

POLICY PROHIBITING DISCRIMINATION/HARASSMENT OF STUDENTS

I. GENERAL STATEMENT OF POLICY

It is the policy of the Cleveland Municipal School District to maintain an educational environment that is free from discrimination because of an individual's sex, race, color, national origin, religion, sexual orientation or disability.¹ The District prohibits any and all forms of discrimination because of sex, race, color, national origin, religion, sexual orientation and disability, and strives to provide an environment free from illegal harassment.² Any verbal, nonverbal or physical conduct that harasses, disrupts, or interferes with another's educational environment, or creates an intimidating, offensive, or hostile educational environment, is unacceptable and will not be tolerated.

District policy forbids any student, teacher, administrator, or other school personnel of this District from discriminating against or harassing a student regarding race, color, national origin, religion, sexual orientation or disability, as defined by this policy. It shall also be a violation of District policy for any teacher, administrator or other school personnel of this District to tolerate discrimination or harassment because of a student's race, color, national origin, religion, sexual orientation or disability, as defined by this policy, by a student, teacher, administrator, or other school personnel.

The term "school personnel," for purposes of this policy, includes school board members, school employees, agents, volunteers, contractors, or persons subject to the supervision and control of the District.

The District will promptly investigate all complaints, either formal or informal, verbal or written, of discrimination or harassment because of race, color, national origin, religion, sexual orientation or disability, and will promptly and appropriately discipline any student, teacher, administrator or other school personnel who is found to have violated this policy.

¹This policy should not be read to abrogate other District policies prohibiting other forms of unlawful discrimination, inappropriate behavior and/or hate crimes within the District. All such policies shall be read consistently to provide the highest level of protection from unlawful discrimination in the provision of educational opportunities.

²The issue of Sexual Harassment is addressed in a separate policy. See *Policy Prohibiting Sexual Harassment of Students*.

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, sexual orientation and disability, and that:

1. Involves an express or implied threat to an individual's academic efforts, participation in school sponsored extra-curricular activities, or personal safety; or
2. Has the purpose of interfering with an individual's academic efforts, participation in school sponsored extra-curricular activities, or personal safety; or
3. Creates an intimidating, hostile, demeaning or offensive environment for academic efforts, participation in school sponsored extra-curricular activities, or personal safety.

B. Harassment Because of Race or Color

For purposes of this policy, racial harassment of a student consists of verbal or physical conduct relating to an individual's race or color when:

1. The harassing conduct has the purpose or effect of creating an intimidating, hostile or offensive educational environment;
2. The harassing conduct has the purpose or effect of substantially or unreasonably interfering with an individual's academic performance; or
3. The harassing conduct otherwise adversely affects an individual's academic opportunities.

Examples of conduct which may constitute harassment because of race or color, include.

- threatening conduct directed at another because of the other's race or color
- epithets, slurs, and negative stereotypes, which are based upon another's race or color

- written or graphic material containing racial comments or stereotypes, aimed
- at degrading individuals or members of protected classes
- aggressive conduct toward another, motivated by race or color.

C. Harassment Based Upon National Origin or Ethnicity

For purposes of this policy, ethnic or national origin harassment of a student consists of verbal or physical conduct relating to an individual's ethnicity or country of origin or the country of origin of the individual's parents, family members or ancestors when:

1. The harassing conduct has the purpose or effect of creating an intimidating, hostile or offensive educational environment;
2. The harassing conduct has the purpose or effect of substantially or unreasonably interfering with an individual's academic performance; or
3. The harassing conduct otherwise adversely affects an individual's academic opportunities.

Examples of conduct which may constitute harassment because of national origin or ethnicity include:

- threatening conduct directed at another because of the other's national origin or ethnicity
- ethnic slurs, negative stereotypes, and hostile acts which are based upon another's national origin or ethnicity
- written or graphic material containing ethnic comments or stereotypes, aimed at degrading individuals or members of protected classes
- aggressive conduct toward another, motivated by national origin or ethnicity.

D. Harassment Based Upon Religion

For purposes of this policy, religious harassment consists of physical or verbal conduct which is related to an individual's religion when:

1. The harassing conduct has the purpose or effect of creating an intimidating, hostile or offensive academic environment;

2. The harassing conduct has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or
3. The harassing conduct otherwise adversely affects an individual's academic opportunities.

