

Smith County Board of Education

Monitoring: Review: Annually, in March	Descriptor Term: Discrimination / Harassment of Employees (Sexual, Racial, Ethnic, Religious)	Descriptor Code: 5.500	Issued Date: 01/19/21
		Rescinds: 5.500	Issued: 02/21/17

1 I. GENERAL STATEMENT

2 The Smith County Board of Education is committed to safeguarding the right of all students and
3 employees within the school system to learn and work in an environment that is free from all forms of
4 harassment and/or sexual harassment.

5 It is the policy of the Smith County school system to maintain learning and working environment that is
6 free from harassment of any type. The school system prohibits any form of sexual harassment or
7 harassment based upon age, region, disability or race/national origin.¹

8 It shall be a violation of this policy for any student or employee of the school system to harass a student
9 or an employee through conduct or communication in any form as defined by this policy.

10 Title VI of Civil Rights Act of 1964, Title IX of the Education Amendments of 1972 and Section 504 of
11 the Rehabilitation Act of 1973 require school districts to have officially adopted policy statements of
12 nondiscrimination on the basis of sex, disability, national origin and race.

13 II. HARASSMENT DEFINED AND PROHIBITED

14 It is the policy of the Smith County Board of Education not to discriminate on the basis of sex, race,
15 national origin, creed, religion, age, marital status, or disability in its educational programs, activities, or
16 employment policies as required by the herein-referenced federal statutes. Any employee, or student of
17 this school system shall be punished for infractions of this policy as provided for herein.

18 III. REPORTING PROCEDURES

19 Any person who believes he or she has been the victim of harassment or sexual harassment by a student
20 or an employee of the school system, or any third person with knowledge or belief of conduct that may
21 constitute harassment or sexual harassment should report the alleged acts immediately to an appropriate
22 school system official as designated by this policy.² The school system encourages the reporting party
23 or complainant to use the report form available from the principal of each school or available from the
24 school system central office.

25 A. In Each School. The school principal is the person responsible for receiving oral and written reports
26 of harassment or sexual harassment at the school level. A written report will be forwarded
27 simultaneously to the Complaint Coordinator and the Director of Schools or his/her designee. If the
28 report was given verbally, the principal shall reduce it to written form within 24 hours. Failure to
29 forward any harassment or sexual harassment report or complaint as provided herein shall result in

- 1 disciplinary action. If the complaint involves the school principal, the complaint shall be filed directly
2 with the Complaint Coordinator or the Director of Schools or his/her designee.
- 3 B. System Wide. The school board hereby designates Angel Williams as the Complaint Coordinator
4 and Title IX Coordinator to receive reports or complaints of sexual harassment from any individual,
5 employee or victim of harassment or sexual harassment or discrimination and also from the school
6 principals as outlined above. If the complaint involves the Complaint Coordinator, the complaint
7 shall be filed directly with the Director of Schools. The school system shall conspicuously post the
8 name of the Complaint Coordinator, including a mailing address and telephone number.
- 9 C. Submission of a complaint or report of harassment or sexual harassment will not affect the reporting
10 individual's present or future employment, grades or work assignments.
- 11 D. Use of formal reporting forms is not mandatory.

12 The school system will respect the confidentiality of the complainant and the individual(s) against whom
13 the complaint is filed as much as possible, consistent with the school system's legal obligations and the
14 necessity to investigate allegations or harassment and take disciplinary action when the conduct has
15 occurred.

16 **IV. INVESTIGATION AND RECOMMENDATION**

17 Upon receipt of a report or complaint alleging harassment, sexual harassment or discrimination, the
18 Complaint Coordinator shall immediately undertake an investigation. The investigation shall be
19 conducted by the Complaint Coordinator who shall be assisted by the school principal, if such complaint
20 originates at a school site.

21 In determining whether alleged conduct constitutes harassment, sexual harassment or discrimination, the
22 school system shall consider all relevant circumstances, the nature of the sexual advances if sexual
23 harassment is alleged, relationships between the parties involved and the context in which the alleged
24 incidents occurred.

25 The investigation shall consist of, but not limited to, personal interviews with the complainant, the
26 individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged
27 incident(s) or circumstances giving rise to the complaint. The investigation shall consist of any other
28 methods and documents deemed relevant by the Complaint Coordinator.

29 In addition, the school system shall take immediate steps to protect the complainant, students and
30 employees pending completion of an investigation of alleged harassment, sexual harassment or
31 discrimination.

32 The Complaint Coordinator shall make a final report including findings and recommendations for
33 disciplinary actions, if any to the Superintendent/Director of Schools or his/her designee upon
34 completion of the investigation.

35 **V. SCHOOL DISTRICT ACTION**

- 36 A. Upon receipt of a recommendation that the complaint is valid, the school system shall take such
37 action as appropriate based on the results of the investigation.

1 B. The result of the investigation of each complaint filed under these procedures shall be reported
2 in writing to complainant by the school system. The report shall document any disciplinary action
3 taken as a result of the complaint.

