

REVISED POLICY - VOL. 24, NO. 2

NONDISCRIMINATION AND  
ACCESS TO EQUAL EDUCATIONAL OPPORTUNITY

The Board of Education does not discriminate on the basis of religion, race, color, national origin, sex, disability or age in its programs, activities or employment.

Further, it is the policy of this District to provide an equal opportunity for all students, regardless of gender, religion, race, color, national origin or ancestry, age, disability, marital status, place of residence within the boundaries of the District, or social or economic status, and/or any other legally protected characteristic, to learn through the curriculum offered in this District.

In order to achieve the aforesaid goal, the Board directs the Superintendent to:

A. Curriculum Content

review current and proposed courses of study and textbooks to detect any bias based on any legally protected interest; ascertaining whether or not supplemental materials, singly or taken as a whole, fairly depict the contribution of both genders, various races, ethnic groups, etc. toward the development of human society;

B. Staff Training

develop an ongoing program of in-service training for school personnel designed to identify and solve problems of any legally protected interest-or other bias in all aspects of the program;

C. Student Access

review current and proposed programs, activities, facilities, and practices to ensure that all students have equal access thereto and are not segregated on the basis of any legally protected interest in any duty, work, play, classroom, or school practice, except as may be permitted under State regulations;

This language does not prohibit the District from establishing and maintaining a single-gender school, class, or program within a school if a comparable school, class, or program is made available to students of each gender.

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D. District Support

ensure that like aspects of the District program receive like support as to staff size and compensation, purchase and maintenance of facilities and equipment, access to such facilities and equipment, and related matters;

E. Student Evaluation

ensure that tests, procedures, or guidance and counseling materials, which are designed to evaluate student progress, rate aptitudes, analyze personality, or in any manner establish or tend to establish a category by which a student may be judged, are not differentiated or stereotyped on the basis of any legally protected interest.

**The District will accommodate the use of certified service animals when there is an established need for such supportive aid in the school environment. Certain restrictions may be applied when necessary due to allergies, health, safety, disability or other issues of those in the classroom or school environment. The goal shall be to provide all students with the same access and participation opportunities provided to other students in school. Confirmation of disability, need for a service animal to access the school programming, and current certification/training of the service animal may be required.**

The Superintendent shall appoint and publicize the compliance officer whose responsibility it will be to ensure that Federal and State regulations are complied with and that any inquiries or complaints regarding discrimination or equal access are dealt with promptly in accordance with law. S/He shall also ensure that proper notice of nondiscrimination for Title II, Title VI, and VII of the Civil Rights Act of 1964, Title IX of the Education Amendment Act of 1972, and Section 504 of the Rehabilitation Act of 1973 is provided to students, their parents, staff members, and the general public.

The Superintendent shall attempt annually to identify children with disabilities, ages 0-25, who reside in the District but do not receive public education.

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In addition, s/he shall establish procedures to identify students who are Limited English Proficient (LEP), including immigrant children and youth, to assess their ability to participate in District programs, and develop and administer a program that meets the English language and academic needs of these students. This program shall include procedures for student placement, services, evaluation and exit guidelines and shall be designed to provide students with effective instruction that leads to academic achievement and timely acquisition of proficiency in English. As a part of this program, the District will evaluate the progress of students in achieving English language proficiency in the areas of listening, speaking, reading and writing, on an annual basis (also see Policy 2225).

The District will endeavor to assist the student and/or his/her parents in their access to District programs by providing notices to the parents and students in a language and format that they are likely to understand.

Materials approved by the State Department of Education describing the benefits of instruction in Braille reading and writing shall be provided to each blind student's individualized planning committee. The District shall not deny a student the opportunity for instruction in Braille, reading, and writing solely because the student has some remaining vision.

The Superintendent shall develop administrative guidelines as needed for the proper implementation of this policy.

M.C.L.A. 380.1146, 380.1704, 37.1101 et seq., 37.2402, 37.1402

M.C.L.A. 37.2101-37.2804

Fourteenth Amendment, U.S. Constitution

20 U.S.C. Section 1681, Title IX of Education Amendments Act

20 U.S.C. Section 1701 et seq., Equal Educational Opportunities Act of 1974

29 U.S.C. Section 794, Rehabilitation Act of 1973

42 U.S.C. Section 2000d et seq., Civil Rights Act of 1964

42 U.S.C. 12101 et seq., The Americans with Disabilities Act of 1990

Revised 7/96

Revised 9/00

Revised 11/12/01

Revised 11/13/06

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SECTION 504/ADA  
PROHIBITION AGAINST DISCRIMINATION BASED ON DISABILITY

Pursuant to Section 504 of the Rehabilitation Act of 1973 and its implementing regulations ("Section 504"), no otherwise qualified individual with a disability shall, solely by reason of his/her disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. The Board of Education does not discriminate in admission or access to, participation in, or treatment, or employment in, its programs or activities. As such, the Board's policies and practices will not discriminate against employees and students with disabilities, will provide equal opportunity for employment, and will make accessible to qualified individuals with disabilities its facilities, programs, and activities. No discrimination will be knowingly permitted against any individual with a disability on the sole basis of that disability in any of the programs, activities, policies, and/or practices in the District.

