

No. 128

SECTION: Programs

TITLE: Nondiscrimination

# CATASAUQUA AREA SCHOOL DISTRICT

ADOPTED: November 10, 2005

REVISED: February 13, 2006

REVISED: October 13, 2020

#128 — Nondiscrimination		1
1. Policy	The Board declares it to be the policy of this District to provide an equal opportunity for all students to achieve their maximum potential through the programs offered in the schools regardless of race, color, age, creed, religion, sex (including sexual orientation and sexual identity), ancestry, national origin, marital status, familial status, pregnancy, genetic information, handicap/disability, or any other legally protected classification. The District shall provide to all students, without discrimination, course offerings, counseling, assistance, employment, athletics and extracurricular activities. Discrimination is inconsistent with the educational and programmatic goals of the District and is prohibited on school property, at school-sponsored activities, and on any conveyance providing transportation to or from a school facility or school-sponsored activity.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16
Public School Code § 1310; Civil Rights Act Title VI: 42 USC § 2000d <i>et seq.</i> ; Title VII: 42 USC § 2000e <i>et seq.</i> ; 1972 Ed. Am. Act. Title IX: 20 USC § 1681; 42 USC § 12101 <i>et seq.</i> ; ADEA: 29 USC § 621 <i>et seq.</i> ; Genetic Info. Non-Discr. Act: 42 USC § 2000ff <i>et seq.</i> ; 29 USC § 701 <i>et seq.</i> , esp. § 794; 34 CFR Parts 100, 104, 106, 110; Pa. Unfair Ed. Practices: 24 PA. STAT. ANN. § 5004; Pa. HRA: 43 PA. STAT. ANN. § 951 <i>et seq.</i> ; 16 Pa. Code ch. 44, 47; PHRC guidelines;	The Board declares it to be the policy of this District to provide to all persons equal access to all categories of employment in this District, regardless of race, color, age, creed, religion, sex (including sexual orientation and sexual identity), ancestry, national origin, marital status, familial status, pregnancy, genetic information, handicap/disability, or any other legally protected classification.	17 18 19 20 21 22 23
	Further, in all other respects, the Board declares it to be the policy of this District that no person shall be excluded from participation in, be denied the benefits of, or otherwise subjected to unlawful discrimination on the ground of race, color, age, creed, religion, sex (including sexual orientation and sexual identity), ancestry, national origin, marital status, familial status, pregnancy, genetic information, handicap/disability or any other legally protected classification with respect to any of its programs or activities or in the employment of any personnel.	24 25 26 27 28 29 30 31 32
	The District shall make reasonable accommodations for identified physical and mental impairments that constitute disabilities, consistent with the requirements of federal and state laws and regulations.	33 34 35 36 37



