



# ADMINISTRATIVE PROCEDURE

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J C T C U U O G P V

4170  
Procedure No.  
July 1, 2023  
Date

## I. PURPOSE:

- A. Prince George’s County Public Schools (“PGCPS”) does not tolerate discrimination or harassment in its working or learning environments, which include, but are not limited to, the administrative buildings, schools, or PGCPS sponsored activities. This administrative procedure has been created to enforce Board Policy 0125 (Nondiscrimination) and embodies PGCPS’ commitment to ensuring that each student and employee can learn and work in an environment free from discrimination and harassment.
- B. The grievance procedures outlined below apply to complaints of discrimination and harassment filed by a student, employee, or applicant for employment. Complaints of Title IX, Discrimination and Harassment on the Basis of Sex shall be processed pursuant to the procedures set forth in Administrative Procedure 0104.

## II. POLICY:

The Prince George’s County Board of Education (“Board” or “Board of Education”) policy on nondiscrimination affirms the Board’s commitment to promote an environment for students, employees, and the entire PGCPS community that is free of discrimination and harassment and to designate which offices are responsible for handling inquiries regarding the nondiscrimination policy. (Board Policy 0125)

## III. DEFINITIONS:

- A. Discrimination – The inequitable treatment of a student, employee, or applicant for employment, based on one or more of that person’s protected characteristics or statuses, excepting any treatment permitted or required by law. Protected characteristics/statuses are: age, color, disability, family medical or genetic information, gender identity or expression, marital status, military status (which includes active duty service members, reserve service members, and dependents), national or ethnic origin, political affiliation, pregnancy, race, religion, sex, sexual orientation, and veteran status. Indigenous people are also a protected category as set forth in Board Policy 2513.1.
  1. *Discrimination* also includes any act or omission due to an individual’s status or perceived status in a protected class that creates an intimidating, hostile, or offensive working or educational environment or substantially interferes with an individual’s ability to work, learn, or otherwise is sufficiently serious to limit an individual’s employment opportunities, or to limit a student’s ability to participate in or benefit from the educational program.
- B. Gender identity - A person’s deeply held sense or psychological knowledge of their own gender. One’s *gender identity* can be the same or different from the sex assigned at birth.
- C. Genetic information - Includes information about one’s genetic tests and the genetic



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tests of one's family members. *Genetic information* also includes information about any disease, disorder, or condition of one's family members (one's family medical history).

D. Harassment – Unwelcome conduct directed against a person based on one or more of that person's protected characteristics or statuses, which conduct is so severe or pervasive that it interferes with an individual's employment, academic performance or participation in educational programs or activities, and creates a working, learning program or activity environment that a reasonable person would find intimidating, hostile or offensive.

1. *Harassment* takes many forms, including, but not limited to, the following:
  - a) 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 protected characteristics or statuses.
  - b) Conduct that has the purpose or effect of creating an intimidating, hostile, or offensive working or educational environment, based on protected characteristics or statuses.
  - c) 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.
  - d) Verbal conduct such as derogatory statements, slurs or comments based on protected characteristics or statuses.
  - e) Visual conduct such as derogatory posters, photography, cartoons, drawings, or gestures, if such conduct creates a hostile, abusive, intimidating, or offensive environment.
  - f) Physical conduct, such as assault, unwanted touching, blocking normal movement, or interfering with a person based on protected characteristics or statuses.
  - g) Other criminal or prohibited offenses committed against an individual based on protected characteristics or statuses.

E. Harassment reporting terminology:

1. Adult – Any person over the age of 18 who is an employee, agent, volunteer, contractor/vendor, or visitor doing business in PGCPS.
2. Allege – To assert without proof, or before proving.
3. Complaint – An expressed wrong, concern, or dissatisfaction setting forth a claim of discrimination or harassment.
4. Complainant – The party who makes a complaint against another person.
5. Employee – Any person who is employed by the Board of Education.
6. Respondent – A person who is accused of committing acts of discrimination and/or harassment toward another person.
7. Student - Any person registered in PGCPS in grades pre-K through 12, or



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adult education courses. This includes students 18 years of age or older, as well as those students attending public charter schools.

8. Supervisor – Any person serving in an administrative capacity in a school or non-school setting.
9. Volunteer – A person who renders a service without remuneration.

