

VIGO COUNTY SCHOOL CORPORATION
TERRE HAUTE, INDIANA

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General Policy Statement

It is the policy of the Board of School Trustees to maintain a work and educational environment that is free from all forms of unlawful harassment and workplace violence. This commitment applies to all School Corporation operations, programs, and activities occurring on school property, or at another location if such conduct occurs during an activity sponsored by the Board or affects the work or educational environment within the School Corporation. The Board will vigorously enforce its prohibition against harassment based on sex (including sexual orientation and/or transgender identity), race, color, national origin, religion, disability, or genetic information that are protected by federal, state and local civil rights laws and encourages those within the School Corporation community as well as third parties who feel aggrieved to seek assistance to rectify such problems. All Corporation employees, including administrators, professional staff and support staff, shall report any incident of alleged harassment that the employee observes or which is reported to the employee. The School Corporation will investigate all allegations of harassment and in those cases where unlawful harassment is substantiated, the School Corporation will take immediate steps to end the harassment, prevent its recurrence, and remedy its effects. Individuals who are found to have engaged in unlawful harassment will be subject to appropriate disciplinary action, up to and including termination of employment or expulsion from educational programs. Corporation employees who fail to report any incident of alleged harassment that the employee observes or which is reported to the employee also are subject to appropriate disciplinary action, up to and including termination of employment.

The Board will also take immediate steps to impose disciplinary action on individuals engaging in any of the following prohibited acts:

- A. Retaliating against a person who has made a good faith report or filed a complaint in good faith alleging unlawful harassment, or who has participated as a witness in a harassment investigation.
- B. Filing a malicious or knowingly false report or complaint of unlawful harassment.
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of harassment, when responsibility for reporting and/or investigating unlawful harassment charges comprises part of one's supervisory duties.

Sexual Harassment

Pursuant to Title VII of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972, "sexual harassment" is defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- A. Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's status in a class, educational program, employment, or activity;
- B. Submission or rejection of such conduct by an individual is used as the basis for educational or employment decisions affecting such individual;
- C. Such conduct has the purpose or effect of interfering with the individual's educational or employment performance; of creating an intimidating, hostile, or offensive learning or work environment; or of interfering with one's ability to participate in employment or benefit from a class, educational program,

or activity.

Sexual harassment may involve the behavior of a person of either gender against a person of the same or opposite gender.

Prohibited acts that constitute sexual harassment may take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

- A. unwelcome sexual propositions, invitations, solicitations, and flirtations;
- B. physical and/or sexual assault;
- C. threats or insinuations that a person's academic grade, promotion, classroom work or assignments, academic status, participation in athletics or extra-curricular programs or events, or other conditions of education may be adversely affected by not submitting to sexual advances;
- D. unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls;
- E. sexually suggestive objects, pictures, videotapes, audio recordings or literature, placed in the educational environment, which may embarrass or offend individuals;
- F. unwelcome and inappropriate touching, patting, or pinching; obscene gestures;
- G. a pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or humiliation to another;
- H. remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history;
- I. consensual sexual relationships where such relationship leads to favoritism of a student with whom the teacher or superior is sexually involved and where such favoritism adversely affects other students;
- J. in the context of employees, consensual sexual relationships where such relationship leads to favoritism of a subordinate employee with whom the superior is sexually involved and where such favoritism adversely affects other employees or otherwise creates a hostile work environment.

Not all behavior with sexual connotations constitutes unlawful sexual harassment. Sex-based or gender-based conduct must be sufficiently severe, pervasive, and persistent such that it adversely affects, limits, or denies an individual's employment or education, or such that it creates a hostile or abusive employment or educational environment.

Race/Color Harassment

Prohibited racial harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race or color and when the conduct has the purpose or effect of interfering with the individual's educational or work performance; of creating an intimidating, hostile, or offensive learning or work environment; or of interfering with one's ability to participate in or benefit from employment or class, educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references relative to racial customs.

