



## Anti-Discrimination and Anti-Retaliation Related Policies

*Adopted June 2021*

Book

Neola Policy Templates for Processing

Section

3000 Professional Staff Templates

Title

NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY

Code

3122

Status

Legal

I.C. 20-28-10-12

I.C. 20-28-10-13

I.C. 20-33-1-1

I.C. 20-33-1-6

20 U.S.C. 1400 et seq., the Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004)

20 U.S.C. 1681 et seq., Title IX of the Education Amendments of 1972

29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967

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

29 U.S.C. 6101, The Age Discrimination in Employment Act of 1975

42 U.S.C. 1983

42 U.S.C. 2000d et seq., Title VI of the Civil Rights Act of 1964

42 U.S.C. 2000e et seq., Title VII of the Civil Rights Act of 1964

42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act of 2008

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

29 C.F.R. Part 1635

### **3122 - NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY**

The Emergency Manager does not discriminate on the basis of race, color, national origin, sex (including gender status, sexual orientation and gender identity), disability, age, religion, military status, ancestry, genetic information, or any other legally protected category (collectively, "Protected Classes") in its programs, and activities, including employment opportunities.

## **Notice**

Notice of the Emergency Manager's policy on nondiscrimination in employment practices and the identity of the compliance officers will be posted throughout the Corporation and published in any Corporation statement regarding the availability of employment, in any staff handbooks, and in general information publications.

## **Definitions**

Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.

**Complainant** is the individual who alleges or is alleged to have been subjected to unlawful discrimination/retaliation, regardless of whether the person files a formal complaint or is pursuing an informal resolution to the alleged discrimination/retaliation.

**Respondent** is the individual who is alleged to have engaged in unlawful discrimination/retaliation, regardless of whether the Complainant files a formal complaint or is seeking an information resolution to the alleged discrimination/retaliation.

**Corporation community** means students, Corporation employees (i.e., administrations, and professional, and support staff), and the Emergency Manager, agents, volunteers, contractors, or other persons subject to the control and supervision of the Emergency Manager.

**Third parties** include but are not limited to guests and/or visitors on Corporation property (e.g, visiting speakers, participants on opposing athletic teams, parents), vendors doing business with or seeking to do business with the Emergency Manager, and other individuals who come in contact with members of the Corporation community at school-related events/activities (whether on or off Corporation property).

**Day(s)**: Unless expressly stated otherwise, the term "day" or "days" as used in this policy means business day (s) (i.e. a day(s) that the Corporation office is open for normal operation hours, Monday – Friday, excluding State-recognized holidays).

**Military status:** refers to a person's status in the uniformed services, which includes the performance of duty on a voluntary or involuntary basis, in a uniformed service, including activity duty, active duty for training, initial active duty for training, inactive duty for training, full-time National Guard duty, and performance of duty or training by a member of Indiana organized militia. It also includes the period of time for which a person is absent from employment for the purpose of an examination to determine the fitness of the person to perform any duty listed above.

## **Corporation Compliance Officer(s)**

The Emergency Manager designates the following individuals to serve as the Corporation's "Compliance Officers" (also known as "Civil Rights Coordinators") (hereinafter referred to as the "COs").

Kimberley Bradley, Chief Academic Officer  
9th and Gerry Street  
Gary, IN 46406  
(219) 886-6400  
[kbradley1@garycsc.k12.in.us](mailto:kbradley1@garycsc.k12.in.us)

Nathan Williamson, Chief Business Officer  
9th and Gerry Street  
Gary, IN 46406  
(219) 886-6400  
[nwilliamson@garycsc.k12.in.us](mailto:nwilliamson@garycsc.k12.in.us)

The names, titles, and contact information of these individuals will be published annually on the Corporation's website and:

- A. In the staff handbooks
- B. In the Corporation's Annual Report to the public
- C. On each individual school's website
- D. In the Corporation's calendar

The COs who are responsible for coordinating the Corporation's efforts to comply with applicable Federal and State laws and regulations, including the Corporation's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination or denial of equal access. The COs also shall verify that proper notice of nondiscrimination for Title II of the Americans with Disabilities Act (as amended), Title VI and Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973 (as amended), and the Age Discrimination in Employment Act is provided to staff members and the general public. Any sections of the Corporation's collectively bargained contracts dealing with hiring, promotion, and tenure should contain a statement of nondiscrimination similar to that in the Emergency Manager's statement above. In addition, any gender-specific terms should be eliminated from such contracts. A copy of each of the Acts and regulations on which this notice is based will be made available upon request from the CO.

### **Reports and Complaints of Unlawful Discrimination and Retaliation**

Employees are required to report incidents of unlawful discrimination and/or retaliation to an administrator, supervisor, or other Corporation-level official so that the Emergency Manager may address the conduct. Any administrator, supervisor, or other Corporation-level official who receives such a report shall provide it to the CO within two (2) business days.

Discrimination against an individual based on their sex (including gender status, sexual orientation, and gender identity) is discrimination in violation of Title VII. Specifically, discrimination on the basis of sex stereotyping/gender-nonconformity constitutes sex discrimination. This is true irrespective of the cause of the person's gender non-conforming behavior. Employment actions based upon an individual's sex could be suspect and potentially impermissible.

COs are required to investigate allegations of conduct involving the discrimination or harassment of an employee or applicant based upon his/her gender status, sexual orientation, and gender identity.

Any questions concerning whether alleged conduct might violate this prohibition should be brought to the CO's attention promptly.

Employees who believe they have been unlawfully discriminated/retaliated against are entitled to utilize the complaint process set forth below. Initiating a complaint, whether formally or informally, will not adversely affect Complainant's employment. While there are no time limits for initiating complaints 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 COs will be available during regular school/work hours to discuss concerns related to unlawful discrimination/retaliation. The CO shall accept complaints of unlawful discrimination/retaliation directly from any member of the Corporation community or a visitor to the Corporation, and receive complaints that are initially filed with a school building administrator, supervisor or other Corporation-level official. Upon receipt of a complaint, either directly or through a school building administrator, supervisor or other Corporation-level official, a compliance officer will begin either an informal or formal process (depending on the request of the person alleging the discrimination/retaliation or the nature of the alleged discrimination/retaliation), or designate a specific individual to conduct such a process.

The compliance officer will provide a copy of this policy to any person who files a complaint. In the case of a formal complaint, the compliance officer will prepare recommendations for the Superintendent or oversee the preparation of such recommendations by a designee. All members of the Corporation community must report incidents of discrimination/retaliation that are reported to them to the compliance officer within two (2) business days of learning of the incident/conduct.

Any Corporation employee who directly observes unlawful discrimination/retaliation is obligated, in accordance with this policy, to report such observations to one of the compliance officers within two (2) business days. Additionally, any Corporation employee who observes an act of unlawful discrimination/retaliation is expected to intervene to stop the

misconduct, unless circumstances make such an intervention dangerous, in which case the staff member should immediately notify other Corporation employees and/or local law enforcement officials, as necessary, to stop the misconduct. Thereafter, the compliance officer or designee must contact the employee within two (2) business days to advise him/her of the Corporation's intent to investigate the wrongdoing.

## **Complaint Procedures**

Any employee who believes that s/he has been subjected to unlawful discrimination or retaliation may seek resolution of his/her complaint through the procedures described below. The formal complaint procedures involve an investigation of the individual's claims and a process for rendering a decision regarding whether the charges are substantiated at the lowest possible administrative level and in a prompt and equitable manner.

Due to the sensitivity surrounding complaints of unlawful discrimination or 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. 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).

In accordance with Federal and State law, employees will be notified of their right to file an internal complaint regarding an alleged violation, misinterpretation or misapplication of Federal and/or State law pertaining to discrimination in employment.

In addition, employees will be notified of their right to file a complaint with the U.S. Department of Education's Office for Civil Rights, the Equal Employment Opportunity Commission, or the Indiana Civil Rights Commission, as well as a concurrent criminal complaint with the law enforcement agency having jurisdiction in the Corporation.

## **Informal Complaint Procedure**

The goal of the informal complaint procedure is to stop quickly inappropriate behavior and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for an employee or unsuccessful applicant for employment who believes s/he has been unlawfully discriminated or retaliated against in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment. This informal procedure is not required as a precursor to the filing of a formal complaint or a concurrent criminal complaint.

The informal process is available only in those circumstances where the parties (the alleged target of the discrimination/retaliation and individual(s) alleged to have engaged in the discrimination) agree to participate in it.

Employees, or unsuccessful applicants for employment, who believe that they have been unlawfully discriminated/retaliated against in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment 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.

All complaints involving a Corporation employee or any other adult member of the Corporation community against a student will be formally investigated, and a concurrent criminal complaint shall be filed.

As an initial course of action, if an individual feels that s/he is being unlawfully discriminated/retaliated against in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment and s/he is able and feels safe doing so, the individual should tell or otherwise inform the person who engaged in the allegedly discriminatory/retaliatory conduct that it is inappropriate and must stop. The complaining individual should address the alleged misconduct as soon after it occurs as possible. A/The compliance officer is 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 person who allegedly engaged in the unlawful conduct of his/her concerns is not prohibited from otherwise filing an informal or a formal complaint and filing a concurrent criminal complaint if s/he desires to do so.

In addition, with regard to certain types of unlawful discrimination, such as sexual discrimination, the compliance officer may advise against the use of the informal complaint process.

