



WEST ALLEGHENY SCHOOL DISTRICT

A Tradition of Excellence . . . A Vision for Tomorrow

Memorandum Regarding Unlawful Retaliation

The West Allegheny School Board has declared it to be the policy of this district to provide an equal opportunity for all students to achieve their maximum potential through the programs and activities offered in the schools regardless of race, color, age, creed, religion, gender, sexual orientation, ancestry, national origin, marital status, pregnancy or handicap/disability.

The Board has also declared it to be the policy of this district to comply with federal law including Title VI of the Civil Rights Act of 1964 (Title VI), Title IX of the Education Amendments of 1972 (Title IX), Section 504 of the Rehabilitation Act of 1973 (Section 504), the Age Discrimination Act of 1975 (the Age Act), Title II of the Americans with Disabilities Act of 1990 (Title II) and their respective implementing regulations prohibiting discrimination and retaliation against individuals who take action to assert the rights of parents/guardians, student, and others to be free from discrimination based on race, color, age, creed, religion, gender, sexual orientation, ancestry, national origin, marital status, pregnancy or handicap/disability.

Retaliation against those engaging in protected activities is unlawful and prohibited under District Policy and Federal law. Parents/guardians, students, and others are lawfully permitted to engage in activities which assert the rights of individuals asserting the rights of individuals to be free from discrimination based on the above listed characteristics.

The Board prohibits retaliation by the district or any other person against any person for:

1. Reporting or making a formal complaint of any form of discrimination or retaliation, including Title IX sexual harassment.
2. Testifying, assisting, participating or refusing to participate in a related investigation, process or other proceeding or hearing.
3. Acting in opposition to practices the person reasonably believes to be discriminatory.

The district, its employees and others are prohibited from intimidating, threatening, coercing, or discriminating against anyone for actions described above.

The Board encourages students and third parties who believe they or others have been subject discrimination or retaliation to promptly report such incidents to the building principal. If the building principal is the subject of a complaint, the student, third party or a reporting employee shall report the incident directly to the Compliance Officer.

The complainant or the individual making the report may use the Discrimination/Retaliation Report Form attached to this memorandum as Attachment 1 for purposes of reporting an incident or incidents in writing; however, verbal reports of an incident or incidents shall be accepted and documented.

The building principal shall promptly notify the anti-discrimination/retaliation Compliance Officer of all reports of discrimination or retaliation. Upon notice of discrimination/retaliation, the anti-discrimination/retaliation Compliance Officer shall promptly contact the complainant regarding the report to gather additional information as necessary. The anti-discrimination/retaliation Compliance Officer shall follow the Discrimination/Retaliation Complaint Procedures prescribed in Attachment 2 to this memorandum.

Confidentiality of all parties, witnesses, the allegations, the filing of a report and the investigation related to any form of discrimination or retaliation shall be handled in accordance with applicable law, regulations, this policy, the attachments and the district's legal and investigative obligations.

In order to maintain a program of nondiscrimination practices that is in compliance with applicable laws and regulations, the Board designates the Assistant to the Superintendent for Special Education and Student Services as the district's Compliance Officer.

The anti-discrimination/retaliation Compliance Officer can be contacted at:

Address: West Allegheny School District, P. O. Box 55, 207 West Allegheny Road,
Imperial, PA 15126, 724/695-3422

Email: lutchell@westasd.org

Phone Number: 724-695-5221

ATTACHMENT 1

DISCRIMINATION/RETALIATION REPORT FORM

The Board declares it to be the policy of this district to provide a safe, positive learning and working environment that is free from discrimination and retaliation. If you have experienced, or if you have knowledge of, any such actions, we encourage you to complete this form. The anti-discrimination/retaliation Compliance Officer will be happy to support you by answering any questions about the report form, reviewing the report form for completion and assisting as necessary with completion of the report. The anti-discrimination/retaliation Compliance Officer's contact information is:

Position: Assistant to the Superintendent for Special Education and Student Services

Address: West Allegheny School District, P. O. Box 55, 207 West Allegheny Road,
Imperial, PA 15126, 724/695-3422

Email: lutchell@westasd.org

Phone: 724-695-5221

Retaliation Prohibited

The district, its employees and others are prohibited from intimidating, threatening, coercing, or discriminating against you for filing this report. Please contact the anti-discrimination/retaliation Compliance Officer immediately if you believe retaliation has occurred.