As used in this policy and the implementing administrative guidelines, "an individual with a disability" means a person who has, had a record of, or is regarded as having, a physical or mental impairment that substantially limits one or more major life activities. Major life activities are functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, **eating, sleeping, standing, lifting, bending**, speaking, breathing, learning, **reading, concentrating, thinking, communicating**, and working.

**Major life activities also include the operation of a major bodily function, including, but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.**

**An impairment that is episodic in nature or in remission is considered a disability if it would substantially limit a major life activity when active.**

**The determination of whether an impairment substantially interferes with a major life activity must be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, equipment or appliances, low-vision devices (not including ordinary eyeglasses or contact lenses), prosthetics (including limbs and devices), hearing aids and cochlear implants or other implantable hearing devices, mobility devices, oxygen therapy equipment or supplies, assistive technology, reasonable accommodations or auxiliary aids or services, or learned behavior or adaptive neurological modifications.**

With respect to employment, a qualified person with a disability means a disabled person who, with reasonable accommodation, can perform the essential functions of the job in question.

With respect to public preschool, elementary and secondary educational services, a qualified person with a disability means a disabled person:

- A. who is of an age during which nondisabled persons are provided educational services;
- B. who is of any age during which it is mandatory under Michigan law to provide educational services to disabled persons; or
- C. to whom the State is required to provide a free appropriate public education pursuant to the Individuals with Disabilities Education Improvement Act (IDEIA).

With respect to vocational education services, a qualified person with a disability means a disabled person who meets the academic and technical standards requisite to admission or participation in the vocational program or activity.

The Superintendent is the District's Section 504 Compliance Officer/ADA Coordinator ("**District** Compliance Officer(s)"). The **District** Compliance Officer is responsible for coordinating the District's efforts to comply with and fulfill its responsibilities under Section 504 and Title II of the Americans with Disabilities Act ("ADA"). A copy of the Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, including copies of their implementing regulations, may be obtained from the **District** Compliance Officer(s). The **District** Compliance Officer(s) can be reached at:

301 S. Kalamazoo St.  
Vicksburg, MI 49097  
269-321-1000 (phone number)

The **District** Compliance Officer will oversee the investigation of any complaints of discrimination based on disability, which may be filed pursuant to the Board's adopted ~~grievance~~ **internal complaint** procedure, and will attempt to resolve the ~~grievance~~ **such complaints**.

The **District** Compliance Officer will also oversee the training of employees in the District so that all employees understand their rights and responsibilities under Section 504 and the ADA, and are informed of the Board's policies, administrative guidelines and practices with respect to fully implementing and complying with the requirements of Section 504/ADA.

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## Discrimination Prohibited

In accordance with Section 504/ADA, no qualified individual with a disability shall, on the basis of disability, be subjected to discrimination in employment under any of the District's programs or activities. Further, the Board will take positive steps to employ and advance in employment qualified individuals with disabilities. The Board will not limit, segregate or classify applicants or employees in any way that adversely affects their opportunities or status because of disability. Additionally, the Board will not participate in any contractual or other relationships that have the effect of subjecting qualified individuals with disabilities who are applicants or employees to discrimination on the basis of disability.

## Reasonable Accommodation

The Board will make reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless the accommodation would impose an undue hardship on the operation of the District's program and/or activities.

## Facilities

No qualified person with a disability will, because the District's facilities are inaccessible to or unusable by persons with disabilities, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which Section 504/ADA applies.

**The For facilities constructed or altered after June 3, 1977, the District will comply with applicable accessibility standards. For those existing facilities constructed prior to June 3, 1977, the District is committed to operating its** programs and activities so that they are readily accessible to persons with disabilities. This includes, but is not limited to, providing accommodations to parents with disabilities who desire access to their child's educational program or meetings pertinent thereto. Programs and activities will be designed and scheduled so that the location and nature of the facility or area will not deny a student with a disability the opportunity to participate on the same basis as students without disabilities. The District will meet its obligation through such means as redesign of equipment, reassignment of classes or other services to accessible buildings, assignment of aides to beneficiaries, alteration of existing facilities and/or construction of new facilities, or any other method that results in making its programs and activities accessible to persons with disabilities. In choosing among available methods for meeting its obligations, the District will give priority to those methods that serve persons with disabilities in the most integrated setting appropriate.

