

ALLENTOWN SCHOOL DISTRICT

SECTION: CLASSIFIED EMPLOYEES
TITLE: UNLAWFUL HARASSMENT
ADOPTED: 5/16/02
REVISED: 10/27/16

547.1. UNLAWFUL HARASSMENT

Section 1: Purpose

The School Board strives to provide a safe, positive learning climate for its employees. Therefore, it shall be the policy of the district to maintain an employment environment in which harassment in any form is not tolerated.

Section 2. Authority

The School Board prohibits all forms of unlawful harassment of employees by all district students and staff members, contracted individuals and vendors, and volunteers in the schools. (Title VII of the Civil Rights Act of 1964, as amended; Title IX of the Education Amendments of 1972.)

The School Board encourages employees who have been harassed to report promptly such incidents to the designated administrators identified in Section 4, “Responsibility” of this policy.

The School Board directs that complaints of harassment shall be investigated promptly, and corrective action shall be taken when allegations are substantiated. Confidentiality of all parties shall be maintained, consistent with the district’s legal and investigative obligations. No reprisals or retaliation shall occur as a result of good faith charges of harassment.

Consistent with the provisions of Policy 806, “Child Abuse,” harassment of a child may be mandated to be reported to the Pennsylvania Department of Human Services and/or law enforcement officials.

The district shall annually inform:

- A. Students – through publication in student handbooks or the distribution of written policy when no handbook exists.
- B. Staff & Parents/Guardians – through distribution of written policy.
- C. Independent Contractors, Volunteers, Visitors – through posting of this policy in each district facility.

Section 3: Definitions

The term **harassment** shall consist of verbal, written, graphic or physical conduct relating to an individual’s race, color, national origin/ethnicity, religion, sexual orientation, gender, gender identity or expression, age or handicap/disability when such conduct:

547.1. UNLAWFUL HARASSMENT

- A. Is sufficiently severe, persistent or pervasive that it affects an individual's ability to perform job functions or creates an intimidating, threatening or abusive work environment.
- B. Has the purpose or effect of substantially or unreasonably interfering with an individual's work performance.
- C. Otherwise adversely affects an individual's employment opportunities.
(29 C.F.R. Sec. 1606.8.)

Sexual harassment see Policy #548, entitled "Sexual Harassment."

Section 4: Delegation of Responsibility

Each individual in the school work place shall be responsible for conforming her/his own behavior so as to maintain an educational environment free from all forms of unlawful harassment.

Each employee shall be responsible to respect the rights of district employees and students and to ensure an atmosphere free from all forms of unlawful harassment.

Employees shall report harassment complaints to the building principal or other immediate supervisor. If the building principal or other immediate supervisor is the subject of the complaint, the complainant shall report the complaint directly to the Assistant Superintendent, Human Resources and Operations.

Section 5: Guidelines

When an employee believes that she/he is being harassed, the employee should immediately make use of the complaint process described below.

In any case involving a student, the parent(s)/guardian(s) shall be notified and they shall have the right to attend any conference, meeting or hearing with the student.

In any case involving harassment of or by an employee, the employee shall have the right to be accompanied by an Association/Union representative at any conference, meeting or hearing with the employer, in accordance with applicable laws and contracts.

Complaint Procedure

- A. As soon as possible an employee shall report a complaint of harassment, orally or in writing, to the building principal or other immediate supervisor, who shall inform the employee of the complaint process. If the report alleges the misconduct of the principal or other immediate supervisor, it shall be reported to the Assistant Superintendent, Human Resources and Operations. If the report alleges the misconduct of the Assistant Superintendent, Human Resources and Operations, it shall be reported to the Superintendent.
- B. Within twenty-four (24) hours, the building principal or other immediate supervisor shall notify the Assistant Superintendent, Human Resources and Operations, of the receipt of any complaint. Within three (3) days, the principal or other immediate supervisor shall initiate an impartial, thorough and confidential investigation of the alleged harassment.

547.1. UNLAWFUL HARASSMENT

In determining whether the alleged conduct constitutes harassment, the totality of the circumstances, nature of the conduct and context in which the alleged conduct occurred shall be investigated.