	<b>#128 — Nondiscrimination</b>	<b>Page 2</b>	<b>1</b>
			<b>2</b>
29 CFR §	Sexual Harassment and other types of unlawful Harassment (as defined		<b>3</b>
1606.8(a);	below) are forms of unlawful discrimination and are expressly prohibited		<b>4</b>
22 Pa. Code §§	under this policy.		<b>5</b>
4.4, 12.1, 12.4,			<b>6</b>
15.1 <i>et seq.</i>	The Board encourages students, employees, and third parties who believe		<b>7</b>
	they or others have been subject to discrimination to promptly report such		<b>8</b>
	incidents to designated employees, even if some elements of the related		<b>9</b>
	incident took place or originated away from school property, school		<b>10</b>
	activities, or school conveyances.		<b>11</b>
			<b>12</b>
	The Board directs that oral and written reports and formal complaints of		<b>13</b>
	discrimination shall be investigated promptly, and corrective action be		<b>14</b>
	taken when allegations are substantiated.		<b>15</b>
			<b>16</b>
34 CFR § 106.71	No reprisals or retaliation may be taken against any person for making any		<b>17</b>
	report of discrimination or filing any formal complaint under this policy in		<b>18</b>
	good faith, or for providing information as a witness in any investigation		<b>19</b>
	under this policy or in any related proceeding, or for assisting, participating,		<b>20</b>
	or refusing to participate in any manner in an investigation or proceeding		<b>21</b>
	under this policy, for the purpose of interfering with any rights or privileges		<b>22</b>
	protected by this policy. However, the exercise of rights protected under		<b>23</b>
	the First Amendment to the U.S. Constitution does not constitute retaliation,		<b>24</b>
	nor does charging an individual with a code of conduct violation for making		<b>25</b>
	a materially false statement in bad faith in the course of a proceeding under		<b>26</b>
	this policy, A determination regarding responsibility is not sufficient by		<b>27</b>
	itself to conclude that any person made a materially false statement in bad		<b>28</b>
	faith. Any such reprisal or retaliation is in itself unlawful discrimination		<b>29</b>
	prohibited by this policy and constitutes an independent violation of this		<b>30</b>
	policy.		<b>31</b>
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2. Definitions	A. <u>Harassment</u>		<b>34</b>
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29 CFR §	For purposes of this policy, “harassment” shall consist of unwelcome		<b>36</b>
1606.8(a);	verbal, written, electronic, graphic, or physical conduct (including but		<b>37</b>
62 Fed. Reg.	not limited to offensive jokes, slurs, epithets, and name-calling, ridicule		<b>38</b>
12033 (3/13/97);	or mockery, insults or put-downs, offensive objects or pictures,		<b>39</b>
66 Fed. Reg. 5512	physical assaults or threats, intimidation, or other conduct which may		<b>40</b>
(1/19/01)	be harmful or humiliating) relating to an individual’s race, color,		<b>41</b>
	national origin/ethnicity, ancestry, sex (including sexual orientation		<b>42</b>
	and sexual identity), age, disability/handicap, religion, creed, marital		<b>43</b>
	status, familial status, pregnancy, genetic information, or any other		<b>44</b>
	legally protected classification when such conduct:		<b>45</b>
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			<b>2</b>
	1. Is sufficiently severe, persistent, or pervasive that it affects an individual’s ability to participate in or benefit from an educational program or activity or to perform job functions, or creates an educational or work environment that a reasonable person would consider intimidating, hostile, or abusive.		<b>3</b>
			<b>4</b>
			<b>5</b>
			<b>6</b>
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			<b>8</b>
	2. Has the purpose or effect <del>of</del> <u>of</u> substantially or unreasonably interfering with an individual’s academic or work performance.		<b>9</b>
			<b>10</b>
			<b>11</b>
	3. Otherwise adversely affects an individual’s learning or employment opportunities.		<b>12</b>
			<b>13</b>
			<b>14</b>
	The term “harassment” also includes all activity which constitutes “sexual harassment.”		<b>15</b>
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34 CFR § 106.30(a)	<b>B. <u>Sexual Harassment</u></b>		<b>19</b>
			<b>20</b>
	For purposes of this policy, “sexual harassment” means conduct on the basis of sex that satisfies one or more of the following:		<b>21</b>
			<b>22</b>
			<b>23</b>
	1. An employee of the District conditioning the provision of an aid, benefit, or service of the District (including employment) on an individual’s participation in unwelcome sexual conduct;		<b>24</b>
			<b>25</b>
			<b>26</b>
			<b>27</b>
	2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District’s education program or activity (including employment);		<b>28</b>
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			<b>30</b>
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20 USC § 1092(f)(6)(A)(v)	3. Sexual assault — an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;		<b>33</b>
			<b>34</b>
			<b>35</b>
			<b>36</b>
34 USC § 12291(a)(10)	4. Dating violence — violence committed by a person—		<b>37</b>
			<b>38</b>
	a. who is or has been in a social relationship of a romantic or intimate nature with the victim; and		<b>39</b>
			<b>40</b>
			<b>41</b>
	b. where the existence of such a relationship shall be determined based on a consideration of the following factors:		<b>42</b>
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			<b>44</b>
	i. the length of the relationship.		<b>45</b>
			<b>46</b>
	ii. the type of relationship.		<b>47</b>
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	iii. the frequency of interaction between the persons involved in the relationship;		<b>49</b>
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34 USC §	5. Domestic violence — felony or misdemeanor crimes of violence		<b>3</b>
12291(a)(8)	committed by a current or former spouse or intimate partner of the		<b>4</b>
	victim, by a person with whom the victim shares a child in		<b>5</b>
	common, by a person who is cohabitating with or has cohabitated		<b>6</b>
	with the victim as a spouse or intimate partner, by a person		<b>7</b>
	similarly situated to a spouse of the victim under the domestic or		<b>8</b>
	family violence laws of the Commonwealth of Pennsylvania, or by		<b>9</b>
	any other person against an adult or youth victim who is protected		<b>10</b>
	from that person’s acts under the domestic or family violence laws		<b>11</b>
	of the Commonwealth; or		<b>12</b>
			<b>13</b>
34 USC §	6. Stalking — engaging in a course of conduct directed at a specific		<b>14</b>
12291(a)(30)	person that would cause a reasonable person to—		<b>15</b>
			<b>16</b>
	a. fear for his or her safety or the safety of others; or		<b>17</b>
			<b>18</b>
	b. suffer substantial emotional distress.		<b>19</b>
			<b>20</b>
	Examples of conduct that may constitute sexual harassment include,		<b>21</b>
	but are not limited to, sexual flirtations, advances, touching or		<b>22</b>
	propositions; verbal abuse of a sexual nature; graphic or suggestive		<b>23</b>
	comments about an individual’s dress or body; sexually degrading		<b>24</b>
	words to describe an individual; jokes; pin-ups; calendars; objects;		<b>25</b>
	graffiti; vulgar statements; abusive language; innuendoes; references to		<b>26</b>
	sexual activities; overt sexual conduct; or any conduct that has the		<b>27</b>
	effect of unreasonably interfering with a student’s ability to work or		<b>28</b>
	learn or creates an intimidating, hostile, or offensive leaning or working		<b>29</b>
	environment.		<b>30</b>
			<b>31</b>
	This policy covers, without limitation, sexual harassment by a student		<b>32</b>
	to another student; a student to an employee; an employee to a student;		<b>33</b>
	an employee to an employee; a third party to a student or employee; a		<b>34</b>
	student or employee to a third party; a male to a male; a female to a		<b>35</b>
	female; a male to a female; and a female to a male.		<b>36</b>
			<b>37</b>
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34 CFR § 106.30	C. <u>Parties</u>		<b>39</b>
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	For purposes of this policy—		<b>41</b>
			<b>42</b>
	1. “Complainant” means an individual who is alleged to be the victim		<b>43</b>
	of conduct that could constitute sexual harassment or other		<b>44</b>
	prohibited discrimination. Where the Title IX Coordinator or		<b>45</b>
	Compliance Officer signs a formal complaint, the Title IX		<b>46</b>
	Coordinator or Compliance Officer is not a “complainant” or		<b>47</b>
	otherwise a party to the complaint proceeding.		<b>48</b>
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	2. “Respondent” means an individual who has been reported to be the		<b>3</b>
	perpetrator of conduct that could constitute sexual harassment or		<b>4</b>
	other prohibited discrimination.		<b>5</b>
			<b>6</b>
			<b>7</b>
34 CFR § 106.30	D. <u>Formal Complaint</u>		<b>8</b>
			<b>9</b>
	For purposes of this policy, “formal complaint” means a document		<b>10</b>
	filed by a complainant or signed by the Title IX Coordinator /		<b>11</b>
	Compliance Officer alleging sexual harassment or other prohibited		<b>12</b>
	discrimination against a respondent and requesting that the District		<b>13</b>
	investigate the allegation of sexual harassment or other prohibited		<b>14</b>
	discrimination. At the time of filing a formal complaint, a complainant		<b>15</b>
	must be participating in or attempting to participate in the education		<b>16</b>
	program or activity of the District (including employment). As used in		<b>17</b>
	this paragraph, the term “document filed by a complainant” means a		<b>18</b>
	document or electronic submission (such as by electronic mail or		<b>19</b>
	through an online portal provided by the District for this purpose) that		<b>20</b>
	contains the complainant’s physical or digital signature, or otherwise		<b>21</b>
	indicates that the complainant is the person filing the formal complaint.		<b>22</b>
			<b>23</b>
			<b>24</b>
34 CFR § 106.3	E. <u>Supportive Measures.</u>		<b>25</b>
			<b>26</b>
	For purposes of this policy, “supportive measures” means non-		<b>27</b>
	disciplinary, non-punitive individualized services offered as		<b>28</b>
	appropriate., as reasonably available, and without fee or charge to the		<b>29</b>
	complainant or respondent before or after the filing of a formal		<b>30</b>
	complaint, or where no formal complaint has been filed. Such		<b>31</b>
	measures are designed to restore or preserve equal access to the		<b>32</b>
	District’s education programs and activities (including employment)		<b>33</b>
	without unreasonably burdening the other party, including measures		<b>34</b>
	designed to protect the safety of all parties or the District’s educational		<b>35</b>
	environment, or deter sexual harassment and other prohibited		<b>36</b>
	discrimination.		<b>37</b>
			<b>38</b>
	Supportive measures may include counseling, extensions of deadlines		<b>39</b>
	or other course-related adjustments, modifications of work or class		<b>40</b>
	schedules, campus escort services, mutual restrictions on contact		<b>41</b>
	between the parties, changes in work locations, leaves of absence,		<b>42</b>
	increased security and monitoring of certain areas, and other similar		<b>43</b>
	measures.		<b>44</b>
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	The District shall maintain as confidential any supportive measures		<b>3</b>
	provided to the complainant or respondent, to the extent that		<b>4</b>
	maintaining such confidentiality would not impair the ability of the		<b>5</b>
	District to provide the supportive measures. The Compliance Officer is		<b>6</b>
	responsible for coordinating the effective implementation of supportive		<b>7</b>
	measures.		<b>8</b>
			<b>9</b>
			<b>10</b>
2. Delegation of	In order to maintain a program of nondiscrimination practices and a		<b>11</b>
Responsibility	learning and working environment that is in compliance with applicable		<b>12</b>
	laws and regulations, the Board designates the Assistant Superintendent as		<b>13</b>
34 CFR § 106.8	the District's Compliance Officer to serve as the Title IX Coordinator for		<b>14</b>
	purposes of Title IX of the Educational Amendments Act of 1972, and the		<b>15</b>
	coordinator and/or compliance official for purposes of the Americans with		<b>16</b>
	Disabilities Act of 1990, Title VI of the Civil Rights Act of 1964, Section		<b>17</b>
	504 of the Rehabilitation Act of 1973, and all other nondiscrimination		<b>18</b>
	statutes and regulations. In all matters relating to discrimination on the		<b>19</b>
	basis of sex, the District shall refer to the Compliance Officer as the Title		<b>20</b>
	IX Coordinator.		<b>21</b>
			<b>22</b>
	The Compliance Officer shall notify applicants for employment, students,		<b>23</b>
	parents or legal guardians of school students, employees, and all unions or		<b>24</b>
	professional organizations holding collective bargaining agreements or		<b>25</b>
	professional agreements with the District—		<b>26</b>
			<b>27</b>
	1. of the name or title, office address, electronic mail address, and		<b>28</b>
	telephone number of the employee designed as the Title IX		<b>29</b>
	Coordinator and Compliance Officer;		<b>30</b>
			<b>31</b>
	2. that the District does not discriminate on the basis of sex, race,		<b>32</b>
	color, age, creed, religion, ancestry, national origin, marital status,		<b>33</b>
	familial status, pregnancy, genetic information, handicap/disability,		<b>34</b>
	or any other legally protected classification, in the educational		<b>35</b>
	programs and activities the District operates (including		<b>36</b>
	employment), and that it is required by Title IX of the Educational		<b>37</b>
	Amendments Act of 1972, regulations under Title IX, and other		<b>38</b>
	federal and state statutes and regulations, not to discriminate in		<b>39</b>
	such a manner. Inquiries about the application of Title IX and its		<b>40</b>
	regulations, and other nondiscrimination statutes and regulations, to		<b>41</b>
	the District may be referred to the Title IX Coordinator/Compliance		<b>42</b>
	Officer, to the Assistant Secretary for Civil Rights of the U.S.		<b>43</b>
	Department of Education, or both; and		<b>44</b>
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			<b>2</b>
	3. that the District has adopted Policy #128 to provide grievance		<b>3</b>
	procedures and grievance process for the prompt and equitable		<b>4</b>
	resolution of complaints of prohibited discrimination, including		<b>5</b>
	how to report or file a complaint of sex or other discrimination,		<b>6</b>
	how to report or file a formal complaint of sexual or other		<b>7</b>
	harassment, and how the District will respond. Copies of Policy		<b>8</b>
	#128 may be obtained from the Title IX Coordinator/Compliance		<b>9</b>
	Officer or on the District website, <a href="http://www.cattysd.org">www.cattysd.org</a> .		<b>10</b>
			<b>11</b>
	The District shall also prominently display the above notifications on the		<b>12</b>
	District’s website and in each handbook or catalog that it makes available to		<b>13</b>
	persons entitled to the above notifications.		<b>14</b>
			<b>15</b>
	The Compliance Officer shall publish and disseminate a notice of this		<b>16</b>
	policy and complaint procedure at least annually to students,		<b>17</b>
	parents/guardians, employees, and the public, together with either a copy of		<b>18</b>
	this policy or a statement how to obtain a copy of this policy. A copy of		<b>19</b>
	this policy will be distributed to all buildings and facilities within the		<b>20</b>
	District, and included or referenced in all student or employee handbooks.		<b>21</b>
			<b>22</b>
3. Rights Not	Notwithstanding anything that could appear to be to the contrary, nothing in		<b>23</b>
Infringed	this policy shall—		<b>24</b>
			<b>25</b>
34 CFR §	1. Restrict any rights that would otherwise be protected from		<b>26</b>
106.6(d), (g)	government action by the First Amendment of the U.S.		<b>27</b>
	Constitution;		<b>28</b>
			<b>29</b>
	2. Deprive a person of any rights that would otherwise be protected		<b>30</b>
	from government action under the Due Process Clause of the Fifth		<b>31</b>
	and Fourteenth Amendments of the U.S. Constitution;		<b>32</b>
			<b>33</b>
	3. Restrict any other rights guaranteed against government action by		<b>34</b>
	the U.S. Constitution; or		<b>35</b>
			<b>36</b>
	4. Be read in derogation of any legal right of a parent or guardian to		<b>37</b>
	act on behalf of a “complainant,” “respondent,” “party,” or other		<b>38</b>
	individual, including but not limited to filing a formal complaint.		<b>39</b>
			<b>40</b>
			<b>41</b>
4. Implementation	The Compliance Officer is responsible to ensure adequate nondiscrimina-		<b>42</b>
	tion procedures are in place, to recommend new procedures or modifica-		<b>43</b>
	tions to existing procedures, and to monitor the implementation of		<b>44</b>
	nondiscrimination procedures in the following areas:		<b>45</b>
			<b>46</b>
	1. Curriculum and Materials — Review of curriculum guides,		<b>47</b>
	textbooks and supplemental materials for discriminatory bias.		<b>48</b>
			<b>49</b>