An individual who believes s/he has been unlawfully discriminated/retaliated against in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment may make an informal complaint, either orally or in writing: 1) to a building administrator; 2) directly to the compliance officer(s); and/or 3) to the Superintendent or other Corporation-level employee.

All informal complaints must be reported to the compliance officer(s) who will either facilitate an informal resolution as described below or appoint another individual to facilitate an informal resolution.

The Corporation's informal complaint procedure is designed to provide employees who believe they are being unlawfully discriminated/retaliated against with a range of options aimed at bringing about a prompt resolution of their concerns. Depending upon the nature of the complaint and the wishes of the individual claiming unlawful discrimination/retaliation, informal resolution may involve, but not be limited to, one or more of the following:

- A. Advising the individual about how to communicate his/her concerns to the person who allegedly engaged in the discriminatory/retaliatory behavior.
- B. Distributing a copy of Policy 3122 - Nondiscrimination as a reminder to the individuals in the school building or office where the individual whose behavior is being questioned works.
- C. If both parties agree, the compliance officer may arrange and facilitate a meeting between the individual claiming discrimination/retaliation and the individual accused of engaging in the misconduct to work out a mutual resolution.

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.

The compliance officer will retain all materials that are generated as part of the informal complaint process in accordance with the Emergency Manager's records retention policy. (See Policy 8310)

### **Formal Complaint Procedure**

If a complaint is not resolved through the informal complaint process, if one of the parties 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, this formal complaint process shall be implemented.

An individual who believes that s/he has been subjected to unlawful discrimination/retaliation in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment (hereinafter referred to as the "Complainant"), may file a formal complaint, either orally or in writing, with an administrator, the compliance officer(s), Superintendent, or other Corporation-level official, as well as file a concurrent criminal complaint with the law enforcement agency having jurisdiction.

Due to the sensitivity surrounding complaints of unlawful discrimination 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.

If a Complainant informs an administrator, supervisor, Superintendent, or other Corporation-level official, either orally or in writing, about any complaint of discrimination/retaliation, the employee who is informed of the complaint must report such information to the compliance officer 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, the discriminatory/retaliatory conduct; 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 complaint 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 discrimination or retaliation, including, but not limited to, a change of work assignment or schedule for the Complainant and/or the person who allegedly engaged in the misconduct. 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 deems 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 unlawful discrimination/retaliation.

Simultaneously, the compliance officer, or a designee, will inform the individual alleged to have engaged in the discriminatory 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 policies and/or administrative guidelines, including Policy 3122 - Nondiscrimination. The Respondent also must 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 discrimination/retaliation within fifteen (15) business days of receiving the formal complaint.

The investigation will include:

- A. interview(s) with the Complainant;
- B. interview(s) with the Respondent;
- C. interviews with any other witnesses who reasonably may be expected to have any information relevant to the allegations; and,
- 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 discrimination/retaliation as provided in Emergency Manager policy and State and Federal law as to whether the Complainant has been subjected to unlawful discrimination/retaliation. The recommendations must be based upon the totality of the circumstances. In determining if discrimination or retaliation occurred, a

preponderance of evidence standard will be used (i.e., it is more likely than not that unlawful discrimination/retaliation occurred).

The compliance officer, or the designee, should consult with the Emergency Manager's legal counsel before finalizing the report to the Superintendent.

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 decision regarding whether the charges have been substantiated or request further investigation. A copy of the Superintendent's decision will be delivered to both the Complainant and the Respondent.

If the Superintendent requests additional investigation, the Superintendent must delineate 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 written decision as described above.

If the Superintendent determines the Complainant was subjected to unlawful discrimination/retaliation, s/he must identify what corrective action will be taken to stop, remedy, and prevent the recurrence of the discrimination/retaliation. The corrective action should be reasonable, timely, age-appropriate, effective, and tailored to the specific situation.

A Complainant or Respondent who is dissatisfied with the decision of the Superintendent may appeal through a signed written request to the Emergency Manager within five (5) business days of his/her receipt of the Superintendent's decision.

If the Emergency Manager is the Respondent, the appeal process will skip the review by the Emergency Manager and move directly to the Chief Academic Officer or Chief Business Officer, whomever did not serve as the original compliance officer. In such circumstances, the compliance officer, or the designee, shall prepare and deliver a written report to the Board that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful discrimination/retaliation as provided in Board policy and State and Federal law as to whether the Complainant has been subjected to unlawful discrimination/retaliation.

The Emergency Manager shall meet with the concerned parties and their representatives within twenty (20) business days of the receipt of a written request to appeal. At this meeting, the parties have the right to present evidence, including testimony and/or exhibits, to the Emergency Manager in support of their position. A copy of the Emergency Manager's disposition of the appeal shall be sent to each concerned party within ten (10) business days of this meeting. The decision of the Emergency Manager will be final.

The Emergency Manager reserves the right to investigate and resolve a complaint or report of unlawful discrimination/retaliation regardless of whether the employee or unsuccessful applicant for employment alleging the unlawful discrimination/retaliation pursues the complaint. The Emergency Manager 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 Emergency Manager or designee.

The Complainant and the Respondent may be represented, at his/her own cost, at any of the above-described meetings/hearings.

The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights, Equal Employment Opportunity Commission, Indiana Civil Rights Commission, or the filing of a concurrent criminal complaint. Use of the complaint procedures is not a prerequisite to the pursuit of other remedies. Furthermore, the complaint must be investigated even if a separate investigation is being conducted by another agency, including but not limited to the local police department.

## **Privacy/Confidentiality**

The Corporation will employ all reasonable efforts to protect the rights of the Complainant, the Respondent(s), and the witnesses to the extent possible, consistent with the Corporation's legal obligations to investigate, take appropriate action, and comply with any discovery or disclosure obligations.

All records generated under the terms of this policy 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(s).

During the course of a formal investigation, the compliance officer or designee will instruct each person who is interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of an investigation is expected not to disclose to third parties any information that s/he learns and/or provides during the course of the investigation.

### **Remedial Action, Sanctions and Monitoring**

The Emergency Manager shall vigorously enforce their prohibitions against unlawful discrimination/retaliation occurring in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment by taking appropriate action reasonably calculated to stop and prevent further misconduct.

If warranted, appropriate remedial action shall be determined and implemented on behalf of the Complainant. Such remedial action may include, but is not limited to, counseling services, reinstatement of leave taken due to the discrimination, or other appropriate action.

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. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s), if any.

When imposing discipline, the Emergency Manager shall consider the totality of the circumstances involved in the matter. In those cases where unlawful discrimination/retaliation is not substantiated, the Emergency Manager 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), if any.

All sanctions imposed by the Emergency Manager shall be reasonably calculated to end such conduct, prevent its recurrence, and remedy its effect. Prior sanctions imposed on the Respondent(s) for similar past conduct shall be considered in determining the appropriateness of the sanction(s) imposed for the present conduct.

The Emergency Manager may appoint an individual, who may be an employee of the Corporation, to monitor the Respondent to ensure no further discrimination or retaliation occurs. Likewise, the Emergency Manager may appoint an individual, who may be an employee of the Corporation other than the Respondent, to follow up with the Complainant to ensure that no further discrimination or retaliation has occurred and to take action to promptly address any reported occurrences.

### **Retention of Public Records, Student Records, and Investigatory Records and Materials**

All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and received as part of an investigation, including but not limited to complaints, responses, witness statements, documentary evidence, audio, video and/or digital recordings, handwritten and contemporaneous notes, e-mails related to the investigation and allegations, printouts, letters, determinations, and summaries. The information, documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).



The information, documents, ESI, and electronic media (as defined in Policy 8315) created or received as part of an investigation shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, Policy 8330 and the Corporation's records retention schedule.

## **Retaliation**

Retaliation against a person who (1) makes a report or files a complaint alleging unlawful discrimination occurring in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment, or (2) participates as a witness in an investigation, is prohibited.

Specifically, the Emergency Manager will not discriminate/retaliate against, coerce, intimidate, threaten or interfere with any individual because s/he opposed any act or practice made unlawful by Federal or State nondiscrimination laws, made a complaint, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under those laws, or exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws.

Individuals found to have engaged in retaliation shall be subject to disciplinary action, up to and including termination of employment or expulsion from school.

## **Training**

The compliance officers also will oversee the training of Corporation employees so that all employees understand their rights and responsibilities under Federal and State law and are informed of the Emergency Manager's policies and practices with respect to fully implementing and complying with the requirements of Federal and State law.

## **© Neola 2018**

Book

Neola Policy Templates for Processing

Section

3000 Professional Staff Templates

Title

NONDISCRIMINATION BASED ON GENETIC INFORMATION OF THE EMPLOYEE

Code

po3122.02

Status

From Neola

Legal

42 U.S.C. 2000ff et seq.

Title II of the Genetic Information Nondiscrimination Act of 2008

29 C.F.R. Part 1635

### **3122.02 - NONDISCRIMINATION BASED ON GENETIC INFORMATION OF THE EMPLOYEE**

The Emergency Manager prohibits discrimination on the basis of genetic information in all aspects of employment, including hiring, firing, compensation, job assignments, promotions, layoffs, training, fringe benefits, or any other terms, conditions, or privileges of employment. The Emergency Manager also does not limit, segregate, or classify applicants or employees in any way that would deprive or tend to deprive them of employment opportunities or otherwise adversely affect the status of the person as an employee, based on genetic information. Harassment of a person because of genetic information is also

prohibited. Likewise, retaliation against a person for identifying, objecting to, or filing a complaint concerning a violation of this policy is prohibited.

