

ADMINISTRATIVE PROCEDURE

DISCRIMINATION AND HARASSMENT

4170
Procedure No.
August 1, 2018
Date

- I. **PURPOSE:** To provide grievance procedures for student and employee complaints of all forms of discrimination, harassment, bias, or extremism.
- II. **BACKGROUND:** Federal, State, and County laws prohibit discrimination on the basis of race, color, sex, age, national origin, religion, marital status, sexual orientation, or disability in any educational program that receives Federal financial assistance. It is the policy of Prince George’s County Public Schools (PGCPS) to maintain a learning and working environment for students, employees, and volunteers, that is free from discrimination and harassment. The purpose of this Administrative Procedure is to provide the mechanism for the reporting, investigating, and resolving of complaints by students, employees, and volunteers of incidents of alleged discrimination and/or harassment. PGCPS will act to investigate all complaints of discrimination and/or harassment, and will take appropriate disciplinary or other action against any student, employee, or other person who is found to have committed any act of discrimination and/or harassment.

Members of the school community are expected to treat each other with mutual respect and to acknowledge the rich diversity, which makes up the community. Disrespect among members of the school community is unacceptable behavior, which threatens to disrupt the learning environment and decreases self-esteem. Harassment is a form of unlawful discrimination, as well as disrespectful behavior, which will not be tolerated.

It is the policy of the Board of Education of Prince George’s County to oppose and prohibit, without qualification, unlawful discrimination and harassment based on race, color, sex, age, national origin, religion, marital status, sexual orientation, or disability.

Any unlawful harassment of a student, employee, or volunteer by a member of the school community is a violation of this policy.

It should be noted that these Procedures are not exclusive, and do not deny any individual the right to pursue other avenues of recourse, which may include filing such charges with appropriate County, State or Federal agencies, initiating civil action, or seeking redress under Federal or State law or criminal statutes.

- III. **DEFINITIONS:**
 - A. **DISCRIMINATION** - When a person has, on the basis of race, color, sex, age, national origin, religion, marital status, sexual orientation, or disability, been excluded from participating in, denied the benefits of, or been subjected to discrimination under any academic, extra-curricular, research, occupational training, or other education program or activity.

Examples include, but are not limited to: treating one person differently from another in determining whether such person satisfies any requirement or condition for the provision of aid, benefit, or service; providing different aid, benefits, or services, or providing aid, benefits or services in a different manner, denying any person such aid, benefit or services, subjecting any person to separate or different rules of behavior, sanctions, or other treatment, discriminating against any person in the application of any rules of appearance; aiding or perpetuating discrimination against any person by providing significant assistance to any agency, organization, or person, which discriminates on the basis of race, color, sex, age, national origin, religion, marital status, sexual orientation, or disability in



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providing any aid, benefit, or service to students or employees; or otherwise limiting any person in the enjoyment of any right, privilege, advantage, or opportunity.

- B. **HARASSMENT** - The harassment of an individual on the basis of his or her race, color, sex, age, national origin, religion, marital status, sexual orientation, or disability, is just as demeaning and disrespectful as discriminating against such an individual on those bases. Harassment takes many forms, including, but not limited to, the following:
1. Conduct that has the purpose or effect of unreasonably interfering with an employee's work or a student's education or extra-curricular performance, based on the employee's/student's race, color, sex, age, national origin, religion, marital status, sexual orientation, or disability.
 2. Conduct that has the purpose or effect of creating an intimidating, hostile, or offensive working or educational environment, based on race, color, sex, age, national origin, religion, marital status, sexual orientation, or disability.
 3. Conduct that has the purpose or effect of retaliating against an individual for having reported or threatened to report harassment, or for having participated as a witness in an investigation of alleged harassment.
 4. Verbal or physical conduct that denies, limits, differentiates, or conditions the provisions of aid, benefits, services, or treatment protected under Federal, State, or County law. Such prohibited behaviors include:
 - a. Verbal conduct such as derogatory statements, slurs or comments based on race, color, sex, age, national origin, religion, marital status, sexual orientation, or disability.
 - b. Visual conduct such as derogatory posters, photography, cartoons, drawings, or gestures, if such conduct creates a hostile, abusive, intimidating, or offensive environment.
 - c. Physical conduct, such as assault, unwanted touching, blocking normal movement, or interfering with a person because of his or her race, color, sex, age, national origin, religion, marital status, sexual orientation, or disability.
 - d. Other criminal or prohibited offenses committed against an individual because of that individual's race, color, sex, age, national origin, religion, marital status, sexual orientation, or disability.
- C. **SEXUAL HARASSMENT** - In addition to the type of behavior and conduct described above, sexual harassment may include the following:
1. Threats and/or demands to submit to sexual requests in order to keep the employee's job, or avoid some other loss, and offers of benefits in return for sexual favors.
 2. Attempted rape.



