HARASSMENT AND DISCRIMINATION

The Loudoun County Public Schools is committed to maintaining a working environment for employees free from harassment and discrimination. The purpose of this policy is to establish a method for resolving complaints arising from alleged harassment or discrimination on the basis of race, ancestry, color, sex, pregnancy, childbirth or related medical conditions, marital status, age, religion, national origin, disability, or genetic information and any other characteristic provided by law.

A. Definitions

1. Sexual Harassment and Discrimination. The Loudoun County Public Schools shall maintain a working and learning environment for its employees which provides for fair and equitable treatment, including freedom from sex discrimination and sexual harassment. No employee, male or female, shall discriminate on the basis of sex or harass another employee or student by making unwelcome sexual advances or requests for sexual favors or engaging in other verbal or physical conduct of a sexual nature, including the following:

   a. Submission to or rejection of such conduct as a basis for employment or academic decisions affecting the employee or student.
   b. Such conduct creates an intimidating, hostile, or offensive working or learning environment.
   c. Submission to such conduct is made either explicitly or implicitly a term or condition of the individual’s employment or participation in school programs.
   d. Examples that may constitute sexual harassment are as follows:

      i. Unwelcome physical contact of a sexual nature;
      ii. Unwelcome ongoing or repeated flirtations or propositions or remarks;
      iii. Sexual slurs, leering, epithets, threats, verbal abuse, derogatory comments or sexually degrading descriptions;
      iv. Graphic comments about a person’s body;
      v. Jokes, pictures, drawings, notes or gestures of a sexual nature; or
      vi. Impeding or blocking movement in a sexually suggestive or intimidating manner.
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e. Title IX of the Education Amendments of 1972 prohibits discrimination based on sex in education programs and activities that receive federal financial assistance. The U.S. Department of Education gives grants of financial assistance to schools and colleges. The Title IX regulation describes the conduct that violates Title IX. Examples of the types of discrimination that are covered under Title IX include sexual harassment, the failure to provide equal opportunity in athletics, and discrimination based on pregnancy. The Title IX regulation is enforced by U.S. Office of Civil Rights and is in the code of federal regulations at 34 CFR Part 106. This policy also provides a local process for employee use. Non-probationary employees may also use the grievance procedures outlined in School Board Policy 7-4, Procedure for Adjusting Grievances.

2. Harassment and Discrimination Based on Disability. No otherwise qualified disabled person shall, solely by reason of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from federal financial assistance. For purposes of this policy, a qualified disabled person shall be one who satisfies the definition set forth in the Rehabilitation Act of 1973, as amended, and its implementing regulations.

3. Harassment and Discrimination Based on Age, Disability, National Origin, Race, or Religion, or any other Characteristic Provided by Law. Harassment or discrimination includes but is not limited to physical and verbal conduct relating to an individual’s age, disability, national origin, race, religion, or other characteristic provided by law when the conduct:

a. Creates an intimidating, hostile, or offensive working environment;
b. Substantially or unreasonably interferes with an individual’s work; or
c. Otherwise is sufficiently serious to limit an individual’s employment opportunities.

4. Examples. Examples of conduct which may constitute harassment or discrimination may include but are not limited to the following if based on age, disability, national original, race, religion, or any other characteristic provided by law: graffiti containing offensive language, name calling or jokes, physical acts of aggression against a person or his or her property, written or graphic material which is posted or circulated and which intimidates or threatens individuals.
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B. Compliance Officers. The Superintendent shall name three compliance officers and an alternate from the division-level Senior Staff whose contact information shall be provided in the regulation accompanying this policy. The role of the compliance officers is to make recommendations on harassment and discrimination cases to the Superintendent.

C. Complaint Procedure

1. Filing a Complaint. Any employee who believes he or she has been subjected to harassment or discrimination should file a complaint immediately with their supervisor or principal, or with the Assistant Superintendent for Human Resources and Talent Development. The principal or supervisor receiving the complaint shall report it immediately to the Assistant Superintendent for Human Resources and Talent Development. The principal or supervisor will advise all persons making a report that it shall be reported to the compliance officers who may request that the complaint be in writing; however, refusal to put the complaint in writing shall not preclude an investigation. The complaint should state in detail the basis for the complaint, the names of the persons involved or who have knowledge of the facts, and the dates of any specific incidents. A complaint form is available on the school division webpage as a regulation to this policy specifically for harassment or discrimination complaints related to a characteristic outlined in this policy.

