

# SCHOOL DISTRICT OF PITTSVILLE BOARD POLICY

## PERSONNEL

### PERSONNEL GOALS

### EMPLOYMENT DISCRIMINATION AND HARASSMENT COMPLAINT PROCEDURES 511-RULE

An employee, or applicant for employment who believes that any part of the school organization has violated any law prohibiting discrimination or harassment based on a legally protected status in the workplace (including provisions prohibiting employer retaliation in connection with such laws) or that there has been a violation of the District's equal opportunity employment or harassment/bullying policy may bring forward a complaint as outlined below.

Any person presenting a report or complaint under these procedures who has concerns about safety, confidentiality, or retaliation should discuss those concerns with the designated complaint officer as early as possible in the process — preferably at or even prior to the time that a detailed report or complaint is filed.

In conjunction with the District's receipt of notice of any report or complaint of alleged discrimination, harassment, bullying, or retaliation under these procedures, the District shall consider (and a complainant may affirmatively request consideration of) any interim measures that should be taken before the final outcome of an investigation (e.g., safety planning or other steps needed to protect the complainant).

#### Informal Procedures

Anyone who believes he/she has a valid basis for a complaint may discuss the concern with the appropriate administrator prior to initiating a formal complaint. For purposes of this procedure, the "appropriate administrator" is defined as the following:

1. The building principal or any other alternative administrator with nondiscrimination compliance responsibilities; or
2. ~~The District Compliance Officer; or~~
2. If the complaint is against or involves the building principal or is against an individual to whom the principal reports, including a member of the School Board, the District Administrator; or
3. If the complaint is against the District Administrator, the Board President.

If the complaint is submitted to the building principal, District Administrator, or other administrator as identified above, that individual shall serve as, or designate, a complaint manager report the complaint to the District Compliance Officer. The ~~compliance officer~~ complaint manager shall be responsible for coordinating the processing of the complaint, including any attempt to mediate a possible resolution to the complaint, any investigation that may be necessary, and all communications with the individual(s) who submitted the complaint and other appropriate parties.

If the complaint is against the District Administrator or a Board member, then it is submitted to the Board President, who shall hire outside legal counsel. Legal counsel shall determine, in consultation with the complaining party and the Board President, whether it is in the District's best interest to attempt to mediate a resolution to the complaint or to process the informal complaint under the steps of the formal complaint procedure, as identified below.

#### Formal Complaint Procedure

**Step 1:** The complainant shall submit a signed complaint to the District Administrator or any other alternative administrator with nondiscrimination compliance responsibilities ~~Compliance Officer~~ who shall serve as or designate the complaint manager. A complainant should identify the individual(s) involved in the alleged discrimination or harassment and the date of the alleged incident(s), provide a description of the incident(s), and identify any potential witnesses. If the complainant is unwilling or unable to provide a written complaint containing this information, the District Compliance officer shall attempt to interview the complainant and prepare a written summary. The complainant will then be asked to review the summary for accuracy and sign it. Except as provided in the following paragraph, the District Administrator shall have responsibility to decide the merits of the case at Step 1, determine what actions will be taken (if any), and report in writing the resolution of the complaint to the appropriate parties complainant(s).

If the allegation is against the District Administrator, the complainant shall submit the Step 1 complaint directly to the Board President. The Board President shall engage outside legal counsel as the complaint manager, who shall recommend either of the following to the Board President following an investigation into the matters raised by the complaint: (1) That the complaint lacks merit and that the Board President may communicate that conclusion and resolution to the complaining

party; or (2) the complaint may have merit and/or that some degree of responsive or remedial action may be appropriate, and that legal counsel advises consultation with the full Board regarding such possible resolution. In conjunction with legal counsel, the Board President shall report in writing the resolution of the case to the complainant.

The District can usually respond most effectively to a complaint when a complaint is filed shortly after the occurrence of the event(s) giving rise to the complaint. In general, formal complaints under this procedure should be filed within 300 calendar days of the occurrence of the alleged unlawful, discriminatory, harassing, or retaliatory act(s), or within 300 days after the last occurrence of an ongoing condition. While there is no absolute deadline for the filing of a complaint under this procedure, it is important for complainants to be aware that gaps in time of even less than 300 days can make it more difficult to engage in fact-finding and/or may limit the remedies that are reasonably available from the District. The District, acting through the complaint manager, may determine that any complaint filed more than 300 days after the alleged act(s) occurred (or more than 300 days after the last occurrence of an ongoing condition) is not sufficiently timely to permit an investigation and/or possible remedy. A decision to dismiss a complaint because it is untimely may be appealed to the Board under Step 2, and the Board may either affirm the dismissal of the complaint for lack of timely filing or remand the complaint for further processing.

**Step 2:** If either party **the complainant or alleged responsible party** is dissatisfied with the decision of the District Administrator (or Board President or Board), he/she may appeal to the Board within ~~ten (10)~~ **twenty-one (21)** calendar days of the date **that he/she was notified of** the Step 1 written decision ~~is provided to the parties~~. Such appeal shall be delivered to the District Administrator or (if the District Administrator is the alleged perpetrator) to the Board President, District Legal Counsel. The individual receiving notice of the appeal on behalf of the School District shall immediately forward the appeal to the Board President, who shall arrange a meeting at which the Board will consider the appeal. If the Board issued the decision that is being appealed, the Board shall treat the appeal as a request for reconsideration.

**External Agency or Court Filing:** If either party is not satisfied with the Board's decision, or in lieu of utilizing the internal complaint procedures established by this procedure, the complainant may pursue alternate actions available under state or federal laws [e.g. appeal to State Superintendent of Public Instruction (for teachers and administrative staff), filing of complaint with the Equal Rights Division of the Department of Workforce Development, the U.S. Office for Civil Rights – Region V and/or any court having proper jurisdiction]. Any party with a complaint is solely responsible for determining the applicable outside agencies or courts with which a complaint may properly be filed and the applicable filing deadlines. Unless mandated by a state or federal law or regulation, pursuing an internal complaint under this procedure does not extend or toll the filing deadlines applicable to filing a complaint with an external agency or court. While it is not always necessary to pursue an internal complaint before filing a complaint with an external agency or court, all individuals are given notice that failure to follow an employer's internal procedure for giving notice of incidents and complaints can, in some cases, affect the individual's ability to seek remedies from an external agency or court.

The District's responses to discrimination complaints shall be made within any timelines established by law.

### **Maintenance of Complaint Records**

Records should be kept for each complaint filed and, at a minimum, should include the following:

1. The name and address of the complainant and his/her title or status.
2. The date the complaint was filed.
3. The specific allegation made and any corrective action requested by the complainant.
4. The name and address of the respondents.
5. The levels of processing followed, and the resolution, date and decision-making authority at each level.
6. A summary of facts and evidence presented by each party involved.
7. A determination of the facts, statement of the final resolution, and the nature and date(s) of any corrective or remedial action taken.

~~First Reading of Updates:~~ ~~July 13, 2020~~

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