Religious (Creed) Harassment

Prohibited religious harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's religion or creed and when the conduct has the purpose or effect of interfering with the individual's

educational or work performance; of creating an intimidating, hostile, or offensive learning or work environment; or of interfering with one's ability to participate in or benefit from employment or a class, educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's religious tradition, clothing, or surnames, and/or involves religious slurs.

National Origin Harassment

Prohibited national origin harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's national origin and when the conduct has the purpose or effect of interfering with the individual's educational or work performance; of creating an intimidating, hostile, or offensive learning or work environment; or interfering with one's ability to participate in or benefit from employment or a class, educational program, or activity. Such harassment may occur where conduct is directed at the characteristics of a person's national origin, such as negative comments regarding customs, manner of speaking, language, surnames, or ethnic slurs.

Disability Harassment

Prohibited disability harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's disability and when the conduct has the purpose or effect of interfering with the individual's educational or work performance of creating an intimidating, hostile, or offensive learning environment; or with one's ability to participate in or benefit from employment or a class, educational program, or activity. Such harassment may occur where conduct is directed at the characteristics of a person's disabling condition, such as negative comments about speech patterns, movement, physical impairments or defects/appearances, or the like.

Investigation and Complaint Procedure for Education-Based Complaints

An individual who believes they have been subjected to offensive conduct/harassment/retaliation ("Complainant") may file a formal complaint, either orally or in writing, with a teacher, principal, the Compliance Officer, Superintendent, or other Corporation employee. Individuals must make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available, although this timeline may be extended under extenuating circumstances. Complaints not filed with the Compliance Officer must be promptly sent to the Compliance Officer. The Compliance Officer for the School Corporation charged with investigating complaints alleging harassment in the context of providing education services shall be the Director of Student Services who can be contacted at 812-462-4224. Should a conflict of interest with the Compliance Officer be identified in a particular investigation, an independent person will be selected by the Superintendent to serve as the Compliance Officer for that investigation.

All complaints should include the identity of the individual believed to have caused the offensive conduct, a detailed description of the facts upon which the complaint is based, a list of potential witnesses, and the resolution sought by the Complainant.

The Compliance Officer will consider upon receipt of the complaint whether any action should be taken in the investigatory phase to protect the Complainant from further harassment or retaliation, including, but not limited to, a change of work assignment or schedule for the Complainant and/or the alleged harasser. The Compliance Officer may still take whatever actions s/he deems appropriate in consultation with the Superintendent and/or School Corporation attorney should the Complainant not accept any reasonably appropriate measure.

The Compliance Officer will also inform the individual(s) alleged to have engaged in the harassing or retaliatory conduct ("Respondent"), that a complaint has been received. The Respondent will be informed about the nature of the allegations and a copy of the Board's anti-harassment policy shall be provided to the Respondent. The Respondent must also be informed of the opportunity to submit a written response to the complaint as directed by the Compliance Officer.

The Compliance Officer may mediate complaints between the complainant(s) and respondent(s) as the Compliance Officer reasonably determines is appropriate.

Although certain cases may require additional time, the Compliance Officer will attempt to promptly complete the investigation into the allegations of harassment or retaliation within a reasonable period of time. The investigation should include the following, if possible:

- A. interviews with the Complainant;
- B. interviews with the Respondent;
- C. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations; and
- D. consideration of any documentation or other information, presented by the Complainant, Respondent, or any other witnesses that is reasonably believed to be relevant to the allegations.

The School Corporation will respect the privacy of the individuals involved in the complaint process as much as possible, consistent with the School Corporation's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. Confidentiality, however, cannot be guaranteed. All Complainants proceeding through the investigation process should be advised that their identities may be disclosed to the alleged harasser(s).

At the conclusion of the investigation, the Compliance Officer shall prepare and deliver a written report to the Superintendent that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful harassment as provided in Board policy and State and Federal law as to whether the Complainant has been subject to unlawful harassment or retaliation. The Compliance Officer's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. In determining if discriminatory harassment or retaliation occurred, a preponderance of evidence standard will be used. The Compliance Officer will consult with the Board's legal counsel before finalizing the report to the Superintendent. The report will not be provided to the Complainant or Respondent.