Confidentiality

Confidentiality of all parties, witnesses, the allegations and the filing of a report shall be handled in accordance with applicable law, regulations, Board policy, procedures, and the district's legal and investigative obligations. The school will take all reasonable steps to investigate and respond to the report, consistent with a request for confidentiality as long as doing so does not preclude the school from responding effectively to the report. If you have any questions regarding how the information contained in this report may be used, please discuss them with the anti-discrimination/retaliation Compliance Officer prior to filing the report. Once this report is filed, the district has an obligation to investigate the information provided.

I. Information About the Person Making This Report:

Name: _____

Address: _____

Phone Number: _____

School Building: _____

I am a:

☐ Student ☐ Parent/Guardian ☐ Employee ☐ Volunteer ☐ Visitor

☐ Other _____ (please explain relationship to the district)

If you are not the victim of the reported conduct, please identify the alleged victim:

Name: _____

The alleged victim is: ☐ Your Child ☐ Another Student ☐ A District Employee

☐ Other: _____ (please explain relationship to the alleged victim)

II. Information About the Person(s) You Believe is/are Responsible Discrimination and/or Retaliation You are Reporting:

What is/are the name(s) of the individual(s) you believe is/are responsible for the conduct you are reporting?

Name(s): _____

The reported individual(s) is/are:

☐ Student(s) ☐ Employee(s)

☐ Other _____ (please explain relationship to the district)

III. Description of the Conduct You are Reporting:

In your own words, please do your best to describe the conduct you are reporting as clearly as possible. Please attach additional pages if necessary:

When did the reported conduct occur? (Please provide the specific date(s) and time(s) if possible):

Where did the reported conduct take place?

Please provide the name(s) of any person(s) who was/were present, even if for only part of the time.

Please provide the name(s) of any other person(s) that may have knowledge or related information surrounding the reported conduct.

Have you reported this conduct to any other individual prior to giving this report?

☐ Yes ☐ No

If yes, who did you tell about it?

If you are the victim of the reported conduct, how has this affected you?

I affirm that the information reported above is true to the best of my knowledge, information and belief.

Signature of Person Making the Report

Date

Received By

Date

FOR OFFICIAL USE ONLY

This section is to be completed by the anti-discrimination/retaliation Compliance Officer based on reviewing the report with the complainant or other individual making the report.

Upon receipt of the report, the anti-discrimination/retaliation Compliance Officer shall promptly contact the complainant regarding the report to gather additional information as necessary.

I. Reporter Information:

Name: _____

Address: _____

Phone Number: _____

School Building: _____

Reporter is a:

☐ Student ☐ Parent/Guardian ☐ Employee ☐ Volunteer ☐ Visitor

☐ Other _____ (please explain relationship to the district)

If the reporter is not the victim of the reported conduct, please identify the alleged victim:

Name: _____

The alleged victim is: ☐ Reporter's Child ☐ Another Student ☐ Another Employee

☐ Other: _____ (please explain relationship to the alleged victim)

II. Respondent Information

Please state the name(s) of the individual(s) believed to have conducted the reported violation:

Name(s): _____

The reported respondent(s) is/are:

☐ Student(s) ☐ Employee(s)

☐ Other _____ (please explain relationship to the district)

III. Type of Report:

☐ Discrimination ☐ Retaliation

Nature of the Report (check all that apply):

☐ Race ☐ Age

☐ Color ☐ Creed

☐ Religion ☐ Sex

☐ Sexual Orientation ☐ Sexual Harassment (Title IX)

☐ National Origin ☐ Ancestry

☐ Marital Status ☐ Pregnancy

☐ Handicap/Disability

IV. Reported Conduct

Describe the reported conduct below, including specific actions, dates, times, locations and any other details necessary to properly assess the reported incident(s).

How often did the conduct occur?

Is it being repeated? ☐ Yes ☐ No

Do the circumstances involve a student identified as a student with a disability under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act?