In accordance with Title II of the Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. 2000ff, et seq. and 29 C.F.R. 1635 ("GINA"), the Emergency Manager shall not request, require or purchase genetic information of employees, their family members or applicants for employment. Further, in compliance with GINA, applicants and employees are directed not to provide genetic information, including that individual's family medical history, in response to necessary requests for medical information, with the exception that family medical history may be provided as part of the certification process for FMLA leave, or when an employee is asking for leave to care for an immediate family member with a serious health condition. Applicants for employment are directed not to provide any genetic information, including the individual's family medical history, in response to requests for medical information as part of the Emergency Manager's application for employment process. Employees and applicants for employment shall not be penalized for providing genetic information in good faith in response to a request from the Emergency Manager or agent, unless that applicant or employee refuses to delete the information at the request of the employee or agent of the Emergency Manager.

The Emergency Manager recognizes that genetic information may be acquired through commercially and publicly available media including newspapers, books, magazines, periodicals, television shows or the Internet. The Emergency Manager prohibits their employees and agents including commercial background investigation agents from searching these sources with the intent of finding or obtaining genetic information, or accessing sources from which they are likely to acquire genetic information. If genetic information about an employee or applicant is obtained in error, it shall immediately be redacted and not shared beyond the point of first receipt.

As used in this policy, "genetic information," means information about: (a) an individual's genetic tests; (b) the genetic tests of that individual's family members; (c) the manifestation of disease or disorder in family members of the individual (family medical history); (d) an individual's request for, or receipt of, genetic services, or the participation in clinical research that includes genetic services by the individual or a family member of the individual; or (e) the genetic information of a fetus carried by an individual or a pregnant woman who is a family member of the individual and the genetic information of an embryo legally held by an individual or family member using assistive reproductive technology.

The term "genetic information" does not include information about the sex or age of the individual, the sex or age of family members, or information about the race or ethnicity of the individual or family member that is not derived from a genetic test.

As used in this policy, "genetic test" means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites that detect genotypes, mutations, or chromosomal changes. The term includes any test of a person's DNA/RNA.

If the Emergency Manager's employees or agents legally and/or inadvertently receive genetic information about an employee or applicant, it shall be treated as a confidential medical record in accordance with law.

The Emergency manager shall appoint a GINA Compliance Officer who shall be responsible for overseeing the District's compliance with this policy and GINA and proposing revisions and additions to this policy as necessary to ensure the Board's compliance with GINA. This person shall be responsible for working with the Emergency Manager's legal counsel to fully implement the requirements of GINA in all activities of the School District. The GINA Compliance Officer shall also verify that proper notice of nondiscrimination for Title II of GINA is provided to staff members, and that all requests for health-related information (e.g., to support an employee's request for reasonable accommodation under the ADA or a request for sick leave) is accompanied by a written warning that directs the employee or health care provider not to collect or provide genetic information. The written warning shall contain the information in the following sample notice:

#### **Genetic Information Nondiscrimination Act of 2008 (GINA) Disclosure Requirement**

The Genetic Information Nondiscrimination Act of 2008 or "GINA" prohibits employers and other entities covered by the law, including the Emergency Manager of the Gary Community School Corporation, from requesting or requiring genetic information about an employee or applicant or family member of an employee or applicant, except as specifically allowed by law. To comply with GINA, do not provide any genetic information when responding to this request for medical information (unless the request pertains to a request for FMLA leave for purposes of caring for an immediate family member with a serious health condition). "Genetic information," as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic test, the fact that an individual or an individual's family member sought or received genetic services or participated in clinical research that includes genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member

receiving assistive reproductive services. Questions concerning compliance with the requirements of GINA may be directed to the GINA Compliance Officer at (219) 886-6400.

[ ] The District offers health services, including a wellness program. Participation in the services/program is voluntary. Genetic information (such as family medical history) may be obtained as part of an individual's participation in the service/program. If that occurs, individual genetic information may be provided to the individual receiving the services and to his/her health services providers, but only genetic information in aggregate form will be provided to the Emergency Manager and no applicant or employee shall be identified or identifiable from the reported information.

© Neola 2011

Book

Neola Policy Templates for Processing

Section

3000 Professional Staff Templates

Title

SECTION 504/ADA PROHIBITION AGAINST DISABILITY DISCRIMINATION IN EMPLOYMENT

Code

po3123

Status

From Neola

Legal

29 C.F.R. Part 1630

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

34 C.F.R. Part 104

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

### 3123 - SECTION 504/ADA PROHIBITION AGAINST DISABILITY DISCRIMINATION IN EMPLOYMENT

The Emergency Manager prohibits discrimination against any employee or applicant based upon his/her disability. As such, the Emergency Manager will not engage in employment practices or adopt policies that discriminate on the basis of disability, or otherwise discriminate against qualified individuals with disabilities in regard to job application procedures, the hiring, advancement or discharge of employees, employee compensation, job training, or other terms, conditions and privileges of employment. The Emergency Manager further will not limit, segregate or classify applicants or employees in any way that adversely affects their opportunities or status because of disability. Additionally, the Emergency Manager 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.

"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, sitting, reaching, interacting with others, and working.

Major life activities also include the operation of a major bodily function, including, but not limited to, functions of the immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, hemic, lymphatic, musculoskeletal and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.

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 limits 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 (defined as devices that magnify, enhance, or otherwise augment a visual image, but not including ordinary eyeglasses or contact lenses), prosthetics (including limbs and devices), hearing aid(s) and cochlear implant(s) or other implantable hearing devices, mobility devices, oxygen therapy equipment or supplies, use of assistive technology, reasonable accommodations or "auxiliary aids or services," learned behavioral or adaptive neurological modifications, psychotherapy, behavioral therapy, or physical therapy.

A qualified person with a disability means the individual satisfies the requisite skill, experience, education and other job-related requirements of the employment position such individual holds or desires and, with or without reasonable accommodation, can perform the essential functions of the job in question.

The Emergency Manager will provide a reasonable accommodation to a qualified individual who has an actual disability or who has a record of a disability, unless the accommodation would impose an undue hardship on the operation of the Corporation's program and/or activities. A reasonable accommodation is not required for an individual who is merely regarded as having a disability.

#### **Corporation Compliance Officer**

The following person(s) is/are designated as the Corporation Section 504 Compliance Officer(s)/ADA Coordinator(s) ("Corporation Compliance Officer(s)"):

Kimberley Bradley, Chief Academic Officer  
9th and Gerry Street  
Gary, IN 46406  
(219) 886-6400  
[kbradley1@garycsc.k12.in.us](mailto:kbradley1@garycsc.k12.in.us)

Nathan Williamson, Chief Business Officer  
9th and Gerry Street  
Gary, IN 46406  
(219) 886-6400  
[nwilliamson@garycsc.k12.in.us](mailto:nwilliamson@garycsc.k12.in.us)

The Corporation Compliance Officer(s) are responsible for coordinating the Corporation's efforts to comply with and fulfill its responsibilities under Section 504 and Title II of the Americans with Disabilities Act, as amended ("ADA"). A copy of Section 504 and the ADA, including copies of their implementing regulations, may be obtained from the Corporation Compliance Officer.

The Corporation Compliance Officer(s) will oversee the investigation of any complaints of discrimination based on disability, which may be filed pursuant to the Emergency Manager's adopted internal complaint procedure, and will attempt to resolve such complaints. The Emergency Manager will provide for the prompt and equitable resolution of complaints alleging violations of Section 504/ADA.

#### **Training**

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

The Emergency Manager will provide in-service training and consultation to staff responsible for the education of persons with disabilities, as necessary and appropriate.

#### **Facilities**

No qualified person with a disability will, because the Corporation'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.

For facilities constructed or altered after June 3, 1977, the Corporation will comply with applicable accessibility standards. For those existing facilities constructed prior to June 3, 1977, the Corporation is committed to operating its programs and activities so that they are readily accessible to persons with disabilities.

**Notice**

Notice of the Emergency Manager's policy on nondiscrimination in employment practices and the identity of the Corporation's Compliance Officer(s) will be posted throughout the Corporation, and published in the Corporation's recruitment statements or general information publications.

© Neola 2011

Book

Neola Policy Templates for Processing

Section

3000 Professional Staff Templates

Title

STUDENT SUPERVISION AND WELFARE

Code

po3213

Status

From Neola

Legal

I.C. 31-33-5

**3213 - STUDENT SUPERVISION AND WELFARE**

Professional staff members shall maintain a standard of care for the supervision, control, and protection of students commensurate with their assigned duties and responsibilities and are expected to establish and maintain professional staff-student boundaries that are consistent with their legal, professional and ethical duty of care for students.

The Superintendent shall maintain and enforce the following standards:

- A. A professional staff member shall immediately report to a building administrator any accident, safety hazard, or other potentially harmful condition or situation s/he detects.
- B. A professional staff member shall provide proper instruction in safety matters as presented in assigned course guides.
- C. Each professional staff member shall immediately report to a building administrator knowledge of threats of violence by students.
- D. A professional staff member shall not send students on any personal errands.
- E. A professional staff member shall not associate or fraternize with students at any time in a manner that may give the appearance of impropriety, including, but not limited to, the creation or participation in any situation or activity that could be considered abusive or sexually suggestive or involve harmful substances such as illegal drugs, alcohol or tobacco. Any sexual or other inappropriate conduct with a student by any staff member will subject the offender

to potential criminal prosecution and disciplinary action by the Emergency Manager up to and including termination of employment.

