

UNIONVILLE- CHADDS FORD SCHOOL DISTRICT

SECTION: PUPILS

TITLE: UNLAWFUL HARASSMENT

ADOPTED: May 19, 2003

REVISED: June 18, 2012, August 19, 2013

248. UNLAWFUL HARASSMENT	
1. Purpose	The Board strives to provide a safe, positive working climate for its students, staff, volunteers, and all other persons properly on school ground or participating in school activities. Therefore, it shall be the policy of the District to maintain an employment environment in which unlawful harassment in any form is not tolerated
2. Prohibition	The Board prohibits all forms of unlawful harassment of anyone by District staff, students, volunteers, contracted individuals, vendors, volunteers and third parties in the schools, on school grounds, or while participating in school activities. The Board encourages anyone who have been harassed to promptly report such incidents to the designated administrators
3. Investigation	The Board directs that complaints of unlawful 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. Neither reprisals nor retaliation shall occur as a result of good faith charges of harassment.
4. Definitions	<p>For purposes of this policy, Unlawful Harassment shall include:</p> <p>a. Criminal Harassment:</p> <p>A person commits the crime of harassment when, with intent to harass, annoy or alarm another, the person:</p> <ol style="list-style-type: none"> 1. Strikes, shoves, kicks or otherwise subjects the other person to physical contact, or attempts or threatens to do the same; 2. Follows the other person in or about a public place or places; 3. Engages in a course of conduct or repeatedly commits acts which serve no legitimate purpose; 4. Communicates to or about such other person any lewd, lascivious, threatening or obscene words, language, drawings or caricatures; 5. Communicates repeatedly in an anonymous manner; 6. Communicates repeatedly at extremely inconvenient hours; or 7. Communicates repeatedly in a manner other than specified in paragraphs 4., 5., and 6.

This section shall not apply to conduct by a party to a labor dispute as defined in the act of June 2, 1937 (P.L. 1198, No. 308), known as the Labor Anti-Injunction Act, or to any constitutionally protected activity.

b. Stalking:

A person commits the crime of stalking when the person either:

1. Engages in a course of conduct or repeatedly commits acts toward another person, including following the person without proper authority, under circumstances which demonstrate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person; or
2. Engages in a course of conduct or repeatedly communicates to another person under circumstances which demonstrate or communicate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person.

As used in this section, the following words and phrases shall have the following meanings:

“Communicates.” To convey a message without intent of legitimate communication or address by oral, nonverbal, written or electronic means, including telephone, electronic mail, Internet, facsimile, telex, wireless communication or similar transmission.

“Course of conduct.” A pattern of actions composed of more than one act over a period of time, however short, evidencing a continuity of conduct. The term includes lewd, lascivious, threatening or obscene words, language, drawings, caricatures or actions, either in person or anonymously. Acts indicating a course of conduct which occur in more than one jurisdiction may be used by any other jurisdiction in which an act occurred as evidence of a continuing pattern of conduct or a course of conduct.

“Emotional distress.” A temporary or permanent state of mental anguish.

This section shall not apply to conduct by a party to a labor dispute as defined in the act of June 2, 1937 (P.L. 1198, No. 308), known as the Labor Anti-Injunction Act, or to any constitutionally protected activity.

