

# HAZLETON AREA SCHOOL DISTRICT

SECTION: PUPILS

TITLE: UNLAWFUL HARASSMENT

ADOPTED: September 16, 2010

REVISED: August 18, 2011

<p>248. UNLAWFUL HARASSMENT</p>	
<p>1. Purpose</p>	<p>The Board strives to provide a safe, positive learning climate for students in the schools. Therefore, it shall be the policy of the district to maintain an educational environment in which harassment in any form is not tolerated.</p>
<p>2. Authority 43 P.S. Sec. 951 et seq Title IX 20 U.S.C. Sec. 1681 et seq 29 CFR Sec. 1606.8(a)</p>	<p>The Board prohibits all forms of unlawful harassment of students and third parties by all district students and staff members, contracted individuals, vendors, volunteers, and third parties in the schools. The Board encourages students and third parties who have been harassed to promptly report such incidents to the designated employees.</p> <p>The Board directs that complaints of harassment shall be investigated promptly, and corrective action be taken when allegations are substantiated. Confidentiality of all parties shall be maintained, consistent with the district's legal and investigative obligations.</p> <p>No reprisals nor retaliation shall occur as a result of good faith charges of harassment.</p>
<p>3. Definitions 29 CFR Sec. 1606.8(a) 66 Fed. Reg. 5512</p>	<p>For purposes of this policy, <b>harassment</b> shall consist of verbal, written, graphic or physical conduct relating to an individual's race, color, national origin/ethnicity, sex, age, disability, sexual orientation or religion when such conduct:</p> <ol style="list-style-type: none"> <li>1. Is sufficiently severe, persistent or pervasive that it affects an individual's ability to participate in or benefit from an educational program or activity or creates an intimidating, threatening or abusive educational environment.</li> <li>2. Has the purpose or effect of substantially or unreasonably interfering with an individual's academic performance.</li> <li>3. Otherwise adversely affects an individual's learning opportunities.</li> </ol>

<p>29 CFR Sec. 1604.11(a)</p>	<p>For purposes of this policy, <b>sexual harassment</b> shall consist of unwelcome sexual advances; requests for sexual favors; and other inappropriate verbal, written, graphic or physical conduct of a sexual nature when:</p> <ol style="list-style-type: none"> <li>1. Submission to such conduct is made explicitly or implicitly a term or condition of a student's academic status.</li> <li>2. Submission to or rejection of such conduct is used as the basis for academic or work decisions affecting the individual.</li> <li>3. Such conduct deprives a student of educational aid, benefits, services or treatment.</li> <li>4. Such conduct is sufficiently severe, persistent or pervasive that it has the purpose or effect of substantially interfering with the student's school performance or creating an intimidating, hostile or offensive educational environment.</li> </ol> <p>Examples of conduct that may constitute <b>sexual harassment</b> 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; or any conduct that has the effect of unreasonably interfering with a student's ability to work or learn or creates an intimidating, hostile or offensive learning or working environment.</p>
<p>4. Delegation of Responsibility Pol. 103</p>	<p>In order to maintain an educational environment that discourages and prohibits unlawful harassment, the Board designates the Director of Curriculum as the district's Compliance Officer.</p> <p>The Compliance Officer shall publish and disseminate this policy and the complaint procedure at least annually to students, parents/guardians, employees, independent contractors, vendors, volunteers, and the public. The publication shall include the position, office address and telephone number of the Compliance Officer. Information shall be disseminated by at least one (1) of the following methods:</p> <ol style="list-style-type: none"> <li>1. Distribution of written policy.</li> <li>2. Publication in handbooks/handouts.</li> <li>3. Presentation.</li> <li>4. Training sessions for staff.</li> </ol>

5. Posting of notice/signs.

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.

Each student shall be responsible to respect the rights of their fellow students and district employees and to ensure an atmosphere free from all forms of unlawful harassment.

Students shall be informed that they may choose to report unlawful harassment complaints to:

1. Building principals.
2. Teachers.
3. Counselors.
4. Nurses.
5. Administrators.
6. Security Officers.

Any staff member who receives unlawful harassment complaints from a student shall report such to the building principal.

The building principal or designee shall be responsible to complete the following duties when receiving a complaint of unlawful harassment:

1. Inform the student or third party of the right to file a complaint and the complaint procedure.
2. Inform the complainant that s/he may be accompanied by a parent/guardian during all steps of the complaint procedure.
3. Notify the complainant and the accused of the progress at appropriate stages of the procedure.