#### IV. ALLEGATION PROCEDURES

##### A. Allegations Involving a Student as Complainant or Respondent

1. Any employee who receives an allegation, including verbally, of discrimination and/or harassment from or about a student should obtain the basic facts of the incident(s) alleged, but must not conduct any further investigation. The information must be forwarded to the Office of Equity Assurance within one (1) day of receipt via Administrative Procedure 4170 Appendix A. The Discrimination or Harassment Incident Report form should be signed by the individual submitting the form and submitted to the Office of Equity Assurance.
2. Such an allegation is not to be investigated by any school employee other than the Chief Executive Officer (Superintendent), Chief of Human Resources, their designee, or the Office of School Security.
3. Within one (1) business day, the Principal or designee must attempt to contact parents/guardians by phone and/or email, and follow up with the Parent/Guardian Letter (Appendix D) regarding the allegations. Information shared with parents/guardians of the student must be restricted to only the role of their child (complainant or respondent). The specifics of the discrimination or harassment allegations are not to be shared, including names of other parties involved. This is necessary to provide confidentiality and to protect the rights of all parties involved.
4. The Instructional Director, Principal or Assistant Principal/Supervisor must complete and/or review the Student-Student Incident Report with the Complainant (Appendix E), which must be forwarded to the EEO Administrator within two (2) business days.
5. The Parent/Guardian Letter and the Student-Student Incident Report, if applicable, must be submitted to the Office of Equity Assurance within three (3) business days.
6. The student may request supportive intervention from school administration or the Office of Equity Assurance to ensure access to their education. If requested, the school administration must consult with the assigned EEO Administrator to assist the school administration in determining appropriate supportive measures. The implementation of the interventions are the responsibility of the student's school.

##### B. Allegations From an Employee Against an Employee

1. Any supervisor who receives an allegation, including verbally, of



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discrimination and/or harassment from an employee should refer the employee to this procedure. It is the discretion of the employee on whether to file a formal complaint.

2. If the allegations are of imminent risk to the health and safety of students, staff, or the school community, immediately contact PGCPS Safety and Security Services.

### V. FORMAL COMPLAINT PROCEDURES:

#### A. Filing a Complaint

1. A complaint may be filed directly with the Office of Equity Assurance by any current employee of PGCPS, current student, or an applicant for employment who believes they have been discriminated against or harassed in violation of this administrative procedure. A complaint must be filed within 300 calendar days of the alleged discrimination or harassment completing Administrative Procedure 4170 Appendix A and submitting to the Office of Equity Assurance. The Discrimination or Harassment Incident Report form must be signed, when possible, by the individual making the formal complaint.
2. A student, employee, or applicant for employment, who wishes to submit a complaint based on allegations of discrimination or harassment on the basis of sex should file pursuant to Administrative Procedure 0104.

#### B. Receipt of Complaint and Initial Assessment

Upon receipt of a complaint, the EEO Administrator will first assess the allegations to determine whether interim measures pending resolution of the matter are appropriate. Interim measures may include, but are not limited to, temporary removal of the Respondent from the workplace or academic program, if warranted, and other workplace and/or academic accommodations. In making this assessment, the EEO Administrator will consider the totality of the circumstances, the nature and severity of the allegations, and whether the allegations implicate a potential ongoing safety threat to the Complainant or the community. The EEO Administrator will consult with PGCPS administrators and the Department of Human Resources, as appropriate.

#### C. Evaluation of Complaint

1. Following the EEO Administrator's receipt of a complaint, the EEO Administrator shall determine whether the complaint states a potential violation Policy 0125 and this administrative procedure and shall notify the Complainant, in writing, of its decision to proceed with an investigation. If the written complaint lacks sufficient information to make a determination, the EEO Administrator will contact the Complainant to gather additional information.
2. If the EEO Administrator determines that the Complainant's allegations, if



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true, do not state a violation of Policy 0125 and this administrative procedure, the written notice of this decision shall explain why the complaint does not state a violation.

3. If the EEO Administrator concludes that the Complainant's allegations do not state a Policy 0125 violation, but nevertheless implicate potentially concerning behaviors, the EEO Administrator may advise the Complainant and/or Respondent of steps the Office of Equity Assurance will take to assist them in addressing their concerns informally or provide written direction of the appropriate PGCPS administrator or office to contact.
4. Upon notification that the allegations of the complaint state a potential violation, the EEO Administrator may also meet with the Complainant in person or virtually to gather additional or specific factual allegations upon which the complaint is based, and discuss the Office of Equity Assurance's complaint procedures.
5. For complaints that also implicate conduct prohibited by the Board's Title IX Policy, the EEO Administrator will consult with the Title IX Coordinator.