<p>5. Delegation of Responsibility</p>	<p>c. General Harassment.</p> <p>General harassment shall consist of verbal, electronic, written, graphic or physical conduct – including, but not limited to, conduct related to an individual’s race, color, national origin/ethnicity, gender, age, disability, sexual orientation or religion – when such conduct:</p> <ol style="list-style-type: none">1. Is sufficiently severe, persistent or pervasive that it affects an individual’s ability to perform educational or job functions or creates an intimidating, threatening or abusive educational or work environment.2. Has the purpose or effect of substantially or unreasonably interfering with an individual’s educational or work performance.3. Otherwise adversely affects an individual’s educational or employment opportunities. <p>d. Sexual Harassment.</p> <p>Sexual harassment shall consist of unwelcome sexual advances; requests for sexual favors; and other inappropriate electronic, verbal, written, graphic or physical conduct of a sexual nature when:</p> <ol style="list-style-type: none">1. Acceptance of such conduct is made, explicitly or implicitly, a term or condition of an individual’s continued employment.2. Submission to or rejection of such conduct is the basis for employment decisions affecting the individual.3. Such conduct is sufficiently severe, persistent or pervasive that it has the purpose or effect of substantially interfering with the employee’s job performance or creating an intimidating, hostile or offensive working environment. <p>Examples of conduct that may constitute sexual harassment 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; sexually degrading words to describe an individual; jokes; pin-ups; calendars; objects, graffiti, vulgar statements; abusive language, innuendoes; references to sexual activities; overt sexual conduct; vulgar, defaming, or suggestive e-mails and/or images; other vulgar, demeaning or suggestive electronic transmissions; or any conduct that has the effect of unreasonably interfering with an employee’s ability to work or creates an intimidating, hostile or offensive working environment.</p> <p>In addition to any other notices required by other Policies, the District shall annually give notice that unlawful harassment of students will not be tolerated by publication in handbooks and the school calendar.</p>
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<p>6. Guidelines</p>	<p>The administration shall be responsible to provide training for students and employees regarding all aspects of unlawful harassment. Each staff member shall be responsible to maintain an educational environment free from all forms of unlawful harassment.</p> <p>Each student shall be responsible to respect the rights of his/her fellow students and to ensure an atmosphere free from all forms of unlawful harassment.</p> <p>Students shall be informed that they may choose to report unlawful harassment complaints to building principals, teachers, counselors, nurses, or administrators.</p> <p>All employees who receive unlawful harassment complaints from a student shall report such to the building principal.</p> <p>If the building principal is the subject of a complaint, the student shall report the complaint directly to the Superintendent or designated administrator.</p> <p><u>Complaint Procedure – Student/Third Party</u></p> <p>Step 1 – Reporting</p> <p>A student 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 incident to the building principal or a District employee.</p> <p>A school employee who suspects or is notified that a student has been subject to conduct that constitutes a violation of this policy shall immediately report the incident to the building principal.</p> <p>If the building principal is the subject of a complaint, the student, third party or employee shall report the incident directly to the Assistant to the Superintendent.</p> <p>The complainant or reporting employee is encouraged to use the report form available from the building principal, but oral complaints also shall be acceptable.</p> <p>Step 1A – Reporting Improper Employee-Student Relationships</p> <p>All students are strongly encouraged to report to his/her principal, assistant principal, guidance counselor or other professional employee any improper employee-student relationship or any improper behavior s/he has observed or has knowledge of.</p> <p>Step 2 – Investigation</p>
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Upon receiving a complaint of unlawful harassment, the building principal shall immediately notify the Assistant to the Superintendent. The Assistant to the Superintendent 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 investigation may consist of individual interviews with the complainant, the accused, and others with knowledge relative to the incident. The investigator may also evaluate any other information and materials relevant to the investigation.

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.

Step 3 – Investigative Report

The building principal shall prepare a written report within fifteen (15) days, unless additional time to complete the investigation is required. The report shall include a summary of the investigation, a determination of whether the complaint has been substantiated as factual and whether it is a violation of this policy, and a recommended disposition of the complaint.

Copies of the report shall be provided to the complainant, the accused, and the Assistant to the Superintendent.

Step 4 – District Action

If the investigation results in a finding that the complaint is factual and constitutes a violation of this policy, the District shall take prompt, corrective action to ensure that such conduct ceases and will not recur.

Disciplinary actions shall be consistent with the Code of Student Conduct, Board policies and District procedures, applicable collective bargaining agreements, and state and federal laws.

False Accusations

The District also recognizes that knowingly-made false accusations of unlawful harassment can have serious effects on innocent men and women. Therefore, such false accusations will result in the most serious disciplinary action provided in the School Code.

Any student who files a bad faith harassment claim also shall be disciplined. A **bad faith claim** is one that has no other purpose than to harass or cause another person pain.

If it is concluded that a student has knowingly made a false complaint under this policy, such student shall be subject to disciplinary action.

Appeal Procedure

1. If the complainant is not satisfied with a finding of no violation of the policy or with the corrective action recommended in the investigative report, s/he may submit a written appeal to the Assistant to the Superintendent within fifteen (15) days.
2. The Assistant to the Superintendent shall review the investigation and the investigative report and may also conduct a reasonable investigation.
3. The Assistant to the Superintendent shall prepare a written response to the appeal within fifteen (15) days. Copies of the response shall be provided to the complainant, the accused and the building principal who conducted the initial investigation.

References:

Pennsylvania Human Relations Act – 43 P.s. Sec. 951 et seq.

Federal Anti-Discrimination Law – 20 U.S.C. Sec. 1681 et seq. (Title IX)

Harassment Regulations and Guidelines

Code of Federal Regulations – 29 CFR Sec. 1604.11(a), 1606.8(a)

Federal Register – 66 Fed. Reg. 5512

Board Policy – 103, 218, 248.1, 806