- F. If a student approaches a staff member to seek advice or to ask questions regarding a personal problem related to sexual behavior, substance abuse, mental or physical health, and/or family relationship, etc., the staff member may attempt to assist the student by facilitating contact with certified or licensed individuals in the Corporation or community who specialize in the assessment, diagnosis, and treatment of the student's stated problem. Any staff member who determines that a student is in need of services shall report the matter to appropriate authorities. However, under no circumstances should a staff member attempt, unless properly licensed and authorized to do so, to counsel, assess, diagnose, or treat the student's problem or behavior, nor should any such staff member inappropriately disclose personally identifiable information concerning the student to third persons not specifically authorized by law.

Parents are to be notified.

- G. A professional staff member shall not transport students in a private vehicle without the approval of the principal.
- H. A student shall not be required to perform work or services that may be detrimental to his/her health.
- I. Staff members shall only engage in electronic communication with students via email, texting, social media and/or online networking media, such as Facebook, Twitter, YouTube, MySpace, Skype, blogs, etc., when such communication is directly related to curricular matters or co-curricular/extracurricular events or activities with prior approval of the principal.
- J. Staff members are prohibited from electronically transmitting any personally identifiable image of a student(s), including video, photographs, streaming video, etc. via email, text message, or through the use of social media and/or online networking media, such as Facebook, Twitter, YouTube, MySpace, Skype, blogs, etc., unless such transmission has been made as part of a pre-approved curricular matter or co-curricular/extracurricular event or activity such as a school-sponsored publication or production in accordance with Policy 5722.

Since most information concerning a child in school, other than directory information described in Policy 8330, is confidential under Federal and State laws, any staff member who shares confidential information with another person not authorized to receive the information may be subject to discipline and/or civil liability. This includes, but is not limited to, information concerning assessments, grades, behavior, family background, alleged child abuse, and any other record information.

Pursuant to the laws of the State and Board Policy 8462, each professional staff member shall report to the proper legal authorities immediately, any sign of suspected child abuse or neglect.

© Neola 2011

Last Modified by Sandy Cheney on May 14, 2021

Book

Neola Policy Templates for Processing

Section

3000 Professional Staff Templates

Title

ANTI-HARASSMENT

Code

po3362

Status

From Neola

Legal

I.C. 35-42-4-3, 35-42-4-8, 35-42-4-9

20 U.S.C. 1400 et seq., the Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004)

20 U.S.C. 1681 et seq., Title IX of the Education Amendments Act of 1972

29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967  
29 U.S.C. 794, Section 504 of the Rehabilitation Act of 1973, as amended  
29 C.F.R. Part 1635  
42 U.S.C. 1983  
42 U.S.C. 2000d et seq., Title VI of the Civil Rights Act of 1964  
42 U.S.C. 2000e et seq., Title VII of the Civil Rights Act of 1964  
42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act  
42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended  
National School Boards Association Inquiry and Analysis - May 2008

### 3362 - ANTI-HARASSMENT

#### **General Policy Statement**

It is the policy of the Emergency Manager to maintain an education and work environment that is free from all forms of unlawful harassment, including sexual harassment, occurring in the Corporation's employment opportunities, programs, and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs, and activities, affecting the Corporation environment (hereinafter referred to collectively as "unlawful harassment"). This commitment applies to all School Corporation operations, employment opportunities, 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 occurring in the Corporation's employment opportunities, programs, and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs, and activities, affecting the Corporation environment. This policy applies to unlawful conduct occurring on school property, or at another location if such conduct affects the Corporation environment.

The Emergency Manager will vigorously enforce its prohibition against unlawful harassment (see definition above), which is based on race, color, national origin, sex (including transgender status, sexual orientation and/or gender identity), religion, disability, military status, ancestry, or genetic information that are classes protected by Federal and/or State civil rights laws (hereinafter referred to as "Protected Classes"), and encourages those within the School Corporation community as well as third parties who feel aggrieved to seek assistance to rectify such problems occurring in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment.

All Corporation employees, including administrators, professional staff and support staff, shall report any incident of alleged unlawful harassment (see definition above) occurring in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment that the employee observes or which is reported to the employee.

The Emergency Manager will investigate all allegations of unlawful harassment (see definition in first paragraph) occurring in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment and, in those cases where unlawful harassment is substantiated, the Emergency Manager will take immediate steps to end the harassment, prevent its recurrence, and remedy its effects.

Individuals who are found to have engaged in unlawful harassment (see definition in first paragraph) occurring in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment will be subject to appropriate disciplinary action, up to and including termination of employment or expulsion from school.

Furthermore, Corporation employees who fail to report any incident of alleged unlawful harassment (see definition in first paragraph) occurring in the Corporation's employment opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs and activities, affecting the Corporation environment that the employee observes or which is reported to the employee also are subject to appropriate disciplinary action, up to and including termination of employment.

[ ] The Corporation will offer counseling services to any person found to have been subjected to unlawful harassment, and where appropriate, the person(s) who committed the unlawful harassment.

For purposes of this policy, "Corporation community" means students, administrators, teachers, and staff, as well as the Emergency Manager, agents, volunteers, contractors, or other persons subject to the control and supervision of the Emergency Manager.

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

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

The Corporation also will 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 unlawful harassment (see definition in first paragraph) or who has participated as a witness in a harassment investigation.
- B. Filing a malicious or knowingly false report or complaint of unlawful harassment (see definition in first paragraph).
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of unlawful harassment (see definition in first paragraph), when responsibility for reporting and/or investigating unlawful harassment charges comprises part of one's supervisory duties.

#### **Definitions**

##### **Bullying**

Bullying rises to the level of unlawful harassment (see definition in first paragraph) when one (1) or more persons systematically and chronically inflict physical hurt or psychological distress on one (1) or more students with the intent to harass, ridicule, humiliate, intimidate or harm that/those student(s), and that bullying is based upon sex, race, color, national origin, religion, or disability, that is, characteristics that are protected by Federal civil rights laws. It is defined as any unwanted and repeated written, verbal, or physical behavior, including any threatening, insulting, or dehumanizing gesture, by an adult or student, that is severe or pervasive enough to create an intimidating, hostile, or offensive educational environment; cause discomfort or humiliation; or unreasonably interfere with the individual's school performance or participation; and may involve:

- A. teasing;
- B. threats;
- C. intimidation;
- D. stalking;
- E. cyberstalking;
- F. cyberbullying;
- G. physical violence;
- H. sexual violence;
- I. theft;



- J. sexual, religious, or racial harassment;
- K. public humiliation; or
- L. destruction of property.

In the bullying context, "harassment" means any threatening, insulting, or dehumanizing gesture, use of data or computer software, or written, verbal or physical conduct directed against a student that:

- A. places a student in reasonable fear of harm to his/her person or damage to his/her property;
- B. has the effect of substantially interfering with a student's educational performance, opportunities, or benefits; or
- C. has the effect of substantially disrupting the orderly operation of a school.

### **Sexual Harassment**

Pursuant to Title VII of the Civil Rights Act of 1964 and Title IX of the Education 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. sexual violence, including physical and/or sexual 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 Corporation employee or other adult member of the Corporation community into a student's personal space and personal life;
- K. verbal, nonverbal or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature.

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

**NOTE:** Sexual conduct/relationships with students by a Corporation employee or any other adult member of the Corporation community is prohibited, and any teacher, administrator, coach or other school authority, or staff member who engages in certain sexual conduct with a student may be disciplined up to and including termination and also may be guilty of the criminal charge of "sexual battery" as set forth in I.C. 35-42-4-8. In the case of a child under fourteen (14) years of age, the person also may be guilty of "child molesting" under I.C. 35-42-4-3. In the case of a child between the ages of fourteen (14) and sixteen (16), the person also may be guilty of "sexual misconduct with a minor" under I.C. 35-42-4-9. The issue of consent is irrelevant in regard to the latter two (2) criminal charges. Any employee accused of sexual relations with a student ( ) may ( ) will [**not recommended**] be placed on leave until school administrative proceedings are completed. Proven sexual relationships with a student regardless of the age of the student will initiate the termination process for the employee.

#### **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 include but is not limited to conduct 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 include but is not limited to conduct directed at the characteristics of a person's religious tradition, clothing, or surnames, and/or involving 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 include but is not limited to conduct 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 include but is not limited to conduct 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 also may include but is not limited to conduct directed at or pertaining to a person's genetic information.

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

Students, members of the Corporation community and third parties are encouraged to promptly report incidents of unlawful harassment (see definition in first paragraph) to an administrator, supervisor or other Corporation official so that the Emergency Manager may address the conduct before it becomes severe, pervasive, or persistent. All Corporation employees, including administrators, professional staff and support staff, shall report any incident of alleged unlawful harassment (see definition in first paragraph) that the employee observes or which is reported to the employee. Any administrator, supervisor, or other Corporation-level official who receives such a complaint shall file it with the Corporation's Anti-Harassment Compliance Officer at his/her first convenience. Corporation employees who fail to comply with the reporting responsibility shall be subject to discipline, up to and including termination.