4 C. The school system shall take such other steps as are necessary to prevent recurrence of the
5 harassment.

6 D. The school system shall keep the complainant informed of the status of complainants.

7 VI. REPRISAL

8 The school system shall discipline any individual who retaliates against any person who reports alleged
9 incidents of harassment, sexual harassment or discrimination as well as any individual who retaliates
10 against any person who testifies, assists or participates in an investigation, proceeding or hearing relating
11 to a harassment, sexual harassment or discrimination complaint. Retaliation includes, but is not limited
12 to, any form of intimidation, reprisal or harassment that creates a hostile environment.

13 VII. NON-HARASSMENT/FALSE ACCUSATIONS

14 The school system recognizes that not every reported incident, advance or consent containing sexual
15 content constitutes harassment. Whether a particular action or incident constitutes a personal or social
16 relationship having a discriminatory effect requires a determination based on all the facts and
17 surrounding circumstances.

18 False accusations of harassment, sexual harassment or discrimination can have serious detrimental effect
19 on innocent parties. Any person who knowingly and intentionally makes a false accusation, for any
20 reason, that would be contrary to the spirit and intent of this policy, shall be subject to immediate and
21 appropriate disciplinary action.

22 VIII. RIGHT TO ALTERNATIVE COMPLAINT PROCEDURES

23 These proceedings do not deny the right of any individual to pursue other avenues of recourse which
24 may include filing charges with the Tennessee Department of Human Rights, initiating the civil action,
25 filing a complaint with the Office of the Civil Rights of the United States Department of Education, or
26 in certain instance, seeking redress under state statutes.

27 IX. SEXUAL HARASSMENT AS SEXUAL ABUSE

28 Under certain circumstances, sexual harassment may constitute sexual abuse under Tennessee Law. In
29 such situations, the school system shall comply with Tennessee statutory requirements regarding the
30 reporting of suspected abuse to the appropriate authorities.

31 X. DISCIPLINE

32 Any school system action taken pursuant to this policy shall be consistent with requirements of federal
33 law, Tennessee statutes, and other school system policies. The school system shall take such disciplinary
34 action it deems necessary and appropriate, including warning, suspension or immediate discharge to end
35 harassment, sexual harassment or discrimination and to prevent its recurrence.

1 XI. POLICY DISTRIBUTION

2 A copy of the foregoing policy and reporting procedure shall be published in the school system policy
3 manual, shall be included in each student handbook published by the school system, and shall be posted
4 in a conspicuous place in each school building. Postings of the policy shall include the name(s) of the
5 person(s) to whom reports should be directed. Employees shall be provided a work environment free
6 from sexual, racial, ethnic and religious discrimination/ harassment. It shall be a violation of this policy
7 for any employee or any student to discriminate against or harass an employee through disparaging
8 conduct or communication that is sexual, racial, ethnic or religious in nature. The following guidelines
9 are set forth to protect employees from discrimination/ harassment.

10 Employee discrimination/harassment will not be tolerated.¹ Discrimination/harassment is defined as
11 conduct, advances, gestures or words either written or spoken of a sexual, racial, ethnic or religious
12 nature which:

- 13 1. Unreasonably interfere with the individual's work or performance; or
- 14 2. Create an intimidating, hostile or offensive work environment; or
- 15 3. Imply that submission to such conduct is made an explicit or implicit term of
16 employment;
- 17 4. Imply that submission to or rejection of such conduct will be used as a basis for an
18 employment decision affecting the harassed employee.

19 Alleged victims of sexual, racial, ethnic and religious discrimination/harassment shall report these
20 incidents immediately.² This report should be made to the immediate supervisor except when the
21 immediate supervisor is the offending party. If the immediate supervisor is the offending party, the report
22 may be made to the Federal Rights Coordinator. Allegations of discrimination/harassment shall be fully
23 investigated (as set forth in *Complaints and Grievances 5.501*). An oral complaint may be submitted;
24 however, such complaint must be reduced to writing to ensure a more complete investigation. The
25 complaint should include the following information:

- 26 Identity of the alleged victim and person accused;
- 27 Location, date, time and circumstances surrounding the alleged incident;
- 28 Description of what happened; Identity of witnesses; and
- 29 Any other evidence available.

30 The privacy and anonymity of all parties and witnesses to complaints will be respected. However,
31 because an individual's need for confidentiality must be balanced with obligations to cooperate with
32 police investigations or legal proceedings, to provide due process to the accused, to conduct a thorough
33 investigation or to take necessary action to resolve a complaint, the identity of parties and witnesses may
34 be disclosed in appropriate circumstances to individuals with a need to know.

35 A substantiated charge against an employee shall result in disciplinary action up to and including
36 termination. A substantiated charge against a student may result in corrective or disciplinary action up
37 to and including suspension.

38 There will be no retaliation against any person who reports discrimination/harassment or participates in
39 an investigation. However, any employee who refuses to cooperate or gives false information during the

- 1 course of any investigation may be subject to disciplinary action. The willful filing of a false report will
- 2 itself be considered harassment and will be treated as such.

- 3 An employee disciplined for violation of this policy may appeal the decision by contacting the Federal
- 4 Rights Coordinator.

Legal References

1. 29 CFR §1604.11; TCA 5-23-104
2. 20 USCA § 1681

Cross References

Appeals To and Appearances Before the Board 1.404
Complaints and Grievances 5.501
Sexual Harassment Complaint Form 5.500.1 (AP)
Title IX & Sexual Harassment 6.3041