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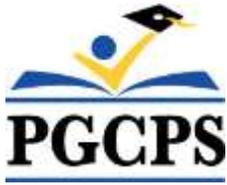
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3. Rape.
4. Other criminal offenses of a sexual nature.
5. Unwanted sexual attention on a continuing and pervasive basis from peers, or anyone with whom the employee or student must interact in order to fulfill employment or educational responsibilities where the individual's responses are restrained by fear of reprisals.
6. 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 explicitly or implicitly a term or condition of an employee's employment or student's education, or extra-curricular activities.
 - b. Submission to or rejection of such conduct is used as the basis for decisions regarding employment, education, or extra-curricular activities.
 - c. Such conduct has the purpose or effect of unreasonably interfering with an employee's work or a student's educational or extra-curricular performance, or creating an intimidating, hostile, or offensive working or educational environment.

IV. **HARASSMENT REPORTING TERMINOLOGY:**

- A. Adult - Any adult employee, agent, volunteer, vendor, or visitor doing business in Prince George's County Public Schools.
- B. Allege - To assert without proof, or before proving.
- C. Respondent - A person who is accused of committing acts of discrimination and/or harassment toward another person.
- D. Complaint - An expressed grievance, concern, or dissatisfaction.
- E. Complainant - The party who makes a complaint against another person.
- F. Employee - Any person who is employed by the Board of Education of Prince George's County.
- G. Student - Any person registered in Prince George's County Public Schools in grades pre-K through 12, or adult education courses. This includes students 18 years of age or older.
- H. Supervisor - Any person serving in an administrative capacity in a school or non-school setting.
- I. Target - The person to whom the harassment is directed.
- J. Volunteer - person who renders a service without remuneration.



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V. DISCRIMINATION AND HARASSMENT GUIDELINE:

A. Employees

1. It is the policy of the Board of Education of Prince George's County that all employees should be able to enjoy a work environment free from all forms of discrimination and harassment based on race, color, sex, age, national origin, religion, marital status, sexual orientation, or disability. Conduct constitutes prohibited harassment when:
 - a. Submission to such conduct is made an explicit or implicit condition of employment; or
 - b. Submission to or rejection of such conduct is used as a basis of employment decisions affecting the individual who submits or rejects.
 - c. Such conduct has the purpose or effect of interfering with an employee's work performance, or creates an intimidating, hostile, or offensive working environment.
2. Conduct that is discriminating and/or harassing to other employees will not be tolerated. Such conduct, whether committed by supervisors, non-supervisory personnel, or non-employees, is prohibited.
3. An employee who believes that he or she is being or has been subjected to discrimination or harassment based on race, color, sex, age, national origin, religion, marital status, sexual orientation, or disability should bring such acts or conduct to the prompt attention of the Instructional Director, Principal, Vice Principal, or Supervisor, and/or the Equal Employment Opportunity (EEO) Advisor. It should be noted that such reporting is not required, and that any individual has the right to bypass these procedures by reporting directly to County, State, and/or Federal agencies.

B. Students

1. It is the policy of the Board of Education of Prince George's County that all students should receive an education free from all forms of discrimination and harassment, including discrimination or harassment based upon race, color, sex, age, national origin, religion, marital status, sexual orientation, or disability.

Since harassment knows no age limit, the Board is further committed to maintaining an educational environment for all students which is free of harassment of any kind and from any source. Therefore, the Board will not tolerate or condone any discrimination or harassment committed by a school system employee, volunteer, or by another student.
2. A student who believes that he or she is being or has been subjected to discrimination or harassing acts or conduct should bring such acts or conduct to the prompt attention of a teacher, pupil personnel worker, counselor, or other appropriate school administrator.



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VI. FILING, REPORTING, AND INVESTIGATING PROCEDURES:

It is recommended that all persons reporting a complaint of alleged discrimination and/or harassment use these reporting procedures. However, it is recognized that any individual has the right to bypass these procedures by reporting directly to the appropriate supervisor or designee, or to the County, State, and/or Federal agencies.