Members of the Corporation community or third parties who believe they have been subjected to unlawful harassment (see definition in first paragraph) by another member of the Corporation community or a third party are entitled to utilize the Emergency Manager's complaint process set forth below. Initiating a complaint, whether formally or informally, will not adversely affect the complaining individual's employment or participation in educational or extra-curricular programs unless the complaining individual makes the complaint maliciously or with knowledge that it is false. 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, during an investigation of a reported act of bullying and/or harassment in accordance with Policy 5517.01 – Bullying, the principal or his/her designee believes that the reported misconduct may have created a hostile work or learning environment and may have constituted unlawful harassment (see definition in first paragraph) based on "Protected Classes" (see definition in first paragraph), the principal or his/her designee will report the act of bullying and/or harassment to one (1) of the Compliance Officers who shall investigate the allegation in accordance with this policy.

## **Anti-Harassment Compliance Officers**

The following individuals serve as "Anti-Harassment Compliance Officers" for the Corporation. They are hereinafter referred to as the "Compliance Officers".

---

Kimberley Bradley, Chief Academic Officer  
9th and Gerry Street  
Gary, IN 46406  
(219) 886-6400  
[kbradley1@garycsc.k12.in.us](mailto:kbradley1@garycsc.k12.in.us)

Nathan Williamson, Chief Business Officer  
9th and Gerry Street  
Gary, IN 46406  
(219) 886-6400  
[nwilliamson@garycsc.k12.in.us](mailto:nwilliamson@garycsc.k12.in.us)

The names, titles, and contact information for the Compliance Officers will be published annually:

- A. in the student, parent, and staff handbooks.
- B. in the School Corporation Annual Report to the public.
- C. on the School Corporation's web site.
- D. on each individual school's web site.
- E. in the School Corporation's calendar.

A Compliance Officer will be available during regular school/work hours to discuss concerns related to "unlawful harassment" (see definition in first paragraph), to assist students, other members of the Corporation community, and third parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede informally on behalf of the student.

Any Corporation employee who directly observes unlawful harassment (see definition in first paragraph) of a student is obligated, in accordance with this policy, to report such observations to one of the Compliance Officers within two business days. Thereafter, the Compliance Officer or designee must contact the student if age eighteen (18) or older, or the student's parents if under the age of eighteen (18) within two (2) business days to advise him/her/them of the Corporation's intent to investigate the alleged misconduct, including the obligation of the Compliance Officer or his/her designee to conduct an investigation following all the procedures outlined in this policy for a formal complaint. Additionally, if the alleged harasser is a student, the Compliance Officer or designee must contact the student, if age eighteen (18) or older, or the student's parents if under the age of eighteen (18), within two (2) business days to advise him/her/them of the Corporation's intent to investigate the alleged misconduct, including the obligation of the Compliance Officer or designee to conduct an investigation following all the procedures outlined for a formal complaint. However, all complaints of harassment involving a Corporation employee or any other adult member of the Corporation community against a student will be formally investigated.

The Compliance Officers are assigned to accept complaints of unlawful harassment (see definition in first paragraph) directly from any member of the School Corporation community or a visitor to the Corporation, or to receive complaints that are initially filed with a school building administrator. Upon receipt of a complaint either directly or through a school building administrator, a Compliance Officer will begin either an informal or formal process (depending on the request of the member of the School Corporation community alleging harassment or the nature of the alleged harassment), or the Compliance Officer will designate a specific individual to conduct such a process. In the case of a formal complaint, the Compliance Officer will prepare recommendations for the Superintendent or will oversee the preparation of such recommendations by a designee. However, if the alleged harasser is the Superintendent, the recommendations shall be submitted to the School Board Attorney.

All Corporation employees must report incidents of unlawful harassment (see definition in first paragraph) that are reported to them to the Compliance Officer within two (2) business days of learning of the incident.

#### **Investigation and Complaint Procedure**

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

Due to the sensitivity surrounding complaints of unlawful harassment (see definition in first paragraph), time lines 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 with the United States Department of Education, Office for Civil Rights (OCR), the Indiana Civil Rights Commission (ICRC) or Equal Employment Opportunity Commission (EEOC), or to file a concurrent criminal complaint with the law enforcement agency having jurisdiction.

## Informal Complaint Procedure

The goal of the informal complaint procedure is to stop inappropriate behavior and/or unlawful harassment (see definition in first paragraph), and to investigate and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for an employee who believes s/he has been unlawfully harassed or retaliated against in the Corporation's employment opportunities, programs, and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's employment opportunities, programs, and activities, affecting the Corporation environment. This informal procedure is not required as a precursor to the filing of a formal complaint and/or filing a concurrent criminal complaint, and will be utilized only where the parties (alleged target of harassment and alleged harasser(s)) agree to participate in such process.

Employees, other members of the Corporation community, or third parties who believe that they have been subjected to unlawful harassment (see definition in first paragraph) 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 procedure.

However, all complaints of unlawful harassment (see definition in first paragraph) involving a Corporation employee, any adult member of the Corporation 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 (see definition in first paragraph) 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 Officer(s) is/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 (see definition in first paragraph) may make an informal complaint, either orally or in writing: 1) to a teacher, other employee, or building administrator; 2) directly to one of the Compliance Officers; and/or 3) to the Superintendent or other Corporation-level employee.

All informal complaints must be reported to one 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 Corporation's informal complaint procedure is designed to provide employees, other members of the Corporation community or third parties who believe they are being subjected to unlawful harassment (see definition in first paragraph) 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 Officers 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, one of the Compliance Officers or a 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, may file a complaint with the United States Department of Education, Office for Civil Rights (OCR), the Indiana Civil Rights Commission (ICRC) or Equal Employment Opportunity Commission (EEOC), and/or may file a

concurrent criminal complaint with the law enforcement agency having jurisdiction. And, as stated above, parties may request that the informal process be terminated at any time to move to the formal complaint process.

One of the Compliance Officers or a designee will retain all materials generated as part of the informal complaint process in accordance with the Emergency Manager's records retention policy (see Policy 8310, Policy 8320 and Policy 8330).

#### **Formal Complaint Procedure**

If a complaint is not resolved through the informal complaint process, if one 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 as described below shall be implemented.

The formal complaint process is not intended to interfere with the rights of an employee, other member of the Corporation community, or third party to pursue a complaint of unlawful harassment with the United States Department of Education, Office for Civil Rights (OCR), the Indiana Civil Rights Commission (ICRC) or Equal Employment Opportunity Commission (EEOC), and/or to file a concurrent criminal complaint with the law enforcement agency having jurisdiction.

An individual who believes s/he has been subjected to offensive conduct/unlawful 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 Corporation-level employee. Due to the sensitivity surrounding complaints of unlawful harassment (see definition in first paragraph) 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 Corporation-level employee, either orally or in writing, about any complaint of harassment or retaliation, the employee to whom the complaint is reported must report such information to the Compliance Officer or designee within two (2) business days.

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

All formal complaints of unlawful harassment (see definition in first paragraph) or retaliation 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 complaint 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 any action deemed appropriate. If the Complainant is unwilling to consent any change that is deemed appropriate by the Compliance Officer, the Compliance Officer may still take whatever actions s/he deems appropriate in consultation with the Superintendent and/or Board Attorney.

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/unlawful harassment/retaliation.

[ ] A principal will not conduct an investigation unless directed to do so by the Compliance Officer.

Contemporaneously, one of the Compliance Officers or a designee will inform the individual alleged to have engaged in the unlawful 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 a copy of the Emergency Manager's anti-harassment policy shall be provided to the Respondent. 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, one of the Compliance Officers or a designee will attempt to complete an investigation into the allegations of harassment or retaliation within fifteen (15) business days of receiving the formal complaint.

The investigation will include:

- A. interview(s) with the Complainant;
- B. interview(s) with the Respondent;
- C. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations; and
- D. consideration of any documentation or other information, presented by the Complainant, Respondent, or any other witnesses 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 Emergency Manager that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful harassment as provided in Emergency Manager policy and State and Federal law as to whether the Complainant has been subjected to unlawful harassment (see definition in first paragraph) or retaliation. 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 (i.e., it is more likely than not that unlawful discrimination retaliation occurred).

( ) The Compliance Officer may consult with the District's legal counsel before finalizing the report to the Emergency Manager.

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

If the Emergency Manager requests additional investigation, the Emergency Manager 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 Emergency Manager must issue a written decision as described above. The decision of the Emergency Manager shall be final.

The Emergency Manager reserves the right to investigate and resolve a complaint or report of unlawful harassment/retaliation regardless of whether the member of the Corporation community or third party alleging the unlawful harassment/retaliation pursues the complaint. The Emergency Manager 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 Emergency Manager or their designee.

The Complainant and the Respondent may be represented, at his/her own cost, at any of the above-described meetings/hearings.

The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights, Equal Employment Opportunity Commission, Indiana Civil Rights Commission, or the filing of a concurrent criminal complaint. Use of the complaint procedures is not a prerequisite to the pursuit of other remedies. Furthermore, the complaint must be investigated even if a separate investigation is being conducted by another agency, including but not limited to the local police department.

#### **Privacy/Confidentiality**

The Corporation will employ all reasonable efforts to protect the privacy of the Complainant, the Respondent(s) (that is the individual(s) against whom the complaint is filed), and the witnesses to the extent possible, consistent with the Corporation's legal obligations to investigate, to take appropriate action, and comply with any discovery or disclosure obligations.

All records generated under the terms of this policy shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed.

All Complainants proceeding through the formal investigation process should be advised that their identities may be disclosed to the Respondent(s).