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## Education

The Board is committed to identifying, evaluating, and providing a free appropriate public education (FAPE) to students within its jurisdiction who are disabled within the definition of Section 504, regardless of the nature or severity of their disabilities. ~~The Board recognizes and acknowledges that students may be disabled and eligible for services under Section 504 even though they do not qualify for or require special education and/or related services pursuant the IDEIA. Students eligible for services under the IDEIA will be served under existing special education programs.~~

~~If a student has a physical or mental impairment that significantly limits his/her learning, but does not require specially designed instruction to benefit educationally, the student will be eligible for reasonable, but more than standard, accommodations and/or modifications of the regular classroom or curriculum in order to have the same access to an education as students without disabilities. Such accommodations and/or modifications will be provided pursuant to a Section 504 Accommodation Plan (Form 2260.01A F13)~~ **one or more major life activities, the Board will provide the student with a free appropriate public education. An appropriate education, may include regular or special education and related aids and services to accommodate the unique needs of students with disabilities. For disabled students who are not eligible for specially designed instruction under IDEIA, the related aids and services (including accommodations/modifications/interventions) they need in order to have their needs met as adequately as the needs of nondisabled students are met, shall be delineated, along with their placement, in a Section 504 Plan (Form 2260.01A F13).**

~~If a student has a physical or mental impairment, but it does not significantly limit his/her learning, the student will not be entitled to a Section 504 Accommodation Plan, but s/he may still be eligible for a "Classroom Accommodation/Checklist" (Form 2260.01A F14).~~

Parent(s)/guardian(s)/custodian(s) ("parents") are invited and encouraged to participate fully in the evaluation process. If the parents disagree with the determination made by the District's professional staff, they may **file an internal complaint**, request a hearing with an impartial hearing officer, **or file a complaint with the Office for Civil Rights.**

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The Board is committed to educating (or providing for the education of) each qualified person with a disability who resides within the District with persons who are not disabled to the maximum extent appropriate ~~to the needs of the person with disabilities~~. Generally, the District will place a person with a disability in the regular educational environment unless it is demonstrated that the education of the person in the regular environment **even** with the use of supplementary aids and services cannot be achieved satisfactorily. If the District places a person in a setting other than the regular educational environment, it shall take into account the proximity of the alternate setting to the person's home.

The District will provide non-academic extracurricular services and activities in such a manner as is necessary to afford qualified persons with disabilities an equal opportunity for participation in such services and activities. Nonacademic and extracurricular services and activities may include counseling services, physical recreational athletics, transportation, health services, recreational activities, special interests groups or clubs sponsored by the District, referrals to agencies that provide assistance to persons with disabilities, and employment of students. In providing or arranging for the provision of meals and recess periods, and nonacademic and extracurricular services and activities, including those listed above, the District will verify that persons with disabilities participate with persons without disabilities in such activities and services to the maximum extent appropriate ~~to the needs of the person with a disability in question~~.

Notice of the Board's policy on nondiscrimination in employment and education practices and the identity of the District's ~~Section 504/ADA~~ Compliance Officer(s) will be posted throughout the District, and published in the District's recruitment statements or general information publications.

The Board directs the Superintendent to prepare administrative guidelines for facilitating the prompt, fair and appropriate identification, referral, evaluation and placement of students with disabilities ~~who qualify for accommodations under~~ **in accordance with** Section 504.

The Board will provide in-service training and consultation to staff on the education of persons with disabilities, as necessary and appropriate.



| The Board will ~~adopt~~**utilize** a system of procedural safeguards that will provide for prompt and equitable resolution of complaints alleging violations of Section 504/ADA. Due process rights of students with disabilities and their parents under Section 504 will be enforced.

29 C.F.R. Part 1630

34 C.F.R. Part 104

29 U.S.C. 794, Section 504 Rehabilitation Act of 1973, as amended,

| 42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, **as amended**

Adopted 4/13/09

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NONDISCRIMINATION BASED ON GENETIC  
INFORMATION OF THE EMPLOYEE

The Board of Education does not discriminate against any employee or applicant for employment with respect to hiring, compensation, terms, conditions, or privileges of employment based on genetic information. The Board also does not limit, segregate, or classify employees in any way that would deprive or tend to deprive them of employment opportunities or otherwise adversely affect the status of an employee as an employee, based on genetic information. Retaliation against an applicant or employee for engaging in protected activity is prohibited.

The Board shall only acquire and/or disclose genetic information of an employee or applicant for employment as provided by Federal law and regulation.

The Superintendent shall appoint a compliance officer whose responsibility it will be to ensure that Federal regulations are complied with and that any inquires or complaints are dealt with promptly in accordance with law. S/He shall also ensure that proper notice of nondiscrimination for Title II of the Genetic Information Nondiscrimination Act of 2008 is provided to staff members.