A. Allegations by Students Against Employees or Volunteers

1. A report by a student that an adult employee or volunteer may have subjected that student, or another student, to any form of harassment or discrimination is an extremely serious allegation, which must be reported immediately to the Chief of Human Resources, with a copy to the EEO Advisor.
2. Any school employee or volunteer who receives a complaint by a student alleging harassment or discrimination by an adult employee or volunteer should obtain the basic facts of the incident(s) alleged, but should not conduct any further investigation. The information received should be immediately transmitted to the Chief of Human Resources, with a copy to the EEO Advisor, and the appropriate supervisor or designee.
3. Such an allegation is not to be investigated by any school employee other than the CEO, Chief of Human Resources, their designee, or the Office of School Security, if called upon.
4. In the event the allegation or complaint made by the student results in a suspicion or belief that the student has been subjected to child abuse or child neglect, the employee to whom the complaint is made must also report the incident to the appropriate authorities, pursuant to Administrative Procedure 5145 - Suspected Child Abuse and Neglect.

B. Allegations by Employees and Volunteers

1. Any PGCPS employee or volunteer who believes that he or she has been subjected to discrimination or harassment should report the incident promptly to the Instructional Director, Principal, Vice Principal, Supervisor, or designee for appropriate action. If the person accused of committing discrimination and/or harassment is the Instructional Director, Principal, Vice Principal, or Supervisor, the employee or volunteer should report the incident directly to the EEO Advisor, without making such report to the alleged offender.
 - a. The report should be made in writing, Report of Employee/Volunteer Complaint (Appendix A). If the complainant makes a verbal report, but will not sign a written report, the person receiving the complaint should complete the report to the fullest extent possible.
 - b. The Instructional Director, Principal, Vice Principal, Supervisor, or EEO Advisor, receiving the complaint should secure a completed Employee Respondent Form (Appendix B) from the Alleged Offender within five (5) working days of receipt of the Report of Employee/Volunteer Complaint.



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2. If **BOTH** the Complainant and Respondent indicate their agreement to allow mediation of the Complaint by the Instructional Director, Principal, Vice Principal, or Supervisor, that person may meet with both individuals in an effort to mediate the Complaint. If the mediation is successful, the Instructional Director, Principal, Vice Principal, or Supervisor will have both parties sign a Resolution by Mediation Form (Appendix C), and will forward same, along with the Report of Employee/Volunteer Complaint and Employee Respondent Form, to the EEO Advisor.
3. If **EITHER** the Complainant or the Respondent refuses mediation, the Report of Employee/Volunteer Complaint and the Employee Respondent Form shall be transmitted without delay, and **WITHOUT FURTHER INVESTIGATION**, to the EEO Advisor.
4. Instructional Directors, Principals, Vice Principals, or Supervisors are to use strict confidence when handling complaints of alleged discrimination or harassment. Information may only be shared with an immediate Supervisor and EEO Advisor. Any information associated with a complaint may not be duplicated.
5. All incident report forms must be sent to the EEO Advisor in the Office of General Counsel in a sealed envelope, marked **CONFIDENTIAL. DO NOT FAX.**
6. A copy of the Report of Employee/Volunteer Complaint must be placed in a separate confidential file in the Instructional Director's office, Principal's office or Vice Principal's/ Supervisor's office. **DO NOT PLACE THE REPORT IN THE EMPLOYEE'S PERSONNEL FILE.**
7. The EEO Advisor, upon receipt of a Report of Employee or verbal complaint of alleged discrimination or harassment, shall immediately undertake or authorize an investigation, which may consist of personal interviews with the Complainant, the Respondent, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The Complainant shall be given the opportunity to present witnesses and evidence. The investigation may also consist of any other methods and documents deemed relevant by the investigator. Whether a particular action or incident constitutes a violation of this policy, requires a determination based on all the facts and surrounding circumstances.
8. In making such a determination, the investigator shall consider the nature of the behavior, past incidents, or past or continuing patterns of behavior, the relationships between the parties involved, and the context in which the alleged incident occurred.
9. The investigation shall be completed as soon as possible. Reasonable attempts will be made to complete investigations within 90 days, and a written investigative report will be forwarded to the CEO upon completion of the investigation. The investigative report shall detail the facts and circumstances of the alleged incident, and may include a recommended course of action.
10. Upon receipt of the investigative report, the CEO shall take appropriate action, as warranted. In cases of alleged discrimination or harassment, such action may include remedial measures on behalf of the Complainant. In cases involving bias,



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discrimination or harassment, such action may include, but is not limited to, warning, reprimanding, suspending, transferring, demoting, or terminating the employment of any individual found to violate this policy. Any such disciplinary action will be taken pursuant to applicable laws of the State of Maryland, and provisions of the applicable Negotiated Agreement, if any. The Complainant shall receive written notice of the final disposition of the Complaint, and shall be advised of the right to appeal to the Board of Education of Prince George's County.

