

# REGULATION

## BOARD OF EDUCATION HIGH POINT REGIONAL

NO. R#5750

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### 5750 EQUAL EDUCATIONAL OPPORTUNITY COMPLAINT PROCEDURE

#### A. Purpose and application

1. The purpose of this procedure is to give any pupil or the parent of a pupil the opportunity to appeal an allegedly discriminatory practice in the program of this district or an alleged denial of equal educational opportunity.
2. This procedure is intended to facilitate an equitable and just resolution of a dispute at the most immediate level and should be implemented in an informal manner.
3. Every reasonable effort will be made to expedite the process in the interest of a prompt resolution. Time limits may, however, be extended with the consent of all parties.
4. All participants in the procedure will respect the confidentiality that this district accords to information about individual pupils.

#### B. Definitions

1. "Board of Education" means the Board of Education of the High Point Regional High School District.
2. "Complaint" means an unresolved problem concerning the interpretation or application by an officer or employee of the school district relating to compliance with law, regulations, or policies regarding equal educational opportunities.
3. "Complainant" means a pupil or a parent of a pupil who alleges a complaint.
4. "Day" means a calendar day.
5. "Pupil" means an individual enrolled in any formal educational program provided by the school district.
6. "School district" means the High Point Regional High School District.

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### C. Procedure

1. A complainant shall discuss his or her complaint with the staff member most closely involved, within 10 days of its occurrence, in an attempt to resolve the matter informally.
2. If the matter is not resolved to the satisfaction of the complainant within 10 days, the complainant may submit a written complaint to the Affirmative Action Officer. The complaint will include
  - a. The pupil's name and, in the complaint of a person acting on behalf of the pupil, the name and address of the complainant;
  - b. The specific act or practice that the complainant complains of;
  - c. The school employee, if any, responsible for the allegedly discriminatory act;
  - d. The results of discussions conducted in accordance with C1; and
  - e. The reasons why those results are not satisfactory.
3. The Affirmative Action Officer will investigate the matter informally and will respond to the complainant in writing no later than 10 days after receipt of the written complaint. A copy of the complaint and the response will be forwarded to the Superintendent.
4. The response of the Affirmative Action Officer may be appealed to the Superintendent in writing within 10 days after it has been received by the complainant. The appeal will include the original complaint, the response to the complaint, the complainant's reason for rejecting the response. A copy of the appeal must be given to the staff member alleged to have acted discriminatorily.
5. On his or her timely request (that is, submitted before the expiration of the time within which the Superintendent must render a decision), the complainant will be given an informal hearing before the Superintendent, at a time and place convenient to the parties, but no later than 10 days after the request for a hearing has been submitted. The Superintendent may also require the presence at the hearing of the staff member charged

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with a discriminatory act and any other person with knowledge of the act complained of.

6. The Superintendent will render a written decision in the matter no later than 10 days after the appeal was filed or the hearing was held, whichever occurred later. Copies of the decision will be given to all parties and to the Board of Education.
7. The complainant may appeal the Superintendent's decision to the Board by filing a written appeal with the Board Secretary no later than 10 days after receipt of the Superintendent's decision. The appeal will include:
  - a. The original complaint;
  - b. The response to the complaint;
  - c. The Superintendent's decision;
  - d. A transcript of the hearing, if one has been made, or a summary of the hearing to which all parties have consented; and
  - e. The complainant's reason for believing the Superintendent's decision should be changed.
8. A copy of the appeal to the Board must be given to the staff member, if any, charged with a discriminatory act.
9. The Board will review all papers submitted and may render a decision on the basis of the proceeding below. If the complainant so requests, the Board may convene a hearing, at which all parties may be represented by counsel and may present and examine witnesses, who will testify under oath.
10. The Board will render a written decision no later than 30 days after the appeal was filed or the hearing held, whichever occurred later. Copies of the decision will be given to all parties.
11. The complainant will be informed of his or her right to appeal the Board's decision to the Commissioner of Education or to the New Jersey Division of Civil Rights.

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### D. Record

The records of any complaint processed in accordance with this procedure shall be maintained in a file separate from the pupil's cumulative file. A notation shall be made in the pupil's file of the existence of the record in the separate file.

### E. Formal Complaint/Investigation Procedures

Upon receipt of a report or complaint alleging sexual harassment, or harassment based on race, national origin, or disability, the District Affirmative Action Officer shall immediately undertake or authorize an investigation. That investigation may be conducted by District administrators or by a third party designated by the District, or the District Affirmative Action Officer.