**[NOTE: It should be noted that any sections of the District's collective bargaining agreements dealing with terms and conditions of employment should contain a statement of nondiscrimination similar to that in the Board's statement above.]**

29 C.F.R. Part 1635  
42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act

**REPLACEMENT POLICY - VOL. 24, NO. 2**

**ANTI-HARASSMENT**

**General Policy Statement**

It is the policy of the Board of Education to maintain an education and work environment which is free from all forms of unlawful harassment, including sexual harassment. This commitment applies to all School District operations, programs, and activities. All students, administrators, teachers, staff, and all other school personnel share responsibility for avoiding, discouraging, and reporting any form of unlawful harassment. This policy applies to unlawful conduct occurring on school property, or at another location if such conduct occurs during an activity sponsored by the Board.

The Board will vigorously enforce its prohibition against harassment based on sex, race, color, national origin, religion, disability, genetic information, or any other unlawful basis, and encourages those within the School District community as well as third parties, who feel aggrieved to seek assistance to rectify the problems. The Board will investigate all allegations of harassment and in those cases where unlawful harassment is substantiated, the Board will take immediate steps to end the harassment. Individuals who are found to have engaged in unlawful harassment will be subject to appropriate disciplinary action.

For purposes of this policy, "School District community" means students, administrators, teachers, staff, and all other school personnel, including Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

For purposes of this policy, "third parties" include, but are not limited to, guests and/or visitors on School District property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with, the Board, and other individuals who come in contact with members of the School District community at school-related events/activities (whether on or off School District property).

**Other Violations of the Anti-Harassment Policy**

The Board will also take immediate steps to impose disciplinary action on individuals engaging in any of the following prohibited acts:

- A. Retaliating against a person who has made a report or filed a complaint alleging harassment, or who has participated as a witness in a harassment investigation.

- B. Filing a malicious or knowingly false report or complaint of harassment.
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of harassment, when responsibility for reporting and/or investigating harassment charges comprises part of one's supervisory duties.

## Definitions

### Sexual Harassment

Pursuant to Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972, "sexual harassment" is defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- A. Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment, or status in a class, educational program, or activity;
- B. Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual;
- C. Such conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity.

Sexual harassment may involve the behavior of a person of either gender against a person of the same or opposite gender.

Prohibited acts that constitute sexual harassment may take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

- A. Unwelcome sexual propositions, invitations, solicitations, and flirtations.
- B. Physical assault.

- C. Threats or insinuations that a person's employment, wages, academic grade, promotion, classroom work or assignments, academic status, participation in athletics or extra-curricular programs or events, or other conditions of employment or education may be adversely affected by not submitting to sexual advances.
- D. Unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls.
- E. Sexually suggestive objects, pictures, videotapes, audio recordings or literature, placed in the work or educational environment, which may embarrass or offend individuals.
- F. Unwelcome and inappropriate touching, patting, or pinching; obscene gestures.
- G. A pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or humiliation to another.
- H. Remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history.
- I. In the context of employees, consensual sexual relationships where such relationship leads to favoritism of a subordinate employee with whom the superior is sexually involved and where such favoritism adversely affects other employees or otherwise creates a hostile work environment.
- J. Inappropriate boundary invasions by a District employee or other adult member of the School District community into a student's personal space and personal life.

Not all behavior with sexual connotations constitutes unlawful sexual harassment. Conduct must be sufficiently severe, pervasive, and persistent such that it adversely affects an individual's employment or education, or such that it creates a hostile or abusive employment or educational environment.

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**NOTE: Sexual conduct/relationships with students by District employees or any other adult member of the School District community is prohibited, and any teacher, administrator, coach, or other school authority who engages in sexual conduct with a student may also be guilty of the criminal charge of "sexual battery". The issue of consent is irrelevant in regard to such criminal charge and/or with respect to the application of this policy to District employees or other adult members of the School District community.**

## **Race/Color Harassment**

Prohibited racial harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race or color and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references relative to racial customs.

## **Religious (Creed) Harassment**

Prohibited religious harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's religion or creed and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's religious tradition, clothing, or surnames, and/or involves religious slurs.

## **National Origin Harassment**

Prohibited national origin harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's national origin and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's national origin, such as negative comments regarding customs, manner of speaking, language, surnames, or ethnic slurs.

## Disability Harassment

Prohibited disability harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's disability and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's disabling condition, such as negative comments about speech patterns, movement, physical impairments or defects/appearances, or the like. Sexual harassment may further occur where conduct is directed at or pertains to a person's genetic information.

## Reports and Complaints of Harassing Conduct

Members of the School District community and third parties are encouraged to promptly report incidents of harassing conduct to an administrator, supervisor or other School District official so that the Board may address the conduct before it becomes severe, pervasive, or persistent.