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			<b>2</b>
	a. Development of position qualifications, job descriptions and essential job functions.		<b>3</b>
			<b>4</b>
			<b>5</b>
	b. Recruitment materials and practices.		<b>6</b>
			<b>7</b>
	c. Procedures for screening, interviewing and hiring.		<b>8</b>
			<b>9</b>
	d. Performance evaluations.		<b>10</b>
			<b>11</b>
	e. Promotions.		<b>12</b>
			<b>13</b>
	f. Disciplinary actions, up to and including terminations.		<b>14</b>
			<b>15</b>
34 CFR § 106.45	7. Reports and Complaints — Administration of the reporting and complaint procedure provided in this policy. Any provisions, rules, or practices utilized by the District as part of its grievance process for handling formal complaints of sexual harassment must apply equally to complainants and respondents, unless otherwise required by 34 CFR § 106.45.		<b>16</b>
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34 CFR § 106.45(b)(10)	8. Recordkeeping — Creating and maintaining for a period of seven (7) years records of—		<b>23</b>
			<b>24</b>
			<b>25</b>
	a. each investigation of prohibited discrimination or harassment, including any determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the District’s education programs and activities; and any appeal and the result therefrom;		<b>26</b>
			<b>27</b>
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			<b>29</b>
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	b. any actions taken for each response to a report of prohibited discrimination or harassment or knowledge of prohibited discrimination or harassment, whether or not a formal complaint was filed, including the basis for concluding that the District’s response was not deliberately indifferent and that the District has taken measures to restore or preserve equal access to the District’s educational programs and activities. If in any situation the District did not provide a complainant with Supportive Measures, the documentation shall also include the reasons why such as response was not clearly unreasonable in light of the known circumstances.		<b>33</b>
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	9. Resources — Maintaining and providing information to staff on resources available to alleged victims.		<b>45</b>
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			<b>47</b>
			<b>48</b>
			<b>49</b>