During the course of a formal investigation, the Compliance Officer or his/her designee will instruct all members of the Corporation 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.

#### **Remedial Action, Sanctions and Monitoring**

The Emergency Manager shall vigorously enforce their prohibitions against unlawful harassment (see definition in first paragraph) or retaliation by taking appropriate action reasonably calculated to stop the harassment and prevent further such harassment.

If warranted, appropriate remedial action shall be determined and implemented on behalf of the Complainant. Such remedial action may include, but is not limited to, counseling services, reinstatement of leave taken due to the discrimination, or other appropriate action.

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), if any.

When imposing discipline, the Emergency Manager 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 Emergency Manager 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), if any.

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. Prior sanctions imposed on the Respondent(s) for similar past conduct shall be considered in determining the appropriateness of the sanction(s) imposed for the present conduct.

The Emergency Manager may appoint an individual, who may be an employee of the Corporation, to monitor the Respondent to ensure no further discrimination or retaliation occurs. Likewise, the Emergency Manager may appoint an individual, who may be an employee of the Corporation other than the Respondent, to follow up with the Complainant to ensure that no further discrimination or retaliation has occurred and to take action to promptly address any reported occurrences.

#### **Retention of Public Records, Student Records, and Investigatory Records and Materials**

All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and received as part of an investigation, including but not limited to complaints, responses, witness statements, documentary evidence, audio, video and/or digital recordings, handwritten and contemporaneous notes, e-mails related to the investigation and allegations, printouts, letters, determinations, and summaries. The information, documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).

The information, documents, ESI, and electronic media (as defined in Policy 8315) created or received as part of an investigation shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, Policy 8330 and the Corporation's records retention schedule.

#### **Retaliation**

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

Specifically, the Emergency Manager will not discriminate/retaliate against, coerce, intimidate, threaten, or interfere with any individual because the person opposed any act or practice of unlawful harassment (see definition in first paragraph), or



because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing pertaining to unlawful harassment, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by Federal or State laws.

Individuals found to have engaged in retaliation shall be subject to disciplinary action, up to and including termination of employment or expulsion from school.

**Allegations Constituting Criminal Conduct: Child Abuse/Sexual Misconduct**

State law requires any teacher or school employee who knows or suspects that a child under the age of eighteen (18) is a victim of child abuse or neglect to immediately report that knowledge or suspicion to the Department of Child Services, Office of Child Protective Services. 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 or the alleged victim, a report of such knowledge must be made in accordance with State law and Emergency Manager Policy.

If the Compliance Officer or a designee has reason to believe that the Complainant has been the victim of criminal conduct as defined under State law, such knowledge should be reported to local law enforcement.

Any reports made to Child Protective Services or to local law enforcement shall not terminate the Compliance Officer's 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.

**Education and Training**

In support of this Anti-Harassment Policy, the Emergency Manager promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Compliance Officers will oversee training of Corporation employees and students so that they understand their rights and responsibilities under Federal and State law and are informed of the Emergency Manager's policies and practices with respect to fully implementing and complying with the requirements of Federal and State law. All training regarding the Emergency Manager's policy and administrative guidelines and harassment, in general, will be age and content appropriate.

**Notice**

Notice of the Emergency Manager's policy on anti-harassment related to employment practices and the identity of the Compliance Officers will be posted throughout the Corporation, and published in any Corporation statement regarding the availability of employment, in any staff handbooks, and in general information publications of the Corporation as required by Federal and State law and this policy.

© Neola 2018

Last Modified by Sandy Cheney on May 14, 2021

Title

STUDENT HAZING

Code  
po5516

Status  
From Neola

Legal  
I.C. 35-42-2-2

5516 - STUDENT HAZING

The Emergency Manager believes that hazing activities of any type are inconsistent with the educational process and prohibits all such activities at any time in school facilities, on school property, and at any Corporation-sponsored event.

Hazing shall be defined for purposes of this policy as performing any act or coercing another, including the victim, to perform any act of initiation into any class, group, or organization that causes or creates a risk of causing mental, emotional, or physical harm. Permission, consent, or assumption of risk by an individual subjected to hazing shall not lessen the prohibitions contained in this policy.

Administrators, faculty members, and other employees of the Corporation shall be alert particularly to possible situations, circumstances, or events which might include hazing. If hazing or planned hazing is discovered, the students involved shall be informed by the discoverer of the prohibitions contained in this policy and shall be ordered to end all hazing activities or planned activities immediately. All hazing incidents shall be reported immediately to the Superintendent. Students, administrators, faculty members, and other employees who fail to abide by this policy may be subject to disciplinary action and may be held personally liable for civil and criminal penalties in accordance with law.

The Superintendent shall distribute this policy to all students and Corporation employees, and shall incorporate it into building, staff, and student handbooks. It shall also be the subject of discussion at employee staff meetings or in-service programs.

© Neola 2009

Book

Neola Policy Templates for Processing

Section

5000 Students Templates

Title

ANTI-HARASSMENT

Code

po5517

Status

From Neola

Legal

I.C. 35-42-4-3, 35-42-4-8, 35-42-4-9

20 U.S.C. 1400 et seq., the Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004)

20 U.S.C. 1681 et seq., Title IX of the Education Amendments Act of 1972

29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967

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

42 U.S.C. 1983

42 U.S.C. 2000d et seq., Title VI of the Civil Rights Act of 1964

42 U.S.C. 2000e et seq., Titles VII of the Civil Rights Act of 1964

42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act

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

29 C.F.R. Part 1635

National School Boards Association Inquiry and Analysis - May 2008

5517 - ANTI-HARASSMENT

**General Policy Statement**

It is the policy of the Emergency Manager to maintain an education and work environment that is free from all forms of unlawful harassment, including sexual harassment, occurring in the Corporation's educational opportunities, programs, and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's educational opportunities, programs, and activities, affecting the Corporation environment (hereinafter referred to collectively as "unlawful harassment"). This commitment applies to all Corporation operations, educational opportunities, 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 occurring in the Corporation's educational opportunities, programs, and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's educational opportunities, programs, and activities, affecting the Corporation environment. This policy applies to unlawful conduct occurring on school property, or at another location if such conduct affects the Corporation environment.

The Emergency Manager will vigorously enforce its prohibition against unlawful harassment (see definition in first paragraph), that is based on race, color, national origin, sex (including transgender status, sexual orientation and/or gender identity), religion, disability, military status, ancestry, or genetic information, which are classes protected by Federal and/or State civil rights laws (hereinafter referred to as "Protected Classes"), and encourages those within the Corporation community as well as third parties who feel aggrieved to seek assistance to rectify such problems occurring in the Corporation's educational opportunities, programs and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's educational opportunities, programs and activities, affecting the Corporation environment.

All Corporation employees, including administrators, professional staff and support staff, shall report any incident of alleged unlawful harassment (see definition in first paragraph) that the employee observes or which is reported to the employee.

The Corporation will investigate all allegations of unlawful harassment (see definition in first paragraph) and, in those cases where unlawful harassment is substantiated, will take immediate steps to end the harassment, prevent its recurrence, and remedy its effects.

Individuals who are found to have engaged in unlawful harassment (see definition in first paragraph) will be subject to appropriate disciplinary action, up to and including termination of employment or expulsion from school.

Furthermore, Corporation employees who fail to report any incident of alleged unlawful harassment (see definition in first paragraph) that the employee observes or which is reported to the employee also are subject to appropriate disciplinary action, up to and including termination of employment.

For purposes of this policy, "Corporation community" means students, administrators, teachers, and staff, as well as the Emergency Manager, agents, volunteers, contractors, or other persons subject to the control and supervision of the Emergency Manager.

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

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

The Corporation also will 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 unlawful harassment (see definition in first paragraph) or who has participated as a witness in a harassment investigation.
- B. Filing a malicious or knowingly false report or complaint of unlawful harassment (see definition in first paragraph).
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of unlawful harassment (see definition in first paragraph), when responsibility for reporting and/or investigating unlawful harassment charges comprises part of one's supervisory duties.

#### **Definitions**

## **Bullying**

Bullying rises to the level of unlawful harassment (see definition in first paragraph) when one (1) or more persons systematically and chronically inflict physical hurt or psychological distress on one (1) or more students with the intent to harass, ridicule, humiliate, intimidate or harm that/those student(s), and that bullying is based upon sex, race, color, national origin, religion, or disability, that is, characteristics that are protected by Federal civil rights laws. It is defined as any unwanted and repeated written, verbal, or physical behavior, including any threatening, insulting, or dehumanizing gesture, by an adult or student, that is severe or pervasive enough to create an intimidating, hostile, or offensive educational environment; cause discomfort or humiliation; or unreasonably interfere with the individual's school performance or participation; and may involve:

- A. teasing;
- B. threats;
- C. intimidation;
- D. stalking;
- E. cyberstalking;
- F. cyberbullying;
- G. physical violence;
- H. sexual violence;
- I. theft;
- J. sexual, religious, or racial harassment;
- K. public humiliation; or
- L. destruction of property.

In the bullying context, "harassment" means any threatening, insulting, or dehumanizing gesture, use of data or computer software, or written, verbal or physical conduct directed against a student that:

- A. places a student or school employee in reasonable fear of harm to his/her person or damage to his/her property;
- B. has the effect of substantially interfering with a student's educational performance, opportunities, or benefits; or
- C. has the effect of substantially disrupting the orderly operation of a school.