Members of the School District community or third parties who believe they have been unlawfully harassed by another member of the School District community or a third party are entitled to utilize the Board's complaint process. Initiating a complaint, whether formally or informally, will not adversely affect the complaining individual's employment or participation in educational or extra-curricular programs. While there are no time limits for initiating complaints of harassment under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

The names and titles of the Anti-Harassment Complaint Coordinators with whom complaints of sexual and other forms of unlawful harassment should be filed are set forth in the administrative guidelines that supplement this policy. The names and titles of these individuals will be published annually on the School District's web site.

The Superintendent shall establish administrative guidelines describing both a formal and an informal process for making a charge of harassment, a process for investigating claims of harassment, and a process for rendering a decision regarding whether the claim of harassment was substantiated. This policy and the administrative guidelines will be readily available to all members of the School District community and posted in appropriate places throughout the School District.

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Any Board employee who directly observes unlawful harassment of a student is obligated, in accordance with this policy, to report such observations to one of the Complaint Coordinators. Thereafter, the Complaint Coordinator must contact the student, if age eighteen (18) or older, or the student's parents if under the age eighteen (18), to advise s/he/them of the Board's intent to investigate the alleged misconduct, including the obligation of the Complaint Coordinator or designee to conduct an investigation following all the procedures outlined for a formal complaint.

### **Privacy/Confidentiality**

The School District will respect the privacy of the complainant, the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. All records generated under the terms of this policy and its related administrative guidelines shall be maintained as confidential to the extent permitted by law.

### **Informal Process for Addressing Complaints of Harassment**

The administrative guidelines will include an informal complaint process to provide members of the School District community or third parties who believe they are being unlawfully harassed with a range of options designed to bring about a resolution of their concerns. Members of the School District community or third parties who believe that they have been unlawfully harassed may initiate their complaint through this informal complaint process, but are not required to do so. The administrative guidelines will include as a requirement the prerequisite that the informal process is only available in those circumstances where the parties (alleged target of harassment and alleged harasser(s)) agree to participate in the informal process. Those members of the School District community or third parties who believe that they have been unlawfully harassed may proceed immediately to the formal complaint process and individuals who seek resolution through the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process. However, all complaints of harassment involving a District employee or any other adult member of the School District community against a student will be formally investigated.



## Formal Process for Addressing Complaints of Harassment

The administrative guidelines will also include a formal complaint process. While the formal complaint process may serve as the first step to resolution of a charge of unlawful harassment, it is also available in those circumstances when the informal complaint process fails to satisfactorily resolve a concern. Because of the need for flexibility, no specific time lines are established for initiating the formal complaint process; however, once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within thirty-one (31) calendar days of the complaint being received).

Members of the School District community or third parties who feel they have been unlawfully harassed should file a formal written complaint with the principal of their school building or with one of the Complaint Coordinators identified in the administrative guidelines. Oral complaints of harassment will be reduced to writing by the individual receiving the complaint and the Complainant will be asked to verify the accuracy of the reported charge by signing the document. Complaints received by a school building principal will be immediately reported to the appropriate Complaint Coordinator identified in the administrative guidelines.

After a complaint is filed, the Complaint Coordinator or designee shall conduct a prompt and timely investigation. The investigation may include interviews of the complainant, the individual accused of engaging in harassing behavior, and any other witness who may reasonably be expected to have information relevant to the situation. All interviewed parties and witnesses will be provided an opportunity to present any evidence that they reasonably believe to be relevant to the situation.

At the conclusion of the investigation the Complaint Coordinator or designee will prepare and deliver to the Superintendent a written report summarizing the evidence gathered during the investigation and providing his/her recommendations regarding whether or not the complaint of unlawful harassment has been substantiated. The written report must be based on the totality of the circumstances involved in the complaint, the nature of the alleged conduct, the context in which the alleged conduct occurred, and the ages and maturity of the individuals involved.

Upon review of the written report the Superintendent will either issue a final decision regarding whether or not the complaint of unlawful harassment was substantiated, or request that further investigation be conducted. A copy of Superintendent's action will be delivered to both the Complainant and the individual accused of the harassing conduct.

The decision of the Superintendent shall be final.

The Complaint process set forth in the policy and in the administrative guidelines is not intended to interfere with the rights of a member of the School District community or a third party to pursue a complaint of unlawful harassment with the United States Department of Education, Office for Civil Rights, the Michigan Civil Rights Commission, or the Equal Employment Opportunity Commission.

The Board reserves the right to investigate and resolve a complaint or report of unlawful harassment regardless of whether the member of the School District community or third party alleging the harassment pursues the complaint. The Board also reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy and administrative guidelines or in such other manner as deemed appropriate by the Board or its designee.

### **Sanctions and Monitoring**

The Board shall vigorously enforce its prohibitions against unlawful harassment. While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s). When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the ages and maturity levels of those involved. In those cases where unlawful harassment is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s).

Where the Board becomes aware that a prior remedial action has been taken against a member of the School District community, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to eliminate such conduct in the future.