### D. Investigation of Formal Complaints

#### 1. Notice of Investigation

As soon as practicable, the EEO Administrator will provide notice to the Complainant and the Respondent(s), simultaneously and in writing, of the commencement of the investigation. Such notice will: (a) name the Complainant and the Respondent; (b) specify the nature of the alleged discriminatory and/or harassing conduct or prohibited retaliatory conduct; (c) explain that the complaint will be investigated in accordance with these procedures; (d) identify the investigator; and (e) explain PGCPS' prohibition against retaliation as well as the confidentiality of the investigation.

#### 2. Investigation Overview

If the EEO Administrator has not already done so, the EEO Administrator may conduct a formal interview of the Complainant and will conduct a formal interview of the Respondent(s). During the investigation, the parties will have an equal opportunity to be heard, to submit information and corroborating evidence, to identify witnesses who may have relevant information, and to submit questions that they believe should be directed by the investigator to each other or to any witness. The investigator will notify and seek to meet separately with the Complainant, the Respondent, and third-party witnesses, consider those questions submitted by either party, and will gather other relevant and available evidence and information, including electronic or other records of communications between the parties or witnesses (via voice-mail, text message, email and social media sites), photographs (including those stored on computers and smartphones), and medical records (subject to the consent of the applicable party). The investigation may further include, but is not limited to:

- a) Interviewing material witnesses;



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- b) Reviewing relevant files and records;
  - c) Comparing the treatment of the Complainant to that of others similarly situated in the department or unit;
  - d) Reviewing applicable policies and procedures; and/or
  - e) Following-up with the parties as new evidence is collected, as appropriate, and permitting the parties to provide additional information to the record.
3. Investigation Timeframe  
The investigation shall normally be concluded within 90 calendar days from the date of notice to the parties that the complaint has been accepted for investigation. This timeframe may be extended for good cause, which may exist if additional time is necessary to ensure the integrity and completeness of the investigation, to account for PGCPS breaks or vacations, to account for complexities of a case, including the number of witnesses and volume of information provided by the parties, or for other legitimate business reasons.
4. Investigative Report and Recommended Findings
  - a) Upon conclusion of the investigation, the EEO Administrator shall issue a written report to the Superintendent/Superintendent's designee. The investigative report will include a summary of the evidence gathered during the investigation and will include a finding as to whether there is sufficient information, by a preponderance of the evidence, to support a finding that the Respondent(s) engaged in the alleged discriminatory and/or harassing conduct or retaliatory conduct in violation of Board policy and this administrative procedure.
  - b) If the EEO Administrator finds of violation, the report may include recommended action items, which may include, but are not limited to: (1) a directive to stop any ongoing discriminatory, harassing and/or retaliatory behavior/practices; (2) disciplinary or other corrective action be taken against the Respondent(s) and/or others; (3) relief be granted to the Complainant, such as accommodations, reinstatement, hiring, reassignment, promotion, training, back pay or other compensation and/or benefits (specific remedies shall be fact-specific to each complaint); and/or (4) other proactive measures, such as targeted training or education.
5. Executive Decision and Notice of Outcome to the Parties
  - a) Upon receipt of the investigative report, the Superintendent/Superintendent's designee will have ten (10) business days to review the Investigative Report, accept or reject the recommended findings and any recommended action items and, if



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applicable, determine the sanction(s) in accordance with the appropriate disciplinary procedures.

- b) The Superintendent/Superintendent's designee will communicate, in writing, their decision on the finding(s) and each of the recommended action items outlined in the Investigative Report with supporting reasons to the EEO Administrator. The EEO Administrator will communicate the Superintendent/Superintendent's designee's findings, in writing, simultaneously, to the parties within five (5) business days of receipt of the decision.
- c) At the conclusion of the Superintendent's review and recommendation, the Complainant and Respondent will be advised of the investigation's outcome, in writing.