☐ No.

☐ Yes, please identify the student with a disability and contact the Director of Special Education.

Date Director of Special Education was contacted: _____

How has the conduct affected the alleged victim's ability to fully participate in the school's academic, programs, activities or school employment?

What is the alleged victim's relationship with the alleged respondent?

Insert names, descriptions, and/or contact information of individuals believed to have observed the conduct or who otherwise may have knowledge of the conduct and/or related circumstances.

Additional observations or evidence including pictures, texts, emails, video or other information submitted to the anti-discrimination/retaliation Compliance Officer.

V. Safety Concerns

Are there safety concerns that may require Emergency Removal of or Administrative Leave for a respondent? (This requires an individualized safety and risk analysis as to whether there is an immediate threat to the physical health or safety of a student or other individual.)

☐ No.

☐ Yes, please describe: _____

VI. Other Reports

Has the conduct been reported to the police or any other agency?

☐ No

☐ Yes Date reported: _____ Agency: _____

VII. Recommended Course of Action

After consultation with the complainant and consideration of the reported information, the anti-discrimination/retaliation Compliance Officer directs the report to proceed under the provisions of (check all that apply):

☐ No further action at this time. Reason: _____

☐ Discrimination/Retaliation Affecting Students: Attachment 2 Discrimination/Retaliation Complaint Procedures

☐ Discrimination/ Retaliation Affecting Staff: Attachment 2 Discrimination/Retaliation Complaint Procedures

VIII. Anti-discrimination/retaliation Compliance Officer Signature

I recommend the above course of action based on my consultation with the complainant and the information available at this time.

Compliance Officer: _____

Date: _____

ATTACHMENT 2

DISCRIMINATION/RETALIATION COMPLAINT PROCEDURES

The Discrimination Complaint Procedures prescribed in this Attachment apply to reports of retaliation or discrimination on the basis of race, color, age, creed, religion, sex, sexual orientation, ancestry, national origin, marital status, pregnancy or handicap/disability. All reports of discrimination shall be reviewed by the Compliance Officer upon.

Definitions

Complainant shall mean an individual who is alleged to be the victim.

Respondent shall mean an individual who has been reported to be the perpetrator of the alleged conduct.

Discrimination shall mean to treat individuals differently, or to harass or victimize based on a protected classification including race, color, age, creed, religion, sex, sexual orientation, ancestry, national origin, marital status, pregnancy, or handicap/disability.

Retaliation shall mean actions including, but not limited to, intimidation, threats, coercion, or discrimination against a victim or other person because they report discrimination or harassment, participate in an investigation or other process addressing discrimination or harassment, or act in opposition to discriminatory practices.

Reasonable Accommodations

Throughout the discrimination complaint procedures, the district shall make reasonable accommodations for identified physical and intellectual impairments that constitute disabilities for all parties, and address barriers being experienced by disadvantaged students such as English learners and homeless students, consistent with the requirements of federal and state laws and regulations and Board policy.

Required Reporting Under Other Policies

In addition to implementing the disciplinary complaint procedures, the building principal or Compliance Officer shall ensure that reported conduct which meets the definition of other laws, regulations or Board policies, is also appropriately addressed in accordance with the applicable laws, regulations or Board policies.

Timeframes

Reasonably prompt timeframes shall be established for completing each step of the discrimination complaint procedures, including timeframes for filing and resolving appeals.

The established timeframes included in these procedures may be adjusted to allow for a temporary delay or a limited extension of time for good cause. Written notice of the delay or extension and the reason for such action shall be provided to the complainant and the respondent, and documented with the records of the complaint. Good cause may include, but is not limited to, considerations such as:

1. The absence of a party or a witness.
2. Concurrent law enforcement activity.
3. Need for language assistance or accommodation of disabilities.

PROCEDURES FOR COMPLAINTS OF DISCRIMINATION

Step 1 – Reporting

A student or individual who believes they have been subject to discrimination by any student, employee or third party is encouraged to immediately report the incident to the building principal using the Discrimination/Retaliation Report Form or by making a general report verbally or in writing to the building principal.

Parents/Guardians of students have the right to act on behalf of the complainant, the respondent, or other individual at any time.