## Education and Training

In support of this Anti-Harassment Policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Superintendent or designee shall provide appropriate training to all members of the School District community related to the implementation of this policy and its accompanying administrative guidelines. All training regarding the Board's policy and administrative guidelines and harassment in general, will be age and content appropriate.

Titles VI and VII of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq.  
29 U.S.C. 621 et seq.  
42 U.S.C. 2000e et seq.  
42 U.S.C. 1983  
42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act  
29 C.F.R. Part 1635  
Title IX of the Educational Amendments of 1972, 20 U.S.C. 1681 et seq.  
Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794  
The Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq.  
The Handicappers' Civil Rights Act, M.C.L.A. 37.1101 et seq.  
The Elliott-Larsen Civil Rights Act, M.C.L.A. 37.2101, et seq.  
Policies on Bullying, Michigan State Board of Education, 7-19-01  
Model Anti-bullying Policy, Michigan State Board of Education, 09-2006  
National School Boards Association Inquiry and Analysis – May 2008

Revised 9/00  
Revised 1/8/07  
Revised 10/8/07

NEW POLICY - VOL. 24, NO. 2

NONDISCRIMINATION BASED ON GENETIC  
INFORMATION OF THE EMPLOYEE

The Board of Education does not discriminate against any employee or applicant for employment with respect to hiring, compensation, terms, conditions, or privileges of employment based on genetic information. The Board also does not limit, segregate, or classify employees in any way that would deprive or tend to deprive them of employment opportunities or otherwise adversely affect the status of an employee as an employee, based on genetic information. Retaliation against an applicant or employee for engaging in protected activity is prohibited.

The Board shall only acquire and/or disclose genetic information of an employee or applicant for employment as provided by Federal law and regulation.

The Superintendent shall appoint a compliance officer whose responsibility it will be to ensure that Federal regulations are complied with and that any inquires or complaints are dealt with promptly in accordance with law. S/He shall also ensure that proper notice of nondiscrimination for Title II of the Genetic Information Nondiscrimination Act of 2008 is provided to staff members.

**[NOTE: It should be noted that any sections of the District's collective bargaining agreements dealing with terms and conditions of employment should contain a statement of nondiscrimination similar to that in the Board's statement above.]**

29 C.F.R. Part 1635  
42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act

REPLACEMENT POLICY - VOL. 24, NO. 2

ANTI-HARASSMENT

General Policy Statement

It is the policy of the Board of Education to maintain an education and work environment which is free from all forms of unlawful harassment, including sexual harassment. This commitment applies to all School District operations, programs, and activities. All students, administrators, teachers, staff, and all other school personnel share responsibility for avoiding, discouraging, and reporting any form of unlawful harassment. This policy applies to unlawful conduct occurring on school property, or at another location if such conduct occurs during an activity sponsored by the Board.

The Board will vigorously enforce its prohibition against harassment based on sex, race, color, national origin, religion, disability, genetic information, or any other unlawful basis, and encourages those within the School District community as well as third parties, who feel aggrieved to seek assistance to rectify the problems. The Board will investigate all allegations of harassment and in those cases where unlawful harassment is substantiated, the Board will take immediate steps to end the harassment. Individuals who are found to have engaged in unlawful harassment will be subject to appropriate disciplinary action.

For purposes of this policy, "School District community" means students, administrators, teachers, staff, and all other school personnel, including Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

For purposes of this policy, "third parties" include, but are not limited to, guests and/or visitors on School District property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with, the Board, and other individuals who come in contact with members of the School District community at school-related events/activities (whether on or off School District property).

Other Violations of the Anti-Harassment Policy

The Board will also take immediate steps to impose disciplinary action on individuals engaging in any of the following prohibited acts:

- A. Retaliating against a person who has made a report or filed a complaint alleging harassment, or who has participated as a witness in a harassment investigation.

- B. Filing a malicious or knowingly false report or complaint of harassment.
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of harassment, when responsibility for reporting and/or investigating harassment charges comprises part of one's supervisory duties.

## Definitions

### Sexual Harassment

Pursuant to Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972, "sexual harassment" is defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- A. Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment, or status in a class, educational program, or activity;
- B. Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual;
- C. Such conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity.

Sexual harassment may involve the behavior of a person of either gender against a person of the same or opposite gender.

Prohibited acts that constitute sexual harassment may take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

- A. Unwelcome sexual propositions, invitations, solicitations, and flirtations.
- B. Physical assault.