## **Sexual Harassment**

Pursuant to Title VII of the Civil Rights Act of 1964 and Title IX of the Education 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 status in a class, educational program, or activity.

- B. Submission or rejection of such conduct by an individual is used as the basis for educational decisions affecting such individual.
- C. Such conduct has the purpose or effect of interfering with the individual's educational performance; of creating an intimidating, hostile, or offensive 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. sexual violence, including physical and/or sexual assault;
- C. threats or insinuations that a person's academic grade, promotion, classroom work or assignments, academic status, participation in athletics or extra-curricular programs or events, or other conditions of 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 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. inappropriate boundary invasions by a Corporation employee or other adult member of the Corporation community into a student's personal space and personal life;
- J. verbal, nonverbal or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature;
- K. 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.

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

**NOTE:** Sexual conduct/relationships with students by a Corporation employee or any other adult member of the School Corporation community is prohibited, and any teacher, administrator, coach, other school authority, or staff member who engages in certain sexual conduct with a student may be disciplined up to and including termination and also may be guilty of the criminal charge of "sexual battery" as set forth in I.C. 35-42-4-8. In the case of a child under fourteen (14) years of age, the person also may be guilty of "child molesting" under I.C. 35-42-4-3. In the case of a child between the ages of fourteen (14) and sixteen (16), the person also may be guilty of "sexual misconduct with a minor" under I.C. 35-42-4-9. The issue of consent is irrelevant in regard to the latter two (2) criminal charges. Any employee accused of sexual

relations with a student ( ) may ( ) will [**not recommended**] be placed on leave until school administrative proceedings are completed. Proven sexual relationships with a student regardless of the age of the student will initiate the termination process for the employee.

#### **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 educational performance; of creating an intimidating, hostile, or offensive 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 include but is not limited to conduct 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 educational performance; of creating an intimidating, hostile, or offensive 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 include but is not limited to conduct directed at the characteristics of a person's religious tradition, clothing, or surnames, and/or involving 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 educational performance; of creating an intimidating, hostile, or offensive 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 include but is not limited to conduct 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 educational performance; of creating an intimidating, hostile, or offensive 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 include but is not limited to conduct 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.

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

Students, members of the Corporation community and third parties are encouraged to promptly report incidents of unlawful harassment (see definition in first paragraph) to an administrator, supervisor or other Corporation official so that the Emergency Manager may address the conduct before it becomes severe, pervasive, or persistent. All Corporation-level employees, including administrators, professional staff and support staff, shall report any incident of alleged unlawful harassment (see definition see definition in first paragraph) that the employee observes or which is reported to the employee. Any administrator or other Corporation-level official who receives such a complaint shall file it with the Corporation's Anti-Harassment Compliance Officer at his/her first convenience. Corporation employees who fail to comply with the reporting responsibility shall be subject to discipline, up to and including termination.

Members of the Corporation community or third parties who believe they have been subjected to unlawful harassment (see definition in first paragraph) by another member of the Corporation community or a third party are entitled to utilize the Emergency Manager's complaint process set forth below. Initiating a complaint, whether formally or informally, will not adversely affect the complaining individual's participation in educational or extra-curricular programs unless the complaining individual makes the complaint maliciously or with knowledge that it is false. 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, during an investigation of a reported act of bullying and/or harassment in accordance with Policy 5517.01 – Bullying, the principal or his/her designee believes that the reported misconduct may have created a hostile work or learning environment and may have constituted unlawful harassment (see definition in first paragraph) based on "Protected Classes" (see definition

in first paragraph), the principal or his/her designee will report the act of bullying and/or harassment to one (1) of the Compliance Officers who shall investigate the allegation in accordance with this policy.

#### **Anti-Harassment Compliance Officers**

The following individuals serve as "Anti-Harassment Compliance Officers" for the Corporation. They are hereinafter referred to as the "Compliance Officers".

Kimberley Bradley, Chief Academic Officer  
9th and Gerry Street  
Gary, IN 46406  
(219) 886-6400  
[kbradley1@garycsc.k12.in.us](mailto:kbradley1@garycsc.k12.in.us)

Nathan Williamson, Chief Business Officer  
9th and Gerry Street  
Gary, IN 46406  
(219) 886-6400  
[nwilliamson@garycsc.k12.in.us](mailto:nwilliamson@garycsc.k12.in.us)

The names, titles, and contact information for the Compliance Officers will be published annually:

- A. in the student, parent, and staff handbooks
- B. in the School Corporation Annual Report to the public
- C. on the School Corporation's web site
- D. on each individual school's web site
- E. in the School Corporation's calendar

The Compliance Officers will be available during regular school/work hours to discuss concerns related to "unlawful harassment" (see definition in first paragraph), to assist students, other members of the Corporation community and third parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede informally on behalf of the student.

Any Corporation employee who directly observes unlawful harassment (see definition in first paragraph) of a student is obligated, in accordance with this policy, to report such observations to one (1) of the Compliance Officers within two (2) business days. Thereafter, the Compliance Officer or designee must contact the student if age eighteen (18) or older, or the student's parents if under the age of eighteen (18) within two (2) business days to advise him/her/them of the Corporation intent to investigate the alleged misconduct, including the obligation of the Compliance Officer or his/her designee to conduct an investigation following all the procedures outlined in this policy for a formal complaint. Additionally, if the alleged harasser is a student, the Compliance Officer or designee must contact the student, if age eighteen (18) or older, or the student's parents if under the age of eighteen (18), within two (2) business days to advise him/her/them of the Corporation's intent to investigate the alleged misconduct, including the obligation of the Compliance Officer or designee to conduct an investigation following all the procedures outlined for a formal complaint. However, all complaints of harassment involving a Corporation employee or any other adult member of the Corporation community against a student will be formally investigated.

The Compliance Officers are assigned to accept complaints of unlawful harassment (see definition in first paragraph) directly from any member of the Corporation community or a visitor to the Corporation, or to receive complaints that are initially filed with a school building administrator. Upon receipt of a complaint either directly or through a school building administrator, a Compliance Officer will begin either an informal or formal process (depending on the request of the member of the Corporation community alleging harassment or the nature of the alleged harassment), or the Compliance Officer will designate a specific individual to conduct such a process. In the case of a formal complaint, the Compliance Officer will prepare recommendations for the Superintendent or will oversee the preparation of such recommendations by a

designee. However, if the alleged harasser is the Superintendent, the recommendations shall be submitted to the School Board Attorney.

All Corporation employees must report incidents of unlawful harassment (see definition in first paragraph) that they observe or that are reported to them to the Compliance Officer within two (2) business days business days of learning of the incident.

#### **Investigation and Complaint Procedure (see Form 5517 F1)**

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

Due to the sensitivity surrounding complaints of unlawful harassment (see definition in first paragraph), time lines 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 with the United States Department of Education, Office for Civil Rights (OCR) or the Indiana Civil Rights Commission (ICRC), or to file a concurrent criminal complaint with the law enforcement agency having jurisdiction.

#### **Informal Complaint Procedure**

The goal of the informal complaint procedure is to stop inappropriate behavior and/or unlawful harassment (see definition in first paragraph), 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 who believes s/he has been unlawfully harassed or retaliated against in the Corporation's educational opportunities, programs, and/or activities, or, if initially occurring off Corporation grounds or outside the Corporation's educational opportunities, programs, and activities, affecting the Corporation environment. This informal procedure is not required as a precursor to the filing of a formal complaint and/or filing a concurrent criminal complaint, and will be utilized only where the parties (alleged target of harassment and alleged harasser(s)) agree to participate in such process.

Students who believe that they have been unlawfully harassed (see definition in first paragraph) or retaliated against may proceed immediately to the formal complaint process and individuals who seek resolution through the information procedure may request that the informal process be terminated at any time to move to the formal complaint procedure.

However, all complaints of unlawful harassment (see definition in first paragraph) involving a Corporation employee, any adult member of the Corporation 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 (see definition in first paragraph) 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 Officer(s) is/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 (see definition in first paragraph) 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 Corporation-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 Corporation's informal complaint procedure is designed to provide employees, other members of the Corporation community or third parties who believe they are being subjected to unlawful harassment (see definition in first paragraph) 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 school.
- 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, one (1) of the Compliance Officers or a 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, may file a complaint with the United States Department of Education, Office for Civil Rights (OCR) or the Indiana Civil Rights Commission (ICRC), and/or may file a concurrent criminal complaint with the law enforcement agency having jurisdiction. And, as stated above, parties may request that the informal process be terminated at any time to move to the formal complaint process.

One of the Compliance Officers or a designee will retain all materials generated as part of the informal complaint process in accordance with the Emergency Manager's records retention policy (see Policy 8310, Policy 8320 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 as described below shall be implemented.

The formal complaint process is not intended to interfere with the rights of an employee, other member of the Corporation community, or third party to pursue a complaint of unlawful harassment with the United States Department of Education, Office for Civil Rights (OCR) or the Indiana Civil Rights Commission (ICRC), and/or to file a concurrent criminal complaint with the law enforcement agency having jurisdiction.

An individual who believes s/he has been subjected to offensive conduct/unlawful 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 Corporation-level employee. Due to the sensitivity surrounding complaints of unlawful harassment (see definition in first paragraph) 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 Corporation-level employee, either orally or in writing, about any complaint of harassment or retaliation, the employee to whom the student reports the complaint must report such information to the Compliance Officer or designee within two (2) business days.