Any person with knowledge of discrimination in violation of Board policy or this procedure is encouraged to immediately report the matter to the building principal.

A school employee who suspects or is notified that a student has been subject to discrimination shall immediately report the incident to the building principal.

The building principal shall immediately notify the Compliance Officer of the reported discrimination.

If the building principal is the subject of a complaint, the student, third party or employee shall report the incident directly to the Compliance Officer.

The complainant or reporting individual shall be encouraged to use the Discrimination/Retaliation Report Form, however, complaints shall be accepted in person, by telephone, by mail or email, or by any other means that results in the appropriate individual receiving the individual's verbal or written report. Verbal reports shall be documented using the Discrimination/ Retaliation Report Form, and these procedures shall be implemented.

The Compliance Officer shall review reports and complaints, and may gather additional information from the individual submitting the report and other parties identified in the report using the Discrimination/ Retaliation Report Form. The Compliance Officer shall promptly contact the complainant regarding the report to gather additional information as necessary.

When any party is an identified student with a disability, or thought to be a student with a disability, the Compliance Officer shall notify the Supervisor of Special Education/Pupil Personnel and coordinate to determine whether additional steps must be taken for the party, while the discrimination complaint procedures are implemented. Such measures may include, but are not limited to, conducting a manifestation determination, functional behavioral assessment (FBA) or other assessment or evaluation, in accordance with applicable law, regulations or Board policy. FBAs must be conducted when a student's behavior interferes with the student's learning or the learning of others and information is necessary to provide appropriate educational programming, and when a student's behavior violates the Code of Student Conduct and is determined to be a manifestation of a student's disability.

Step 2 – Initial Communications/Supports

The complainant shall be informed about the Board's policy on discrimination, including the right to an investigation of both verbal and written reports of discrimination.

The building principal or designee, in consultation with the Compliance Officer and other appropriate individuals, shall promptly implement appropriate measures to protect the complainant and others as necessary from violation of the policy throughout the course of the investigation.

The building principal or designee may provide to the complainant factual information on the complaint and the investigative process, the impact of choosing to seek confidentiality and the right to file criminal charges. The person accepting the complaint shall handle the report objectively, neutrally and professionally, setting aside personal biases that might favor or disfavor the complainant or respondent.

The building principal or designee shall seek to obtain consent from parents/guardians to initiate an investigation where the complainant or alleged victim is under age eighteen (18), and inform parents/guardians of the complainant that the complainant may be accompanied by a parent/guardian during all steps of the complaint procedure. When a parent/guardian requests confidentiality and will not consent to the alleged victim's participation in an investigation, the building principal or designee shall explain that the school shall take all reasonable steps to investigate and respond to the complaint consistent with that request for confidentiality as long as doing so does not preclude the school from responding effectively to the discrimination and preventing discrimination that affects other students.

The building principal or Compliance Officer shall provide relevant information on resources available in addition to the discrimination complaint procedure.

Informal Remedies –

At any time after a complaint has been reported, if the Compliance Officer believes the circumstances are appropriate, the Compliance Officer may offer the parties involved in the complaint the opportunity to participate in informal remedies to address the reported conduct. Informal remedies can take many forms, depending on the particular case. Examples include, but are not limited to, mediation, facilitated discussions between the parties, restorative practices, acknowledgment of responsibility by a respondent, apologies, a requirement to engage in specific services, or other measures to support the parties.

If the matter is resolved to the satisfaction of the parties, the district employee facilitating the informal remedies shall document the nature of the complaint and the proposed resolution of the matter, have both parties sign the documentation to indicate agreement with the resolution and receive a copy, and forward it to the Compliance Officer.

The Compliance Officer shall contact the complainant to determine if the resolution was effective and to monitor the agreed upon remedies, and shall document all appropriate actions.

*If the informal remedies result in the final resolution of the complaint, the following steps are not applicable.

Step 3 – Investigation

The Compliance Officer shall assess whether the investigation should be conducted by the building principal, another district employee, the Compliance Officer or an attorney and shall promptly assign the investigation to that individual. When a parent/guardian has requested confidentiality and will not consent to the alleged victim's participation in an investigation, the Compliance Officer shall provide the parent/guardian with a letter containing information related to the district's legal obligations to conduct an investigation and address violations of Board policy, and any other information appropriate to the specific complaint.