### (1) Substantiated Finding:

- (a) For investigations that result in a substantiated finding, the Office of Equity Assurance will submit an EITS referral with the Investigative Report and the Superintendent's recommended action to Employee and Labor Relations office (ELRO) for review and to determine any recommendations for disciplinary action.
- (b) Upon receipt of the EITS referral, the ELRO Director/designee will review the Investigative Report and Superintendent's recommendation, and accept or reject the recommended finding, the recommended action items and, if applicable, determine sanctions in accordance with the appropriate disciplinary procedures, collective bargaining agreement and other due process considerations. The sanctions may include, but are not limited to, verbal counseling, letter of professional counseling, letter of reprimand, suspension, and termination. The ELRO Director/designee will communicate the EITS outcome with the Respondent based on established protocols.
- (c) If either party is recommended for subsequent training related to this finding, the need for training will be referred to and managed by the appropriate PGCPS office and/or the employee's supervisor.
- (d) PGCPS may not take or refuse to take any personnel action as retaliation against an employee who in good faith files or provides information relating to a



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discrimination and/or harassment report in accordance with this administrative procedure.

### (2) Unsubstantiated Finding

For investigations that result in an unsubstantiated finding, the Office of Equity Assurance may notify the Respondent's Supervisor and/or Division Chief to recommend professional development training.

### 6. Right to Appeal

Any decision rendered by the Superintendent/Superintendent's designee may be appealed by either the Complainant or Respondent to the Board of Education, pursuant to the provisions of § 4-205 of the Education Article, Maryland Annotated Code, Board Policy 4200, and the Code of Student Conduct.

### 7. Obligation to Provide Truthful Information

Individuals filing or responding to complaints or serving as a witness are expected to provide truthful information in connection with any investigation and report made under this administrative procedure. Submitting or providing false or misleading information in bad faith or with a view to personal gain or to intentionally harm another in connection with a complaint under this administrative procedure is prohibited and subject to disciplinary action. This provision does not apply to reports made or information provided in good faith, even if the facts alleged in the report are not later substantiated.

### E. External Complaints

Individuals also have the right to file complaints with local, federal or state agencies. Please be advised that separate deadlines and time limitations for filing complaints with the external agencies may apply, and the investigation under this administrative procedure does not toll or otherwise suspend these deadlines or time limitations.

Where the external written complaint's facts, circumstances, and/or allegations are the same or similar to the AP 4170 internal complaint's facts, circumstances, and allegations, the Office of Equity Assurance may merge and close the internal complaint, otherwise the matters will be investigated separately.

### F. Reprisal/Retaliation

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





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investigation. Retaliating includes, but is not limited to, any form of intimidation, reprisal, or harassment.

### G. Confidentiality

Confidentiality shall be maintained throughout the investigation to the extent practical and appropriate under the circumstances. Any complaint of alleged discrimination or harassment reported to the Office of Equity Assurance will be disclosed to the alleged respondent, when an investigation is commenced.

## VI. MONITORING AND COMPLIANCE

- A. All PGCPS staff shall be encouraged to complete annual training on the prevention of discrimination and harassment. Staff completion rates may be tracked under the SafeSchools program.
- B. Principals, department and office managers shall review a copy of this administrative procedure with staff at least once a year and maintain for three (3) years a list of the date, time and attendees when the administrative procedure is reviewed.
- C. The Office of Equity Assurance shall provide an annual report by the end of the school year to the Superintendent and Chief Human Resources Officer on the number of Administrative Procedure 4170 reports received; the number of reports resolved; trends or patterns among the reports, if any; and recommendations on policy, procedure or practice changes to better address discrimination and/or harassment, if any.

## VII. RELATED PROCEDURES

- A. Employee Code of Conduct
- B. Administrative Procedure 4176, Employee Dispute Resolution
- C. Administrative Procedure 10101, Code of Student Conduct

## VIII. LEGAL REFERENCES

- A. Title VI of the Civil Rights Act of 1964
- B. Title VII of the Civil Rights Act of 1964
- C. Section 504 of the Rehabilitation Act of 1973
- D. Age Discrimination Act of 1975
- E. Title I of the Americans with Disabilities Act of 1990
- F. Title II of the Americans with Disabilities Act of 1990

IX. MAINTENANCE AND UPDATE OF THIS PROCEDURE: The Office of Equity Assurance is responsible for the maintenance and updating of this administrative procedure.

X. CANCELLATIONS AND SUPERSEDURES: This administrative procedure cancels and supersedes Administrative Procedure 4170, dated August 1, 2018.



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XI. **EFFECTIVE DATE:** July 1, 2023