11. Any decision rendered by the CEO may be appealed by the Complainant or the Respondent to the Board of Education of Prince George's County, pursuant to the provisions of State law and Board policy.
12. Utilization and/or exhaustion of these procedures is not a prerequisite for the filing of complaints with appropriate local, State, or Federal agencies, or offices which investigate complaints of discrimination and/or harassment. Any employee may proceed directly to such County, State, or Federal agencies or offices without having to follow these procedures.

C. Allegations by Students Against Students

1. Any conduct that violates the policy on discrimination or harassment committed by students of either sex against students is inappropriate behavior.
2. Students may seek guidance, support, and/or advocacy in addressing matters related to discrimination or harassment. The EEO Advisor and Division of Student Services are available for these services, in addition to school staff.
3. Any Prince George's County Public Schools student who believes that she or he has been subjected to discrimination or harassment should report such conduct promptly.
 - a. The report may be made verbally or in writing.
 - b. The report may be made to any staff member, who will assist the student in reporting the alleged discrimination or harassment to the Principal or the EEO Advisor.
 - c. Every complaint submitted to the Instructional Director, Principal, or Vice Principal must be reported to the EEO Advisor.
4. Any student who is found to have violated the discrimination or harassment policy will be subject to disciplinary action by the Instructional Director, Principal or Vice Principal pursuant to the Code of Student Conduct. Depending on the severity of the offense, such action could include, but not be limited to, counseling, suspension, or expulsion.
5. Reporting a Student Discrimination and Harassment Complaint
 - a. The Instructional Director, Principal or Vice Principal/Supervisor must complete and or review the Student-Student Incident Report with the Complainant (Appendix E), which must be forwarded to the EEO Advisor.



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- b. In all incidents involving students, an attempt must be made to contact parents/guardians by phone and follow up with the Parent/Guardian Letter (Appendix D).
 - c. The Parent/Guardian Letter must be attached with the Student-Student Incident Report (Appendix E) and submitted to the EEO Advisor.
 - d. Information shared with parents/guardians of the student must be restricted to only the role of their child (reporter, target, offender). Do not share the specifics of the discrimination or harassment situations, including names of other parties involved. This is necessary to provide confidentiality and to protect the rights of all parties involved.
6. All incidents of student-to-student discrimination or harassment shall be sent to the EEO Advisor, who shall review and file the Parent/Guardian Letter (Appendix D), the Student-Student Incident Report (Appendix E), and the Disposition of Student-Student Incident Report (Appendix F).
 7. The Instructional Director, Principal, Vice Principal/Supervisor, or the student subjected to the alleged discrimination or harassment may request intervention by the appropriate supervisor or designee. If so requested, the EEO Advisor shall further investigate and provide assistance as appropriate and necessary.
- VII. **REPRISAL**: There will be no retaliation or adverse action against any individual for reporting an incident, participating in, or cooperating with an investigation of an alleged incident. Appropriate action will be taken against any student or employee who retaliates against any person who reports an incident, participates in, or cooperates with its investigation. Retaliating includes, but is not limited to, any form of intimidation, reprisal, or harassment.
- VIII. **CONFIDENTIALITY**: Confidentiality shall be maintained throughout the investigation to the extent practical and appropriate under the circumstances. Any complaint of alleged discrimination or harassment will be disclosed to the Alleged Offender, reported to the EEO Advisor, and investigated as appropriate.
- IX. **RELATED PROCEDURES**: Administrative Procedure 10101, Code of Student Conduct.
- X. **MAINTENANCE AND UPDATE OF THIS PROCEDURE**: The Office of General Counsel is responsible for the maintenance and updating of this Administrative Procedure.
- XI. **CANCELLATIONS AND SUPERSEDURES**: This Administrative Procedure cancels and supersedes Administrative Procedure 4170, dated September 1, 2000.
- XII. **EFFECTIVE DATE**: August 1, 2018

Distribution: 1, 2, 3, 4, 5, 6, 9, 10, and 11