The Compliance Officer shall ensure that the individual assigned to investigate the complaint has an appropriate understanding of the relevant laws pertaining to discrimination and retaliation issues and Board policy, and how to conduct investigations and draft an investigative report.

The investigator shall work with the Compliance Officer to assess the anticipated scope of the investigation, who needs to be interviewed and what records or evidence may be relevant to the investigation.

The investigator shall conduct an adequate, reliable and impartial investigation. The complainant and the respondent may suggest additional witnesses and provide other evidence during the course of the investigation. When the initial complaint involves 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.

The investigation may consist of individual interviews with the complainant, the respondent, and others with knowledge relative to the allegations. The investigator may also evaluate any other information and materials relevant to the investigation. The person making the report, parties, parents/guardians and witnesses 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 individuals 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 the 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 about the allegations.

The obligation to conduct this investigation shall not be negated by the fact that a criminal or child protective services investigation of the allegations is pending or has been concluded. The investigator should coordinate with any other ongoing investigations of the allegations, including agreeing to requests for a delay in fulfilling the district's investigative responsibilities during the fact-finding portion of a criminal or child protective services investigation. Such delays shall not

extend beyond the time necessary to prevent interference with or disruption of the criminal or child protective services investigation, and the reason for such delay shall be documented by the investigator.

Step 4 – Investigative Report

The investigator shall prepare and submit a written report to the Compliance Officer within thirty (30) school days of the initial report of alleged discrimination, unless the nature of the allegations, anticipated extent of the investigation or the availability of witnesses requires the investigator and the Compliance Officer to establish a different due date. The parties shall be notified of the anticipated date the investigative report will be completed and of any changes to the anticipated due date during the course of the investigation.

The investigative report shall include a summary of the investigation, a determination of whether the complaint has been substantiated as factual, the information and evaluation that formed the basis for this determination, whether the conduct violated any other of law or Board policy which may warrant further district action, and a recommended disposition of the complaint. An investigation into discrimination or retaliation shall consider the record as a whole and the totality of circumstances in determining whether a violation of Board policy has occurred, recognizing that persistent and pervasive conduct, when taken together, may be a violation even when the separate incidents are not severe.

The complainant and the respondent shall be informed of the outcome of the investigation, for example, whether the investigator believes the allegations to be founded or unfounded, within a reasonable time of the submission of the written investigative report, to the extent authorized by the Family Educational Rights and Privacy Act (FERPA) and other applicable laws. The respondent shall not be notified of the individual remedies offered or provided to the complainant.

Step 5 – District Action

If the investigation results in a finding that some or all of the allegations of the discrimination complaint are founded and constitute a violation of Board policy, the district shall take prompt, corrective action designed to ensure that such conduct ceases and that no retaliation occurs. The district shall promptly take appropriate steps to prevent the recurrence of the prohibited conduct and to address the discriminatory effect the prohibited conduct had on the complainant and the district education program or activity. District staff shall document the corrective action taken and, where not prohibited by law, inform the complainant. The Compliance Officer shall follow up by assessing the effectiveness of the corrective action at reasonable intervals.

Disciplinary actions shall be consistent with the Code of Student Conduct, Board policies and administrative regulations, district procedures, applicable collective bargaining agreements, and state and federal laws and regulations.

Appeal Procedure

If the complainant or the respondent is not satisfied with a finding made pursuant to these procedures or with recommended corrective action, they may submit a written appeal to the Compliance Officer within fifteen (15) school days of receiving notification of the outcome of the investigation. If the Compliance Officer investigated the complaint, such appeal shall be made to the Superintendent.

The individual receiving the appeal shall review the investigation and the investigative report and may also conduct or designate another person to conduct a reasonable supplemental investigation to assess the sufficiency and propriety of the prior investigation.

The person handling the appeal shall prepare a written response to the appeal within twenty (20) school days.

Copies of the response shall be provided to the complainant, the respondent and the investigator who conducted the initial investigation.