	<div data-bbox="443 132 812 168">#128 — Nondiscrimination</div> <div data-bbox="1312 132 1421 168">Page 10</div> <p data-bbox="443 207 1421 388">Each employee shall be responsible to maintain a learning and working environment free from all forms of unlawful discrimination and harassment, and to report all incidents of unlawful discrimination or harassment which he/she observes or is informed about to the building principal or Compliance Officer.</p> <p data-bbox="443 428 1421 609">Each student shall be responsible to respect the rights of their fellow students and District employees and to ensure an environment free from all forms of unlawful discrimination and harassment, and to report all incidents of unlawful discrimination or harassment which he/she observes or is informed about to the building principal or Compliance Officer.</p> <p data-bbox="164 684 342 751">5. Complaint Procedure</p> <p data-bbox="443 684 1117 720">A. <u>Reporting Violations; Filing Formal Complaints</u></p> <p data-bbox="500 758 1421 1045">A student (or his/her parent/guardian), employee, or third party who believes he/she or any other person has been subject to conduct that constitutes a violation of this policy is encouraged to report the incident to the building principal as soon as possible. For employees assigned to the District Administration Office, the relevant building principal is the principal of Sheckler Elementary School. A student may also report incidents/violations to any teacher, coach/advisor, counselor, or administrator.</p> <p data-bbox="500 1085 1421 1413">Any school employee who suspects or is notified that a student has been subject to conduct that constitutes a violation of this policy, shall report the incident to the building principal as soon as possible (not later than twenty-four (24) hours unless extenuating circumstances justify a reasonable extension of that deadline) and shall make proper and timely police and child protective services reports required by law. If it is not possible to contact the building principal in a timely fashion, the school employee shall report the incident to the Compliance Officer or another building principal as soon as possible.</p> <p data-bbox="500 1453 1421 1633">If the building principal is the subject of the report or otherwise not impartial, the student (or his/her parent or guardian), third party, or employee shall report the incident directly to the Compliance Officer. If the Compliance Officer is also a subject of the report or otherwise not impartial, the report shall be made to another building principal.</p> <p data-bbox="500 1673 1421 1919">Notwithstanding the preceding paragraphs, any person may report any discrimination prohibited by this policy, including sexual harassment, whether or not the person reporting is the alleged victim of the discrimination or harassment, in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator and Compliance Officer, or by any other means that results in the Title IX Coordinator/Compliance Officer receiving the person's</p>	<div data-bbox="1458 132 1481 163">1</div> <div data-bbox="1458 174 1481 205">2</div> <div data-bbox="1458 216 1481 247">3</div> <div data-bbox="1458 258 1481 289">4</div> <div data-bbox="1458 300 1481 331">5</div> <div data-bbox="1458 342 1481 373">6</div> <div data-bbox="1458 384 1481 415">7</div> <div data-bbox="1458 426 1481 457">8</div> <div data-bbox="1458 468 1481 499">9</div> <div data-bbox="1458 510 1481 541">10</div> <div data-bbox="1458 552 1481 583">11</div> <div data-bbox="1458 594 1481 625">12</div> <div data-bbox="1458 636 1481 667">13</div> <div data-bbox="1458 678 1481 709">14</div> <div data-bbox="1458 720 1481 751">15</div> <div data-bbox="1458 762 1481 793">16</div> <div data-bbox="1458 804 1481 835">17</div> <div data-bbox="1458 846 1481 877">18</div> <div data-bbox="1458 888 1481 919">19</div> <div data-bbox="1458 930 1481 961">20</div> <div data-bbox="1458 972 1481 1003">21</div> <div data-bbox="1458 1014 1481 1045">22</div> <div data-bbox="1458 1056 1481 1087">23</div> <div data-bbox="1458 1098 1481 1129">24</div> <div data-bbox="1458 1140 1481 1171">25</div> <div data-bbox="1458 1182 1481 1213">26</div> <div data-bbox="1458 1224 1481 1255">27</div> <div data-bbox="1458 1266 1481 1297">28</div> <div data-bbox="1458 1308 1481 1339">29</div> <div data-bbox="1458 1350 1481 1381">30</div> <div data-bbox="1458 1392 1481 1423">31</div> <div data-bbox="1458 1434 1481 1465">32</div> <div data-bbox="1458 1476 1481 1507">33</div> <div data-bbox="1458 1518 1481 1549">34</div> <div data-bbox="1458 1560 1481 1591">35</div> <div data-bbox="1458 1602 1481 1633">36</div> <div data-bbox="1458 1644 1481 1675">37</div> <div data-bbox="1458 1686 1481 1717">38</div> <div data-bbox="1458 1728 1481 1759">39</div> <div data-bbox="1458 1770 1481 1801">40</div> <div data-bbox="1458 1812 1481 1843">41</div> <div data-bbox="1458 1854 1481 1885">42</div> <div data-bbox="1458 1896 1481 1927">43</div> <div data-bbox="1458 1938 1481 1969">44</div> <div data-bbox="1458 1980 1481 2011">45</div> <div data-bbox="1458 2022 1481 2053">46</div> <div data-bbox="1458 2064 1481 2095">47</div> <div data-bbox="1458 2106 1481 2100">48</div> <div data-bbox="1458 2148 1481 2100">49</div>
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verbal or written report. Such a report may be made at any time (including non-business hours) by using the telephone number or electronic mail address, or by mail to the office address listed for the Title IX Coordinator/Compliance Officer.