- C. Whenever it has been determined that harassment or activity that would rise to the level of harassment if it were to persist, the building principal or other immediate supervisor shall identify remedies acceptable to the parties. The building principal or immediate supervisor shall also contact the District's Human Resources administrators to determine appropriate action(s) to be taken.
- D. The building principal or other immediate supervisor shall prepare a written report within fifteen (15) days, unless additional time to complete the investigation shall be required. The report shall summarize the investigation and set forth the principal's or immediate supervisor's findings and conclusions concerning the allegations of the complaint. Copies of the report shall be provided to the complainant, the accused and the Assistant Superintendent, Human Resources and Operations.
- E. Any employee involved in an investigation shall maintain strict confidentiality. All communications about a complaint shall be confidential.
- F. If the investigation results in a substantiated charge of harassment, the district shall take prompt corrective action to ensure the harassment ceases and will not recur.

Discipline

A substantiated charge against a district employee shall subject the employee to disciplinary and/or other corrective action, up to and including termination of employment in accordance with the requirements of applicable laws and contracts.

A substantiated charge against a district student shall subject such student to disciplinary and/or other corrective action, consistent with the Code of Conduct, and may include educational activities and/or counseling services related to unlawful harassment.

If it is concluded that an employee has made false accusations, the employee shall be subject to disciplinary action, up to and including termination of employment in accordance with the requirements of applicable laws and contracts.

Appeal Procedure

If the complainant or accused is not satisfied with the principal's or other immediate supervisor's decision, she/he may file a written appeal with the Assistant Superintendent, Human Resources and Operations. If the complainant or accused is not satisfied with the Assistant Superintendent's decision, she/he may file a written appeal with the Superintendent.

The Assistant Superintendent, Human Resources and Operations shall review the initial investigation and report and may also conduct a reasonable investigation. She/he shall prepare a written response to the appeal. Copies of the response shall be provided to the complainant, the accused and the building principal or other immediate supervisor.

547.1. UNLAWFUL HARASSMENT

The Superintendent shall review all prior relevant investigations and reports and may conduct an additional investigation. She/he shall prepare a written response, copies of which shall be provided to the complainant, the accused, the building principal or immediate supervisor and the Assistant Superintendent, Human Resources and Operations.

Retaliation Prohibited

- A. Retaliatory behavior against any complainant or any participant in the complaint process is prohibited. Any employee who engages in retaliatory behavior shall be subject to discipline, up to and including termination of employment. Any student who engages in retaliatory behavior shall be subject to discipline, up to and including expulsion from school.
- B. The initiation of a complaint of unlawful harassment shall not reflect negatively on an employee who initiates the complaint, nor shall it affect the employee's employment status, rights or privileges.

Voluntary Resignation

- A. If an accused employee chooses to resign as a result of charges made against her/him at any stage of the above procedure, the written documentation of charges made against the employee and the documentation will be sealed and impounded, and acceptance of the resignation will be recommended to the Board without prejudice. Such resignations shall be submitted prior to a final decision by the Board. It may also state that the resignation is voluntary, constitutes a waiver and release of all claims, and be submitted in a form acceptable to the district.
- B. If there is a request for reference(s) or recommendation(s) for prospective employers, the reference will be limited to a statement that the person was employed by the Allentown School District, the duration of employment, a description of the assigned duties and final salary if requested and a statement that the employee resigned voluntarily, unless the district is required by law to provide additional information.
- C. If the resigned employee files a claim for unemployment compensation benefits, the sealed charges will be opened to allow the district to appeal the unemployment claim.
- D. If at any time an employee files a claim or appeal with a governmental agency about this particular situation, she/he then waives whatever rights she/he has under this policy and the sealed charges shall be opened.
- E. If a complaint is filed with the Equal Employment Opportunity Commission, the Pennsylvania Human Relations Commission or a court of competent jurisdiction, or any other state or federal agency or court having jurisdiction of

547.1. UNLAWFUL HARASSMENT

the matter, the sealed charges shall be opened and made available for any investigation or proceeding conducted by such commission, agency or court.

- F. These provisions shall not be construed as precluding the district from filing such reports with the Department of Education as may be required by law or regulation for the purpose of informing the Department that an employee resigned to avoid dismissal or a hearing concerning possible dismissal.

Concluding Statement

- A. The procedures contained in the policy are not intended to supersede or circumvent any procedures outlined in the School Code for determination of competence or any procedures for redress of grievances outlined in the applicable collective bargaining agreement or compensation and benefits plan.
- B. These provisions shall not be construed so as to supersede any section(s) of the School Code of Pennsylvania, as amended, or any state or federal laws and regulations regarding discipline, certification, separation or termination of employees, nor shall these guidelines in any way be construed so as to limit the intent or operation of other Board policies.