The investigation shall consist of personal interviews with the complainant, the individual against whom the complaint is filed, and others who have knowledge of the alleged incident or circumstances giving rise to the complaint (See Appendix F for sample interview questions). The investigation may also consist of the evaluation of any other information or documents that may be relevant to the particular allegations (See Appendix G for {article} Complaint investigations: The Basics).

In determining whether the alleged conduct constitutes a violation of this policy, the District shall consider the following:

- The nature of the behavior;
- How often the conduct occurred;
- Whether there were past incidents or past continuing patterns of behavior;
- The relationship between the parties involved;
- The race, national origin, sex, and age of the victim;
- The identity of the perpetrator, including whether the perpetrator was in a position of power over the student or employee allegedly subjected to harassment;
- The number of alleged harassers;
- The age of all the alleged harassers;
- Where the harassment occurred;

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- Whether there have been other incidents in the school involving the same or other students or employees;
- Whether the conduct adversely affected the student or employee's educational or work environment;
- The context in which the alleged incidents occurred.

Whether a particular action or incident constitutes a violation of this policy requires a determination based on all the facts and surrounding circumstances.

The investigation shall be completed within 20 days from receipt of the report. The District Affirmative Action Officer or his/her designee shall make a written report and submit it to the Superintendent upon completion of the investigation. If the complaint involves the Superintendent, the report may be filed directly with the Board. In all cases the report shall include a determination of whether the allegations have been sustained as factual and whether they appear to be violations of this policy.

### F. School District Action

#### 1. Appropriate Responses

Upon receipt of a report that a violation had occurred, the Board will take prompt, appropriate formal or informal action to address, and where appropriate, remediate the violation. Appropriate actions may include but are not limited to counseling, awareness training, parent-teacher conferences, warning, suspension, exclusion, expulsion, transfer, remediation, termination or discharge. School District action taken for violation of this policy shall be consistent with the requirements of applicable collective bargaining agreements, state and federal law, and Board policies for violations of a similar nature or similar degree of severity. In determining what is an appropriate response to a finding that harrasment in violation of this policy had occurred, the District shall consider the following:

- What response is most likely to end any ongoing harrasment;
- Whether a particular response is likely to deter similar future conduct by the harasser or others;

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- The amount and kind of harm suffered by the victim of the harassment;
- The identity of the party who engaged in the harassing conduct;
- Whether school personnel engaged in the harassment, and if so, the School District will consider how it can best remediate the effects of the harassment.

In the event that the evidence suggests that the harassment at issue is also a crime in violation of a New Jersey Criminal Statute, the Board shall also direct the District Affirmative Action Officer or his/her designee to report the complaint of the investigation to the appropriate law enforcement agency shared with responsibility for handling such crimes.

### 2. Protection of Confidential Information

The results of the District's investigation of each complainant filed under these procedures will be reported in writing to the complainant and other parties by the District in accordance with state and federal laws regarding data or records privacy, and consistent with the privacy rights of the alleged harasser.

Personal information regarding the complainant, the alleged harasser and any witnesses will be protected from disclosure to the extent permitted by the investigative process and the nature of the complaint.

The District Affirmative Action Officer shall maintain copies of all complaints of harassment and the investigations conducted pursuant to them in a secured separate file in the Assistant Principal's Office.

### 3. Appeals

If the District's investigation of a complaint of harassment finds that an individual has engaged in unlawful harassment in violation of this policy, that individual may appeal the determination by filing a written appeal with the Superintendent no later than 20

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working days after receipt of the complaint to the District Affirmative Action Officer.

If the District's investigation of a complaint of harassment finds that no unlawful harassment had occurred and the complainant believes this ruling to be erroneous, he or she may appeal this determination by filing a written appeal with the Board Secretary no later than 10 working days after receipt of the District Affirmative Action Officer or Superintendent's decision.

### G. Reprisal

Submission of a good faith complaint or report of sexual harassment, or harassment based upon race, color, disability or national origin will not affect the complainant or reporter's future employment, grades, learning or working environment or work assignments.

The Board will discipline or take appropriate action against any student, teacher, administrator or other employee who retaliates against any person who reports an incident of alleged sexual, racial, ethnic or disability related harassment or discrimination, or any person who testifies, assists or participates in a proceeding, investigation or hearing relating to such harassment or discrimination. Retaliation includes, but not limited to, any form of intimidation, reprisal, or harassment.

Date Adopted: December 18, 1995

Date Revised: January 21, 2008