If the incident was initially reported orally, by a person other than the alleged victim, or in any manner other than a formal complaint, the building principal or Compliance Officer shall inform the alleged victim of the right to file a formal complaint and the formal complaint procedure, and shall promptly provide all necessary forms and assistance to enable the complainant to file an appropriate formal complaint if he/she so desires. Formal complaints shall be filed with the building principal, the Compliance Officer (in person, by mail, or by electronic mail using the contact information listed for the Title IX Coordinator/Compliance Officer), or any other building principal if either of them are the subject of the formal complaint or otherwise not impartial.

Where the alleged victim is under the age of eighteen (18) years, the person receiving the report shall seek to obtain a formal complaint from the minor's parents/guardians, and inform them that the minor may be accompanied by a parent/guardian during all steps of the formal complaint procedure.

The building principal or Compliance Officer shall inform any complainant or potential complainant who is a minor that he/she may be accompanied by a parent/guardian during all steps of the complaint procedure.

The person receiving an oral or written report may provide factual information on the complaint and investigation process, the impact of choosing to seek confidentiality, the rights to file criminal charges, and relevant information on available resources besides the school complaint procedure, such as domestic violence or rape crisis programs and community health resources including counseling resources. In all other respects, the person receiving the report or complaint shall handle the case objectively, neutrally, and professionally, setting aside personal biases that might favor or disfavor the complainant or those accused of a violation of this policy.

Formal complaints shall be filed within thirty (30) calendar days after any incident alleged to constitute a violation of this policy or they shall be deemed untimely, unless special circumstances exist which justify a later filing.



Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties (January 19, 2001) (U.S. Department of Education, Office of Civil Rights)

34 CFR § 106.44(a)

Even if no formal complaint has been filed by or on behalf of a person who alleges he/she has been subjected to conduct that constitutes a violation of this policy, any building principal or other administrator who knows or receives a report of a possible violation of this policy shall inform the Compliance Officer. The Compliance Officer shall conduct or cause an informal investigation to be made if it does not appear that a formal complaint will be forthcoming. If the informal investigation suggests that there has been a violation of this policy, the Compliance Officer shall review the matter, conduct such further investigation as he/she deems appropriate, and, if he/she concludes that there has been a violation of this policy, the Compliance Officer shall take prompt, corrective action to ensure that conduct violating this policy ceases and will not recur, and to remedy any effects of the violation for which the District is responsible.

Although a victim's refusal to file a formal complaint may limit the District's ability to respond fully to a report of prohibited discrimination or harassment, other means may be available to address the discrimination or harassment, such as conducting discrimination or harassment training for the school where the problem occurred, taking a student or employee survey concerning any problems with discrimination or harassment, or implementing other systemic measures at the school where the alleged discrimination or harassment has occurred.

In addition, by investigating the report to the extent possible, the District may learn about or be able to confirm a pattern of discrimination or harassment based on claims by different persons that they were discrimination against or harassed by the same individual, and identify other persons who may be willing to file a formal complaint. In some situations there may be prior reports by former students or employees who now might be willing to come forward and be identified, thus providing a basis for further corrective action. In instances affecting a number of individuals, an individual can be put on notice of allegations of discriminating or harassing behavior and counseled appropriately without revealing, even indirectly, the identity of the person(s) who notified the District.

