Investigation and Complaint Procedure

Any student, employee or other member of the School District community or third party (e.g., visitor to the District) who believes that s/he has been subjected to unlawful harassment may seek resolution of his/her complaint through either the informal or formal procedures as described below. Further, a process for investigating claims of harassment and a process for rendering a decision regarding whether the claim of legally prohibited harassment was substantiated are set forth below.

Due to the sensitivity surrounding complaints of unlawful harassment, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) business days of the complaint being received).

The informal and formal procedures set forth below are not intended to interfere with the rights of any individual to pursue a complaint of unlawful harassment or retaliation with the United States Department of Education Office for Civil Rights or Equal Employment Opportunity Commission (“EEOC”).

Informal Complaint Procedure

The goal of the informal complaint procedure is to stop inappropriate behavior and to investigate and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for a student, other member of the School District community, or third party who believes s/he has been unlawfully harassed or retaliated against. This informal procedure is not required as a precursor to the filing of a formal complaint and will only be utilized where the parties (alleged target of harassment and alleged harasser(s)) agree to participate in such process.

Employees, other members of the School District community, or third parties who believe that they have been unlawfully harassed or retaliated against 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, any other adult member of the School District community, or a third party against a student will be formally investigated. Similarly, any allegations of sexual violence will be formally investigated.

As an initial course of action, if an individual feels that s/he is being unlawfully harassed and s/he is able and feels safe doing so, the individual should tell or otherwise inform the harasser that the conduct is unwelcome and must stop. Such direct communication should not be utilized in circumstances involving sexual violence. The complaining individual should address the allegedly harassing conduct as soon after it occurs as possible. The Compliance Officers are available to support and counsel individuals when taking this initial step or to intervene on behalf
of the individual if requested to do so. An individual who is uncomfortable or unwilling to inform
the harasser of his/her complaint is not prohibited from otherwise filing an informal or a formal
complaint. In addition, with regard to certain types of unlawful harassment, such as sexual
harassment, the Compliance Officer may advise against the use of the informal complaint
process.

An individual who believes s/he has been unlawfully harassed may make an informal complaint,
either orally or in writing: (1) to a teacher, other employee, or building administrator; (2) directly
to one (1) of the Compliance Officers; and/or (3) to the Superintendent or other District-level
employee.

All informal complaints must be reported to one (1) of the Compliance Officers who will either
facilitate an informal resolution as described below on his/her own, or appoint another individual
to facilitate an informal resolution.

The School District's informal complaint procedure is designed to provide employees, other
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.
Depending upon the nature of the complaint and the wishes of the individual claiming unlawful
harassment, informal resolution may involve, but not be limited to, one or more of the following:

A. Advising the individual about how to communicate the unwelcome
   nature of the behavior to the alleged harasser.

B. Distributing a copy of the anti-harassment policy as a reminder to
   the individuals in the school building or office where the individual
   whose behavior is being questioned works or attends.

C. If both parties agree, the Compliance Officer may arrange and
   facilitate a meeting between the individual claiming harassment
   and the individual accused of harassment to work out a mutual
   resolution. Such a meeting is not appropriate in circumstances
   involving sexual violence.

While there are no set time limits within which an informal complaint must be resolved, the
Compliance Officer or designee will exercise his/her authority to attempt to resolve all informal
complaints within fifteen (15) business days of receiving the informal complaint. Parties who are
dissatisfied with the results of the informal complaint process may proceed to file a formal
complaint. And, as stated above, parties may request that the informal process be terminated at
any time to move to the formal complaint process.

All materials generated as part of the informal complaint process will be retained by the
Compliance Officers in accordance with the Board's records retention policy and/or Student
Records policy. (See Policy 8310 and Policy 8330)
Formal Complaint Procedure

If a complaint is not resolved through the informal complaint process, if one (1) of the parties has requested that the informal complaint process be terminated to move to the formal complaint process, or if the individual elects to file a formal complaint initially, the formal complaint process shall be implemented.

An individual who believes she/he has been subjected to offensive conduct/harassment/retaliation hereinafter referred to as the "Complainant", may file a formal complaint, either orally or in writing, with a teacher, Principal, the Compliance Officer, Superintendent, or other District employee. Due to the sensitivity surrounding complaints of unlawful harassment and retaliation, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. If a Complainant informs a teacher, Principal, Superintendent, or other District employee, either orally or in writing, about any complaint of harassment or retaliation, that employee must report such information to the Compliance Officer or designee within two (2) business days.

Throughout the course of the process, the Compliance Officer should keep the parties informed of the status of the investigation and the decision making process.

All formal complaints must include the following information to the extent it is available: the identity of the individual believed to have engaged in, or be engaging in, offensive conduct/harassment/retaliation; a detailed description of the facts upon which the complaint is based; a list of potential witnesses; and the resolution sought by the Complainant.

If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the Compliance Officer shall ask for such details in an oral interview. Thereafter, the Compliance Officer will prepare a written summary of the oral interview, and the Complainant will be asked to verify the accuracy of the reported charge by signing the document.

