



SEXUAL HARASSMENT COMPLAINT PROCEDURE FOR STUDENTS

Policy Code: 1737

The Board takes seriously all complaints of discrimination. Students and parents are encouraged to submit any complaints of discrimination on the basis of race, religion, national origin, disability or sex (except sexual harassment) through the grievance procedure established in Board policy 1740. The process provided in this policy, 1737, is available for students who believe that they may have been sexually harassed.

It is the policy of the Board to maintain a positive learning environment for its students that is free of sexual harassment. No student of the district shall be subjected to sexual harassment. No form of sexual harassment will be tolerated.

It shall be a violation of this policy for any member of the Franklin County Schools staff to harass a student through conduct or communications of a sexual nature. It shall also be a violation of this policy for students to harass other students through conduct or communications of a sexual nature on school property or during school-sponsored events. Violations of this policy will be cause for disciplinary action.

Individuals who harass may be personally liable under legal suits. Students who harass may be subject to suspension, expulsion, or legal action. If any school employee knows or should have known and fails to act to prevent the continuation of sexual harassment, then the employee and the school district may be held liable.

A. INFORMAL RESOLUTION

The Board acknowledges that reports of harassment, including sexual harassment, may be addressed informally through such methods as conferences or mediation, and the Board encourages the use of such procedures to the extent possible. If an informal process is used, the principal or other appropriate personnel must notify the complainant of his or her option to request formal procedures at any time and must make a copy of this policy and other relevant policies available. In those circumstances where informal procedures fail or are inappropriate or where the complainant requests formal procedures, the complaints will be investigated promptly, impartially and thoroughly according to the following procedure.

DEFINITIONS

Sexual harassment: Sexual harassment is unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. Sexual harassment may have occurred when:

1. submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment or advancement or of a student's participation in school programs or activities; or
2. submission to or rejection of such conduct by an employee or student is used as the basis for decisions affecting the employee or student; or
3. such conduct has the purpose or effect of unreasonably interfering with an employee's or student's performance or creating an intimidating hostile, or a offensive work or learning environment.

The first and easiest form of sexual harassment to recognize involves implicit (implied) or explicit (externally visible) requests for sexual favors that may be used as a condition or basis for educational decisions such as advancement. This type of conduct is known as a “quid pro quo” (something given or withheld in exchange for something else.)

The second type of sexual harassment, known as “hostile environment” is harder to define, yet is more common. It is behavior that has the purpose or effect of unreasonably interfering with the student’s work or school performance or which creates an intimidating, hostile or offensive school environment.

Sexual harassment is illustrated by, but not limited to, the following:

- negative or offensive comments, jokes, suggestions, or gestures directed to an individual’s or group’s sex (gender-directed);
- unwanted sexual looks, leers, gestures, flipping up skirts, bra-snapping;
- sexual comments, personal questions, sexual rumors;
- sexual visuals, posters, graphics, pornography;
- unwanted touching, hugging, patting, grabbing, groping, rubbing;
- comments about body parts, sexual innuendo, sexual “put-downs”;
- third-party harassment -- consensual behaviors that is offensive to other persons who must “tolerate” it as part of their job or schooling; and
- patterns of classroom conversation about sexual activities of students or teachers, innuendo directed at students or adults because of their gender.

Accused harasser: the employee, student or visitor alleged to have harassed the complainant.

Complainant: the parent and/or student reporting a complaint that the student was harassed.

Days: the working days, exclusive of Saturdays, Sundays, vacation days or holidays, as set forth in the school calendar. In counting days, the first day will be the first full working day following receipt of the complaint. After May 1, time limits will consist of all weekdays (Monday - Friday) so that the matter may be resolved before the close of the school term or as soon thereafter as possible.

Investigator: the school official responsible for investigating and responding to the complaint (which may be the principal, Superintendent, or another designated school official).

C. TIMELINESS OF PROCESS

The number of days indicated at each level should be considered a maximum and every effort should be made to expedite the process.

Failure by the investigator at any step to communicate a decision within the specified time limit will permit the complainant to appeal the complaint to the next step unless the investigator has notified the complainant of the delay and the reason for the delay, such as the complexity of the investigation or report. The investigator will make reasonable efforts to keep the complainant apprised of progress being made during any period of

delay. Delays are not permitted that interfere with the exercise of any legal rights.

Failure by the complainant at any step to appeal a sexual harassment complaint to the next step within the specified time limit will be considered acceptance of the decision at that step, unless the complainant has notified the investigator of the reason for the delay and the investigator has consented in writing to the delay.

D. GENERAL REQUIREMENTS

1. No reprisals of any kind will be taken by the Board or by an employee of the school district against any complainant or other student or employee on account of his or her participation in a complaint filed and decided pursuant to this policy. False charges will be treated as a serious offense resulting in possible suspension and/or legal action.
2. All meetings and hearings conducted pursuant to this policy will be private.
3. The Board and school district will consider requests to hear complaints as a group, but the Board and officials have the discretion to respond individually to complainants.
4. The complainant may have a representative at any stage of the sexual harassment complaint. The complainant may have an attorney present at any stage of the formal investigation.