Upon learning of a report or a formal complaint of discrimination under this policy, the Compliance Officer shall promptly contact the complainant to discuss the availability of Supportive Measures, consider the complainant's wishes with respect to Supportive Measures, inform the complainant of the availability of Supportive Measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint. The Compliance Officer shall implement any appropriate Supportive Measures.



	<b>#128 — Nondiscrimination</b>	<b>Page 13</b>	<b>1</b>
			<b>2</b>
	The Compliance Officer take all necessary interim actions reasonably		<b>3</b>
	calculated to prevent any violations during the period before the		<b>4</b>
	completion of informal and formal procedures under this policy.		<b>5</b>
			<b>6</b>
34 CFR §	The District may not impose any disciplinary sanctions or other actions		<b>7</b>
106.44(a), (c), (e)	that are not Supportive Measures against any respondent before the		<b>8</b>
	completion of the formal complaint procedures described in this policy,		<b>9</b>
	<i>except</i> that (to the extent consistent with rights under the Individuals		<b>10</b>
	with Disabilities Education Act, section 504 of the Rehabilitation Act		<b>11</b>
	of 1973, or the Americans with Disabilities Act)—		<b>12</b>
			<b>13</b>
	1. The District may remove a respondent from the District’s education		<b>14</b>
	programs and activities on an emergency basis, <i>provided</i> that the		<b>15</b>
	District undertakes an individualized safety and risk analysis,		<b>16</b>
	determines that an immediate threat to the physical health or safety		<b>17</b>
	of any student or other individual arising from the allegations of		<b>18</b>
	sexual harassment or other prohibited discrimination justifies the		<b>19</b>
	removal, and provides the respondent with notice and an		<b>20</b>
	opportunity to challenge the decision immediately following the		<b>21</b>
	removal; and		<b>22</b>
			<b>23</b>
	2. The District may place a non-student employee respondent on paid		<b>24</b>
	administrative leave during the pendency of the formal complaint		<b>25</b>
	procedure.		<b>26</b>
			<b>27</b>
			<b>28</b>
34 CFR §	B. <u>General District Obligations</u>		<b>29</b>
106.45(b)(1)(ii),			<b>30</b>
(iii), (iv), (vii), (x);	Throughout the formal complaint procedure—		<b>31</b>
§ 106.45(b)(3), (4),			<b>32</b>
(5)(i), (iii)	1. District personnel shall evaluate all relevant evidence objectively,		<b>33</b>
	including both inculpatory and exculpatory evidence.		<b>34</b>
			<b>35</b>
	2. Credibility determinations may not be based on a person’s status as		<b>36</b>
	a complainant, respondent, or witness.		<b>37</b>
			<b>38</b>
	3. No person designated for any particular formal complaint as a		<b>39</b>
	Compliance Officer, investigator, or decision-maker shall have a		<b>40</b>
	conflict of interest or bias for or against complainants or		<b>41</b>
	respondents generally, or an individual complainant or respondent		<b>42</b>
	in the particular formal complaint proceeding.		<b>43</b>
			<b>44</b>
	4. A respondent is presumed not responsible for the alleged conduct		<b>45</b>
	until a determination regarding responsibility is made at the		<b>46</b>
	conclusion of the formal complaint procedure.		<b>47</b>
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5. District personnel shall not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
6. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the District and not on the parties.
7. The standard of evidence to be used to determine responsibility in all formal complaint proceedings is the preponderance of the evidence standard.
8. No investigator or decision-maker may require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.
9. No investigator, decision-maker, or other District personnel may access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the District obtains that party's voluntary, written consent to do so for a formal complaint proceeding under this policy. If the party is not an "eligible student" as defined in 34 CFR § 99.3, the District must obtain the voluntary, written consent of a "parent" as defined in 34 CFR § 99.3.
10. Questions and evidence about a complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the formal complaint, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.
11. If at any time in a formal complaint proceeding involving allegations of sexual harassment, it is found that any conduct alleged in the formal complaint would not constitute "sexual harassment" as defined in this policy, even if proved, did not occur in the District's education programs or activities, or did not occur against a person in the United States, then the Compliance Officer shall dismiss the formal complaint with regard to that conduct for







1. Provide the opportunity for participation by the parents/guardian of a minor student at any conference, meeting, or hearing with a student and in presenting information.



2. Provide each party with the opportunity to have an advisor of their choice, who may be, but is not required to be, an attorney, who may accompany them to any investigative interview, meeting, conference, or proceeding at which the party will be present, and who may inspect and review any evidence obtained as part of the investigation that is directly related to the allegations of discrimination or harassment. The investigator may establish restrictions regarding the extent to which the advisor may participate in the proceedings, so long as the restrictions apply equally to both parties.
3. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all investigative interviews, meetings, conferences, or hearings, with sufficient time for the party to prepare to participate.
4. Provide an equal opportunity for the complainant and the respondent to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
5. Take all necessary interim actions reasonably calculated to prevent any other violations of this policy prior to the completion of the formal complaint procedure.
6. Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including evidence that the investigator does not intend to rely upon in reaching a determination regarding responsibility, and including inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation.
7. Comply with the confidentiality requirements of this policy.
8. Notify the complainant and the respondent of the status of the investigation and formal complaint procedure on a periodic basis and at appropriate stages of the procedure.
9. Insure that when a complaint of sexual harassment has been filed by or on behalf of a female student or employee, a female counselor shall be present at all discussions and meetings with the student or employee (unless waived by the student or employee); and that when a complaint of sexual harassment has been filed by or on behalf of a male student or employee, a male counselor shall be present at all discussions and meetings with the student or employee (unless waived by the student or employee).