The Superintendent must either issue a final decision regarding whether the complaint of harassment has been substantiated or direct further investigation to be completed within a reasonable time. A copy of the Superintendent's final decision will be delivered to both the Complainant and the Respondent.

A Complainant or respondent who is dissatisfied with the final decision of the Superintendent may appeal through a signed written statement to the Board of School Trustees within five (5) business days of his/her receipt of the Superintendent's final decision. The Board will make its decision in writing within a reasonable period of time.

The Complainant may also pursue relief with the United States Department of Education Office of Civil Rights (OCR) or the Indiana Civil Rights Commission (ICRC).

The Compliance Officer shall maintain all public records created as a part of an investigation of a complaint of harassment in accordance with the Board's records retention policy.

Investigation and Complaint Procedure for Employment-Based Complaints

A victim of harassment or a witness to the harassment of another employee shall immediately report the harassment to the Human Resources Director who will investigate the complaint.

It is a violation of policy, subject to discipline, for any employee to retaliate or take any sort of adverse action against someone who lodges a complaint. No person reporting harassment will be penalized in any way unless an

investigation of the complaint determines that the person knowingly stated material facts in the complaint that were untrue.

A complaint alleging harassment shall:

- Be in writing on forms provided by any supervisor or in a format that presents substantially the same information;
- Name the complainant and the harasser and describe the alleged harassment in as much detail as possible;
- Be returned in completed form directly to the Human Resources Director;
- Be promptly and thoroughly investigated, and the results of the investigation shall be reported in writing to the Board.

The Human Resources Director shall receive, review, and conduct all investigations of harassment and recommend a disposition to the Superintendent. However, if the complaint addresses conduct by the Human Resources Director or Superintendent, the Board President, or his or her designee, shall conduct all investigations of harassment. Discipline of an employee for violation of this Policy shall be implemented by the appropriate supervisor overseeing the confirmed harasser.

A Complainant or respondent who is dissatisfied with the final decision of the Superintendent may appeal through a signed written statement to the Board of School Trustees within five (5) business days of his/her receipt of the Superintendent's final decision. The Board will then provide a written response to the appeal within a reasonable period of time.

Where the School Corporation after investigation concludes that harassment took place in violation of School Corporation policies, the harassing employee will be subject to disciplinary action up to and including termination of employment. The School Corporation may also take action to remedy past effects of such harassment.

A person who knowingly makes a false statement of material fact in a complaint of harassment or the investigation of a complaint of harassment shall be subject to disciplinary action up to and including termination of employment.

The School Corporation will respect the privacy of the complainant, the alleged harasser(s), and the witnesses as much as possible, consistent with the School Corporation's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. Confidentiality, however, cannot be guaranteed. All complainants proceeding through the formal investigation process should be advised that their identities may be disclosed to the alleged harasser(s).

The Compliance Officer shall maintain all public records created as a part of an investigation of a complaint of harassment in accordance with the Board's records retention policy.

Workplace Violence

The School Corporation is committed to preventing violence in the workplace and maintaining a safe work environment. The School Corporation will not tolerate any conduct that threatens, intimidates or coerces a School Corporation employee or member of the public. All suspicious individuals or activities, including actual or threats of potential violence, both direct and indirect, should be reported immediately to the appropriate administrator. This includes threats by employees, as well as threats by parents, guardians or other members of the public. Employees should not attempt to intercede or otherwise become involved with any actual or potentially intimidating, harassing or violent situation. Employees are encouraged to bring their disputes or differences with other employees to the attention of an appropriate administrator before the situation escalates into potential violence. The School Corporation will promptly and thoroughly investigate all reports of actual or threatened violence as well as suspicious individuals or activities. The identity of the individual making a report will be protected to the extent practicable. In order to maintain workplace safety and the integrity of its investigation, the School Corporation may suspend employees, either with or without pay, pending investigation. Any employee determined to have

participated in any threatened or actual violence, or other conduct that violates these guidelines, will be subject to disciplinary action, up to and including termination of employment.

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