

SECTION: NON-INSTRUCTIONAL
EMPLOYEES

TITLE: UNLAWFUL HARASSMENT

ADOPTED: January 16, 2001

REVISED: November 25, 2003
May 22, 2008

AVON GROVE SCHOOL DISTRICT

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| <p>1. Purpose</p> | <p>The Avon Grove School Board strives to provide a safe, positive working climate for employees. Therefore, it shall be the policy of the district to maintain an employment environment in which harassment in any form is not tolerated.</p> |
| <p>2. Authority Sec. 703 of Title VII of Civil Rights Act of 1964; Sec. 5 (a) PHR Act 20 U.S.C. §1681; Title IX of the 1972 Education Amendment 42 U.S.C. §§2000e et seq.; 43 P.S. 951 et seq.; 29 CFR 1606.8</p> | <p>The Board prohibits all forms of unlawful harassment of employees and third parties by all students, district employees, contracted individuals, vendors, volunteers and any other person in the schools. (For student harassment policy see Board Policy 248). Further, the Board prohibits any individual from assisting or encouraging harassment of any kind.</p> <p>The Board encourages employees and third parties who have been harassed to promptly report such incidents to the administrator designated by this policy.</p> <p>The 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 reprisal or retaliation shall occur as a result of good faith charges of harassment.</p> |
| <p>3. Definitions OCR Guidelines On Sexual Harassment, 29 CFR § 1606.8(a); 62 Fed. Reg. 12033; (March 13, 1997); 66 Fed. Reg. 5512; (January 19, 2001); PHRC Guidelines;</p> | <p>For purposes of this policy, harassment shall consist of verbal, written, graphic or physical conduct or communication relating to an individual’s protected characteristic, such as, race, color, national origin/ethnicity, gender, age, disability, sexual orientation, medical condition, marital status or religion when such conduct:</p> <ol style="list-style-type: none"> 1. Is sufficiently severe, persistent or pervasive that it has the purpose or effect of substantially interfering with an individual’s ability to perform job functions or creates an intimidating, threatening or abusive work environment. 2. Has the purpose or effect of substantially or unreasonably interfering with an individual’s work performance. 3. Otherwise adversely affects an individual’s employment opportunities. |

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| <p>29 CFR §1604.11(a)</p> | <p>Examples of conduct which may constitute harassment if it meets the immediately preceding definition include, but are not limited to, graffiti containing offensive language, name calling, jokes or rumors; physical acts of aggression or hostile acts against a person or his property because of that person’s protected characteristic; or written or graphic material which is posted or circulated and which intimidates or threatens, or which is intended to intimidate or threaten, a person based on that person’s protected characteristic.</p> <p>Sexual harassment shall consist of unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct and other inappropriate verbal, written, graphic or physical conduct of a sexual nature when:</p> <ol style="list-style-type: none"> 1. Submission to such conduct or communication is made explicitly or implicitly a term or condition of an individual’s obtaining or retaining employment. 2. Submission to or rejection of such conduct or communication is used, implicitly or explicitly, as the basis for employment decisions affecting the individual. 3. Such conduct or communication deprives an employee of employment aid, benefits, service or treatment. 4. Such conduct or communication-is sufficiently severe, persistent or pervasive that it has the purpose or effect of substantially or unreasonably interfering with the employee’s work performance or creating an intimidating, hostile or offensive work environment. <p>Examples of conduct that may constitute-sexual harassment, if it meets the immediately preceding definition, include but are not limited to, sexual flirtations, advances, touching or propositions; verbal abuse of a sexual nature; graphic or suggestive comments about an individual’s dress or body; sexual degrading words to describe an individual; jokes, pin-ups, calendars, objects, graffiti, vulgar statements, abusive language, innuendoes, references to sexual activities, overt sexual conduct, or any conduct that has the effect of unreasonably interfering with an individual’s ability to work or creates an intimidating, hostile or offensive working environment.</p> |
| <p>4. Delegation of Responsibilities</p> | <p>In order to maintain a work environment that discourages and prohibits unlawful harassment, the Board designates the Superintendent as the District’s Compliance Officer. The Compliance Officer may be contacted at the Avon Grove School District offices located at 375 South Jennersville Road, West Grove, PA 19390 (610) 869-2441. The Board designates the Director of Personnel as the Alternative Compliance Officer. The Alternative Compliance Officer may be contacted at the Avon Grove School District office located at 375 South Jennersville Road, West Grove, PA, 19390 (610) 869-2441. The Alternative Compliance Officer shall act as the compliance officer when detailed herein.</p> |

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| 5. Guidelines | <p>The Compliance Officer shall publish and disseminate this policy and the complaint procedure at least once annually to students, parents, employees, independent contractors, vendors, and the public. The policy shall be posted in each building owned by the District.</p> <p>The District shall provide regular in-service education and training for students and employees concerning all aspects of unlawful harassment.</p> <p>Each employee shall be responsible to maintain an educational environment free from all forms of unlawful harassment.</p> <p>Each employee shall be responsible to respect the rights of students and his/her fellow employees in order to ensure an atmosphere free from all forms of unlawful harassment.</p> <p><u>Formal Complaint Procedure – Employee/Third Party</u></p> <p>Step 1 – Reporting</p> <p>An employee or third party who believes s/he has been subject to conduct that constitutes a violation of this policy is encouraged to immediately report the alleged harassment. Further, any employee or third party who has knowledge of conduct which may constitute prohibited harassment should report any such conduct.</p> <p>The complaint should be made orally or in writing to the building principal. The complainant is encouraged to use the report form available from the building principal and attached at the end of this policy, but oral complaints shall be acceptable.</p> <p>The building principal shall inform the employee or third party of the right to file a complaint in accordance with this policy and the complaint procedure. The building principal shall immediately forward the complaint to the Compliance Officer.</p> <p>If the building principal is the subject of a complaint, the employee or third party shall report the incident directly to the Compliance Officer. If the Compliance Officer is the subject of the complaint, the building principal shall report the incident to the Alternative Compliance Officer.</p> <p>The complaint, the identity of the complainant and the identity of the person accused of harassment will be disclosed only the extent necessary to fully investigate the complaint and only when such disclosures is permitted by law. Additionally, a complainant who wishes to remain anonymous shall be advised that such confidentiality may limit the District’s ability to fully respond to the complaint.</p> |
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Step 2 – Investigation