Upon receiving a formal complaint, the Compliance Officer will consider whether any action should be taken in the investigatory phase to protect the Complainant from further harassment or retaliation, including, but not limited to, a change of work assignment or schedule for the Complainant and/or the alleged harasser. In making such a determination, the Compliance Officer should consult the Complainant to assess his/her agreement to the proposed action. If the Complainant is unwilling to consent to the proposed change, the Compliance Officer may still take whatever actions s/he deem appropriate in consultation with the Superintendent.

Within two (2) business days of receiving the complaint, the Compliance Officer or a designee will initiate a formal investigation to determine whether the Complainant has been subjected to offensive conduct/harassment/retaliation.

Simultaneously, the Compliance Officer will inform the individual alleged to have engaged in the harassing or retaliatory conduct, hereinafter referred to as the "Respondent", that a complaint has been received. The Respondent will be informed about the nature of the allegations and provided with a copy of any relevant Administrative Guidelines, including the Board's Anti-Harassment Policy. The Respondent must also be informed of the opportunity to submit a written response to the complaint within five (5) business days.
Although certain cases may require additional time, the Compliance Officer or a designee will attempt to complete an investigation into the allegations of harassment/retaliation within fifteen (15) business days of receiving the formal complaint. The investigation will include:

A. interviews with the Complainant;

B. interviews with the Respondent;

C. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations;

D. consideration of any documentation or other information presented by the Complainant, Respondent, or any other witness that is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the Compliance Officer or the designee shall prepare and deliver a written report to the Superintendent that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful harassment as provided in Board policy and State and Federal law as to whether the Complainant has been subjected to unlawful harassment. The Compliance Officer's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. In determining if discriminatory harassment or retaliation occurred, a preponderance of evidence standard will be used.

Absent extenuating circumstances, within five (5) business days of receiving the report of the Compliance Officer or the designee, the Superintendent must either issue a final decision regarding whether the complaint of harassment has been substantiated or request further investigation. A copy of the Superintendent's final decision will be delivered to both the Complainant and the Respondent.

If the Superintendent requests additional investigation, the Superintendent must specify the additional information that is to be gathered, and such additional investigation must be completed within five (5) business days. At the conclusion of the additional investigation, the Superintendent must issue a final written decision as described above.

The decision of the Superintendent shall be final.

The Board reserves the right to investigate and resolve a complaint or report of unlawful harassment/retaliation regardless of whether the member of the School District community or third party alleging the unlawful harassment/retaliation 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 or in such other manner as deemed appropriate by the Board or its designee.

Privacy/Confidentiality

The School District will employ all reasonable efforts to protect the rights 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 related administrative guidelines shall be maintained as confidential to the extent
permitted by law. Confidentiality, however, cannot be guaranteed. All Complainants proceeding
through the formal investigation process will be advised that their identities may be disclosed to
the Respondent.

During the course of a formal investigation, the Compliance Officer or his/her designee will
instruct all members of the School District community and third parties who are interviewed
about the importance of maintaining confidentiality. Any individual who is interviewed as part of
a harassment investigation is expected not to disclose any information that s/he learns or that
s/he provides during the course of the investigation.

All public records created as a part of an investigation of a complaint of harassment will be
maintained by the Compliance Officer in accordance with the School Board's records retention
policy. Any records that are considered student education records in accordance with the Family
Educational Rights and Privacy Act or under Michigan’s student records law will be maintained
in a manner consistent with the provisions of the Federal and State laws.

Sanctions and Monitoring

The Board shall vigorously enforce its prohibitions against unlawful harassment by taking
appropriate action reasonably calculated to stop the harassment and prevent further such
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 end such conduct, prevent its recurrence, and
remedy its effects.

Retaliation

Any act of retaliation against a person who has made a report or filed a complaint alleging
unlawful harassment, or who has participated as a witness in a harassment investigation is
prohibited.

Allegations Constituting Criminal Conduct: Child Abuse/Sexual Misconduct

State law requires any school teacher or school employee who knows or suspects that a child
with a disability under the age of twenty-one (21) or that a child under the age of eighteen (18)
has suffered or faces a threat of suffering a physical or mental wound, disability or condition of a
nature that reasonably indicates abuse or neglect of a child to immediately report that
knowledge or suspicion to the county children's services agency. If, during the course of a harassment investigation, the Compliance Officer or a designee has reason to believe or suspect that the alleged conduct reasonably indicates abuse or neglect of the Complainant, a report of such knowledge must be made in accordance with State law and Board Policy.

Any reports made to a county children's services agency or to local law enforcement shall not terminate the Compliance Officer or a designee's obligation and responsibility to continue to investigate a complaint of harassment. While the Compliance Officer or a designee may work cooperatively with outside agencies to conduct concurrent investigations, in no event shall the harassment investigation be inhibited by the involvement of outside agencies without good cause after consultation with the Superintendent.

**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 information to all members of the School District community related to the implementation of this policy shall provide training for District students and staff where appropriate. All training, as well as all information provided regarding the Board's policy and harassment in general, will be age and content appropriate.