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

All formal complaints of unlawful harassment (see definition in first paragraph) or retaliation 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 complaint 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 building or class assignment or class 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 any action deemed appropriate. If the Complainant is unwilling to consent any change that is deemed appropriate by the Compliance Officer, the Compliance Officer may still take whatever actions s/he deems appropriate in consultation with the Emergency Manager and/or District Attorney.

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/unlawful harassment/retaliation.

A principal will not conduct an investigation unless directed to do so by the Compliance Officer.

Contemporaneously, one of the Compliance Officers or a designee will inform the individual alleged to have engaged in the unlawful 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 a copy of the Emergency Manager's anti-harassment policy shall be provided to the Respondent. The Respondent also must 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, one (1) of the Compliance Officers or a designee will attempt to complete an investigation into the allegations of harassment or retaliation within fifteen (15) business days of receiving the formal complaint.

The investigation will include:

- A. interview(s) with the Complainant;
- B. interview(s) with the Respondent;
- C. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations; and
- D. consideration of any documentation or other information, presented by the Complainant, Respondent, or any other witnesses 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 Emergency Manager policy and State and Federal law as to whether the Complainant has been subjected to unlawful harassment (see definition in first paragraph) or retaliation. 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 the evidence standard will be used (i.e., it is more likely than not that unlawful harassment or retaliation occurred).

[ ] The Compliance Officer may consult with the Emergency Manager's legal counsel before finalizing the report to the Superintendent.

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 decision regarding whether the complaint of harassment has been substantiated or request further investigation. A copy of the Emergency Manager's decision will be delivered to both the Complainant and the Respondent.

If the Emergency Manager requests additional investigation, the Emergency Manager 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 Emergency Manager must issue a written decision as described above. The decision of the Emergency Manager shall be final.

The Emergency Manager reserves the right to investigate and resolve a complaint or report of unlawful harassment/retaliation regardless of whether the member of the Corporation community or third party alleging the unlawful harassment/retaliation pursues the complaint. The Emergency Manager 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 Emergency Manager or their designee.

The Complainant and the Respondent may be represented, at his/her own cost, at any of the above-described meetings/hearings.

The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights or the Indiana Civil Rights Commission, or the filing of a concurrent criminal complaint. Use of the complaint procedures is not a prerequisite to the pursuit of other remedies. Furthermore, the complaint must be investigated even if a separate investigation is being conducted by another agency, including but not limited to the local police department.

#### **Privacy/Confidentiality**

The Corporation will employ all reasonable efforts to protect the privacy of the Complainant, the Respondent(s) (that is the individual(s) against whom the complaint is filed), and the witnesses to the extent possible, consistent with the Corporation's legal obligations to investigate, to take appropriate action, and comply with any discovery or disclosure obligations.

All records generated under the terms of this policy shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed.

All Complainants proceeding through the formal investigation process should be advised that their identities may be disclosed to the Respondent(s).

During the course of a formal investigation, the Compliance Officer or his/her designee will instruct all members of the Corporation 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.

#### **Remediation**

In cases where the complaint investigation results in a finding that the allegation of unlawful harassment/retaliation is substantiated, action must be taken by the Compliance Officer to remedy the past effects of such unlawful harassment/retaliation on a student. This may include but is not limited to providing a contact person to monitor the student, providing tutoring to the student, allowing the student to retake tests or assignments, and counseling.

#### **Sanctions and Monitoring**

The Emergency Manager shall vigorously enforce its prohibitions against unlawful harassment (see definition in first paragraph)/retaliation 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), if any. Any discipline of students with disabilities will be in accordance with the Individuals with Disabilities Education Act ("IDEA") and the Federal and State regulations implementing the IDEA.

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 Emergency Manager may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Emergency Manager policies, consistent with the terms of the relevant collective bargaining agreement(s), if any, and with Federal and State laws and regulations.

All sanctions imposed by the Emergency Manager shall be reasonably calculated to end such conduct, prevent its recurrence, and remedy its effects. Prior sanctions imposed on the Respondent(s) for similar past conduct shall be considered in determining the appropriateness of the sanction(s) imposed for the present conduct.

#### **Retention of Public Records, Student Records, and Investigatory Records and Materials**

All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and received as part of an investigation, including but not limited to complaints, responses, witness statements, documentary evidence, audio, video and/or digital recordings, handwritten and contemporaneous notes, e-mails related to the investigation and allegations, printouts, letters, determinations, and summaries. The information, documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).

The information, documents, ESI, and electronic media (as defined in Policy 8315) created or received as part of an investigation shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, Policy 8330 and the Corporation's records retention schedule.

#### **Retaliation**

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

Specifically, the Emergency Manager will not discriminate/retaliate against, coerce, intimidate, threaten, or interfere with any individual because the person opposed any act or practice of unlawful harassment (see definition in first paragraph), or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing pertaining to unlawful harassment, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by Federal or State laws.

Individuals found to have engaged in retaliation shall be subject to disciplinary action, up to and including termination of employment or expulsion from school.

#### **Allegations Constituting Criminal Conduct: Child Abuse/Sexual Misconduct**

State law requires any teacher or school employee who knows or suspects that a child under the age of eighteen (18) is a victim of child abuse or neglect to immediately report that knowledge or suspicion to the Department of Child Services, Office of Child Protective Services. 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 or the alleged victim, a report of such knowledge must be made in accordance with State law and Board Policy.

If the Compliance Officer or a designee has reason to believe that the Complainant has been the victim of criminal conduct as defined under State law, such knowledge should be reported to local law enforcement.

Any reports made to Child Protective Services or to local law enforcement shall not terminate the Compliance Officer's 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.

#### **Education and Training**

In support of this Anti-Harassment Policy, the Emergency Manager promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Compliance Officers will oversee training of Corporation employees and students so that they understand their rights and responsibilities under Federal and State law and are informed of the Emergency Manager's policies and practices with respect to fully implementing and complying with the requirements of Federal and State law. All training regarding the Emergency Manager's policy and administrative guidelines and harassment, in general, will be age and content appropriate.

#### **Notice**

Notice of the Emergency Manager's policy on anti-harassment related to employment practices and the identity of the Compliance Officers will be posted throughout the Corporation, and published in any Corporation statement regarding the

availability of employment, in any staff handbooks, and in general information publications of the Corporation as required by Federal and State law and this policy.

© Neola 2018

Last Modified by Sandy Cheney on May 14, 2021

Book

Neola Policy Templates for Processing

Section

5000 Students Templates

Title

STUDENT DISCIPLINE

Code

po5600

Status

From Neola

Legal

I.C. 20-26-5-32

I.C. 20-33-8-1 et seq.

#### 5600 - **STUDENT DISCIPLINE**

The Emergency Manager acknowledges that conduct is closely related to learning and that an effective instructional program requires an orderly school environment, which is, in part, reflected in the behavior of students.

The Emergency Manager believes that the best discipline is self-imposed. Students should learn to assume responsibility for their own behavior and the consequences of their actions.

The Emergency Manager requires each student of this School Corporation to adhere to the Code of Conduct promulgated by the administration and to submit to such disciplinary measures as are appropriately assigned for infraction of those rules. Such rules shall require that students:

- A. conform to reasonable standards of socially acceptable behavior;
- B. respect the person and property of others;
- C. preserve the degree of order necessary to the educational program in which they are engaged;
- D. respect the rights of others;
- E. obey constituted authority and respond to those who hold that authority.

The Superintendent will promulgate administrative guidelines for student conduct which carry out the purposes of this policy and:

- A. are not arbitrary but bear a reasonable relationship to the need to maintain a school environment conducive to learning;
- B. do not discriminate among students;
- C. do not demean students;
- D. do not violate any individual rights constitutionally guaranteed to students.

The Superintendent will designate sanctions for the infractions of rules, excluding corporal punishment, which:

- A. relate in kind and degree to the infraction;
- B. help the student learn to take responsibility for his/her actions;
- C. are directed, where possible, to reduce the effects of any harm which may have been caused by the student's misconduct.

The Superintendent shall publish to all students and their parents the rules of this Corporation regarding student conduct, the sanctions which may be imposed for breach of those rules, and the due-process procedures that will be followed in administering the Code of Conduct. ( ) Parents, and students who are eighteen (18) years or older, will be provided a form which is to be signed and returned to the school principal confirming that the Code of Conduct has been read and is understood. Failure to return the form shall have no effect on the utilization of the disciplinary actions contained in the Code with that student.

[ ] The Superintendent will appoint a committee of staff members, students, parents, and community representatives to review rules of student conduct annually and to advise on alterations and modifications.

[ ] The Superintendent will request that the State Department of Education provide information and assistance to the Corporation regarding the implementation of the Code of Conduct to ensure that teachers and administrators receive appropriate professional development and other resources in preparation for carrying out the plan.

[ ] The district and building administrators shall have the authority to assign discipline to students, subject to Corporation administrative guidelines and the student's due process rights to notice, hearing, and appeal.

[ ] Teachers and other employees of this Emergency Manager having authority over students shall have the authority to take such means as may be necessary to control the disorderly conduct of students in all situations and in all places where such students are within the jurisdiction of this Board and when such conduct interferes with the educational program of the schools or threatens the health and safety of others.

[ ] No student is to be detained after the close of the regular school day unless the student's parent has been contacted and informed that the student will be detained or other suitable transportation arrangements have been made.

© Neola 2019

Last Modified by Sandy Cheney on May 14, 2021