E. PROCESS FOR COMPLAINT

Reporting Complaint

1. A complaint must be filed as soon as possible but no longer than 30 days after disclosure or discovery of the facts giving rise to the complaint. For a complaint submitted after 30 days, the Superintendent or designee will determine whether the complaint will be investigated after considering factors such as the reason for the delay; the extent of the delay; the effect of the delay on the ability of the school district to investigate and respond to the complaint; and whether the investigation of the complaint is necessary to meet any legal obligations. However, students and parents should recognize that delays in reporting may significantly impair the ability of the school district to investigate and respond effectively to such complaints.
2. A parent or student should report complaints of sexual harassment to any of the following individuals: principal, teacher, or school counselor at the school attended by the student; and/or the Superintendent.
3. Any employee, including a teacher or counselor, who has reason to believe that a student may have been sexually harassed, including any employee who has witnessed possible sexual harassment or has received reports by the victim or other individual, will notify the principal immediately unless the principal is the accused harasser, in which case the employee will notify the Superintendent. The principal or Superintendent will promptly investigate any reports and take appropriate action. The process provided in this policy will be used if at any time a complaint is made by a parent or student. All reports and resolutions, regardless of whether this policy is used, will be maintained in accordance with policy 1710.
4. If the accused harasser is a student or visitor, the principal will respond to the complaint and investigate (hereinafter referred to as the investigator). If the accused harasser is an employee, the principal will notify the Superintendent immediately of the complaint.
5. If the accused harasser is an employee, the Superintendent or his or her designee will respond to the complaint and investigate (hereinafter referred to as the investigator).

6. The investigator will explain the process of investigation to the complainant and inquire as to any proposed corrective action.

Investigation

1. The investigator will impartially, promptly and thoroughly investigate the complaint. The investigator will interview (1) the student who is the victim of the alleged sexual harassment; (2) any other individuals, including other possible victims of sexual harassment, who may have relevant information; and (3) the accused harasser.
2. Information will be shared only with individuals who need the information in order to appropriately investigate and address the complaint. Any requests by the complainant for confidentiality will be evaluated within the context of the legal responsibilities of the school district. Any complaints withdrawn to protect confidentiality still will be recorded in accordance with Board policy 1710.

In assessing whether the conduct complained of was sexual harassment, the investigator will give consideration of all factual information, the totality of the circumstances, the context in which the alleged incidents occurred, the age and maturity of the complainant and, if the alleged harasser is a student, also the age and maturity of the alleged harasser.

Investigator's Report

1. The investigator will make a written report of the findings of the investigation. The investigator will notify the complainant of the results of the investigation within 15 days of receiving the complaint, unless additional time is necessary to conduct an impartial, thorough investigation. The report will specify:
 - a. whether the complaint was substantiated;
 - b. whether the alleged offender violated relevant law or Board policy by his or her actions (regardless of whether the complaint as submitted is substantiated); and
 - c. if the investigator determines that sexual harassment has occurred, the investigator also will specify:
 - reasonable, timely, age-appropriate effective corrective action intended to end the harassment and prevent it from recurring;
 - as needed, reasonable steps to address the effects of the harassment on the complainant; and
 - as needed, reasonable steps to protect the complainant from retaliation as a result of communicating the complaint.

Information regarding disciplinary action imposed on the accused harasser will not be given to the complainant unless the information relates directly to the complainant (e.g., an order requiring the student harasser not to have contact with the complainant).

2. If the corrective steps involve actions outside the scope of the investigator's responsibilities, the Superintendent also will be notified so that responsibility for the corrective steps can be delegated to the appropriate individual.
3. The accused harasser will be informed of the results of the investigation in regard to whether the complaint was substantiated, whether the accused harasser violated relevant law or Board policies by his or her actions, and what, if any, disciplinary actions or consequences will be imposed upon the accused harasser in accordance with Board policy. The accused harasser may appeal any disciplinary action or consequences in accordance with Board policy and law.

Appeal of Investigator's Report

1. If the student is dissatisfied with the principal's response, the complainant may appeal the decision to the Superintendent. The appeal must be in writing within five days of receiving the principal's response. The Superintendent may review the documents, conduct any further investigation necessary or any other steps the Superintendent determines to be appropriate in order to respond to the complaint. The Superintendent will provide a written response within 10 days after receiving the complaint, unless further investigation is necessary.
2. If the student is dissatisfied with the Superintendent's response, the complainant may appeal the decision to the Board within five days of receiving the Superintendent's response. The Board may review the documents, direct any further investigation be conducted before making a determination, or any other steps the Board determines to be appropriate in order to respond to the complaint. The Board will hold a hearing pursuant to Board policy 2500 upon request of the complainant or in the Board's discretion. The Board will provide a written response within 30 days after receiving the complaint, unless further investigation is necessary or the hearing necessitates that more time be taken to respond.

F. RECORDS

Records will be maintained as required by policy 1710.

Legal References: Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e *et seq.*; Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.*, 34 C.F.R. pt. 106; Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g; Office of Civil Rights, Sexual Harassment Guidance: Equal Employment Opportunity Commission's "Final Amendment Guidelines on Discrimination Because of Sex"; Office of Civil Rights, Sexual Harassment Guidance: Harassment of Students by School Employees, Students or Third Parties, 62 Fed. Reg. 12,034 (1997)

Cross References: Prohibition Against Discrimination and Harassment (policy 1710), Student and Parent Grievance Procedure (policy 1740), Hearings Before the Board (policy 2500), Anti-Social Behavior (policy 4330) Sexual Harassment Complaint Procedure for Employees (policy 1738)

Adopted: 03/08/99