- C. Threats or insinuations that a person's employment, wages, academic grade, promotion, classroom work or assignments, academic status, participation in athletics or extra-curricular programs or events, or other conditions of employment or education may be adversely affected by not submitting to sexual advances.
- D. Unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls.
- E. Sexually suggestive objects, pictures, videotapes, audio recordings or literature, placed in the work or educational environment, which may embarrass or offend individuals.
- F. Unwelcome and inappropriate touching, patting, or pinching; obscene gestures.
- G. A pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or humiliation to another.
- H. Remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history.
- I. In the context of employees, consensual sexual relationships where such relationship leads to favoritism of a subordinate employee with whom the superior is sexually involved and where such favoritism adversely affects other employees or otherwise creates a hostile work environment.
- J. Inappropriate boundary invasions by a District employee or other adult member of the School District community into a student's personal space and personal life.

Not all behavior with sexual connotations constitutes unlawful sexual harassment. Conduct must be sufficiently severe, pervasive, and persistent such that it adversely affects an individual's employment or education, or such that it creates a hostile or abusive employment or educational environment.

**NOTE: Sexual conduct/relationships with students by District employees or any other adult member of the School District community is prohibited, and any teacher, administrator, coach, or other school authority who engages in sexual conduct with a student may also be guilty of the criminal charge of "sexual battery". The issue of consent is irrelevant in regard to such criminal charge and/or with respect to the application of this policy to District employees or other adult members of the School District community.**

### **Race/Color Harassment**

Prohibited racial harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race or color and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references relative to racial customs.

### **Religious (Creed) Harassment**

Prohibited religious harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's religion or creed and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's religious tradition, clothing, or surnames, and/or involves religious slurs.

### **National Origin Harassment**

Prohibited national origin harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's national origin and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's national origin, such as negative comments regarding customs, manner of speaking, language, surnames, or ethnic slurs.



## **Disability Harassment**

Prohibited disability harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's disability and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's disabling condition, such as negative comments about speech patterns, movement, physical impairments or defects/appearances, or the like. Such harassment may further occur where conduct is directed at or pertains to a person's genetic information.

## **Reports and Complaints of Harassing Conduct**

Members of the School District community and third parties are encouraged to promptly report incidents of harassing conduct to an administrator, supervisor or other School District official so that the Board may address the conduct before it becomes severe, pervasive, or persistent.

Members of the School District community or third parties who believe they have been unlawfully harassed by another member of the School District community or a third party are entitled to utilize the Board's complaint process. Initiating a complaint, whether formally or informally, will not adversely affect the complaining individual's employment or participation in educational or extra-curricular programs. While there are no time limits for initiating complaints of harassment under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

The names and titles of the Anti-Harassment Complaint Coordinators with whom complaints of sexual and other forms of unlawful harassment should be filed are set forth in the administrative guidelines that supplement this policy. The names and titles of these individuals will be published annually on the School District's web site.

The Superintendent shall establish administrative guidelines describing both a formal and an informal process for making a charge of harassment, a process for investigating claims of harassment, and a process for rendering a decision regarding whether the claim of harassment was substantiated. This policy and the administrative guidelines will be readily available to all members of the School District community and posted in appropriate places throughout the School District.

# policy

**BOARD OF EDUCATION  
VICKSBURG COMMUNITY SCHOOLS**

SUPPORT STAFF  
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Any Board employee who directly observes unlawful harassment of a student is obligated, in accordance with this policy, to report such observations to one of the Complaint Coordinators. Thereafter, the Complaint Coordinator must contact the student, if age eighteen (18) or older, or the student's parents if under the age eighteen (18), to advise s/he/them of the Board's intent to investigate the alleged misconduct, including the obligation of the Complaint Coordinator or designee to conduct an investigation following all the procedures outlined for a formal complaint.

### **Privacy/Confidentiality**

The School District will respect the privacy of the complainant, the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. All records generated under the terms of this policy and its related administrative guidelines shall be maintained as confidential to the extent permitted by law.

### **Informal Process for Addressing Complaints of Harassment**

The administrative guidelines will include an informal complaint process to provide members of the School District community or third parties who believe they are being unlawfully harassed with a range of options designed to bring about a resolution of their concerns. Members of the School District community or third parties who believe that they have been unlawfully harassed may initiate their complaint through this informal complaint process, but are not required to do so. The administrative guidelines will include as a requirement the prerequisite that the informal process is only available in those circumstances where the parties (alleged target of harassment and alleged harasser(s)) agree to participate in the informal process. Those members of the School District community or third parties who believe that they have been unlawfully harassed may proceed immediately to the formal complaint process and individuals who seek resolution through the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process. However, all complaints of harassment involving a District employee or any other adult member of the School District community against a student will be formally investigated.

## Formal Process for Addressing Complaints of Harassment

The administrative guidelines will also include a formal complaint process. While the formal complaint process may serve as the first step to resolution of a charge of unlawful harassment, it is also available in those circumstances when the informal complaint process fails to satisfactorily resolve a concern. Because of the need for flexibility, no specific time lines are established for initiating the formal complaint process; however, once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within thirty-one (31) calendar days of the complaint being received).