2. Confidentiality. The confidentiality of all interviewees will be observed, provided that it does not interfere with the investigation or with the ability to take corrective action. Investigators shall inform interviewees of confidentiality to the extent allowed by law.

3. Level of Filing. If the complaint is against one’s immediate supervisor or principal, it may be filed with the next supervisory level or with the Assistant Superintendent of Human Resources and Talent Development. Employees of the Department of Human Resources and Talent Development may file a complaint with any of the other Compliance Officers. If the complaint is against a Compliance Officer, it shall be filed with the Division Superintendent. If the complaint is against the Division Superintendent, the complaint shall be filed with the Chairman of the School Board. The question of whether a particular action or incident is prohibited behavior requires a determination based on all the available facts.
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4. **Investigation.** An investigation of all reported incidents shall be undertaken promptly and shall be completed and findings provided to the Division Superintendent within 30 working days or as soon as practicable from the filing of the complaint, except that if the allegations involve the Division Superintendent, the findings shall be provided to the Chairman of the School Board. The Division Superintendent shall make the determination whether the complaint is founded or unfounded, and that a violation of this policy occurred, within 15 working days of receipt of the compliance officers’ recommendations or as soon as practicable, and so notify the complainant and the employees who are the subject of the complaint within 5 working days of the determination. In the event a complaint is determined to be unfounded, the employee who is the subject thereof shall be notified of the results, and in such event, no record of the actual complaint shall be maintained in the employee’s personnel file subject to any appeal. The complainant shall be informed of whether or not the complaint was founded or unfounded.

5. **Mediation.** At any time in the process, the Compliance Officers or the Division Superintendent may attempt to mediate by mutual agreement a complaint with the individuals involved.

6. **Appeal.** If the Division Superintendent determines no prohibited harassment or discrimination occurred, the complainant may request a review by the School Board within 15 working days from the receipt of the Division Superintendent’s decision. Notice of appeal must be filed with the superintendent who shall forward the record to the School Board. The School Board shall make a determination to uphold, reverse or modify the Superintendent’s decision within 30 working days of the request for review, or as soon as practicable. Written notice of the School Board’s decision will be given to both the alleged harasser and the person allegedly harassed.

7. **Harassment or Discrimination Complaint Form.** A form on which to make a harassment or discrimination complaint shall be included in the regulation to this policy.

D. **Alternate Complaint Procedures.** Nothing in this policy shall deny the right of any individual to pursue other avenues of recourse to address concerns relating to harassment or discrimination including initiating filing a complaint with outside agencies or seeking redress under state or federal law. Employees may choose to pursue their complaints under this policy through the relevant employee grievance procedure instead of the complaint procedure in this policy.
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E. Retaliation. Any individual filing a harassment or discrimination complaint shall be free from retaliation for filing such a complaint. Retaliation against anyone reporting or thought to have reported harassment or discrimination is prohibited. Such retaliation is a serious violation of this policy and shall be independent of whether a charge or informal complaint of harassment or discrimination is substantiated. Encouraging others to retaliate also violates this policy. An employee may not be fired, demoted, harassed or otherwise retaliated against for filing a charge of harassment or discrimination, participating in a harassment or discrimination proceeding, or otherwise opposing harassment or discrimination. Examples of protected opposition include:

1. Complaining to anyone about alleged discrimination against oneself or others;
2. Threatening to file a charge of discrimination;
3. Picketing in opposition to discrimination; or
4. Refusing to obey an order reasonably believed to be discriminatory.

F. Falsification. Students or school personnel who knowingly make false charges of harassment or discrimination shall be subject to disciplinary action.

G. Professional Conduct. Behavior that is not unlawful may nevertheless be unacceptable for the workplace. Professional conduct is expected as per Policy 7560.

[Former Policy 7-2, 7-2A, 7-34]

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