<p>5. Guidelines</p>	<p>4. Refer the complainant to the Compliance Officer if the building principal is the subject of the complaint.</p> <p>When a student or third party believes that s/he is being harassed, the student or third party should immediately inform the harasser that his/her behavior is unwelcome, offensive or inappropriate. If the unwelcome, offensive or inappropriate behavior continues, the student or third party shall follow the established complaint procedure.</p> <p><u>Complaint Procedure – Student/Third Party</u></p> <p><b>Step 1 – Reporting</b></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. The building principal or designated employee shall, as soon as possible, but in no later than two (2) days, inform the student or third party of his/her rights and the complaint procedure.</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 Compliance Officer.</p> <p>If the Compliance Officer is the subject of a complaint, the student, third party or staff member shall report the complaint directly to the Superintendent.</p> <p>If the Superintendent is the subject of the complaint, a report shall be made to the school district solicitor.</p> <p>The complainant or reporting employee is encouraged to use the report form available from the building principal, but oral complaints shall be acceptable.</p> <p><b>Step 2 – Investigation</b></p> <p>Upon receiving a complaint of unlawful harassment, the building principal shall immediately notify the Compliance Officer. The Compliance Officer may authorize the building principal to investigate the complaint. If the building principal is the subject of the complaint or is unable to conduct the investigation, then the Compliance Officer or his/her designee shall conduct the investigation.</p>
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	<p>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.</p> <p>In determining whether alleged conduct constitutes harassment, the totality of the circumstances, nature of the conduct, and context in which the alleged conduct occurred shall be investigated. The complainant and the accused shall be provided the opportunity to present witnesses and other evidence.</p> <p>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.</p> <p><b>Step 3 – Investigative Report</b></p> <p>The building principal, Compliance Officer or designee shall prepare a written report within five (5) school 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.</p> <p>The findings of the investigation shall be provided to the complainant, the accused, the Superintendent, the Compliance Officer and others directly involved, as appropriate.</p> <p><b>Step 4 – District Action</b></p> <p>If the investigation results in a finding that the complaint is factual and constitutes a violation of this policy, the district shall take prompt, disciplinary action. Also, action to ensure that such conduct ceases and will not recur shall be taken.</p> <p>Pol. 317 A substantiated charge against a district staff member, volunteer or independent contractors shall subject such person to appropriate contractual disciplinary and/or legal action, including discharge or discontinuation of services. If the conduct may involve a violation of criminal law, local law enforcement must be notified.</p> <p>Pol. 218, 233 A substantiated charge against a district student shall subject such student to disciplinary action, consistent with the Student Code of Conduct, and may include educational activities and/or counseling services related to unlawful harassment.</p> <p>Pol. 218, 233 If it is concluded that a student has made false accusations, such student shall be subject to disciplinary action, consistent with the Student Code of Conduct.</p>
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Appeal Procedure

1. If the complainant or accused is not satisfied with the disposition of the complaint, s/he may submit a written appeal to the Superintendent or designee within ten (10) days.
2. The Superintendent or designee shall review the investigation and the investigative report and may also conduct an investigation on his/her own.
3. The Superintendent or designee shall prepare a written response to the appeal within fifteen (15) days. Copies of the response shall be provided to the complainant, the accused, the building principal, the investigating individual and others directly involved, as appropriate.

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, 103.1, 218, 233, 317, 806

**REPORT FORM FOR COMPLAINTS OF UNLAWFUL HARASSMENT**

Complainant: \_\_\_\_\_  
Home Address: \_\_\_\_\_  
Home Phone: \_\_\_\_\_  
School Building: \_\_\_\_\_  
Date of Alleged Incident(s): \_\_\_\_\_

Alleged harassment was based on: (circle those that apply)

- |          |                    |                 |
|----------|--------------------|-----------------|
| Race     | Color              | National Origin |
| Gender   | Age                | Disability      |
| Religion | Sexual Orientation |                 |

Name of person you believe violated the district's unlawful harassment policy:  
\_\_\_\_\_

If the alleged discrimination was directed against another person, identify the other person:  
\_\_\_\_\_

Describe the incident as clearly as possible, including what force, if any, was used; verbal statements (i.e. threats, requests, demands, etc.); what, if any, physical contact was involved. Attach additional pages if necessary: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

When and where incident occurred: \_\_\_\_\_

List any witnesses who were present: \_\_\_\_\_  
\_\_\_\_\_

This complaint is based on my honest belief that \_\_\_\_\_ has harassed me or another person. I certify that the information I have provided in this complaint is true, correct and complete to the best of my knowledge.

\_\_\_\_\_  
Complainant's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Received By

\_\_\_\_\_  
Date