Upon receiving a complaint of unlawful harassment, the building principal shall immediately notify the Compliance Officer. The Compliance Officer shall authorize the building principal to investigate the complaint, unless the building principal is the subject of the complaint or is unable to conduct the investigation. The Compliance Officer shall then authorize a designee to investigate the complaint.

The investigation shall be completed as soon as practicable, which generally should be not later than fifteen (15) calendar days after authorization by the Compliance Officer to investigate. Upon receiving the complaint, the Compliance Officer shall acknowledge receipt of the complaint by giving written notice to the complainant and the alleged harasser that the complaint has been received. Also upon receiving the complaint, the Compliance Officer shall determine whether interim measures should be taken pending the outcome of the investigation. Such interim measures may include, but are not limited to, reducing contact between the alleged harasser and the complainant and, in cases involving potential criminal conduct, determining whether law enforcement officials should be notified. If after consultation with the building principal, the Compliance Officer determines that more than fifteen (15) days will be required to investigate the complaint, the complainant and the alleged harasser shall be notified of the reason for the extended investigation and of the date by which the investigation will be concluded.

The investigation may consist of individual interviews with the complainant, the alleged harasser and others with knowledge relative to the alleged harassment. The building principal may also inspect any documents or other information deemed relevant by the investigator.

The obligation to conduct this investigation shall not be negated by the fact that a criminal investigation of the incident is pending or has been concluded.

All employees shall cooperate with any investigation of alleged harassment conducted under this policy or by any investigating local, state or federal agency.

Step 3 – Investigative Report

The building principal shall prepare a written report within fifteen (15) days, which shall be provided to the Compliance Officer, upon completion of the investigation unless additional time to complete the investigation is required. If the complaint involves the Compliance Officer, the report shall be sent to the Alternative Compliance Officer. The report shall include a summary of the investigation and findings of the investigation. The findings of the investigation shall include a determination of whether the complaint has been substantiated as factual, whether it is a violation of this policy and any recommended corrective/disciplinary action.

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| <p>Board Policies 218, 317, 417, 517</p> | <p>Within 15 calendar days of receiving the building principal’s report, the Compliance Officer or his/her designee or the Alternative Compliance Officer as the case may be, shall issue a decision regarding whether and how the policy was violated and the corrective/disciplinary actions to be taken. This decision shall be provided in writing to the complainant and the alleged harasser.</p> <p>Step 4 – District Action</p> <p>If the investigation results in a finding that the complaint has been substantiated as factual and constitutes a violation of this policy, the District shall take prompt, appropriate, corrective and disciplinary action to ensure that such conduct ceases and will not reoccur.</p> <p>Such actions shall be consistent with Board policies and district procedures, applicable collective bargaining agreements, and local, state and federal laws.</p> <p>Whether or not the Compliance Officer or his/her designee determines that prohibited harassment occurred, the Compliance Officer or his/her designee may determine that school-wide, group or individual training be conducted or that the complainant be invited to receive counseling.</p> <p>If it is concluded that an employee has knowingly made a false complaint under this policy, such employee shall be subject to disciplinary action, including termination.</p> <p>Step 5 - Appeal Procedure</p> <p>If the complainant is not satisfied with a finding of no violation of the policy or with corrective action, s/he may submit a written appeal to the School Board within fifteen (15) days of the complainant’s receipt of the findings of the investigation. Any such appeal must be in writing and filed with the Compliance Officer who shall forward the appeal and the investigation record to the School Board. The School Board shall make a good faith effort to make a decision within thirty (30) calendar days of receiving the record. The School Board may ask for oral or written argument from the complainant, the Compliance Officer, the alleged harasser and/or other persons.</p> |
| <p>6. Informal Complaint Procedure</p> | <p><u>Informal Complaint Procedure</u></p> <p>If the complaint and the alleged harasser agree, they may arrange with the Compliance Officer to attempt to resolve the complaint informally with the help of a counselor, teacher or administrator. In that event, they shall each be informed by the Compliance Officer that they have the right to abandon the informal procedure at any time in favor of the initiation or continuation of the formal complaint procedure set forth herein. If the complainant and the alleged harasser are successful in</p> |

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| 7. Miscellaneous | <p>resolving the complaint informally, the Compliance Officer shall keep a written record of the agreement of the parties.</p> <p>A. Retaliation</p> <p>Retaliation against students, employees or other persons who report harassment pursuant to this policy or who participate in any related proceeding is prohibited. The School Board deems retaliatory acts as harmful as harassing acts and will take appropriate action against students, employees or other persons who retaliate against any student, employee or other person who reports alleged harassment or participates in related proceedings. Such actions may include discipline up to and including expulsion or discharge.</p> <p>B. Right to Alternative Complaint Procedures</p> <p>Nothing in this policy shall deny the right of any individual to pursue other avenues of recourse to address concerns relating to prohibited harassment including initiating a civil action, filing a complaint with outside agencies or seeking redress under state or federal law.</p> |
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