Examples of conduct which may constitute harassment because of religion include:

- threatening conduct directed at another because of another's religion slurs, negative stereotypes, and hostile acts which are based upon another's religion
- written or graphic material containing religious comments or stereotypes, aimed at degrading individuals or members of protected classes
- aggressive conduct toward another, motivated by religion.

E. Harassment Because of Disability

For purposes of this policy, harassment because of the disability of a student consists of verbal or physical conduct relating to an individual's physical or mental impairment when:

1. The harassing conduct has the purpose or effect of creating an intimidating, hostile or offensive academic environment;
2. The harassing conduct has the purpose or effect of substantially or unreasonably interfering with an individual's academic performance; or
3. The harassing conduct otherwise adversely affects an individual's learning opportunities.

Examples of conduct which may constitute harassment because of disability include;

- threatening conduct directed at another because of a physical or mental disability
- slurs, negative stereotypes, and hostile acts which are based upon another's physical or mental disability
- graphic material containing comments or stereotypes aimed at degrading individuals or members of protected classes

- aggressive conduct toward another, motivated by an individual's physical or mental disability.

III. PROCEDURE

The Chief Executive Officer (CEO) shall adopt appropriate procedures for the implementation of this policy. Such procedures shall provide for conciliation of complaints to the fullest extent possible, but shall also provide clear and simple mechanisms for complaints to be resolved by the appropriate inside administrators or by an outside compliance officer. The CEO or his/her designee shall report to the Board periodically pursuant to the procedures established in Policy CL regarding such complaints.

IV. INVESTIGATION

Upon receipt of a complaint alleging discrimination and/or harassment based upon sex, race, color, national origin, religion or disability, 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
- the sex and age of the victim
- the age of the alleged harasser
- where the harassment occurred
- any past incidents involving the same individuals
- whether the conduct adversely affects the student's education or educational 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 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.

V. 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, parent-teacher

conferences, warning, suspension, exclusion, transfer or expulsion. 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 Student Discipline.

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 District's investigation of each complaint filed under these procedures will be reported in writing to the complainant and other parties by the District in accordance with state and federal laws regarding data or records privacy, and consistent with the privacy rights of the alleged discriminator or harasser.
- C. If the District's evaluation of a complaint of discrimination and/or harassment results in a conclusion that an individual has engaged in unlawful discrimination and/or harassment in violation of this policy, that individual may appeal this determination by use of established District procedures. If the District's evaluation of a complaint of discrimination and/or harassment results in a conclusion that no unlawful discrimination and/or harassment has occurred, an individual who was allegedly subjected to discrimination and/or harassment and believes that this conclusion is erroneous may appeal this determination by use of established District procedures.
- D. Copies of all complaints of discrimination and/or harassment and the investigations conducted pursuant to them shall be maintained for a period in accordance with state statutes of limitations at the main administrative offices of the District.

VI. REPRISAL

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

Retaliation of any type against any person who reports an incident of alleged sexual, racial, ethnic, religious or disability related discrimination and/or harassment or violence, or any person who testifies, assists or participates in a proceeding, investigation or hearing related to such discrimination and/or 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. Discipline may be as severe as termination from employment. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

VII. ACADEMIC FREEDOM

The District has a strong interest in preserving academic freedom and an obligation as a public entity to observe First Amendment free speech rights of students and teachers. In cases of alleged harassment, the protections of the First Amendment must be considered if issues of speech or artistic expression are involved. But, even in the context of public discussion and educational instruction, speech or conduct of a sexual or hostile nature may exceed the protections of academic freedom and free speech. Sexual speech in the classroom that does not further the learning process or is not germane to the academic subject matter is not protected by the First Amendment and is subject to the restrictions of this policy.

[Adoption date: October 4, 2001]

CONTACTS:

Director of Equal Employment Opportunity

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

U.S. Department of Education, Office for Civil Rights

Bank One Center, Room 750
600 Superior Avenue East
Cleveland, Ohio 44114-2611
Telephone: (216) 522-4970

LEGAL REFERENCES

Civil Rights Act, Title VI, 42 USC 2000d et seq.
Education Amendments of 1972, Title IX, 20 USC 1681
Rehabilitation Act of 1973, Section 504, 29 USC 794
Americans with Disabilities Act, 42 USC 12101 et seq
Individuals with Disabilities Education Act, 20 USC 1401 et seq
Ohio Revised Code Chapter 3323

**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