints of discrimination and/or harassment as quickly and efficiently as possible. Any employee who believes he/she has been subjected to such discriminatory and/or harassing behavior of another person is encouraged, but not required, to notify the offender in an effort to stop the discrimination and/or harassing behavior. Furthermore, if an employee believes that he/she has been discriminated against or harassed, or has knowledge that others have been subjected to such behavior, he/she is encouraged to use the report form, available in each school and department, and record the incident, noting time, date, place, circumstances, and witnesses. However, oral reports shall be considered complaints as well. All complaints shall be handled in accordance with District procedure.

A. The District has designated the Director of EEO as the District employee with responsibility to identify, prevent, and remedy discrimination and harassment. This individual shall:

- receive complaints of harassment;
- oversee the investigative process;
- be responsible for assessing the training needs of the District's staff; arrange for necessary training;
- insure that any investigation is conducted by an impartial investigator who has been trained in the requirements of equal employment opportunity.

The District shall conspicuously post this policy against discrimination, harassment and violence in its administration buildings and in each school that the District maintains, in a place accessible to students, faculty, administrators, employees, parents and members of the public.

This notice shall include the name, mailing address and telephone number of the Director of EEO and the mailing address and telephone number of the United States Equal Employment Opportunity Commission.

- B. A copy of this policy shall appear in the employee handbook and shall be made available upon request of any employee and other interested parties.
- C. The District will develop a method of discussing this policy with employees. Training on the requirements of non-discrimination and the appropriate responses to issues of harassment will be provided to all administrative personnel and school personnel on an annual basis, and at such other times as the CEO, in consultation with the Director of EEO, determines is necessary or appropriate.
- D. This policy shall be reviewed at least annually for compliance with state and federal law.
- E. The School District will respect the privacy of the complainant, the individuals against whom the complaint is filed, and the witnesses as much as possible, consistent with the District's legal obligation to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations.
- F. The CEO or his/her designee shall report to the Board periodically pursuant to Policy CL-Administrative Reports.

III. INVESTIGATION

Upon receipt of a complaint alleging discrimination or harassment, the Director of EEO, shall immediately undertake or authorize an investigation. That investigation may be conducted by District officials or by a third party designated by the District.

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

- the nature of the behavior
- the relationship between the parties involved
- where the conduct occurred
- any past incidents involving the same individuals

- whether the conduct adversely affects the work environment the context in which the alleged incidents occurred.

Whether a particular incident constitutes a violation of this policy requires a determination based on all of the facts and surrounding circumstances.

The District's obligation 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.

IV. SCHOOL DISTRICT ACTION

A. Upon receipt of a report that a violation has occurred, the District will take prompt, appropriate action to address any violation. Appropriate actions may include but are not limited to counseling, awareness training, warning, transfer, termination or discharge. District action taken for violation of this policy shall be consistent with the requirements of applicable collective bargaining agreements, state and federal law, and the District's policy on employee disciplinary action.

While harassment will not be tolerated by any employee, supervisors shall be held to a higher standard of conduct and shall be subject to a higher level of discipline when engaging in such conduct. Furthermore, supervisors must ensure that individuals under their direction are not subjected to sexual harassment or discrimination of any kind, either by fellow employees or non-employees with whom such individuals have contact on the job.

In the event that the evidence suggests that the harassment at issue is also a crime in violation of an Ohio criminal statute, the Director of EEO shall report the results of the investigation to the appropriate law enforcement agency charged with responsibility for handling such crimes.

B. The results of the School District's investigation of each complaint filed under these procedures will be reported in writing to the complainant and other parties by the School District in accordance with state and federal laws regarding data or records privacy, and consistent with the privacy rights of the alleged harasser or discriminator.

C. If the results of the District's evaluation of a complaint of discrimination or harassment results in a conclusion that an individual has engaged in unlawful discrimination or harassment in violation of this policy, that individual may appeal this determination by use of established District procedures. If the results of the District's evaluation of a complaint of discrimination or harassment results in a conclusion that no unlawful discrimination or harassment has occurred, an individual who was allegedly subjected to discrimination or harassment and believes that his conclusion is erroneous may appeal this determination by use of established District procedures.

D. Copies of all complaints of discrimination or harassment and the investigations conducted pursuant to them shall be maintained for a period in accordance with the state statutes of limitations at the main administrative offices of the District.

V. REPRISAL

Submission of a good faith complaint or report of discrimination or harassment will not affect the complainant or reporter's future employment, working environment, or work assignments.

Retaliation of any type against any person who reports an incident or alleged harassment or violence, or any person who testifies, assists or participates in a proceeding, investigation or hearing related to such discrimination, harassment or violence is not tolerated by the District. The District will discipline any teacher, administrator or other school personnel who engages in retaliation, including possible termination. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

CONTACTS:

Director of Equal Employment Opportunity

1380 East Sixth Street
Cleveland, Ohio 44114
Telephone: (216) 574-8210

U.S. Equal Employment Opportunity Commission

Cleveland District Office
1660 West Second Street, Suite 850
Cleveland, Ohio 44113-1454
Telephone: (216) 522-2001

[Adoption date: October 4, 2001]

LEGAL REFERENCES

Civil Rights Act, Title VI, 42 USC 2000d et seq.
Civil Rights Act, Title VII, 42 USC 2000e et seq.
Education Amendments of 1972, Title IX, 20 USC 1681
Equal Pay Act, 29 USC 206
Rehabilitation Act, 29 USC 794
Age Discrimination in Employment Act, 29 USC 623
Immigration Reform and Control Act, 42 USC 1324a et seq.
Americans With Disabilities Act, 42 USC 12112 et seq.
Ohio Const. Art. I § 2; Ohio Revised Code Chapter 4112

**REPORT FORM FOR REPORTS OR COMPLAINTS OF
DISCRIMINATION OR HARASSMENT**

Complainant _____

Home Address _____

Work Address _____

Home Phone _____

Work Phone _____

Date of Alleged Incident(s) _____

Name of person you believe discriminated against or harassed you or another person:

If the alleged discrimination or harassment was toward another person, identify that other person:

Describe the incident as clearly as possible, including such things as what force, if any, was used, any verbal statements (i.e., threats, requests, demands, etc.), what, if any physical contact was involved. Attach additional pages as necessary: _____

When and where did the incident occur: _____

List any witnesses who were present: _____

This complaint is based upon my honest belief that _____

has discriminated against or harassed me or another person. I hereby certify that the information I have provided in this complaint is true, correct and complete to the best of my knowledge.

Complainant's Signature

Date

Received By

Date