Members of the School District community or third parties who feel they have been unlawfully harassed should file a formal written complaint with the principal of their school building or with one of the Complaint Coordinators identified in the administrative guidelines. Oral complaints of harassment will be reduced to writing by the individual receiving the complaint and the Complainant will be asked to verify the accuracy of the reported charge by signing the document. Complaints received by a school building principal will be immediately reported to the appropriate Complaint Coordinator identified in the administrative guidelines.

After a complaint is filed, the Complaint Coordinator or designee shall conduct a prompt and timely investigation. The investigation may include interviews of the complainant, the individual accused of engaging in harassing behavior, and any other witness who may reasonably be expected to have information relevant to the situation. All interviewed parties and witnesses will be provided an opportunity to present any evidence that they reasonably believe to be relevant to the situation.

At the conclusion of the investigation the Complaint Coordinator or designee will prepare and deliver to the Superintendent a written report summarizing the evidence gathered during the investigation and providing his/her recommendations regarding whether or not the complaint of unlawful harassment has been substantiated. The written report must be based on the totality of the circumstances involved in the complaint, the nature of the alleged conduct, the context in which the alleged conduct occurred, and the ages and maturity of the individuals involved.

Upon review of the written report the Superintendent will either issue a final decision regarding whether or not the complaint of unlawful harassment was substantiated, or request that further investigation be conducted. A copy of Superintendent's action will be delivered to both the Complainant and the individual accused of the harassing conduct.

The decision of the Superintendent shall be final.

The Complaint process set forth in the policy and in the administrative guidelines is not intended to interfere with the rights of a member of the School District community or a third party to pursue a complaint of unlawful harassment with the United States Department of Education, Office for Civil Rights, the Michigan Civil Rights Commission, or the Equal Employment Opportunity Commission.

The Board reserves the right to investigate and resolve a complaint or report of unlawful harassment regardless of whether the member of the School District community or third party alleging the harassment pursues the complaint. The Board also reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy and administrative guidelines or in such other manner as deemed appropriate by the Board or its designee.

### **Sanctions and Monitoring**

The Board shall vigorously enforce its prohibitions against unlawful harassment. While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s). When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the ages and maturity levels of those involved. In those cases where unlawful harassment is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s).

Where the Board becomes aware that a prior remedial action has been taken against a member of the School District community, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to eliminate such conduct in the future.

## Education and Training

In support of this Anti-Harassment Policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Superintendent or designee shall provide appropriate training to all members of the School District community related to the implementation of this policy and its accompanying administrative guidelines. All training regarding the Board's policy and administrative guidelines and harassment in general, will be age and content appropriate.

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Policies on Bullying, Michigan State Board of Education, 7-19-01  
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## **Race/Color Harassment**

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## **Reports and Complaints of Harassing Conduct**

Members of the School District community and third parties are encouraged to promptly report incidents of harassing conduct to an administrator, supervisor or other School District official so that the Board may address the conduct before it becomes severe, pervasive, or persistent.

Members of the School District community or third parties who believe they have been unlawfully harassed by another member of the School District community or a third party are entitled to utilize the Board's complaint process. Initiating a complaint, whether formally or informally, will not adversely affect the complaining individual's employment or participation in educational or extra-curricular programs. While there are no time limits for initiating complaints of harassment under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

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At the conclusion of the investigation the Complaint Coordinator or designee will prepare and deliver to the Superintendent a written report summarizing the evidence gathered during the investigation and providing his/her recommendations regarding whether or not the complaint of unlawful harassment has been substantiated. The written report must be based on the totality of the circumstances involved in the complaint, the nature of the alleged conduct, the context in which the alleged conduct occurred, and the ages and maturity of the individuals involved.

Upon review of the written report the Superintendent will either issue a final decision regarding whether or not the complaint of unlawful harassment was substantiated, or request that further investigation be conducted. A copy of Superintendent's action will be delivered to both the Complainant and the individual accused of the harassing conduct.

The decision of the Superintendent shall be final.

The Complaint process set forth in the policy and in the administrative guidelines is not intended to interfere with the rights of a member of the School District community or a third party to pursue a complaint of unlawful harassment with the United States Department of Education, Office for Civil Rights, the Ohio Civil Rights Commission, or the Equal Employment Opportunity Commission.

The Board reserves the right to investigate and resolve a complaint or report of unlawful harassment regardless of whether the member of the School District community or third party alleging the harassment pursues the complaint. The Board also reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy and administrative guidelines or in such other manner as deemed appropriate by the Board or its designee.

### **Sanctions and Monitoring**

The Board shall vigorously enforce its prohibitions against unlawful harassment. While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s). When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the ages and maturity levels of those involved. In those cases where unlawful harassment is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s).

Where the Board becomes aware that a prior remedial action has been taken against a member of the School District community, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to eliminate such conduct in the future.

## **Education and Training**

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