	#128 — Nondiscrimination	Page 18
	After the investigation has been completed, the Compliance Officer shall be responsible to implement the above requirements until the conclusion of the formal complaint procedure.	
	F. <u>Investigation</u>	
34 CFR § 106.45(b)(2)(i)(B)	The investigator shall conduct an adequate, reliable, and impartial investigation. The formal investigation shall include individual interviews with the complainant, the respondent, and others with knowledge relative to the incident. The investigator shall not conduct an initial interview with the respondent until the respondent has had sufficient time after receiving written notice of the allegations of the formal complaint to prepare a response. The investigator may also evaluate any other information and materials relevant to the investigation, and shall consider all information presented by the complainant and the respondent. When the complaint includes allegations relating to conduct which took place away from school property, school-sponsored activities, or school conveyances, the investigation may include inquiries related to these allegations to determine whether they resulted in continuing effects (such as harassment) in school settings. Every attempt will be made to conduct and complete the investigation as thoroughly and speedily as possible.	
	All parties, reporters, witnesses, and parents/guardians involved in the formal complaint and investigation shall be informed of the prohibition against retaliation for anyone's participation in the process, and that conduct believed to be retaliatory should be reported. All persons providing statements or other information or participating in the investigation shall be instructed to keep the matter confidential and to report any concerns about confidentiality to the investigator.	
	If the investigation reveals that conduct being investigated may involve a violation of criminal law, the investigator shall promptly notify the Compliance Officer, who shall promptly inform law enforcement authorities. All District employees shall satisfy their reporting obligations under the child protective services laws.	
	The obligation to conduct this investigation shall not be negated by the fact that a criminal, child protective services, or insurance investigation of the incident is pending or has been concluded. The investigator should coordinate with any other ongoing investigations of the allegations, including agreeing to requests for a short delay in fulfilling the District's investigative responsibilities during the fact-finding portion of a criminal or child protective services investigation, so long as the delay does not extend beyond the time necessary to prevent interference with or disruption of the criminal or child protective services investigation.	



G. Investigative Report

34 CFR §  
106.45(b)(5)(vi)

Upon completion of the investigation but before completion of the investigative report, the Compliance Officer shall send to each party and the party's advisor (if any) the evidence subject to inspection and review (*see* part E(6) above) in an electronic format or a hard copy. The parties shall have at least ten (10) calendar days to submit a written response, which the investigator must consider prior to completion of the investigative report.

34 CFR §  
106.45(b)(1)(v)

The building principal or other person designated to conduct the ~~initial~~ investigation shall prepare a written report within fifteen (15) calendar days after commencing the investigation, unless additional time to complete the investigation is required. In that case, the investigator shall report on the status of the investigation and the reasons for the delay to the complainant, the respondent, and the Compliance Officer at the expiration of the fifteen (15) day period and every ~~five (5)~~ seven (7) calendar days thereafter. Although the District may extend the investigation when necessary, it must insure that the formal complaint procedure provides a prompt and equitable resolution of the matter.

34 CFR §  
106.45(b)(5)(vii)

The written report shall include a summary of the investigation; findings of fact and an explanation of the evidence in support of such findings (including a determination with respect to the factual allegations of the formal complaint); a summary of all relevant evidence not used to support any of the findings of fact; conclusions whether there have been any violations of this policy (or violations of any other law or District policy which may warrant further District action) based on the factual findings, and a discussion of the reasons for such conclusions; and a recommended disposition of the formal complaint, including any recommended District action.

Copies of the report shall be sent to each party and the party's advisor (if any), and the Compliance Officer in electronic format or a hard copy, for their review and written response. Any such copies shall be redacted as necessary to comply with the confidentiality requirements of this policy. The respondent shall not be notified of the individual remedies offered or provided to the complainant.



34 CFR § 106.45(b)(5)(vii), (6)(ii), (7)	<div data-bbox="440 136 812 170">#128 — Nondiscrimination</div> <div data-bbox="1312 136 1421 170">Page 20</div> <div data-bbox="440 210 686 243">H. <u>Determination</u></div> <div data-bbox="500 283 1421 680"> <p>After the investigative report has been issued and sent to the parties, the Compliance Officer shall forward the report to the Superintendent as the decision-maker for the purposes of making a determination regarding responsibility. If the Superintendent is the subject of the formal complaint or otherwise not impartial, the Compliance Officer shall designate another District administrator (other than the Compliance Officer or an investigator in the matter) as the decision-maker. If an appropriate administrator cannot be designated, the Compliance Officer shall designate a qualified and willing administrator from the Carbon-Lehigh Intermediate Unit or a school district within that Intermediate Unit as the decision-maker.</p> </div> <div data-bbox="500 720 1421 1047"> <p>Before reaching a determination regarding responsibility, the decision-maker must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. The decision-maker must explain to the party proposing the questions any decision to exclude a question as not relevant. In no event shall a determination be made until at least ten (10) calendar days after the investigative report was sent to the parties.</p> </div> <div data-bbox="500 1087 1421 1339"> <p>Following his/her review of the investigative report, the evidence presented in the matter, and permitted responses and additional evidence submitted after the issuance of the investigative report, the decision-maker shall issue a written determination regarding responsibility, applying the standard of evidence described in part B(7) above, and send it to the Compliance Officer. The written determination shall include:</p> </div> <div data-bbox="500 1379 1421 1814"> <ol style="list-style-type: none"> <li>1. Identification of the allegations potentially constituting prohibited discrimination or harassment.</li> <li>2. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence.</li> <li>3. Findings of fact supporting the determination.</li> <li>4. Conclusions regarding the application of the District's code of conduct to the facts.</li> </ol> </div>	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49
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Upon receipt of an appeal, the Compliance Officer shall notify the other party in writing, and implement appeal procedures equally for both parties. The decision-maker on appeal shall be the District Solicitor, unless he/she is not impartial, in which case the Compliance Officer shall designate a qualified and willing administrator from the Carbon-Lehigh Intermediate Unit or a school district within that Intermediate Unit to be the decision-maker on appeal. The Compliance Officer shall ensure that the training required under Part 4(2) of this policy is provided to the decision-maker on appeal.

The decision-maker shall give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging the outcome, and to present evidence related to the permissible bases for the appeal.

The decision-maker shall thereafter issue a written decision describing the result of the appeal and the rationale for the result, and send it to the Compliance Officer.

The Compliance Officer shall provide the written decision to the parties simultaneously.

The determination on appeal regarding responsibility becomes final on the date the District provides the parties with the written determination of the results of the appeal.

J. District Action

If the investigation or appeal results in a finding that the formal complaint is factual and constitutes a violation of this policy, the District shall take prompt, corrective action reasonably calculated to ensure that such conduct ceases and will not recur, to prevent any retaliation, and to address the discriminatory effect the prohibited conduct had on the complainant and the school program and employment environments. Remedies for violations of this policy must be designed to restore or preserve equal access to the District's educational programs and activities. They may include the same individualized services which constitute Supportive Measures, but the remedies may also be disciplinary, punitive, or burdening to the respondent

District action within the authority of administration shall be implemented as set forth in the final decision of the decision-maker or appeals officer. Recommendations for District action which require Board approval and/or the approval of persons or entities other than the District or its officers or employees shall not be implemented unless so approved.

34 CFR §  
106.45(b)(7)(iii)

34 CFR §  
106.45(b)(1)(i)



	<b>#128 — Nondiscrimination</b>	<b>Page 23</b>	<b>1</b>
			<b>2</b>
	Any student or employee who is found to have engaged in conduct		<b>3</b>
	constituting unlawful discrimination or harassment in violation of this		<b>4</b>
	policy shall be subject to discipline up to and including suspension or		<b>5</b>
	expulsion from school or suspension or termination of employment.		<b>6</b>
	Disciplinary actions and procedures shall be consistent with the Student		<b>7</b>
	Code of Conduct, Board policies and District procedures, applicable		<b>8</b>
	collective bargaining agreements, the Public School Code, and other		<b>9</b>
	applicable state and federal laws, rules, regulations, and constitutional		<b>10</b>
	requirements.		<b>11</b>
			<b>12</b>
34 CFR §	The Compliance Officer is responsible for effective implementation of		<b>13</b>
106.45(b)(7)(iv)	any remedies, shall document all corrective action taken, and follow up		<b>14</b>
	by assessing the effectiveness of the corrective action at reasonable		<b>15</b>
	intervals.		<b>16</b>
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34 CFR §	K. <u>Confidentiality</u>		<b>19</b>
106.71(a)			<b>20</b>
	The District shall keep confidential the identity of any individual who		<b>21</b>
	has made a report or formal complaint of prohibited discrimination or		<b>22</b>
	harassment, any complainant, any individual who has been reported to		<b>23</b>
	be the perpetrator of prohibited discrimination or harassment, any		<b>24</b>
	respondent, and any witness, <i>except as</i> may be permitted by the		<b>25</b>
	FERPA statute, 20 USC § 1232g, or FERPA regulations, 34 CFR part		<b>26</b>
	99, or as required by law, including the District’s legal and		<b>27</b>
	investigative obligations to respond effectively to discrimination and		<b>28</b>
	provide a safe and nondiscriminatory environment for all students and		<b>29</b>
	employees, or to carry out the purposes of 34 CFR part 106, including		<b>30</b>
	the conduct of any investigation, hearing, or judicial proceeding arising		<b>31</b>
	thereunder. The District shall not disclose the name of an alleged		<b>32</b>
	victim to an alleged violator/perpetrator/harasser if the alleged victim		<b>33</b>
	or the parent/guardian of a minor student so requests and no formal		<b>34</b>
	complaint has been filed, but the scope of a reasonable response to the		<b>35</b>
	report of alleged discrimination or harassment may be limited as a		<b>36</b>
	result ( <i>e.g.</i> , disciplinary action against an accused individual may be		<b>37</b>
	limited or precluded). The investigator or Compliance Officer shall		<b>38</b>
	explain these limitations to any person requesting confidentiality,		<b>39</b>
	explain the district’s legal obligations to conduct an investigation and		<b>40</b>
	address violations of this policy, and that the law and this policy		<b>41</b>
	prohibits retaliation and that the District will take steps to prevent		<b>42</b>
	retaliation and will take strong responsive actions if retaliation occurs.		<b>43</b>
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	Notwithstanding anything to the contrary in this policy, while a		<b>45</b>
	complainant has the right to learn the outcome of his/her report or		<b>46</b>
	formal complaint ( <i>i.e.</i> , to learn whether the matter was investigated and		<b>47</b>
	whether discrimination/harassment was found and responsibility		<b>48</b>
	determined), the District shall not disclose to a complainant any		<b>49</b>



sanction or discipline recommended or imposed upon a student or employee to the extent such disclosure is prohibited by the Family Educational Rights and Privacy Act (FERPA) or other applicable laws, regulations, rules, constitutional requirements, or orders. (An exception may apply, for example, in the case of a sanction that directly relates to the victim, such as an order that a violator/perpetrator/harasser stay away from the victim.)

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**Catasauqua Area School District**

**Form for Complaint of Unlawful Discrimination or Harassment (Policy #128)**

Name of Complainant: \_\_\_\_\_

Address: \_\_\_\_\_

Daytime Telephone: \_\_\_\_\_ Evening Telephone: \_\_\_\_\_

I am: (circle as appropriate)    Student    Parent/Guardian of Student    Employee

Resident                      Other

Basis for allegation: (circle all which apply)    Race    Color    Age    Religion/Creed

Sex/Gender    Sexual Orientation    Ancestry    National Origin

Disability/Handicap                      Familial Status                      Other

Name(s) of person(s) you believe violated the district's nondiscrimination policy:

\_\_\_\_\_

If the alleged discrimination/harassment was directed against another person(s), identify the other person(s): \_\_\_\_\_

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

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

\_\_\_\_\_

Describe the incident as clearly as possible, including any verbal threats, remarks, comments, etc., and any actions or activities. Attach additional pages if necessary:

This complaint is based on my honest belief that the individual(s) complained of above has/have discriminated against/harassed me or another person. I certify that the information provided in this complaint is true, correct, and complete to the best of my knowledge, information, and belief.

Received by: \_\_\_\_\_

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

\_\_\_\_\_  
Date

Date: \_\_\_\_\_